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Handbook on police accountability, oversight and integrity

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Summary

For the purposes of the present *Handbook*, accountability is defined as a system of internal and external checks and balances aimed at ensuring that police carry out their duties properly and are held responsible if they fail to do so. Such a system is meant to uphold police integrity and deter misconduct and to restore or enhance public confidence in policing. Police integrity refers to normative and other safeguards that keep police from misusing their powers and abusing their rights and privileges.

For the police to be able to take responsibility for actions and wrongdoings, they need to receive proper direction. They also need to be well-prepared and equipped to carry out their functions in a professional way, and need to be assured of proper working conditions. Line managers must supervise their staff, and police actions and operations need to be reviewed and evaluated. Moreover, effective accountability requires a proper complaints system that is easily accessible to the public and that can effectively investigate allegations and recommend disciplinary sanctions or refer cases for criminal prosecution. It should also be able to make recommendations that target the underlying causes of misconduct.

Effective police accountability involves many different actors representing the different layers of modern-day democracies, including government representatives, the parliament, the judiciary, civil society actors and independent oversight bodies such as national human rights institutions. Primarily, it involves the police themselves.

Key elements of an effective police accountability system include:

- Legislation (in line with international human rights law) specifying the functions and powers of the police
- Practical instructions based on the legislation that reflect both the spirit and the letter of the law
- Opportunities for the public to voice their concerns
- Policies that set priorities on how to deploy police capacity
- Adequate police training, both basic and ongoing
- Equipment that is adequate for prescribed police functions
- Proper reporting procedures and facilities
- Adequate supervision that supports officers in carrying out their duties professionally and reporting these correctly
- A working culture that promotes transparency and evaluation
- Monitoring of police actions and operations by both police leadership and external organs
- Complaints procedures, both for making complaints to the police directly and to independent bodies
- Fair and effective procedures and policies on how to deal with misconduct, including both disciplinary and criminal codes, adequate investigative capacity, procedures for punishment and appeal procedures

- An independent body to oversee such procedures
- Scrutiny and oversight involving feedback to the police in order to improve future activities and prevent future wrongdoings
- Evaluation and complaints procedures that contribute to the development of new policies, procedures and instructions
- Reliable statistics on police performance, related both to effectiveness in dealing with crime and public order, as well as to their integrity and public confidence
- Procedures for overseeing the feedback, evaluation and complaints procedures and statistics

Contents

Introduction

Law enforcement institutions are entrusted with a diverse set of tasks requiring a high degree of integrity within police agencies and their oversight. Where this does not function well, law enforcement officers may become vulnerable to acting unlawfully and outside their remit. In post-conflict societies in particular, but also in many non-conflict situations, police reform interventions are much needed, often in the form of retraining for police officers with a particular focus on human rights principles. In addition, a longer-term effort is required to establish a framework for police oversight and accountability in order to strengthen integrity within systems of policing.[1]

Efforts to enhance police oversight and accountability must focus on three key, related priorities. Firstly, where policing has been militarized[2] and may be undemocratic and authoritarian, efforts must be made to enhance civilian control over the police. Secondly, it is necessary to increase public confidence in the police by upgrading levels of police service delivery as well as by investigating and acting in cases of police misconduct. Finally, reducing corruption within the police is crucial.

The present *Handbook* is one of the practical tools developed by UNODC to support countries in the implementation of the rule of law and the development of criminal justice reform. It aims to assist countries in their efforts to develop effective systems of oversight and accountability within their law enforcement authorities and enhance police integrity, and it addresses issues including:

- Enhancement of police integrity and the integrity of policing

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[1] William G. O'Neill, *Police Reform and Human Rights: A HURIST Document* (New York, Joint Human Rights Strengthening Programme of the United Nations Development Programme and the Office of the High Commissioner for Human Rights (HURIST), 2004). In the past decade, a number of publications have been released collating the main lessons learned in relation to police reform in post-conflict situations but also as a component of conflict prevention strategies. See for example David H. Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, Issues in International Crime (Washington, D.C., United States of America, Department of Justice, National Institute of Justice, June 2001), available from www.ncjrs.gov/pdffiles1/nij/188742.pdf; Otwin Marenin, *Restoring Policing Systems in Conflict Torn Nations: Process, Problems, Prospects*, Occasional Paper, No. 7 (Geneva, Geneva Centre for the Democratic Control of Armed Forces, June 2005), available from www.ssrnetwork.net/document_library/detail/3908/restoring-policing-systems-in-conflict-torn-nations-processes-problems-prospects and William G. O'Neill, "Police reform in post-conflict societies: what we know and what we still need to know", Policy paper (New York, International Peace Academy, 2005). Available from www.ceinicaragua.org/posguerra/library/security/police_reform_in_post-conflict_societies.pdf.

[2] That is, military in style, culture and operations and sometimes in fact, when the police have been part of the military.

- Dealing with complaints about policing (receipt, investigation and follow-up)
- Setting policing priorities and encouraging policy input, including from outside the police
- "Inviting" external review, including from independent actors

The key players in enhancing police accountability are police officers themselves, as the prime bearers of responsibility for the integrity of the police force. The next most important players are independent police oversight bodies. Other State institutions, most notably the Ministry of the Interior,[3] and civil society, are also of crucial importance. The present *Handbook* aims to describe an integrated approach to installing an effective police accountability system, including both preventive and corrective measures, and to explain the role and functions of the different actors in this system.

Target audience of the Handbook

The intended users of the present *Handbook* are policymakers and those working at the strategic or management level in police agencies. Parliamentarians and civil society organizations engaged in activities related to improving police accountability, integrity and civilian police oversight may also find it useful.

Overview of chapters

Chapter I gives an overview of the principles relevant to democratic policing. The key to restoring or enhancing public confidence in the police is openness to external review and oversight. Achieving public confidence is crucial to effective policing. The chapter presents a structure for developing, analysing and implementing an effective police accountability system.

A core principle of police accountability is that the police should be accountable to the law. Chapter II gives an overview of the most relevant international standards related to policing and police accountability.

While police accountability is not restricted to dealing with complaints, an effective complaints system is key to ensuring accountability. Chapter III looks at the complaints system, discussing the general principles for dealing with complaints, applicable both to the police and independent police complaints bodies.

Independent bodies are discussed in chapter IV, which presents a list of the factors that promote the impact and effectiveness of these bodies. Examples of independent police oversight and complaints bodies, with different mandates and operating in different legal systems, are also provided.

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[3] While the name of the ministry responsible for the police varies from country to country—examples include Home Office, Ministry of Security and Ministry of Police Affairs—the functions in relation to the police are usually similar. Additionally, any gendarmerie usually reports to the Ministry of Defence. In the present *Handbook*, "Ministry of the Interior" will be used.

The police themselves are the key players in maintaining or restoring police integrity. Chapter V elaborates on their role, with a particular emphasis on managers. The chapter also views the range of instruments that police have at their disposal to strengthen internal accountability and preserve integrity.

Police accountability is not limited to the police and the independent police bodies. The various institutions that can be considered to constitute the State each play a distinct role, as discussed in chapter VI. The role of the public, not just as "clients" who need to be able to share their concerns, but also in sharing responsibility for fair and effective policing, is examined in chapter VII.

Finally, chapter VIII provides a road map meant as a practical tool for policymakers and police seeking to develop, restore or enhance an effective police accountability system.

I. A comprehensive structure for effective police accountability

A. Democratic policing: key concepts

The mechanisms established by States to protect people's rights, establish and maintain order and guarantee stability and security are usually referred to collectively as the security sector.[4] An important actor in the security sector is the police, whose functions, as a minimum, are:[5]

- Prevention and detection of crime
- Maintenance of public order
- Provision of assistance to the public

In order to carry out these functions, the police have certain powers, namely the power to arrest and detain and the power to use force. It is precisely this monopoly on the use of force[6] and the power to arrest and detain that place the police in a unique and sensitive position within the democratic State, so that adequate control mechanisms are required to ensure that these powers are consistently used in the public interest.[7] Like any other public service, the police must operate with impartiality.

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[4] It is generally agreed that the security sector includes "core security actors (e.g. armed forces, police, gendarmerie, border guards, customs and immigration, and intelligence and security services); security management and oversight bodies (e.g. ministries of defence and internal affairs, financial management bodies and public complaints commissions); justice and law enforcement institutions (e.g. the judiciary, prisons, prosecution services, traditional justice systems); and non-statutory security forces (e.g. private security companies, guerrilla armies and private militia)." (Organisation for Economic Co-operation and Development, *OECD DAC Handbook on Security System Reform: Supporting Security and Justice* (Paris, 2007), p. 5). Available from www.oecd.org/dataoecd/43/25/38406485. pdf. A similar definition is given in the report of the Secretary-General on securing peace and development: the role of the United Nations in supporting security sector reform (A/62/659-S/2008/39).

[5] See for example: Council of Europe, Recommendation Rec(2001)10 of the Committee of Ministers to member States on the European Code of Police Ethics, adopted by the Committee of Ministers on 19 September 2001; Cees de Rover, *To Serve and to Protect: Human Rights and Humanitarian Law for Police and Security Forces* (Geneva, International Committee of the Red Cross, 1998); Ralph Crawshaw, Barry Devlin and Tom Williamson, *Human Rights and Policing: Standards for Good Behaviour and a Strategy for Change* (The Hague, Kluwer Law International, 1998). The European Code of Police Ethics is available from https://wcd.coe.int/wcd/ViewDoc.jsp?id=223251&Site=CM.

[6] In most countries, the police are the only State body that may legally use force to maintain order (in times of peace). Others are allowed to use force only in self-defence. This is referred to as a police monopoly on the use of force in times of peace.

[7] The notion that the State and all its institutions are to serve the public interest is reflected in article 1 of the International Code of Conduct for Public Officials (General Assembly resolution 51/59, annex) which states: "A public office, as defined by national law, is a position of trust, implying a duty to act in the public interest. Therefore, the ultimate loyalty of public officials shall be to the public interests of their country as expressed through the democratic institutions of government." The International Code of Conduct for Public Officials is recommended to Member States "as a tool to guide their efforts against corruption". See annex II.

The description of the police as the strong arm of the State reflects their authorization to enforce laws and policies defined by State institutions. In some countries, this leads to State representatives trying to influence the police to serve their interests rather than the public interest (known as political interference).[8] Others therefore prefer to regard the police as a service to the public, with the emphasis on the requirement for the police to be responsive to the people's needs, given that they are carrying out their functions on the people's behalf. However, it may be difficult to define the people and their needs because in many countries, different social groups may have different expectations about how the police should respond to certain situations.

Neither acting exclusively on the instructions of State representatives nor simply honouring public requests will ensure policing in the public interest. To enable impartiality, including political impartiality, and non-arbitrary professional decision-making—in particular with regard to the use of police powers—the police must be allowed to use independent professional judgement when responding to particular situations.

The police leadership must be granted sufficient autonomy to decide, within an established budgetary framework and in line with laws and policies, how to respond to law-and-order situations and how to allocate resources, based on their professional expertise and intelligence as well as on their community contacts, subsequently accounting for their decisions. This is known as operational independence.

In other words, appropriate police action involves finding a balance between serving the State (which, in itself, must serve the public interest), serving the public (with its potentially varying community needs), and police professionalism, as shown in figure I below.

Figure I.   Balance of considerations for police action
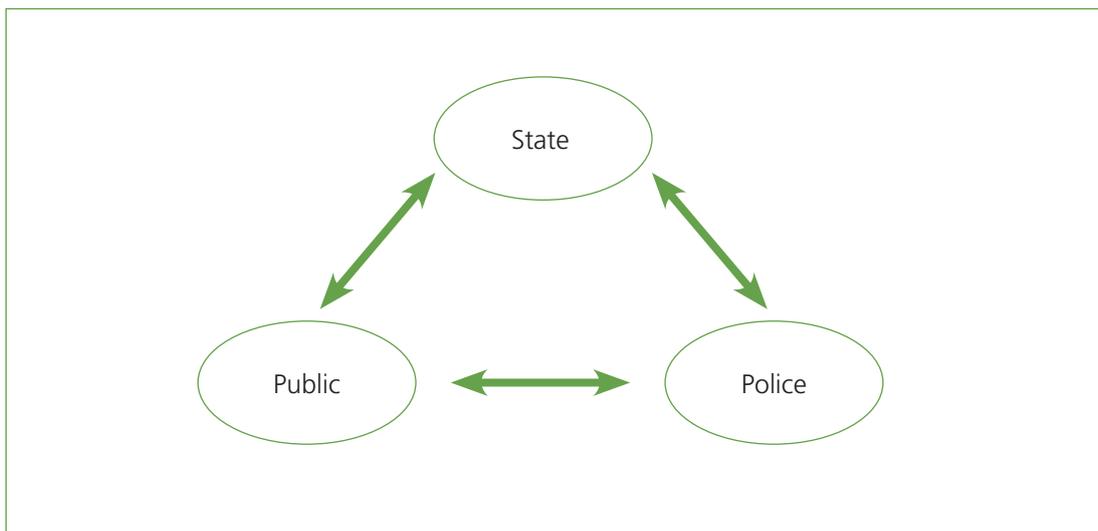
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[8] Political interference will be explored in more depth in chapter VI.

The operational independence of the police leadership filters down to rank-and-file officers, where it takes the form of discretion (or discretionary powers). While on duty, a police officer typically has discretionary power in deciding which deviant behaviour to act on (obviously, acting within the bounds established in national law and policy).

Exercising some discretion is at the very heart of policing: not every offence is worthy of police action nor is police action always the best solution to a problem.[9] Additionally, police officers typically have some room for manoeuvre when using police powers, with the authority to make decisions on such matters as how much force to use and on whether to carry out arrests or searches.

Operational independence requires police:[10]

- To have a high degree of professionalism and independence from political influences
- To act in conformity with the law and established policies
- To operate on the basis of public consent (within the framework of the law), as evidenced by levels of public confidence
- To take responsibility for their decisions and operations, accepting liability when required, and to exhibit full transparency in decisions and openness to external scrutiny

In other words, good policing is policing that is both effective and fair.[11] Police who are ineffective, or illegitimate or unfair, in protecting the public against crime will lose the public's confidence.[12] Good policing is policing with legitimacy on the basis of public consent, rather than repression.[13]

> Achieving public confidence is key to effective policing where police functions can be carried out on the basis of legitimacy rather than force.

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[9]For a more elaborate discussion of operational independence see Anneke Osse, *Understanding Policing: A Resource for Human Rights Activists* (Amsterdam, Amnesty International Nederland, 2006), chapter 4.

[10]This is why the Patten Commission, responsible for formulating reforms for the police in Northern Ireland in the late 1990s, suggested the use of the term "operational responsibility" rather than "operational independence" so as to emphasize that the police must never escape scrutiny (*A New Beginning: Policing in Northern Ireland—The Report of the Independent Commission on Policing for Northern Ireland*, 1999, available from www.nio.gov.uk/a_new_beginning_in_policing_in_northern_ireland.pdf. Accessed 23 December 2009.

[11]The Secretary-General refers to the importance of an effective, professional and accountable security sector (see footnote 4). See also for example Charles T. Call, "Challenges in police reform: promoting effectiveness and accountability", International Peace Academy Policy Report (New York, 2003); Andreas Schedler, "Conceptualizing accountability", in *The Self-Restraining State: Power and Accountability in New Democracies*, Andreas Schedler, Larry Diamond and Marc F. Plattner, eds. (Boulder, Colorado, Lynne Rienner Publishers, 1999), pp. 13-28; Thomas E. Perez, "External governmental mechanisms of police accountability: three investigative structures", *Policing and Society*, vol. 10, No. 1 (2000), pp. 47-77; David H. Bayley, *Changing the Guard. Developing Democratic Police Abroad* (New York, Oxford University Press, 2006).

[12]Kristina Murphy, Lyn Hinds and Jenny Fleming, "Encouraging public cooperation and support for police", Policing and Society, vol. 18, No. 2 (June 2008), pp. 136-155; United States, Department of Justice, Office of Community Oriented Policing Services and International Association of Chiefs of Police, *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* (2009).

[13]"A legitimate institution's entitlement to have its rules and decisions obeyed is conferred by the public, and does not rest on the institution's power to impose its rules/directions." (Murphy, Hinds and Fleming, "Encouraging public cooperation and support for police", p. 137).

Good policing requires public cooperation. Members of the public may be witnesses and victims of crime, and they can provide the police with relevant information.[14] Yet, only if people trust the police and regard them as legitimate are they willing to assist them (for example by sharing information) and comply with their instructions,[15] enabling the police to succeed in carrying out their core functions of maintaining public order and preventing and detecting crime. In this connection, when police compliance with new operational methods and procedures is sought, the police must be persuaded that it is in their professional interests to cooperate.[16]

Enhancing police accountability and integrity is primarily meant to establish, restore or enhance public trust and (re-)build the legitimacy that is a prerequisite for effective policing.

This may be achieved through establishing a system of civilian oversight. Accepting external, civilian scrutiny is a hallmark of a democratic police force, that is, one that is responsive and accountable to the needs of the public.[17] Box 1 provides background on the issue of the need for the police to regain moral authority.

Box 1.   Police scandals worldwide

Over the past three to four decades there have been national scandals concerning police misconduct, including human rights violations, excessive use of force and corruption in countries around the world resulting in public outcries.[a] Scandals such as these led to a need for the police to regain moral authority by improving their integrity and re-establishing public confidence, resulting in major changes in police accountability structures with the acceptance of stricter external scrutiny.

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[a] Examples of measures taken include: an investigation into allegations of corruption in the New York Police Department by the Mollen Commission in 1994; major reforms of the Belgian police and their oversight structures following a failure to properly investigate child molester Marc Dutroux; the trial of Los Angeles Police Department officers after the African American Rodney King was beaten up; the Macpherson Inquiry after the Metropolitan Police failed to investigate the murder of the black 15-year-old Stephen Lawrence in London in a professional and impartial way; the order for a full investigation into "the killing of the Apo six" in Nigeria, which the police had tried to cover up; and the Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police, which released 125 recommendations in 2005 focusing on three main areas of reform: crime reduction, eradicating corruption and observing human rights.

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[14] Ibid.

[15] Ibid.; O'Neill, *Police Reform and Human Rights* (see footnote 1).

[16] O'Neill, "Police reform in post-conflict societies" (see footnote 1). More fundamentally, in a democracy, the police must operate on the basis of laws and principles that are upheld and enforced with public support.

[17] See J. Burack, W. Lewis and E. Marks, *Civilian Police and Multinational Peacekeeping: A Workshop Series–A Role for Democratic Policing* (Washington, D.C., United States, Department of Justice, National Institute of Justice, 1997); David H. Bayley, "The contemporary practices of policing: a comparative view", in J. Burack, W. Lewis and E. Marks, *Civilian Police and Multinational Peacekeeping: A Workshop Series–A Role for Democratic Policing* (Washington, D.C., United States, Department of Justice, National Institute of Justice, 1997); Christopher Stone and Heather H. Ward, "Democratic policing: a framework for action", Policing and Society, vol. 10, No. 1 (2000), pp. 11-45; Osse, *Understanding Policing: A Resource for Human Rights Activists* (see footnote 9); Commonwealth Human Rights Initiative, *Police Accountability: Too Important to Neglect, Too Urgent to Delay* (New Delhi, 2005); Perez, "External governmental mechanisms of police accountability" (see footnote 11); Joel Miller, "Civilian oversight of policing: lessons from the literature" (New York, Vera Institute of Justice, 2002); and the report of the Secretary-General on securing peace and development (see footnote 4), para. 41.

The most basic feature of installing civilian oversight is to demilitarize the police and ensure that they report to civilian rather than military authorities, such as the Ministry of the Interior.[18] They must also respect and accept judicial authority from an independent (civilian) court. Beyond this, accepting civilian oversight means that the police are prepared to be scrutinized not only by ministries, the judiciary and the parliament but also by civil society and independent oversight bodies. Perceptions are as important as facts. Thus, not only do the police need to accept external civilian oversight but the community needs to perceive that they are effectively held to account for their operations and actions, as well as misconduct, in a transparent and fair way.[19]

Accountability involves a system of internal and external checks and balances aimed at ensuring that police perform the functions expected of them to a high standard and are held responsible if they fail to do so. It aims to prevent the police from misusing their powers, to prevent political authorities from misusing their control over the police, and most importantly, to enhance public confidence and (re-)establish police legitimacy.

Accountable policing means that the police accept being questioned about their decisions and actions and accept the consequences of being found guilty of misconduct, including sanctions and having to compensate victims.[20] Without such transparency, corruption and other forms of police misconduct thrive, given that some secrecy is inevitably associated with misconduct. On the one hand, effective accountability is unlikely in police systems that lack integrity, where the lack of integrity and ineffective accountability are connected and mutually reinforcing. On the other hand, transparency, openness to scrutiny, integrity and legitimacy are also mutually reinforcing, as shown in figure II. Therefore enhancing accountability can improve police legitimacy and increase public confidence, which, in turn, will reinforce the integrity of the system.

Figure II. Mutually reinforcing qualities

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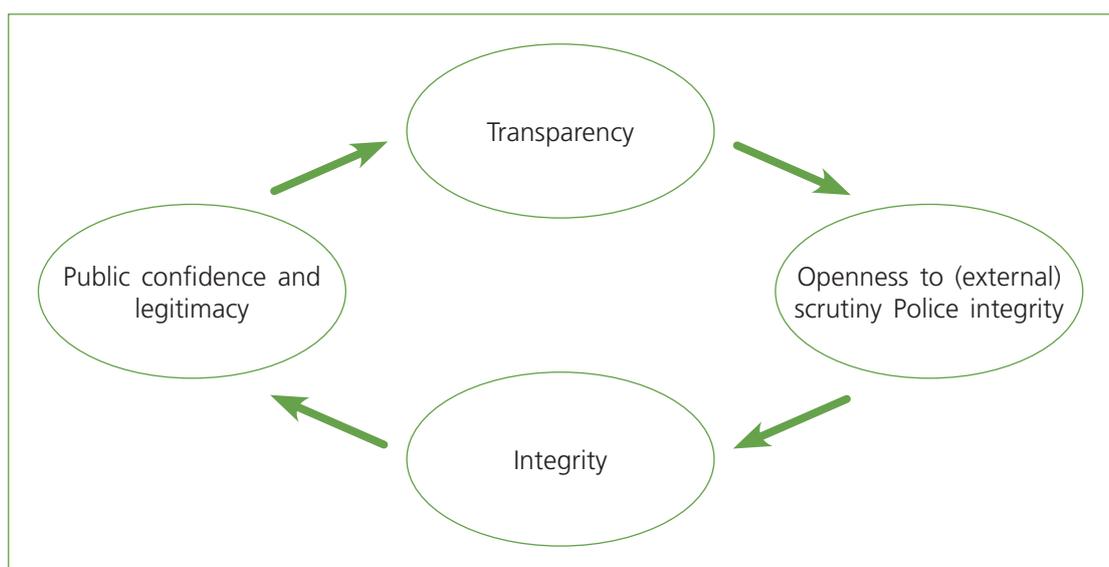
[19] Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17).

[20] Schedler, "Conceptualizing accountability" (see footnote 11).

Police that lack integrity will often seek to enlarge their operational independence, without any willingness to respond to the needs of the public or to be accountable in a transparent way. In fact, they desire "operational freedom" without the burden of responsibility.

> Guidance is key to responsibility.

B.   Accountability before, during and after operations

Effective police accountability involves identifying and punishing those who have committed misconduct, and ensuring accountability after the act.[21] Because police officers act on the basis of directives, accountability includes responsibility for the direction, control or diligence exercised before and during operations to ensure observance of the law and policies and of human rights. This is known as accountability before the act,[22] which also includes the notion that the police are acting in accordance with the stated requirements of the general public or their representatives.[23]

In other words, effective accountability involves:

- Guidance for the police on what to do and how to do it (before the act)
- Supervision of the police and awareness of the need for accountability (during the act)
- Remedying improper police actions and omissions (after the act)[24]
- Feedback and opportunities to reflect on lessons learned (after the act)

Figure III provides an overview of the different aspects of effective police accountability.

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[21] This is also referred to as a posteriori accountability in the European Code of Police Ethics of the Council of Europe.

[22] This is also referred to as a priori accountability in the European Code of Police Ethics of the Council of Europe.

[23] This is a broad definition of accountability. See also Osse, Understanding Policing: A Resource for Human Rights Activists (see footnote 9).

[24] "Inconsequential accountability is no accountability at all", Schedler, "Conceptualizing accountability" (see footnote 11), p.17. While improper actions and omissions could also be remedied during the act, this is included in supervision.

Figure III.   Ensuring effective police accountability

Before police actions and operations	During police actions and operations	After police actions and operations
Direction-setting Priorities are set and policies are developed, ensuring that police are responsive to the needs and concerns of the people they serve Practical guidelines that accurately reflect the laws applicable to policing are developed	**Supervision and monitoring** Daily police operations and actions are supervised and monitored	**Review and evaluation** Police operations, management and administration are reviewed Effective complaints and redress procedures are in place (including compensation) to prevent impunity Misconduct is punished and corrected

Feedback and revision of, for example,
policy guidelines and operational procedures

The distinction between the phases of "before", "during" and "after" police actions and operations will be applied to the issue of accountability throughout the present *Handbook*.

Given that accountability includes responsibility for giving directions and preparing police officers for their work, it follows that accountability is not limited to the actions of individual officers but applies to supervisors as well as the agency as a whole. Misconduct is seldom restricted to one individual. Supervisors need to be aware of the conduct of those under their command and are responsible for it, as are their supervisors, in turn. Accountability also means that the police as a whole need to be accountable to society at large for their success in maintaining order and security and in controlling crime in a cost-effective way and with integrity.

C.   Complementary internal and external accountability mechanisms

In all countries, the police are accountable to the line of command within the police force and also to external authorities, usually, at a minimum, the minister of the interior and/or the prime minister (who can command the police), the judiciary (whose verdicts and other orders the police have to comply with) and the legislature (which drafts laws and approves the police budget); and there is often a national human rights institution that plays a role in police oversight.[25] Offices of the auditor-general may also exercise financial oversight over the police. Additionally, in some countries, the police have to report to and cooperate with independent and civilian oversight bodies.

Accountability is in fact a "conglomerate of processes" in which different actors share responsibility:

1. Internal accountability is assured through an effective internal chain of command that includes the reporting system and internal disciplinary system.

2. Accountability to the State can be divided among the three branches of Government:[26]

    • *The executive.* The police are accountable to the government department responsible, usually the Ministry of the Interior, and to the auditor for spending the police budget and resource allocation.

    • *The judiciary.* The police are accountable to the law and to judges and prosecutors (this is also known as legal accountability).

    • *The legislature.* The police are accountable to the public through their representatives in parliament and the city council (also called democratic or political accountability).

3. Public accountability is any mechanism through which police are accountable to the public either directly or indirectly, including community policing forums, civilian oversight boards and the media (use of such mechanisms is also known as "civilian oversight").

4. Independent accountability refers to any mechanism that does not represent a particular entity, State or civilian, and whose prime concern is the quality and non-arbitrariness of policing, such as a national human rights institution, ombudsmen, police complaints commissions and bodies (this is also known as civilian oversight).

5. International accountability refers to the international scrutiny that police may be subjected to by international human rights treaty bodies such as the Human Rights Committee or regional treaty bodies such as the European Committee

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[25] See, for example: African Policing Civilian Oversight Forum (APCOF), *An Audit of Police Oversight in Africa* (Cape Town, African Minds, 2008).

[26] State accountability is not limited to the national level but can also involve local and/or provincial institutions.

for the Prevention of Torture, and in some instances also to specific agreements on oversight laid down in peace accords and other agreements.[27]

The different processes complement each other, and there may be some overlap. In many countries, police accountability is limited to internal and State accountability, and hence to State-related institutions. The State is often believed to be best placed to serve the public interest: the executive is seen as neutral, with the judiciary providing independent oversight and the legislature representing the public. Thus, it is argued that public and independent accountability are redundant. Unfortunately, the assumption is questionable, as there is ample evidence that oversight actors representing the executive tend to be biased towards State actors (including the police) and, as a result, tend to find it difficult to take a critical standpoint. This may even include such impartial and independent institutions as judges who in some countries are in fact closer to the executive, instead of being fully independent.[28] In other words, in practice, international prosecutors and mayors alike, and sometimes even judges, as well as Ministries of the Interior, tend to rely on the police's judgement and are reluctant to scrutinize them. Indeed, even if officers are implicated in criminal cases, they are rarely criminally prosecuted let alone tried.[29]

> As whoever controls the police is in a powerful position, it is important to ensure that no single party dominates.

Just as it is unwise to vest all powers and discretion entirely in the police, giving them complete operational independence and relying entirely on their professional judgement, it is also unwise to vest all authority over the police in any single body, regardless of whether that body represents the executive or the community or is an independent oversight body, since impartiality cannot be assured. This is of particular importance in post-conflict situations, where ensuring political control over the police, who may still be loyal to a previous regime, can be difficult.[30] Conflict prevention strategies may involve shared control over the police.

> External oversight is complementary to internal mechanisms: it can reinforce them and sustain police managers in their efforts to enhance police integrity and performance.

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[27] The present *Handbook* will focus only on domestic players, leaving aside any specific exploration of the role of treaty bodies and specific agreements.

[28] See for example the African Policing Civilian Oversight Forum, *An Audit of Police Oversight in Africa* (see footnote 23); Jona Goldschmidt and Anonymous, "The necessity of dishonesty: police deviance, 'making the case', and the public good", *Policing and Society*, vol. 18, No. 2 (2008), pp. 113-135; Rachel Neild, "Confronting a culture of impunity: the promise and pitfalls of civilian review of police in Latin America", in *Civilian Oversight of Policing: Governance, Democracy and Human Rights*, A. Goldsmith and C. Lewis, eds. (Portland, Oregon, Hart, 2000); Amnesty International, *Public Outrage: Police Officers Above the Law in France*, AI Index EUR 21/003/2009 (London, 2009).

[29] Washington Office on Latin America, *Protect and Serve? The Status of Police Reform in Central America* (Washington, D.C., 2009); O'Neill, "Police reform in post-conflict societies" (see footnote 1).

[30] See Janine Rauch and Elrena van der Spuy, *Recent Experiments in Police Reform in Post-Conflict Africa: A Review* (Johannesburg, Institute for Democracy in South Africa, 2006).

Making complaints processes more accessible and breaking down the self-protective isolation of the police can provide information on police misconduct and support police managers in identifying problems and taking steps towards addressing abuse by the police, improving the quality of internal police investigation and discouraging police misconduct in the future.[31]

Internal and external police accountability mechanisms both have strengths and weaknesses.[32] While external systems are likely to be more credible in the eyes of the public, they are less likely to succeed in unravelling systematic police misconduct without the support of the police management. They often lack the necessary investigative skills, especially when having to operate within the context of insular police culture.

Internal mechanisms can be only as effective as the commitment of police managers to tackling misconduct, and such managers are often reluctant to expose large-scale misconduct because of its overall effect on the image of the entire force. As a result of the widespread belief that police managers will protect their own, the internal mechanism is less credible from the standpoint of citizens. Public confidence may also be compromised by the fact that obtaining access to information acquired using internal mechanisms is often difficult because the process can be opaque. In addition, internal mechanisms are often limited in scope and tend to concentrate only on reactive (punitive) measures, as opposed to proactive (preventive) measures. Nevertheless, the police bear the prime responsibility for the integrity and overall performance of their force, and as a consequence they should continue to carry out internal investigations. This can also help to prevent external bodies from becoming overloaded with work, which may seriously jeopardize their effectiveness. The advantages of each system can be summarized as follows:

Advantages of internal accountability mechanisms	*Advantages of external accountability mechanisms*
Police take responsibility for the integrity of their organization	External mechanisms have more credibility in the eyes of the public
Internal mechanisms provide a better understanding of police misconduct and the ways in which such misconduct is covered up (including police culture)	External mechanisms are not affected by police esprit de corps
Better investigative skills are often available	External mechanisms are unbiased
	Procedures and findings are more accessible to the public
	External mechanisms can strengthen police in upholding their integrity

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[31] Samuel Walker, Police Accountability: The Role of Civilian Oversight, Wadsworth Professionalism in Policing Series (Belmont, California, Wadsworth Thompson Learning, 2001).

[32] E. Alemika, "Police accountability institutions and mechanisms in Nigeria", unpublished manuscript, 2009.

D.   A representative system

An effective police accountability system must take account of the special needs of vulnerable groups and the concerns of minority groups. Also, it is essential that the accountability system be gender-sensitive. There are two strategies that can be adopted for incorporating gender issues, that is, the particular needs and roles of men, women, boys and girls:[33]

- Gender mainstreaming
- Promoting the equal participation of men and women

Gender mainstreaming is "the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making the concerns and experiences of women as well as men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all spheres so that women and men benefit equally and inequality is not perpetuated."[34]

Secondly, it is important to ensure that men and women are equally represented in the police accountability structures, both within the police, as well as within State institutions (the parliament, the executive and the judiciary) and independent oversight bodies. To date, men have tended to be overrepresented in these structures.[35]

"Increasing the participation of women in oversight helps to ensure that they are—and are perceived to be—representative, which can increase public confidence and responsiveness of oversight to the concerns of all citizens. Involving civil society with gender expertise, including women's organizations, men's organizations and gender experts, can strengthen both formal and informal security sector oversight mechanisms. They have the expertise and capacity to:

- Provide gender-responsive policy advice on improving transparency, accountability and responsiveness
- Monitor the implementation of international and regional agreements on gender equality as related to security sector institutions
- Provide capacity-building for governance and oversight bodies on gender and security issues
- Help ensure that oversight is comprehensive and responsive to communities' needs"[36]

The strategies of mainstreaming and equal participation can also be applied to other groups, including minority groups, vulnerable groups (youth, children, the elderly) and economically deprived groups.

[33]Kristin Valasek, "Security sector reform and gender", Tool 1, *Gender and Security Sector Reform Toolkit,* Megan Bastick and Kristin Valasek, eds. (Geneva, Geneva Centre for the Democratic Control of Armed Forces, Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and International Research and Training Institute for the Advancement of Women, 2008).

[34]Report of the Economic and Social Council for 1997 (A/52/3).

[35]Valasek, "Security sector reform and gender".

[36]Valasek, "Security sector reform and gender", p. 10.

E.   The importance of context

Lack of integrity is seldom restricted to the police, but often affects other institutions within the security and justice sectors.[37] In countries where corruption is pervasive in the rule-of-law system, neutral enforcement of the laws in force is impeded by corrupt judges, lawyers, prosecutors, police officers, investigators and auditors, weakening the very accountability structures that are supposed to oversee the police, hence contributing to a culture of impunity.[38] When developing a strategy to promote integrity and enhance accountability in such contexts, focusing on the police alone will have a limited impact. A holistic approach must be taken that addresses the entire security sector. In fact, public services as a whole—and even the public at large—may need to be involved. A three-pronged approach combining repression of misconduct, prevention of future misconduct and awareness-raising among the general public may be needed.[39]

Additionally, many countries suffer from a lack of resources, which seriously undermines reform efforts. Understaffed oversight bodies, underpaid police and a congested judicial system incapable of processing cases in time all contribute to a situation that presents challenges to maintaining, let alone enhancing, police integrity. Especially in countries emerging from conflict, but also in countries in transition, the police may have to compete with other sectors for scarce resources.

Any attempt to enhance police accountability should always start with an assessment of the country's current overall situation (covering economic, historic, cultural and rule-of-law characteristics) and its police accountability system, taking an open-minded approach to its specific qualities. When making such an assessment, it may be helpful to use the UNODC *Criminal Justice Assessment Toolkit*.[40] For specific issues related to a post-conflict environment, the *Rule-of-Law Tools for Post-Conflict States* (Office of the United Nations High Commissioner for Human Rights, New York, 2006) may provide useful guidance.

Enhancing police accountability must not be limited to establishing a new (independent) structure but must include strengthening the capacity, capability and competence of existing internal and external accountability structures.

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[37] See also report of the Secretary-General on securing peace and development (see footnote 4); Call, "Challenges in police reform: promoting effectiveness and accountability" (see footnote 11); O'Neill, *Police Reform and Human Rights: A HURIST Document* (see footnote 1); O'Neill, "Police reform in post-conflict societies" (see footnote 1).

[38] From the website of the Office of the United Nations High Commissioner for Human Rights (accessed 29 March 2009). Available from www2.ohchr.org/english/issues/development/governance/anti_corruption.htm.

[39] Such a three-pronged approach was first adopted in Hong Kong and has been replicated throughout the world. It is also included in the Seoul Declaration adopted in Assembly resolution AGN/68/RES/4 of the International Criminal Police Organization (INTERPOL), entitled "Supporting the initiatives of the Interpol Group of Experts on Corruption", adopted at the sixty-eighth session of the INTERPOL General Assembly, Seoul, 8-12 November 1999 (see chapter V and annex III).

[40] Available from www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html (accessed 10 December 2009).

F.   Police accountability: a comprehensive model

National police accountability systems need to provide control mechanisms that are capable of preventing the misuse of police powers and that reflect the need for the police to find a balance between State directives, community concerns and professional principles while at the same time accepting independent scrutiny.

The quality of policing is the product of its effectiveness and legitimacy. Police can establish, restore or enhance public confidence through measures that enhance accountability, in particular by accepting civilian oversight. Such oversight requires transparency; police forces with high levels of integrity will have fewer difficulties being transparent and accountable.

Effective police accountability entails both preventive and corrective measures, involves a range of players representing different groups, both from within and outside the police, and targets individual police officers as well as their line managers and the organization as a whole. It is cyclical rather than linear, in that past experience needs to inform new guidelines and procedures to prevent the recurrence of wrongdoings. Effective police accountability requires a tailor-made approach based on a thorough assessment of the context in which the police are to operate.

Police accountability involves numerous actors before, during or after police actions and operations. These usually include:

- Police
- Ministry
- Police inspectorate
- Prosecution
- Judges
- Parliament or parliamentary committees
- Municipal, district and provincial administration (for example mayor, city council, governor, prefect)
- National human rights institution or ombudsman
- Police complaints bodies
- Independent police oversight bodies
- Non-governmental organizations and civil society organizations
- Academics
- Media
- Individual members of the public
- International treaty bodies
- Specific bodies set up under peace agreements

Figure IV overleaf combines the different actors and institutions with the roles and functions necessary for an effective police accountability system. It shows the complexity of a modern democratic environment.

Figure IV.   A comprehensive model of effective police accountability

Internal

1. Police (before, during and after police actions and operations)

Police line of command, training centres

Direction-setting, supervision and review and evaluation: Assessment and action upon situations based on professional judgement within a defined framework

External

Civilian oversight

2. State institutions, including provincial and municipal institutions (before and after police actions and operations)

Executive: Ministry of the Interior, inspectorate

Legislature: Parliament, specific parliamentary committees

Judiciary: Judges and prosecutors

Direction-setting and review and evaluation: Development of legislation, operational guidelines and policies; priority-setting

3. Public (before and after police actions and operations)

Non-governmental organizations and civil society organizations, academics, media, individual members of the public

Direction-setting and review and evaluation: Expression of needs and concerns and communication of expectations; filing of complaints

4. Independent (after police actions and operations)

National human rights institutions, police complaints and oversight bodies

Evaluation and review of police actions and operations; receipt and investigation of complaints

Enhancing police integrity and strengthening police accountability

All of the actors have a part to play in ensuring the police remain accountable and that they are performing their duties in accordance with expectations. State institutions need to provide guidance and direction and assess whether police actions are in compliance with this, while refraining from interfering in police actions and operations; the public can inform the police of their main concerns and expectations and file complaints; and independent institutions can evaluate police performance and compliance with the law and operational instructions. The police are the only actor involved before, during and after actions and operations.

With this model in mind, an analysis of the current police accountability system can be made, identifying gaps and weaknesses and developing suggestions for its improvement.

II. Obligations and responsibilities under international legal standards

A. International standards

The International Covenant on Civil and Political Rights[41] and the International Covenant on Economic, Social and Cultural Rights[42] set out principles on the fundamental rights of individuals to be observed by States. Several treaties and principles also contain provisions that are applicable to policing, both in terms of prohibited police behaviours (such as torture) and desirable priorities for police to set in their activities. Some examples are the Convention on the Elimination of All Forms of Discrimination against Women,[43] the Convention on the Rights of the Child,[44] and the International Convention on the Elimination of All Forms of Racial Discrimination.[45] An overview of the international standards that are relevant to policing can be found in annex I.[46]

Treaties such as the International Covenant on Civil and Political Rights, which has been ratified by an absolute majority of States, establish legally binding obligations.[47] A basic notion underlying the international legal framework is the right to remedy, which means that States need to establish a mechanism whereby people can seek redress if their rights have been violated. Article 2, paragraph 3, of the Covenant states:

> Each State Party to the present Covenant undertakes:
>
> *(a)* To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
>
> *(b)* To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities,

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[41] General Assembly resolution 2200 A (XXI), annex.

[42] Ibid.

[43] United Nations, *Treaty Series*, vol. 1249, No. 20378.

[44] Ibid., vol. 1577, No. 27531.

[45] Ibid., vol. 660, No. 9464.

[46] A compilation of international human rights and criminal justice principles that United Nations police personnel must know, abide by and promote when deployed in peacekeeping operations has recently been updated and released (*United Nations Criminal Justice Standards for United Nations Police*, available from www.unodc.org/documents/justice-and-prison-reform/08-58900_Ebook.pdf).

[47] As at 9 August 2010, 166 countries worldwide are party to this treaty.

or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

  (c) To ensure that the competent authorities shall enforce such remedies when granted.

More specifically, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[48] states in article 12: "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction." Articles 13 and 14 establish that any individual who alleges that he or she has been subjected to torture in any territory under the jurisdiction of the State Party has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities and has the right to fair and adequate compensation. Moreover, also in accordance with article 13, the complainant must be protected against all ill-treatment or intimidation as a consequence of his complaint. Pursuant to article 15, any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. Pursuant to part II of the Convention, States parties have to report periodically to the Committee against Torture on the measures they have taken to give effect to their undertakings under the Convention.

Documents such as principles and declarations give guidance to Member States on the implementation of binding treaties. An important document for the police is the Code of Conduct for Law Enforcement Officials adopted by the General Assembly in its resolution 34/169.

The Code of Conduct for Law Enforcement Officials, which refers to the various functions of law enforcement as well as the different aspects of accountability as discussed in chapter I of the present *Handbook*, states that the Code needs to be supported by additional important principles and prerequisites for the humane performance of law enforcement functions, namely:

  (a) That, like all agencies of the criminal justice system, every law enforcement agency should be representative of and responsive and accountable to the community as a whole;

  (b) That the effective maintenance of ethical standards among law enforcement officials depends on the existence of a well-conceived, popularly accepted and humane system of laws;

  (c) That every law enforcement official is part of the criminal justice system, the aim of which is to prevent and control crime, and that the conduct of every functionary within the system has an impact on the entire system;

  (d) That every law enforcement agency, in fulfilment of the first premise of every profession, should be held to the duty of disciplining itself in complete conformity with

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[48] United Nations, *Treaty Series*, vol. 1465, No. 24841.

the principles and standards herein provided and that the actions of law enforcement officials should be responsive to public scrutiny, whether exercised by a review board, a ministry, a procuracy, the judiciary, an ombudsman, a citizens' committee or any combination thereof, or any other reviewing agency;

(e) That standards as such lack practical value unless their content and meaning, through education and training and through monitoring, become part of the creed of every law enforcement official.

In addition, articles 7 and 8 of the Code of Conduct require police to oppose and combat corruption and to oppose and report any violation of the Code of Conduct internally or to "other appropriate authorities or organs vested with reviewing or remedial power". The commentary on article 8 refers to the need to report violations within the chain of command but, only when no other remedies are available or effective, to take other lawful action outside the chain of command, and, as a last resort, to the media. This is known as whistle-blowing. The Code of Conduct is reproduced in full in box 2.

Box 2. Code of Conduct for Law Enforcement Officials

Article 1

Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

In 1989, the General Assembly endorsed the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials[49] in its resolution 44/162. The Guidelines state, inter alia, that effective mechanisms need to be established to ensure the internal discipline and external control as well as the supervision of law enforcement officials. Additionally, they state in section B.4 that provisions for the receipt and processing of complaints against law enforcement officials made by members of the public shall be made.

Another instrument that is relevant for the police is the International Code of Conduct for Public Officials.[50] The full text can be found in annex II of the present *Handbook*.

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials[51] include principles related to accountability in relation to the use of force and firearms by police, including:

- The need for the availability of an "effective review process" with the requirement that independent administrative or prosecutorial authorities need to be able to exercise jurisdiction in appropriate circumstances and that cases of death and serious injury or other grave consequences must be reported promptly to the "competent authorities responsible for administrative review and judicial control".

- The principle that persons affected by the use of force and firearms or their legal representatives and dependents should have access to an independent process, including a judicial process.

- The principle that superior officers must be held responsible "if they know, or should have known" that their subordinates "are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use".

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[49] Economic and Social Council resolution 1989/61, annex.

[50] General Assembly resolution 51/59, annex.

[51] *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex. Principles 22-26 deal specifically with accountability issues.

- The principle that officials who refuse to carry out unlawful orders to use force and firearms or who report such use shall not suffer criminal or disciplinary sanction.

- The principle that officials may not claim that they were obeying superior orders if they knew that such orders were manifestly unlawful and if they had a reasonable opportunity to refuse to carry out the orders. In any case, the superiors who gave the unlawful orders are also to be held responsible.

The Principles relating to the status of national institutions[52] (the Paris Principles) are intended to guide the status and functioning of national institutions for the protection and promotion of human rights, stating that the mandate of such institutions should be as broad as possible. Such institutions, whose names vary from country to country, play an important role as independent police oversight bodies.[53] They typically deal with misconduct of all State officials rather than that of the police exclusively, and sometimes there are police-specific bodies such as a police ombudsman or a police complaints commission.

According to the Paris Principles, the responsibilities of a national institution for the protection and promotion of human rights should include submitting, upon request or on the institution's own initiative, opinions, recommendations, proposals and reports on any matters concerning the protection and promotion of human rights in relation to the following: any legislative or administrative provisions, as well as provisions relating to judicial organization, intended to preserve and extend the protection of human rights; and any situation of violation of human rights which it decides to take up; the preparation of reports on the national situation with regard to human rights in general, and on more specific matters. A further such responsibility is to draw the attention of the Government to situations in any part of the country where human rights are violated and to submit to the Government proposals for initiatives to put an end to such situations and, where necessary, express an opinion on the positions and reactions of the Government. The composition of the national institution should reflect the plural society and guarantee independence. The national institutions should freely consider any questions falling within their competence, hear any person and obtain any information necessary to make an assessment of situations falling within their competence and publicize its opinions and recommendations.

An important police oversight mechanism is the practice of making regular visits to places of police detention and places where police interrogate suspects, as provided for by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[54] which entered into force in 2006.[55] Article 1 of the Optional Protocol states that the purpose of the Protocol is "to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment." Such visits can play

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[52]General Assembly resolution 48/134, annex.

[53]A record of the institutions in different countries and their accreditation, and of the national, regional and international standards guiding their work is available from www.nhri.net.

[54]General Assembly resolution 57/199, annex.

[55]As at 5 August 2010, it had been ratified by 54 Member States.

an important role in the prevention of police misconduct such as maltreatment of detainees. The mechanics of the implementation of the provisions are left to the discretion of the State party, provided that it consults with non-State actors, in particular human rights defenders.[56]

The Standard Minimum Rules for the Treatment of Prisoners,[57] the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)[58] and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment[59] set out basic principles on treating detainees with dignity. They require States to make known places of detention and the identities of custody and interrogation officers so as to facilitate accountability. The Body of Principles, dating back to 1988, also includes a requirement for places of detention to accept a system of external visits similar to that provided for under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[60] Additionally, the Body of Principles provides detainees with the right to make a complaint to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers, and also to bring the complaint before a judicial or other authority in case it is rejected or inordinately delayed.[61] Finally, the Body of Principles states that whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any person who has knowledge of the case. Such an inquiry can also be held if someone dies shortly after having been detained; the findings can be made available on request.[62]

Habeas corpus is another fundamental measure to hold police accountable when depriving someone of his or her liberty. Under this principle, someone who is arrested or detained has the right to be brought promptly before a judge or other judicial authority to review the lawfulness of the detention. This principle is established in a range of instruments, most notably the International Covenant on Civil and Political Rights.[63]

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[56] Association for the Prevention of Torture, "Civil society and national preventive mechanisms under the Optional Protocol to the Convention against Torture" (Geneva, 2008).

[57] *Human Rights: A Compilation of International Instruments, Volume I (First Part): Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34. Part II.C of the Standard Minimum Rules on prisoners under arrest or awaiting trial is particularly relevant for the police.

[58] Economic and Social Council resolution 2010/16.

[59] General Assembly resolution 43/173, annex.

[60] Principle 29.

[61] Principle 33.

[62] Principle 34.

[63] International Covenant on Civil and Political Rights, art. 9, para. 4. It is also included in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Standard Minimum Rules for the Treatment of Prisoners and the Declaration on the Protection of All Persons from Enforced Disappearance (General Assembly resolution 47/133).

The treaties and principles referred to above focus on structures that the State should set up in order to enhance or ensure accountability. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms[64] focuses on the rights of the public to organize themselves in order to promote human rights, including monitoring actions performed by State agents, obviously including the police. Article 1 of the Declaration states that everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. Article 5 refers to the right of everyone to form non-governmental organizations, meet or assemble peacefully and communicate with non-governmental or intergovernmental organizations, and article 9 provides for the right to file complaints and also to have such complaints "promptly reviewed" and have the right to redress, including any compensation due, where there has been a violation. When filing a complaint, people have the right to "professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms". Finally, they have the right to "unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms".

In recent years, a number of international documents signed under the auspices of the United Nations and regional organizations have acknowledged the negative effects of corruption on the protection of human rights and on development. The United Nations Convention Against Corruption obliges States to establish a wide range of measures aimed at preventing and fighting corruption and at promoting integrity, transparency and accountability in its widest sense.[65] The Convention obliges States parties to develop, implement or maintain effective coordinated anti-corruption policies as well as strategies to prevent corruption and evaluate the adequacy of the measures taken periodically. It also requires States parties to establish a legal framework that criminalizes a range of corruption-related offences.[66] Article 6 stipulates the establishment of effective bodies that prevent corruption; article 7 deals with the recruitment, hiring, retention, promotion and retirement of civil servants; article 8 urges States parties to apply codes or standards of conduct and also to take disciplinary or other measures against public officials who violate these codes or standards; and article 13 deals with promoting active participation of society.[67]

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[64] General Assembly resolution 53/144, annex.

[65] Article 1 lists the purposes of the Convention: "*(a)* To promote and strengthen measures to prevent and combat corruption more efficiently and effectively; *(b)* To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery; *(c)* To promote integrity, accountability and proper management of public affairs and public property."

[66] Note that sections 9 and 10, part II, of the *Model Criminal Code*, part of the *Model Codes for Post-Conflict Criminal Justice* (Vivienne O'Connor and Colette Rausch, eds., *Model Codes for Post-Conflict Criminal Justice*, vol. I, *Model Criminal Code* (Washington, D.C., United States Institute of Peace Press, 2007), may give guidance to drafters of (post-conflict) criminal laws on corruption.

[67] Resolution 3/1 of the Conference of the States Parties to the United Nations Convention against Corruption, held in Doha from 9 to 13 November 2009, establishes a review mechanism for the implementation of the Convention (CAC/COSP/2009/15, sect. I.A, resolution 3/1).

The most important regional instruments related to combating corruption include the African Union Convention on Preventing and Combating Corruption (2003), the Inter-American Convention against Corruption (1996),[68] the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997)[69] and the Agreement establishing the Group of States against Corruption (GRECO) adopted by the Committee of Ministers of the Council of Europe in 1999.

The Global Standards to Combat Corruption in Police Forces/Services, adopted by the International Criminal Police Organization (INTERPOL), aim to ensure that police have high standards of integrity and promote and strengthen the development of "measures needed to prevent, detect, punish and eradicate corruption in the police forces/services within its national boundaries and to bring to justice police officers and other employees of police forces/services who are corrupt."[70] The Global Standards call for the establishment of a mechanism such as an oversight body to monitor the above-mentioned systems and measures and their adequacy.[71] The Standards include a provision authorizing the INTERPOL General Secretariat to monitor their implementation in member countries. The full text of the Global Standards can be found in annex III of the present *Handbook*.

In figure V below, a summary is given of the different treaties and "soft law" principles and how they relate to the different aspects of police accountability.

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[68] E/1996/99.

[69] *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

[70] Article 1. The General Assembly of INTERPOL adopted the Global Standards in 2002 by its resolution AG-2002-RES-01 at its 71st session in Yaoundé.

[71] See articles 4.14-4.17 of the INTERPOL Global Standards.

Figure V.   Requirements for police accountability in international standards

	Before police actions and operations	During police actions and operations	After police actions and operations
	Direction-setting and monitoring	**Supervision of actions and operations**	**Review and evaluation (incl. complaints)**
Binding	International Covenant on Civil and Political Rights International Covenant on Economic, Social and Cultural Rights	Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment Resolution 34/169 adopting the Code of Conduct for Law Enforcement Officials	International Covenant on Civil and Political Rights (article 2) United Nations Convention against Corruption Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment
"Soft law"	United Nations Convention against Corruption Resolution 34/169 adopting the Code of Conduct for Law Enforcement Officials Code of Conduct for Law Enforcement Officials Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms	Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials Basic Principles on the Use of Force and Firearms by Law Enforcement Officials	Resolution 34/169 adopting the Code of Conduct for Law Enforcement Officials Code of Conduct for Law Enforcement Officials Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials Basic Principles on the Use of Force and Firearms by Law Enforcement Officials Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment Standard Minimum Rules for the Treatment of Prisoners Principles relating to the status of national institutions Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

B.   Regional standards

There is a body of jurisprudence from the European Court of Human Rights and the Inter-American Court of Human Rights on the liability of individual State agents (in most cases police officers) for ill-treatment and unlawful killings as well as on responsibility for the planning and control of individual operations and proper legal frameworks for the use of force and firearms. There are also regional standards, as described below.

Africa

The African Charter on Human and Peoples' Rights[72] does not refer to the right to remedy, but the African Commission on Human and People's Rights adopted a resolution in 2006 on police reform, accountability and civilian police oversight in Africa.[73] The preamble of the resolution states:

> Concerned that in many of the African States, there exist no independent policing oversight mechanisms, to which members of the public may report police misconduct and abuse of their powers for redress and that, where they do, they are directly under police authorities,

> Recognizing, that police forces in African States, which do not have oversight mechanisms require reform in order to become effective instruments of security, safety, and justice and respect for human and people's rights across the continent,

> (…)

> Noting that accountability and the oversight mechanisms for policing form the core of democratic governance and are crucial to enhancing rule of law and assisting in restoring public confidence in police; to developing a culture of human rights, integrity and transparency within the police forces; and to promoting a good working relationship between the police and the public at large,

> Encouraged by the initiative taken in the formation of the African Policing Civilian Oversight Forum (APCOF), through the collaboration of Civil Society and State Civilian Police Oversight agencies, as an African initiative to promote police reform and with it the building and strengthening of civilian police oversight in Africa […].

In article 3 of the Charter, the Commission urges State parties to the African Charter to establish independent civilian policing oversight mechanisms where they do not exist which shall include civilian participation.

A website with links to African regional and national legislation—including recent updates—can be found at www.apcof.org.za. The website also describes the accountability structures of police agencies in the countries enlisted.[74]

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[72]United Nations, Treaty Series, vol. 1520, No. 26363.

[73]African Commission on Human and People's Rights, 40th session held in Banjulon from 15 to 29 November 2006.

[74]Angola, Botswana, the Democratic Republic of the Congo, Ghana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Nigeria, South Africa, Swaziland, the United Republic of Tanzania, Uganda, Zambia and Zimbabwe.

Europe

The member States of the Council of Europe are subject to scrutiny by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. This Committee "shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment."[75] Delegations from the Committee visit member States periodically and may organize additional ad hoc visits. States are notified of forthcoming visits, but the Committee does not have to specify the exact time of the visit. Pursuant to the Convention, delegations have unlimited access to places of detention and the right to move inside such places without restriction. They interview persons deprived of their liberty in private and communicate freely with anyone who can provide information. The recommendations that the Committee may formulate on the basis of facts found during the visit are included in a report that is sent to the State concerned. This report is the starting point for an ongoing dialogue with the State concerned. The Committee also publishes extracts from its general reports containing minimum standards that police must observe.

In 2001, the Committee of Ministers of the Council of Europe adopted the European Code of Police Ethics, which is the most elaborate such code in the world. The principles of the Code state that national laws relating to the police should accord with international standards to which the country is a party and must be clear and accessible to the public, and that the police should be subject to the same legislation as ordinary citizens. The Code contains the following provisions on accountability:[76]

- The police shall be accountable to the State, the citizens and their representatives. They shall be subject to efficient external control;
- State control of the police shall be divided between the legislative, executive and the judicial powers;
- Public authorities shall ensure effective and impartial procedures for complaints against the police;
- Accountability mechanisms, based on communication and mutual understanding between the public and the police, shall be promoted;
- Codes of ethics of the police, based on the principles set out in the Code, shall be developed in member States and overseen by appropriate bodies.

The Code also states that the police must be organized with a view to earning public respect; they must be under the responsibility of civilian authorities; they should normally be clearly recognizable; they should enjoy "sufficient operational independence" and should be accountable for the tasks carried out; police personnel at all levels should "be personally responsible and accountable for their own actions or omissions or for orders to subordinates"; there should be a clear chain of command and "it should always be possible to determine which superior is ultimately responsible for the acts or

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[75] European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Council of Europe, *European Treaty Series*, No. 126), art. 1. More information on the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment is available from www.cpt.coe.int.

[76] Articles 59-63.

omissions of police personnel"; the police should be ready to give objective information on their activities to the public; the police organization should "contain efficient measures to ensure the integrity and proper performance of police staff, in particular to guarantee respect for individuals' fundamental rights and freedoms; there should be effective measures to combat corruption; and disciplinary measures brought against police staff should be subject to review by an independent body or a court, and the public authorities should support police personnel who are subject to ill-founded accusations concerning their duties.

Another useful reference document, also for those operating outside the jurisdiction of the Council of Europe, is the Opinion of the Commissioner for Human Rights concerning Independent and Effective Determination of Complaints against the Police, issued in 2009.[77]

C.   Summary

International and regional treaties are binding for States that have ratified them; declarations and principles give guidance to States in implementing such obligations. A fundamental notion underlying international human rights standards is that States should enable the people living in their territory to seek redress if their rights have been violated. This right to remedy is essential in order to avoid impunity when State representatives violate internationally recognized human rights principles.

The existence of the right to remedy means that States must establish a mechanism for receiving complaints, which must be investigated thoroughly and impartially. Also, it means that States must start investigations on their own initiative when there are grounds to believe that serious misconduct has occurred. It also means that wrongdoers must be punished and that victims can receive compensation.

International standards also give direction to police officers in carrying out their duties, also advising them on conduct to be avoided. They also enable both internal and external bodies, including individuals and groups, to monitor police actions with a view to enhancing their integrity.

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[77] Available from: https://wcd.coe.int/ViewDoc.jsp?id=1417857&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679 (accessed 14 December 2009).

III. Dealing with complaints against the police

A. General principles

One feature of an effective accountability system is a procedure for dealing with complaints against police officers, as filed by the public as well as by fellow police officers. While accountability comprises more than a complaints system alone, an effective system that enjoys the confidence of the public and the police alike is an important indicator of high standards of accountability and is likely to help police in restoring or enhancing public confidence. The procedure must ensure that complaints are dealt with appropriately and proportionally.

Importance of ensuring that members of the public can file complaints

It is crucial for members of the public[78] to be able to file complaints against the police. In most countries, people can file a complaint directly with the police, usually with the station commander or a district chief of police, who then decides on the next steps, which could include an investigation. However, members of the public may feel reluctant to file a complaint about the police with the police themselves. Usually a complaint can also be filed directly with the prosecutor's office.

Members of the public should be in a position to file a complaint against the police (and indeed be facilitated in doing so), if they feel they have been wrongly treated. This is important because:

- In the absence of a complaint, an investigation is unlikely to be initiated.
- If there is no complaint, the police will miss a potential learning opportunity that could lead to an improvement in services.
- The lack of a complaint may lead to impunity for the offender and a culture of impunity in the longer term.

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[78] Police staff must also be in a position to file complaints, for example when they experience discrimination or harassment, Organization for Security and Cooperation in Europe (OSCE), *Guidebook on Democratic Policing by the Senior Police Adviser to the OSCE Secretary General*, 2nd ed. (Vienna, 2008).

Not all complaints are about police misconduct but may relate to policing standards, operational guidelines or policies.[79] Such so-called service complaints will not always require an investigation but nevertheless warrant an effective and timely response and, just like any other complaint, may provide the police with a learning opportunity.

Importance of ensuring that complaints can be lodged directly with the police and also with an independent external body

In addition to ensuring that members of the public can file a complaint directly with the police, there should be alternatives such as the possibility of filing a complaint with a body that is independent of the police or prosecutor's office. This will protect those making complaints from being intimidated by the police.[80] The independent body must be responsible for oversight over the entire police complaints process. Willingness on the part of the police to cooperate with these independent institutions will contribute to their legitimacy, as it will show that they are refraining from interfering in complaints investigations.

Good practices for the complaints procedure

It must be possible for complaints to be made easily without discrimination and the procedures should be comprehensible.[81] Complaints must be accepted at any police station; the officer on duty must be obliged to accept the complaint; there should be no fees; and, most importantly, the complainant's security must be guaranteed and he or she should not be pressured in any way to refrain from filing a complaint.[82] The complainant needs to be treated sympathetically right from the start. If the complaint is gender-specific, this should be taken into account, with consideration given to having a female officer record the complaint.

Examples of good practice in ensuring the complaints system is high-profile and accessible include:[83]

- Inclusion of information about the complaints procedure in police publicity materials
- Prominent display of information on the complaints procedure in all police premises, particularly in custody areas
- Provision of written information to all persons detained on police premises on how to make a complaint after release
- Information on the complaints procedure to be carried by police officers on duty, which can be given to members of the public who express dissatisfaction with the police

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[79] Council of Europe, Commissioner for Human Rights, "Opinion of the Commissioner for Human Rights concerning independent and effective determination of complaints against the police", document CommDH(2009)4 (Strasbourg, 12 March 2009).

[80] Alemika, "Police accountability institutions and mechanisms in Nigeria" (see footnote 32).

[81] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79).

[82] Rachel Neild, *Themes and Debates in Public Security Reform: A Manual for Public Society* (Washington, D.C., Washington Office on Latin America, 2000).

[83] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79), para. 43.

- Display of information on the police complaints procedure in public spaces managed by criminal justice agencies, including prosecution, probation, prison and court services

- Display of information on the police complaints procedure in public spaces that do not come under the umbrella of the criminal justice system, including community, advice and welfare organizations

Recording of complaints

The practice of discouraging people from making complaints or refusing to accept or record complaints should be avoided at all times.

A failure to register a complaint is neglect of duty representing a disciplinary offence. It can prove helpful to install a system where records are kept of all complaints, which can be traced. This will help to prevent officers from trying to dismiss complaints.[84]

In situations where alternative conflict resolution methods may be more effective than filing a complaint, the complainant should be informed. If, however, the complainant insists on filing a complaint, he or she must be given the opportunity to do so. If the complainant opts for an alternative procedure after being fully informed, this should also be recorded.

Following up on complaints

The right to remedy (see chapter II above) obliges States to investigate the wrongdoing of their agents. Each complaint needs to be investigated, even if the issue appears to be minor. The investigation must be conducted promptly and investigators must be in a position to gather evidence.[85] Swift action may be important to prevent files and potential evidence from becoming lost, personnel being moved around or officers closing ranks.

Sometimes a complaint may be satisfactorily resolved (in the opinion of both the complainant and the officer involved) through offering an apology or through a meeting between the complainant and a senior police officer, with or without an independent mediator, or through the offer of an agreed amount of money to compensate for the damage done or grief caused.[86] Mediation should in principle be considered only if, on the face of the complaint, there is no proof of facts leading to disciplinary or criminal charges.[87] Both the complainant and the police must agree to mediation in such situations, which may also help to restore confidence.

When the complaint is found to be groundless, the complainant should have the opportunity to appeal against the decision.

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[84]Neild, *Themes and Debates in Public Security Reform* (see footnote 82).

[85]Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79).

[86]Ibid., para. 60.

[87]Tamar Hopkins, *An Effective System for Investigating Complaints against Police: A Study of Human Rights Compliance in Police Complaint Models in the US, Canada, UK, Northern Ireland and Australia* (Melbourne, Victorian Law Foundation, 2009).

Informing the complainant of the progress and outcome of the complaint

For most complainants, it is not easy to file a complaint against the police, and they may have had to overcome various barriers (practical, psychological or emotional). If they then never hear about the outcome of the complaint, this can result in demoralization, frustration and a loss of confidence in the police. It is therefore important to establish procedures for informing complainants about the progress of the investigation. In some countries, a special person is appointed for this purpose. While rules for confidentiality criteria usually require that not all information be disclosed to the complainant, some information on the progress of the investigation or on whether a decision has been made can help to restore confidence.

Complaints as an indicator of confidence in the procedure

The aim of a complaints procedure is to prevent impunity and restore (or enhance) public confidence. It is often observed that the number of complaints increases (rather than decreases) if police enhance their efforts to improve integrity and the complaints procedure in particular. An absence of complaints must not be interpreted as a sign that police performance is meeting with overall satisfaction, but may indicate a lack of faith in the effective handling of complaints.

Good practices in relation to the complaints procedure in general

Testing of procedures. The complaints system needs to be tested regularly to assess whether it meets current needs. Additionally, it is good practice to audit the entire complaints system, including all organs where complaints can be filed and where these can be investigated. Such an audit should be carried out by a body that is separate from the independent body that normally oversees the police, such as a renowned academic institute under the auspices of parliament. An example of this can be found in Australia, where the Victoria government has announced a review of the effectiveness of the entire integrity and anti-corruption system including its complaints system.[88]

Establishment of external oversight over the entire police complaints system. It is good practice for an independent, external body to have oversight over the entire complaints system and share responsibility with the police for the visibility and accessibility of the system.[89] To that end, this body must be informed of all complaints filed directly with the police and must also have the power to start an investigation on its own initiative, without a complaint having been made. It must also be authorized to intervene and even repeat an investigation if this has not been satisfactorily performed by the police.

Disclosure of complaints statistics. It is good practice, and in fact mandatory where the aim is to establish, restore or enhance public confidence, to disclose the number of complaints received, the nature of the complaints and their consequences, including numbers of officers that have been disciplined and criminally prosecuted.[90] Too often, police try to keep these figures away from the media, under the erroneous impression that this might negatively affect their image. In fact, the opposite is true: displaying transparency

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[88] Completed on 31 May 2010. See www.ssa.vic.gov.au/CA2571410025903D/0/579DC317D4CD4BACCA257 35C000E61B4?OpenDocument (accessed 9 August 2010).

[89] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79).

[90] O'Neill, "Police reform in post-conflict societies" (see footnote 1).

with regard to all areas including failures and problems and acknowledging mistakes shows that police are concerned about their legitimacy and thus enhances public trust.

An effective complaints system is just one way to implement the right to remedy. The police complaints system should operate in addition to, but not as an alternative to private legal remedies for misconduct. Disciplinary procedures often focus exclusively on establishing the facts and providing for sanctions, and in many countries the victim is not a party to these proceedings. In such situations, it can be useful for the complainant to file a civil suit against the police officer accused of misconduct or even against the police agency; in fact this may be a better accountability mechanism than existing police complaints systems.[91] Civil litigation proves to be a strong deterrent against future misconduct.

B.   Investigation into the complaint

1.   Complaints flowchart

The first step after a complaint has been filed is to determine whether the case requires investigation. As any investigation may have serious consequences for the officer involved, the decision to initiate an investigation should be taken carefully. In some countries, an exploratory investigation is conducted first, in order to verify whether there is a need for a disciplinary or criminal investigation. Such an exploratory investigation can be conducted either by the police or by an independent body as long as it is guaranteed to be conducted in a fair and transparent way. The advantage of conducting an exploratory investigation is that it can guide decision-making and prevent damage to the reputation of a police officer found to be innocent. It can also be counterproductive in that it can lead to no investigation being initiated, resulting in effective impunity.

The exploratory investigation may lead to the decision that the complaint was false or that there was no neglect of duty or criminal offence, for example in cases of miscommunication rather than misconduct. In such cases, complainants must be informed of the reasons why the complaint is not being taken further. If the case seems to be substantiated, it needs to be identified as either a disciplinary or a criminal case, as these require different investigative procedures. If the investigation concerns a death in custody, civilian investigators should investigate as if a crime has been committed.

Enforceable timelines for investigations are critical. Provision of documents by police agencies must be prioritized and investigators should use warrants to collect documents themselves where any delay occurs.[92] In cases where the complainant is injured, or the victim has died as a result of police action, the burden of proof falls on the police to explain how the complainant was injured in custody.[93] Consideration must be given to how forensic material is collected and examined. Most independent complaints investigation bodies have no independent forensic capacity, and forensic functions must

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[91] Hopkins, *An Effective System for Investigating Complaints against Police* (see footnote 87).

[92] Ibid.

[93] Ibid.

either be carried out by the police force that is being investigated or outsourced to a similar body or policing body from another jurisdiction. Ensuring continuity of the evidence chain can be cumbersome, and the evidence chain can create fertile ground for corruption. Also, it frequently leads to long delays in obtaining forensic reports.[94]

Figure VI summarizes the complaints process. The process is exactly the same for any investigation into police misconduct, including those where there has been no complaint. For example, exploratory investigations can be initiated as a result of video recordings of a police officer accepting bribes, when a police officer cannot explain the loss of his or her bullets or when an officer is caught using illicit drugs. The complainant can also pursue civil proceedings in parallel to the complaints process. Box 3 contains some information about false complaints.

Figure VI.   Complaints flowchart

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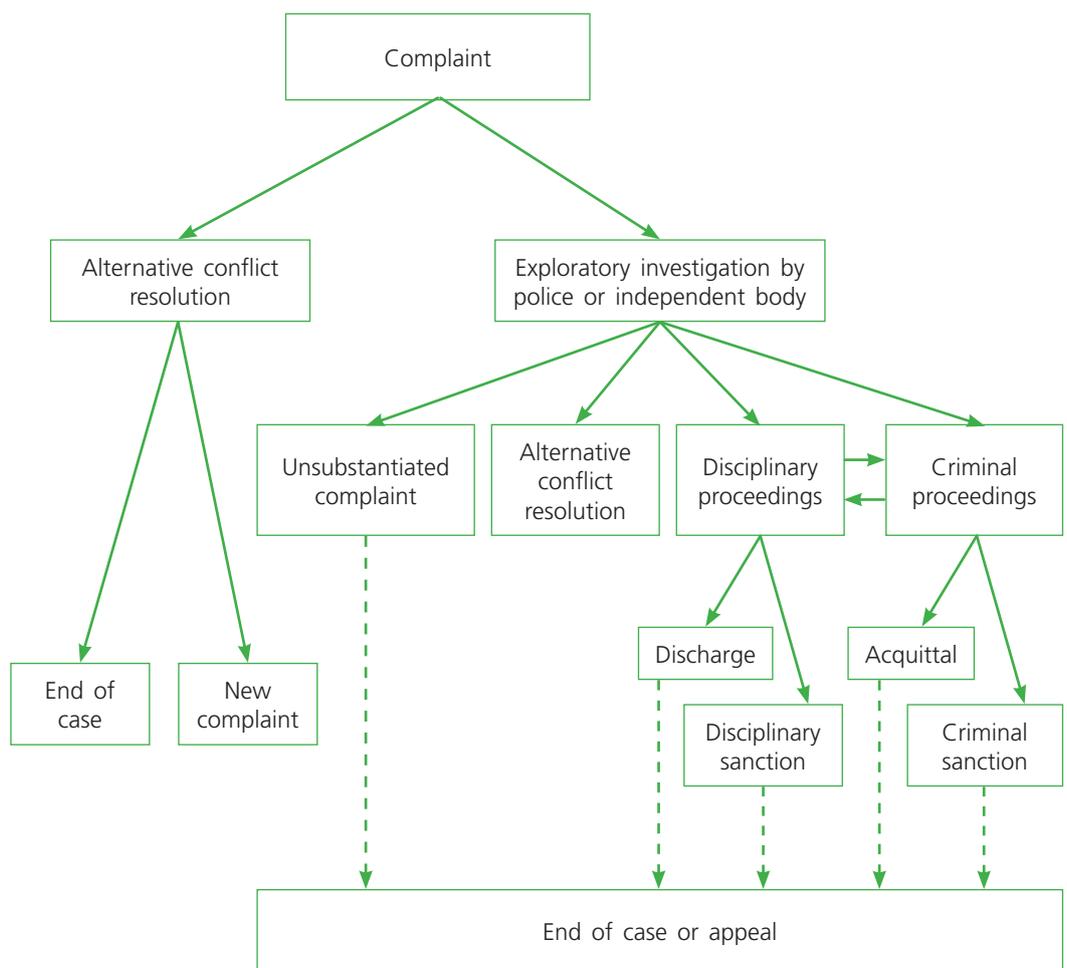
[94] Tommy Tshabalala, "Police oversight and complaints mechanism–South African experience", paper presented at the United Nations Office on Drugs and Crime Workshop on Police Accountability, Nairobi, 20-21 July 2009.

Box 3.   False complaints

An unconfirmed complaint can turn out to be a false complaint, for example, if the complainant is seeking to avert or stall a criminal investigation or trying to avoid payment of penalties. In the European Code of Police Ethics, it is recognized that police often face malicious complaints, and police agencies are urged to support police subject to ill-founded accusations.[a]

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  [a] European Code of Police Ethics, art. 34.

2.   Differences between criminal and disciplinary proceedings

Disciplinary proceedings relate to the conduct of police as employees. Like all employers, police managers have a right and a duty to deal with misconduct. As police are public officials, disciplinary proceedings fall within administrative law.

A disciplinary offence is often referred to as neglect of duty, an umbrella term for any kind of misconduct by a police officer that is not a criminal offence as defined by national criminal law, including misconduct such as pursuing private activities during working hours, being rude to colleagues or members of the public, using company equipment for private gain, alcohol abuse, harassing or bullying colleagues, insubordination and disrespect for standard operational procedures. A breach of specific standard operational procedures can amount to a criminal offence, for example, if a police officer uses excessive force. Moreover, if an officer fails to comply with standard operational procedures, for example, by failing to register a detainee properly, while this technically constitutes neglect of duty, it can facilitate serious offences including human rights violations such as torture in custody. Sometimes the disciplinary offence might be easier to prove than the criminal offence, and can thus constitute the first stage in the accountability process.

There are some differences between disciplinary and criminal procedures that may affect the rights of the alleged offender, most notably the right to be presumed innocent and the right to a fair trial. Under disciplinary proceedings, the supervisor can, for example, order the accused to hand in his or her docket book (a notebook used as a record of actions taken and statements gathered), even though this may lead to a situation where the accused is incriminating him- or herself. Additionally, while interviews with suspects must respect the presumption of innocence, under both disciplinary and criminal proceedings, failure by non-suspects to cooperate with external bodies could constitute a disciplinary offence.

The rules of evidence are stricter under criminal proceedings. Under criminal law, liability for the offence must be proved beyond reasonable doubt, whereas in the context of disciplinary procedures it is sufficient to prove it probable that the offence occurred and was committed by the officer in question. It is up to the officer to prove otherwise. A complaint that has not been proved can still be registered in the officer's personnel file (and can serve as an early warning (see chap. III.C below)).

Whenever there is information that an infraction may amount to a criminal offence, the alleged offence should be reported immediately to the investigation and prosecution authorities, and a criminal investigation may be initiated. In some jurisdictions, when a disciplinary investigation leads to a criminal investigation, the disciplinary procedure must be frozen until the results of the criminal investigation are available. If, however, there is information that a criminal offence has been committed but the criminal investigation authorities find that there is not enough evidence to charge the suspected officer, he or she may still be subjected to disciplinary procedures. In contrast, using information obtained under disciplinary proceedings in a criminal procedure is more problematic since, as discussed, this may involve information that the investigators would not have been able to obtain under penal regulations.

After the investigation is finished, its findings are sent to either the police supervisor, in the case of disciplinary proceedings, or to a prosecutor for criminal offences. If sent to a prosecutor, the procedures are similar to those for common criminal procedures though police officers may face more severe sanctions for a crime committed during the performance of police duties.[95] Sometimes, for example, in some cities in the United States of America, there is a separate unit within the prosecutor's office for dealing with complaints against the police.[96]

In the case of disciplinary proceedings, some systems permit a superior officer to appoint ad hoc disciplinary panels whose composition the defendant may have the right to challenge. In most systems, police facing disciplinary sanctions above a certain level are allowed to appoint someone to act in their defence, either a fellow officer or an independent lawyer. Police unions can provide defence counsel or fund professional legal advice. Under systems where the accused is not permitted to choose his or her defence counsel, there is a risk that the right to defence will be violated.

The sanctions applicable in a disciplinary process typically range from verbal warnings, written warnings, cuts in salary, working without pay and demotion to dismissal, and are usually less intrusive than criminal sanctions, such as fines or imprisonment. There must be a right to appeal against the findings of the disciplinary hearing, through a written submission in most countries. The European Code of Police Ethics requires that disciplinary decisions be subject to review by an independent body or a court.

In table 1 below, the differences between disciplinary and criminal proceedings are summarized.

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[95] For example, in the Netherlands, police officers face aggravated sanctions for crimes committed during the course of duty.

[96] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79). This is particularly relevant in countries with a civil law system, where police work in close collaboration with the prosecutor, which may lead to biased investigations or investigations perceived to be biased. See also chapter I.C.

Table 1. Differences between disciplinary and criminal proceedings

	Disciplinary proceedings	*Criminal proceedings*
Legal framework	Administrative law (employee versus employer or more specifically, civil servant versus administration)	Criminal law (suspect versus State)
Status	Subject or accused	Suspect
Rights	Presumption of innocence	Presumption of innocence
	Fair trial	Fair trial
Obligations	Employees are obliged to cooperate, for example by disclosing dockets and other pieces of work-related information that may be self-incriminating	No obligations
Rules of evidence	Balance of probabilities	Beyond reasonable doubt
Result	Decision (by superior or by disciplinary panel)	Verdict (of criminal court)
Maximum sanction	Dismissal[a]	Imprisonment
Appeal	With next line manager	Common appeal procedures under criminal law
	Ultimately, administrative court	

[a] Few countries allow for detention under disciplinary proceedings.

In practice, an officer can be subjected to disciplinary proceedings, then referred to the prosecutor if a criminal offence appears to have been committed. It is likely that the officer will be suspended (a disciplinary measure) pending the outcome of court proceedings. Even if acquitted by the court, the accused may be deemed no longer suitable for police service and not reinstated. This is only acceptable if the outcomes of the disciplinary investigation allow for dismissal.

3.   Police internal affairs or independent complaints bodies

Investigating complaints against police officers presents specific challenges. Police officers are well-versed in the criminal justice system, are familiar with the mechanics and weaknesses of investigations and may know the people conducting the investigation.

It is crucial that police do not investigate their immediate colleagues both in order to avoid any conflict of interest and to ensure that the investigation may be seen by the public as unbiased and impartial, which could contribute to restoring public confidence. If no other options are available, then, as a minimum, investigating officers should come from a different branch or region and a higher rank than the officer or officers under investigation. To prevent the officer from influencing, monitoring or enquiring about the investigation, it needs to be conducted in a different office.

Some police agencies have established separate internal affairs units for carrying out the investigations (whether disciplinary or criminal). These are usually called upon for more serious offences, with minor infractions (such as rudeness or lack of punctuality) left to the discretion of the officer's supervisor. The Office of Community Oriented Policing Services of the United States Department of Justice issued a guide in 2009 on the pivotal role of internal affairs units in rebuilding community trust after misconduct has occurred. The guide focuses on creating an effective internal affairs approach for agencies of any size or type.[97] Establishing a specialized branch within the judicial police may prove useful in countries where they conduct criminal investigations.

In countries with an independent police complaints body, it is generally accepted that this body needs to have the power and the capacity to carry out investigations autonomously, rather than delegating investigations to the police. The authority of an independent complaints body would be severely jeopardized if its function was only to receive complaints without being able to act on them. Independent complaints bodies will be discussed in more depth in chapter IV below.

4. Witness protection

Witnesses and complainants may sometimes be afraid to come forward, for example, when there is a danger of retaliation by the police or armed forces. Witness protection measures are therefore crucial, especially, but not exclusively, in post-conflict situations. It is the responsibility of the State to install such protection to ensure that victims and witnesses do come forward to tell their story so that justice is done and impunity avoided.[98]

Protective measures fall into three broad categories and need to be applied on the basis of a risk assessment and threat analysis:

1. *Protection in the initial phase.* The main practices in the initial phase are usually to maintain the anonymity of the witness and to protect the information provided.

2. *Protective measures in the courts.* In the courts, modern technology is often used (cameras, voice distorters).

3. *Entry into a witness protection programme.* A witness protection programme provides the highest level of security.

In principle, a complaint should be filed under the complainant's name, but where this is too dangerous, it must be possible to make an anonymous complaint. In the interests of respecting the rights of the suspect, the identity of the complainant must be recorded somewhere, for example, with the judge presiding over the investigation. In an extreme case, the identity of the witness might be on record only with an institution outside the country, for example the United Nations.[99] Alternatively, if the complainant refuses to make his or her identity known (in the case of a complaint filed with an independent

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[97] *Building Trust Between the Police and the Citizens They Serve* (see footnote 12).

[98] The commitment to develop witness protection policies is also laid down in the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century, General Assembly resolution 55/59, annex, para. 27. Available from: www.unodc.org/pdf/crime/a_res_55/res5559e.pdf.

[99] Based on personal communication with Kees Hindriks, former police commissioner, international consultant.

body) but the complaint is serious and there is some basis for an investigation, the body needs to consider conducting an inquiry on its own initiative to see whether the information can be pursued and potentially referred for prosecution.

A witness protection programme is a "formal system, designed to provide a full suite of physical protection and psychosocial support to participants, be they witnesses or associated persons."[100] A witness protection scheme is complex to implement. Non-governmental organizations can play an important role in offering protection such as by constantly accompanying witnesses and disclosing cases of harassment of witnesses. However, they do not have the legal authority or capacity to offer comprehensive protection. Therefore, witness protection must be ensured by the State.

There is a range of methods that can be used to protect a witness, the most far-reaching and intrusive of which is a change of identity and appearance. The protection of witnesses must include a risk assessment for relatives and close friends.

A witness considering giving a statement needs to know the risks: "Witnesses have many different motives for testifying. Some of the more predominant motives encountered are to speak for the dead, to tell the world the truth about what happened and to look for justice in the present and in the hope that such crimes won't happen again. To realize these motives they may be prepared to take substantial risk in order to testify. Ultimately, this decision is theirs to take, and they must be given the opportunity to make that decision in an informed way."[101]

C.   Learning from complaints

It is generally agreed that an investigation into a complaint needs to be followed up on with an analysis of complaints data in order to identify the underlying causes of misconduct that could lead to a recurrence.[102] The causes can include a lack of proper supervision, unacceptable working conditions, lack of training and equipment and ambiguous laws and instructions. It is useful to review instructions and standard operational procedures periodically, and, where gender issues are involved, to invite women's police associations and other police personnel associations to identify potential reforms.[103]

Complaints data can also be used to identify the operational areas where the abuse of police powers is most likely to occur and also which officers are subject to an unusually high number of allegations.[104] Some countries have developed "early warning systems" for monitoring officers' behaviour and responding to it before it escalates to the level of

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[100]Definition courtesy of John Ralston, Executive Director, Institute for International Criminal Investigations.

[101]Ibid.

[102]"Civilian oversight of policing: lessons from the literature" (see footnote 17).

[103]Megan Bastick and Kristin Valasek, eds., "Police reform and gender", Practice Note 2, *Gender and Security Sector Reform Toolkit*, Megan Bastick and Kristin Valasek, eds. (Geneva, Geneva Centre for the Democratic Control of Armed Forces, Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and International Research and Training Institute for the Advancement of Women, 2008).

[104]David Bruce and Rachel Neild, *The Police That We Want: A Handbook for Oversight of Police in South Africa* (Johannesburg, Centre for the Study of Violence and Reconciliation, Open Society Foundation for South Africa and Open Society Justice Initiative, 2005).

a disciplinary or criminal offence.[105] As direct supervisors, police managers play a crucial role in tackling potential problems at an early stage.[106]

Additionally, complaints are an indication of overall police-community relations, so that a lesson can be learned from every single complaint, even when not substantiated. "Statistical and empirical research and analysis of complaints is of fundamental importance to democratic and accountable policing. An [independent police complaints body] will be ideally placed at points where police operations and community experiences intersect and, therefore, able to provide the police and public with informed advice on how to improve the effectiveness of policing services and police/community relations."[107]

D.   Summary

In the interests of giving effect to the right to remedy, members of the public must be able to file a complaint about police misconduct. The procedure for making a complaint should be made easy, and facilities for reporting complaints should be available at every police station. Additionally, there should be a police complaints body that is independent of both police and prosecution services. Every complaint reported should be recorded with the independent body.

The main purpose of the police complaints system is to prevent impunity for police misconduct so that public confidence in the police can be restored or enhanced, a purpose that needs to be reflected in the organization of the system. As stated above, in some cases, a complaint may be resolved through an apology or another form of alternative conflict resolution. This should in principle be considered only in cases where, on the face of the complaint, there is no proof of facts leading to disciplinary or criminal charges and if both complainant and police agree.

In all other situations, a reported complaint must be investigated promptly and the complainant notified of the outcome. Also, there needs to be a possibility for appeal. If the complaint constitutes neglect of duty it must be investigated using disciplinary proceedings. If, however, the complaint relates to a criminal offence it needs to be dealt with according to penal procedures.

The complaint can be investigated by either the police or by an independent body. It is recommended that serious cases are investigated by an independent body to prevent police interference in the investigation. Also, the independent body should have oversight over all investigations, including those conducted by the police. Investigations conducted by the police need to apply certain safeguards to prevent the investigation from being manipulated. It is important to install effective protective measures for complainants and witnesses.

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[105] Jack R. Greene and others, *Police Integrity and Accountability in Philadelphia: Predicting and Assessing Police Misconduct*, document No. 207823 (December 2004). Available from www.ncjrs.gov/pdffiles1/nij/grants/207823.pdf.

[106] Samuel Walker, Stacy Osnick Milligan and Anna Berke, *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-Line Supervisors* (Washington, D.C., United States, Department of Justice, Police Executive Research Forum, 2006).

[107] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79), para. 87.

The aim of the complaints system is not solely to identify wrongdoings and those responsible but also to establish the causes of the wrongdoing to prevent recurrence. This can lead to amendments to laws and regulations, better-formulated instructions, improvements in training and supervision and to specific monitoring of particular units or officers. Police leaders must take responsibility for the prevention of police misconduct at all times.

Suggestions on dealing with challenges that arise in connection with complaints against the police and investigations are described below:

Challenge	Recommendations and suggestions
Members of the public cannot file a complaint or cannot file complaints about certain issues	• Removal of obstacles preventing the public from filing complaints (such as distance, fees, discrimination) • Ensuring that members of the public know they can file a complaint and how to do so • Ensuring that members of the public can file a complaint at every police station • Establishing toll-free numbers or free postal addresses to communicate complaints • Ensuring that the officer on duty is obliged to accept the complaint • Recording of any complaint that is filed against the police • Making refusal to accept a complaint a disciplinary offence
Members of the public are reluctant to file a complaint against the police (because, for example, they are treated rudely or intimidated)	• Ensuring members of the public can file a complaint at a location other than a police station, including with an independent body • Establishment of effective protective measures, including procedures on how to deal with anonymous complaints • Establishment of an effective witness protection scheme • Making refusal to receive a complaint or discouraging a member of the public from making a complaint a disciplinary offence as a matter of priority • Making rude behaviour towards complainants a disciplinary offence as a matter of priority • Explaining to police officers the value of having a fair and effective complaints system • Ensuring that oversight of police complaints is within the remit of an independent body; this means that all complaints must be recorded with the independent body, including those that are investigated by the police, and that the independent body can intervene if the complaint is not investigated properly • Disclosure of complaints statistics

Challenge	Recommendations and suggestions
The number of complaints is low	• Rigorous avoidance of complacency • Training for police staff in receiving and dealing with complaints • Ensuring that members of the public can file a complaint at any police station and that the police officer on duty is obliged to accept the complaint. • Making refusal to accept a complaint a disciplinary offence • Setting up a track-and-trace system for all complaints • Informing complainants about progress and outcome • Authorizing the independent body to have oversight over the police complaints system • Independent testing of the complaints system at regular intervals • Ensuring that statistics are reliable and that there is a clear distinction between filed, substantiated and unsubstantiated complaints, and an indication of the level of public confidence (see also chapter V.C)
Police fail to cooperate (in the investigations into complaints)	• Establishment of a separate unit that is responsible for investigating complaints (such as an internal affairs department); ensuring that such a unit is well-resourced and has well-trained staff of high integrity[a] • Ensuring that the independent body has sufficient powers, most notably subpoena powers, to enforce cooperation • Noting which officers tend to fail to cooperate (for example, those who always conduct unsatisfactory investigations) • Consideration of making failing to cooperate as a witness a disciplinary offence • Establishment of enforceable timelines for the investigation • Ensuring that all criminal investigative methods can be used for criminal investigations • Ensuring that investigations are conducted in a fair way, protect the rights of the accused and permit the accused legal defence and appeal
Police try to settle all complaints through alternative conflict resolution to avoid charges	• Setting clear criteria for when alternative conflict resolution can be applied: in principle, only when, on the face of the complaint, there is no proof of facts leading to disciplinary or criminal charges and when both complainant and police agree • Recording every case where alternative conflict resolution has been used • Evaluation of the case and its resolution with the complainant after a certain time interval

Challenge	*Recommendations and suggestions*
Disciplinary proceedings are applied in an unfair manner (especially against junior officers)	• Making illegitimate application of disciplinary procedures (such as a superior using disciplinary rules unlawfully to punish a subordinate) a disciplinary offence • Ensuring that information from disciplinary investigations is used only in criminal proceedings in so far as it respects the rights of the suspect • Ensuring that disciplinary decisions are subject to appeal in court
Disciplinary proceedings aim to protect the police officer rather than the victim	• Ensuring that the aim of investigating is to find out the truth, in the interest of enhancing or restoring public confidence • Ensuring that, in situations where the complainant is injured, or the victim died, the burden of proof falls on the police to explain how this happened • Ensuring that, in situations involving death in custody, the burden of proof falls on the police to explain how this happened • Making interference in investigations, with the intent of illegitimately protecting oneself, or one's own officers, a disciplinary offence • Ensuring that recommendations for disciplinary measures are followed up by police leadership; otherwise, an obligation for police leadership to explain why they disagree • Ensuring that disciplinary decisions are subject to appeal in court
Disciplinary and criminal proceedings aim only to remove the "rotten apple" and proceed as before	• Ensuring that a failure on the part of police management to implement recommendations meant to prevent future misconduct has repercussions and can lead to disciplinary sanctions

[a] Some police forces routinely spend 1 per cent of their budget on internal affairs.

IV. Before and after police actions and operations: establishing independent police oversight and complaints bodies

A.   Independence

For police accountability to be fully effective, it must involve multiple actors and institutions performing multiple roles, to ensure that police operate in the public interest. As these actors and institutions often represent particular interests, it is crucial to have a complementary independent institution overseeing the entire system. Independent bodies include national human rights institutions, also known as human rights commissions, operating under the Paris Principles, as discussed in chapter II.[108] Additionally, some countries have established police-specific bodies such as police boards, police service commissions and independent police complaints bodies.

The United Nations Convention against Corruption calls for independent bodies or persons (specialized in combating corruption through law enforcement) that can "carry out their functions effectively and without any undue influence" (article 36). For this, the independent body should have complete discretion in the performance or exercise of its functions and not be subject to the direction or control of a minister or any other party.[109] In principle, it should give an account after its work has been performed, when it reports to parliament (rather than the executive).

Furthermore, independence is best maintained if the independent body has statutory underpinning, rather than being established by a decree. Some independent police oversight bodies come under the police act, which may compromise public perception of the body's independence. The independent body should also receive sufficient funding, separate from the police budget.[110] Lastly, there must be a fair and transparent appointment process for the body's commissioners or councillors as well as its staff, which should be based on merit rather than on political or any other affiliation.[111]

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[108] An informative website on national human rights institutions is available from www.nhri.net.

[109] Based on personal communication with Martin Hardy, Manager of Investigations, Office of Police Integrity, Melbourne, Australia.

[110] Shahindha Ismail, "The Police Integrity Commission of the Maldives", *Network for Improved Policing in South Asia (NIPSA) Newsletter*, vol. 1, No. 2 (December 2009).

[111] Appointment as Director of the Office of Police Integrity (Melbourne, Australia) is conditional on having qualified for appointment as a judge of High, Supreme, County Court or equivalent.

Preferably, commissioners must be appointed for a fixed time period only, with a strict procedure for their removal.[112]

Criteria for independence:

- Complete discretion in the exercise of functions or powers
- Statutory underpinning
- Reporting to the parliament
- Independent funding
- Transparent process, based on merit, for the appointment of commissioners and staff

Independence is best served if commissioners and staff carry out their functions with the highest degree of integrity and professionalism. Commissioners in particular also need to "reflect the plural society" (as set out in the Paris Principles), meaning that ethnic and religious minority groups must be represented. Equal representation of men and women is also desirable.

The recruitment of new commissioners and investigators has important implications for the body's perceived independence, with areas of particular importance being who decides on recruitment procedures and when to initiate new ones. Slack recruitment can indicate weak political commitment, as is also the case when oversight bodies have to operate without a chair or with less than the requisite number of commissioners for a considerable time.[113]

Selecting the right staff officers who meet the criteria of independence presents a particular challenge. Newly established independent bodies often have to hire some police officers because of their unique experience in conducting investigations, which cannot be acquired otherwise. In such cases, it is recommended that the oversight body hire police officers from regions other than the one where it operates, and, if possible, retired officers only.

Commissioners and staff need to be well-prepared to carry out their job. They need to have, or gain, a sound understanding of policing in order to avoid having unrealistic expectations or exercising undue sympathy for the police, resulting in a lack of impartiality vis-à-vis the police or the complainants. Additionally, such staff should receive gender-specific training and training on gender mainstreaming.[114]

The oversight body must itself be subjected to rigorous oversight. It must report to parliament, and its reports must be made public. Whenever its measures require the use of special powers, for example, to arrest someone or conduct a house search, this must

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[112]For example, in the United Kingdom of Great Britain and Northern Ireland, Commissioners of the Independent Police Complaints Commission (IPCC), have a statutory fixed-term period, not only to bring in fresh perspectives, but also to avoid any complacency, productive or otherwise, due to too long a period of time for a relationship to develop between the police and Commissioners. Based on personal communication with IPCC Commissioner Davies.

[113]Sean Tait, "Policing oversight and complaints mechanisms: an overview of past experience and current debates in Africa", unpublished manuscript, 2009.

[114]See also *Legislative Guide for the Implementation of the United Nations Convention against Corruption* (United Nations publication, Sales No. E.06.IV.16), p. 148, which calls for the necessary training and resources to be provided for the specialized authorities to carry out their tasks.

be subject to proper authorization, and the body must account for its actions afterwards. In fact, all the principles of police accountability apply equally to independent investigative bodies. Scrutiny of the independent body is recommended, especially when it has discretion in the use of special powers, such as the power to search and seize. As an example, the Special Investigations Monitor in Victoria, Australia, independently scrutinizes the performance of the independent Office of Police Integrity and oversees its use of its powers.[115]

An independent body cannot function properly without the support of the executive and the parliament, so that the executive has not only to accept but also facilitate the work of those responsible for scrutinizing it. Independent bodies have to strike a balance between maintaining their independence while at the same time ensuring the support of the political authorities as well as the police leadership, both of which are important for their credibility but also for their potential effectiveness and impact.[116]

B.   Mandates of independent police oversight and complaints bodies

Independent police oversight bodies as they currently exist have different mandates. Some focus on receiving, investigating and/or recording complaints; some have general oversight functions (over police performance in general, usually without focusing on specific cases); some provide policy guidance for police deployment; some mandates focus on personnel issues, usually specifically focusing on the selection and appointment of the national chief of police; some mandates focus on oversight over police detention and some have a mandate combining some or all of these functions.

Independent police oversight bodies have several mandates:

1. Dealing with complaints

2. General oversight: operational and policy compliance review

3. Direction-setting: policy input and priority-setting

4. Personnel management issues: "hiring and firing"

5. Oversight over detention facilities

Dealing with complaints and general oversight are evaluation functions aimed at correcting or punishing misconduct while direction-setting and personnel management are functions aimed at providing guidance and preventing misconduct. Oversight of detention facilities is a combination of evaluation after operations and giving directions beforehand. The evaluations resulting from dealing with complaints and general oversight also provide input for new procedures and policies aimed at preventing a recurrence of problems in the future. A single independent body may perform all five functions, or the complaints may be handled by a specialized oversight body. In any

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[115]See www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/About+Us/Our+Organisation/Justice+Agencies/ JUSTICE+-+Office+of+the+Special+Investigations+Monitor (accessed 14 December 2009).

[116]Annika S. Hansen, "Strengthening the police in divided societies—empowerment and accountability in Bosnia-Herzegovina", *Policing and Society*, vol. 18, No. 4 (2008), pp. 339-361.

case, for effective police accountability, it is essential that an independent body is mandated to deal with complaints against the police.

Various models are used for oversight bodies whose mandate is only to deal with complaints:[117]

- *Investigative and quality assurance models.* These share responsibility for investigations into allegations of misconduct with the police. They usually deal only with certain types of complaint and more serious complaints.[118]

- *Review and appellate models.* After the police have completed an internal investigation into a complaint, the boards under this model review the file and decide whether a specific case was competently or fairly handled and, if not, request that the problem identified be corrected.[119]

- *Evaluative and performance-based models.* These do not concentrate on individual complaints, but are geared to identifying patterns and practices of police misconduct and systemic failures to deal with them.

- *Mixed models.* Oversight bodies may use a combination of two or more of the above models.

Under the complaints structure sometimes referred to as the "post box" model, the independent body can receive the complaint and refer it to the police, but cannot investigate or make recommendations.[120] Some of the review and appellate models are perceived by the public as "post boxes" only, thus hindering their effectiveness.

Although in general it is considered good practice for the independent body to have investigative powers and the capacity to initiate an investigation, this does not mean that it needs to investigate all complaints. It is considered good practice for it to investigate serious complaints only and monitor the rest.[121] In principle, the independent body must investigate all deaths and serious injuries suffered in police detention or as a result of police action; arguably, any use of lethal force (firearms) must always be investigated independently. It must be mandatory for the police to report these incidents to the independent body, and the investigation must commence immediately upon receipt of a complaint involving an allegation that could lead to criminal or disciplinary outcomes.[122]

As stated in chapter III above, it is good practice for the independent body to have oversight over the entire complaints system. It needs to monitor investigations of

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[117] Police Assessment Resource Center, Review of National Police Oversight Models for the Eugene Police Commission (Los Angeles, February 2005); Swati Mehta, "International models for civilian oversight of the police", unpublished manuscript, 2009; "Civilian oversight of policing: lessons from the literature" (see footnote 17).

[118] The only investigative body that takes over investigations entirely is the Police Ombudsman for Northern Ireland. See www.policeombudsman.org.

[119] Despite their weaknesses, such boards serve a useful purpose: "Review and appellate models have the strengths of opening internal police investigations to scrutiny by outsiders and often providing for participation by multiple community members on a board, thereby allowing various groups in the community to perceive that their perspectives are represented." Police Assessment Resource Center, *Review of National Police Oversight Models* (see footnote 117), p. 13.

[120] Mehta, "International models for civilian oversight of the police" (see footnote 117).

[121] Commonwealth Human Rights Initiative, *Feudal Forces: Democratic Nations—Police Accountability in Commonwealth South Asia* (New Delhi, 2007).

[122] Hopkins, *An Effective System for Investigating Complaints against Police* (see footnote 87).

complaints, including the investigations conducted by the police, and complaints filed directly with the police must be forwarded to the independent body. The independent body must also be authorized to intervene in police investigations that are not conducted properly. This means that the independent body needs to have access to police reports (the outcome of the investigation, the information considered and the decision) and inform the police if the investigation has not been performed satisfactorily. This may result in the independent body repeating the investigation.[123] The monitoring function of the independent body should be well-defined.

As a minimum, the independent body must do the following:

- Have the capacity to receive complaints directly from the public (as well as from members of the government)[124]

- Record all complaints filed against police (whether submitted at the police station, police headquarters, prosecutor's office or directly to the independent body)

- Have the capacity to start an investigation on its own initiative

- Have sufficient investigative powers to make an assessment of the case in hand, including:

  The power to hear any person and subpoena powers

  The power to obtain any information required, including the power to access police dockets and to conduct searches and seizures

  The power to compel the presence of witnesses including the police

  The capacity to offer witness protection

- Have the power to recommend further penal or disciplinary action

- Have the capacity to make recommendations for structural change, hence enabling the police to prevent the recurrence of misconduct

- Have the capacity to follow up on its recommendations. For example, it must have the capacity:

  To publish its findings and recommendations, including the response received from the police

  To compel the police to disclose the reasons for not following up on the recommendations

  To make public a failure by the police to follow up on its recommendations

Having investigative powers does not mean that the independent body must have the power to prosecute, sentence or discipline the subject of the investigation. Instead, it needs to recommend penalties to police commanders or refer a case for criminal prosecution.[125] In the Council of Europe Opinion of the Commissioner for Human

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[123] Based on personal communication with IPCC Commissioner Davies.

[124] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79).

[125] The only exception is the Police Ombudsman for Northern Ireland, whose recommendations concerning disciplinary recommendations are mandatory.

Rights concerning Independent and Effective Determination of Complaints against the Police, a suggestion is made that an independent police complaints body could be granted powers to press criminal charges to address the concern that the close working relationship between the police and the prosecution authority might undermine independence and impartiality.[126]

Many countries have accepted external oversight over detention facilities in addition to their ministerial prison and detention inspectorates. Some countries, such as the United Kingdom of Great Britain and Northern Ireland, have established independent custody visitor schemes, whereby a group of community representatives, usually including professionals such as engineers, medical officers and social workers, visits places of police detention unannounced, usually every few weeks. Establishing a system of independent visits is a requirement under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see chapter II).

C.   Setting up an independent body

An independent body needs to complement existing police accountability structures. In some cases, it may be more effective to alter an existing structure to meet the criteria for independence, or add a police-specific chapter to an existing independent oversight body overseeing the entire public sector (such as a national human rights institution).

The first step is an assessment of the strengths and weaknesses of the present system, the challenges it faces and their causes, to ensure that the new body is complementary. Attention should be paid to ensuring proper coordination between the different oversight structures.

A number of independent oversight models have been set up around the world and, as a result, a set of criteria has been developed to ensure the effectiveness and legitimacy of an independent police oversight and complaints mechanism.[127] These criteria apply both to oversight bodies dealing with complaints against the police alone and to those dealing with complaints against the public sector as a whole, and, in fact, they also apply to internal complaints investigative bodies.

The criteria are:

- Political commitment, which is key to the success of an independent oversight mechanism
- A clear mandate
- Adequate financial and human resources
- Engagement with the police
- Engagement with the general public

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[126] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79), paras. 85-86.

[127] Commonwealth Human Rights Initiative, *Feudal Forces: Democratic Nations* (see footnote 121); Alemika, "Police accountability institutions and mechanisms in Nigeria" (see footnote 32); Tait, "Policing oversight and complaints mechanisms" (see footnote 113); Mehta, "International models for civilian oversight of the police" (see footnote 117); Osse, *Understanding Policing: A Resource for Human Rights Activists* (see footnote 9); Perez, "External governmental mechanisms of police accountability" (see footnote 11); Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17); O'Neill, "Police reform in post-conflict societies" (see footnote 1).

1. Political commitment

The effectiveness of any accountability structure is dependent on visible and real political commitment on the part of both the executive and the parliament. The executive and the legislature have to ensure that the independent police oversight mechanism meets all the criteria indicating political commitment and swiftly solves possible problems. The fact is that the police cannot be more democratic or more open to scrutiny than the government.

2. Mandate

Mandates need to be realistic and fair, and powers and resources must be adequate to fulfil those mandates. Some existing bodies have narrow mandates and limited powers, thus jeopardizing their credibility; others have excessively broad mandates that stretch their capacity to the limit.

In the case of bodies that oversee the entire public sector, resources may not be primarily allocated to police oversight. Similarly, some oversight bodies have a broad mandate focusing on all integrity-related issues (including corruption and human rights). Again, this may lead to certain areas being heavily prioritized.

Independent oversight bodies that investigate complaints need to be empowered to do so properly and allowed to identify underlying problems and causes (for example, through data collection and analysis) and recommend systemic changes.[128] Such a proactive approach is useful when aiming to reduce and prevent misconduct, rather than simply punishing individuals.

3. Resources

The independent body should have sufficient funds to achieve its objectives.[129] Limited resources are a recurrent problem for all oversight bodies, though some face more serious and urgent problems than others. The issue of resources is connected with that of political commitment,[130] as the problems may relate to resource allocation rather than availability.

Human resources are equally important. The management and leadership of the independent body is a crucial factor in its success.[131] Meeting the objectives in the mandate when structures, directorates, policies and guidelines are not yet fully established is challenging. Also, leadership capabilities are required to develop strategies for working with police management, the parliament, the Ministry of the Interior or its equivalent that exercises supervisory authority over the police, as well as for working with non-governmental organizations, civil organizations, the bar association and

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[128] Commonwealth Human Rights Initiative, *Feudal Forces: Democratic Nations* (see footnote 121); Alemika, "Police accountability institutions and mechanisms in Nigeria" (see footnote 32); Tait, "Policing oversight and complaints mechanisms" (see footnote 113); Mehta, "International models for civilian oversight of the police" (see footnote 117); Osse, *Understanding Policing: A Resource for Human Rights Activists* (see footnote 9).

[129] This notion is also reflected in article 36 of the United Nations Convention against Corruption: "Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks."

[130] Mehta, "International models for civilian oversight of the police" (see footnote 117).

[131] Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17).

donors.[132] Effective management must ensure effective and efficient working processes to enable staff to conduct tasks professionally. Additionally, it must ensure the recruitment, training and retention of competent staff of high integrity, representative of the communities served.

Consideration should also be given to monitoring staff behaviour to identify warning signs of burnout while working in often hostile, complex and intense environments.[133] Organizational risks such as high employee turnover, long-term sick leave or associated illnesses (and high cost implications for the organization) and the loss of specialist knowledge must be mitigated through appropriate early warning systems and regular access to professional counselling services.

4. Engaging the police

The confidence and cooperation of the police are necessary for any external body to carry out its functions effectively. Political commitment is a prerequisite for this, as is the integrity of the independent oversight body.

Although in some countries the external oversight body was established on the initiative of the police,[134] sometimes the relationship between the independent oversight body and the police force is characterized by tension, suspicion and even open hostility.[135]

It is important to ensure that the independent oversight body does not alienate itself from the police. Its function is to preserve the police and their integrity, which must be a concern not only for the police but also for the general public. It is crucial that the external body does not become a tool for the police that absolves them of responsibility for their own force: an external mechanism cannot and must not replace internal mechanisms.

Care should be taken to avoid placing all responsibility for police conduct outside the police. Establishing the degree of responsibility an independent oversight body is to have may be challenging. The independent body must respect the operational independence of the police and support the chief of police as the disciplinary authority in command. It is helpful to establish a clear division of tasks and responsibilities between the independent body and the police, with full police cooperation, to help maintain high professional standards of conduct.[136]

5. Engaging the public

Given the important role of public perceptions in police accountability, meaningful communication with the public is essential. Just as the police could never investigate, let

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[132] Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17); Alemika, "Police accountability institutions and mechanisms in Nigeria" (see footnote 32).

[133] Based on personal communication with Martin Hardy, Manager of Investigations, Office of Police Integrity, Melbourne, Australia.

[134] In 1979 the then Chief of Police together with the city mayor proposed the establishment of a Civilian Complaint Review Board in Washington, D.C., which was finally launched in 1982 (Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17)).

[135] See Alemika, "Police accountability institutions and mechanisms in Nigeria" (see footnote 32).

[136] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79).

alone prevent, all crimes, it is impossible for a complaints body to investigate all complaints and prevent all police misconduct.

A challenge also arises in connection with the perceived relationship between police accountability and police effectiveness in fighting crime. When crime rates are high, especially for violent crime, politicians may engage in "law-and-order politics", thereby often fuelling public fear of crime, which in turn may create a high tolerance of police misconduct (such as brutality and illegal arrests, detention and searches) and lower levels of accountability if the public believe (or are led to believe) that this will help to restore order.[137] Police and the general public alike frequently raise the concern that enhancing police accountability will hinder the police force from using its powers and tactics effectively.

Box 4 contains a description of a case that illustrates the importance of public support for independent oversight bodies.

Box 4.   The importance of public support: the case of the New York City Civilian Complaint Review Board

In New York, United States of America, the Civilian Complaint Review Board[a] today is staffed entirely by civilians, investigates thousands of civilian complaints each year, leading to disciplinary measures for hundreds of police officers. It is an independent mayoral agency empowered to receive, investigate, hear, make findings and recommend action on complaints against New York City police officers when there are allegations of the use of excessive or unnecessary force, abuse of authority, discourtesy or the use of offensive language.

The Board did not initially have civilian investigators. The history of the Board, as described on its website, shows the importance of engaging the public. The Board was set up in the early 1950s as a police department; investigations were conducted by police officers, and decisions on whether or not to recommend disciplinary action were made by the deputy commissioners who were also police officers. In the mid-1960s, the mayor, John Lindsay, planned to introduce civilian representation to the Board in the context of police reforms. He met with intense opposition from within the police, most notably from the Patrolman's Benevolent Association (the police union). The Association, playing on the fear of crime, stating that with civilian oversight the police would not be able to do their job properly, managed to gain considerable support from the public, and managed to keep out the civilian investigators.[b] Only in 1987 were civilian Board members and investigators accepted, though these civilians served alongside police department investigators and were supervised by department employees. Only after a serious incident in 1988, in which police used excessive force and which was investigated and heavily criticized by the Board, did public opinion start to favour an all-civilian review board, which was finally created in 1993.

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[137]James L. Cavallaro, Crime, *Public Order and Human Rights* (Versoix, Switzerland, International Council on Human Rights Policy, 2003).

The Board was granted subpoena power and has the authority to recommend disciplinary measures when substantiated. However, the Board was underfunded at its inception, leaving it unable to cope with the large number of complaints it received. A further incident in 1997 resulted in an increase in its budget, allowing the Board to hire dozens more investigators and experienced managers who oversee the investigations, hence considerably contributing to the Board's performance.

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[a] See www.nyc.gov/html/ccrb/home.html (accessed 18 December 2009).

[b] Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17).

D.   Existing independent police oversight and complaints bodies

In this section, some examples are given of oversight structures around the world. The institutions have different mandates, and the differences in their achievements are considerable. All the institutions, in theory, meet the criteria for independence given at the beginning of the present chapter, though some, in practice, find themselves having to defend their independence repeatedly.

1.   Fully independent bodies

South Africa

In South Africa, there are 148,000 police officers for a population of almost 48 million people, meaning that there is one police officer for every 323 members of the public.[138]

After the end of the apartheid regime, upon entry of the democratic Government and within the framework of the National Peace Accord, in 1994, there were deliberations between the police and the general public about what kind of police was desirable for the future South Africa. The Interim Constitution[139] provided for the establishment of an independent mechanism under civilian control, with the object of ensuring that complaints in respect of offences and misconduct allegedly committed by members of the South African Police Service were investigated in an effective and efficient manner. This was not retained in the 1996 final Constitution. The Independent Complaints Directorate (ICD)[140] was established and implemented under the 1995 South African Police Service Act.[141] ICD has a presence in nine policing areas in the country.

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[138] Figures taken from the South African Police Service website (www.saps.gov.za) (accessed 17 December 2009).

[139] Constitution of the Republic of South Africa Act 200 of 1993, repealed by Constitution of the Republic of South Africa [No. 108 of 1996], G 17678, 18 December 1996, section 222. Available from www.info.gov.za/documents/constitution/93cons.htm.

[140] See www.icd.gov.za.

[141] South African Police Service Act 68 of 1995; section 53 (2) deals with the Independent Complaints Directorate. Available from www.saps.gov.za/docs_publs/legislation/juta/a68of1995.pdf.

Mandate

The South African Police Service Act stipulates that ICD shall investigate any death in police custody or as a result of police action; may investigate any misconduct or offence allegedly committed by a South African Police Service member; and may, where appropriate, refer such an investigation to the Commissioner concerned.[142] Additionally, in 1998, ICD was tasked to monitor the implementation of the Domestic Violence Act and to present a biannual report to parliament on incidents of non-compliance by the police, which it should also investigate. ICD is primarily an investigation department that is less active in the areas of monitoring and oversight. It investigates the more serious cases and refers the remaining complaints to the police for investigation. These can then be overseen by ICD. Also, an ICD investigation does not prevent the police from carrying out their own investigations. Recommendations by ICD are not mandatory.

ICD investigators are conferred with policing powers and enjoy the same powers as members of the South African Police Service. They can conduct independent investigations and make recommendations for criminal prosecution or disciplinary action. They have search and seizure powers and can make arrests (with or without a warrant). They can also use South African Police Service detention facilities.

Independence

Though located within the same Ministry as the police (which may create conflicts of interest for the Minister), ICD has a budget separate from that of the police, received directly from Parliament. Also, it reports directly to Parliament. It has slightly less than 300 staff, including 123 investigators. ICD is itself subject to several oversight bodies such as the Parliament, the Public Service Commission and the Auditor General.[143]

At the time of writing, a new Independent Police Investigative Directorate Bill[144] has been introduced to the National Assembly. The Bill seeks to bring the police investigation system into compliance with the 1996 Constitution (section 206(6)) and ensure the independence of the new investigative body from the police service. The Independent Police Investigative Directorate will have a broader mandate than ICD, with powers to investigate any deaths in police custody, rape by a police officer, any rape of a person in police detention and allegations of torture. It may also investigate systemic corruption involving police, corruption matters within the police and inefficiency of the police in carrying out duties. The Executive Director of the Directorate will be appointed by the Minister of Police through a transparent process involving the relevant Parliamentary Committee for a period not exceeding five years, with the possibility of a consecutive

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[142]South African Police Service Act 68 of 1995; section 53 (2). Note that because the ICD is currently established under the Police Act, if it wishes to make any changes it is dependent on the police. In terms of section 64 (0) of the Act, as amended, the ICD has the same oversight mandate over the Municipal Police Services as it has in respect of the South African Police Service.

[143]Tshabalala, "Police oversight and complaints mechanism" (see footnote 94).

[144]South Africa, Independent Police Investigative Directorate Bill, B15-2010, published in Government Gazette No. 33357 of 5 July 2010.

appointment not exceeding two years. Investigators, who are appointed by the Executive Director, have the powers of a peace officer or a police officer, and they are also subject to specific integrity measures. The recommendations of the Directorate are not to be binding. The Directorate is to have an independent budget funded using money appropriated by Parliament and possibly donations. The Executive Director is to be accountable to the Minister of Police regarding finances and the annual report.

United Kingdom of Great Britain and Northern Ireland: England and Wales

In England and Wales, there are about 142,000 police officers for a population of slightly over 53 million, resulting in a ratio of 1 police officer for every 372 people.[145]

Prior to its existence, the creation of an independent body to oversee and investigate police complaints had been under consideration for more than 20 years. Both the inquiry into the Brixton riots in 1981 and the Stephen Lawrence inquiry in 1999 called for the establishment of an independent body. In 2000, partly in response to these calls, the Government carried out consultations on a new complaints system. These consultations culminated in the Police Reform Act 2002 that created the Independent Police Complaints Commission (IPCC), which was established in 2004.[146] IPCC, a non-departmental public body funded by the Home Office, has national and regional offices.

Mandate

IPCC oversees the whole of the police complaints system. It can choose to manage or supervise a police investigation into a case and independently investigate the most serious cases. If members of the public are dissatisfied with a case that has been handled by the police they can refer the case to or lodge an appeal with IPCC. There is a statutory duty for the police (mandatory referral) to refer to IPCC incidents where persons have died or been seriously injured following some form of direct or indirect contact with the police and where there is reason to believe that the contact may have caused or contributed to the death or serious injury. The police must also refer complaints and conduct matters that include serious assault, criminal behaviour, cases aggravated by discrimination and those involving serious corruption. A "voluntary referral" may be made where there are serious concerns about an impact on public confidence, for example, complaints related to the use of anti-terrorism legislation. Finally, IPCC has the power to "call in" cases of particular concern or sensitivity that might not otherwise be referred to it. Following an investigation, IPCC can either refer the case to the Crown Prosecutor for criminal prosecution or recommend disciplinary action. If the police fail to comply, in serious cases, IPCC can overrule them.

Now that the Commission has been in operation for a few years, there is a gradual shift from trying to identify and punish wrongdoers to solving the underlying problem that led to the cause for complaint.[147] IPCC can send a report to

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[145] Additionally there are more than 16,000 Police Community Support Officers and over 80,000 police staff, bringing the ratio to 1: 219. Figures taken from the Home Office website at www.homeoffice.gov.uk (accessed 11 December 2009).

[146] See the IPCC website at www.ipcc.gov.uk.

[147] According to IPCC Commissioner Davies.

the police requesting particular improvements (based on the lessons learned) in order to prevent future misbehaviour; these are usually implemented. Salient suggestions for improvement are published by the Home Office in partnership with the police in a "Learning the Lessons" bulletin; these bulletins are increasingly regarded as a source of good advice.[148] IPCC also commissions long-term research into specific troublesome areas of policing, for example, on custody practices, mental health and roads policing; these have resulted in changes to police systems.

Independence

The Chair of IPCC leads a team of 12 commissioners, each overseeing a particular region, and altogether almost 400 staff (including 120 investigators). Commissioners are appointed following a public recruitment procedure. IPCC is funded by the Home Office, but by law is entirely separate from the police, interest groups and political parties, and decisions on cases are free from government involvement.[149] Commissioners cannot have worked with the police.[150] IPCC reports directly to Parliament. Recently, in 2009, the Parliament urged IPCC to monitor more closely whether the police took its advice.[151]

United Kingdom of Great Britain and Northern Ireland: Northern Ireland

In Northern Ireland, there are 9,000 police officers for a population of just under 2 million, thus one police officer for every 222 citizens.[152]

After the peace agreements (Belfast Agreement) the Independent Commission on Policing for Northern Ireland, better known as the Patten Commission after its Chairman, came up with 175 recommendations for reforming the Royal Ulster Constabulary (now the Police Service of Northern Ireland), including the establishment of the Northern Ireland Police Board and the Police Ombudsman of Northern Ireland.[153] The statutory duties of the Board and the Ombudsman are laid down in the 2000 Police (Northern Ireland) Act.

Mandate

The Board's principal function is to secure the maintenance, efficiency and effectiveness of the police in Northern Ireland. The Board can hold the Chief Constable to account for his or her actions and decisions, including those of his or her staff, set objectives and targets for police performance in consultation with the Chief Constable, and monitor progress against these, monitor trends and patterns in crimes committed in the country and make arrangements to facilitate public cooperation in crime prevention. Additionally, the Board monitors

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[148] Learning the Lessons Bulletins are available from www.learningthelessons.org.uk.

[149] Tom Davies, "The work of the Independent Police Complaints Commission", paper presented at a UNODC conference in Mauritius, November 2008.

[150] Because of the need for expertise, some IPCC staff have worked with the police, but their number is diminishing as the IPCC now trains and develops its own civilian operatives.

[151] Based on personal communication with IPCC Commissioner Davies.

[152] Figures taken from the Police Service of Northern Ireland website: www.psni.police.uk (accessed 7 December 2009). Additionally, there are around 2,500 support staff.

[153] See www.nipolicingboard.org.uk and www.policeombudsman.org.

whether systems, including the internal disciplinary procedures, function properly, and also monitors operational compliance with the Human Rights Act and the Code of Ethics. It also appoints Independent Custody Visitors and manages the Custody Visiting Scheme. Finally, it has a range of powers for the recruitment, selection and training of the police. Recommendations by the Policing Board are binding for the police, but not for the Prosecutor's Office.

The Policing Board oversees complaints against senior officers, but it does not deal with complaints. This is the responsibility of the Police Ombudsman of Northern Ireland, which independently fully investigates all cases against the police. If a member of the public files a complaint with the police directly the police forward it to the Ombudsman. Ombudsman staff have the same legal powers as the police. After investigation, the Ombudsman recommends whether the case should be prosecuted or refers it for further disciplinary action. Its recommendations regarding disciplinary action are binding on the police. If the Police Ombudsman and the Chief Constable disagree over whether a police officer should be brought before a misconduct hearing, the Police Ombudsman may order a tribunal to be held.

Independence

The Policing Board is an independent public body made up of 19 members, 10 with a political affiliation and 9 independent, the Chair being an independent member. It has approximately 60 staff, some civil servants and some directly appointed. The Policing Board's funding currently comes from the Northern Ireland Office, from funds allocated by Parliament. The Policing Board reports annually to Parliament.

There are independent police oversight institutions around the world, in both civil law and common law systems, with differing mandates—although most of them are limited to dealing with complaints (and, quite often, only reactively).

- In Australia, which is a federal State, there are a number of agencies providing independent and impartial investigation and detection (with accompanying coercive powers), as well as prevention campaigns:[154]

   In New South Wales, the Police Integrity Commission investigates only serious cases. They also supervise investigations and investigate trends and patterns and suggest systemic changes to prevent problems from recurring.[155]

   In Queensland, the Crime and Misconduct Commission is an independent anti-corruption watchdog agency specifically set up to monitor corruption in the public sector and the police service.156 It has a Research and Prevention Division, which has undertaken many reviews into many different aspects of policing and police operations (including the use of force).

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[154]Additionally there are the Independent Commission against Corruption, New South Wales; Corruption and Crime Commission, Western Australia; and the Australian Commission for Law Enforcement Integrity, which has jurisdiction over corruption and misconduct issues in the Australian Federal Police and Australian Crime Commission.

[155]Mehta, "International models for civilian oversight of the police" (see footnote 117).

[156]See www.cmc.qld.gov.au.

In Victoria, the Office of Police Integrity, subject to the Police Integrity Act 2008 and other laws of the State, has complete discretion in the performance or exercise of its functions or powers. Its main functions are the investigation of complaints about police misconduct and integrity, and, on its own initiative, to investigate police corruption or serious misconduct generally as well as police policies, practices or procedures and problems with the functioning of these.

- In British Columbia, Canada, the Office of the Police Complaint Commissioner provides civilian oversight of complaints regarding municipal police. The Office is completely independent from the police, government agencies and political parties.

- In France, the *Commission nationale de déontologie de la sécurité* (CNDS) is the only independent institution overseeing the police. Complaints are filed indirectly: only the Prime Minister and individual members of parliament can refer a matter to CNDS, which can involve an individual case or can be a request for information. CNDS members have full inquiry or investigation powers. They release recommendations in order to improve police activities.[157]

- In Ghana, the Ghanaian Police Council is a constitutional body that advises the president on matters of policy relating to internal security, including the role of the police, budgeting, finance and administration, as well as recruitment. At the regional level, the work of the Police Council is supported by police regional committees tasked with looking at policing issues affecting the region, including police accommodation, transport and discipline.[158]

- In Hong Kong, China, the Independent Police Complaints Council is an independent body appointed by the Chief Executive. It consists of a chairperson, three vice-chairpersons, 14 council members and a 29-member secretariat, all of whom are civilians. The main functions include monitoring and reviewing the handling and investigation by the police of complaints and then making recommendations and identifying any fault or deficiency in the practices or procedures adopted by the police that has led or might lead to reportable complaints. The Council does not receive or investigate complaints itself. Serious police malpractice is dealt with by the Internal Investigations Office of the police, under the supervision of the much larger Independent Commission against Corruption, which also investigates its own cases.[159]

- In Lesotho, the Police Complaints Authority, established in 2003 but operational since 2005, is an independent oversight body that monitors questionable police conduct and addresses grievances against the police. It is empowered to investigate complaints about police misconduct and make

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[157] Fabien Jobard, "France", in *Transparency and Accountability of Police Forces, Security Services and Intelligence Services*, David Greenwood and Sander Huisman, eds. (Geneva, Geneva Centre for the Democratic Control of Armed Forces, 2004).

[158] Commonwealth Human Rights Initiative report on Ghana cited in Tait, "Policing oversight and complaints mechanisms"; APCOF, *An Audit of Police Oversight in Africa* (see footnote 25).

[159] Changwon Pyo, "Examining existing police oversight mechanisms in Asia", background report presented at the workshop entitled "Improving the Role of the Police in Asia and Europe", New Delhi, 3-4 December 2008.

recommendations for disciplinary action to the Commissioner of Police and for prosecution to the Director of Public Prosecutions. However, no action appears to have been taken on these recommendations to date. Also, the Authority cannot receive complaints directly from the public, since these are referred to it by the police. It does not have powers of search and seizure or the power to summon police officers.[160]

- In Malaysia, the Enforcement Agency Integrity Commission is a new independent oversight body targeting all law enforcement agencies (not only the police), which can receive and investigate complaints.[161] Additionally, they visit detention facilities. The Commission refers its recommendations to the appropriate disciplinary authority or public prosecutor. The relevant institutions must provide information to the Commission of their subsequent action within 14 days and reasons for it, which the Commission will make public.

- In the Maldives, the Police Integrity Commission was established under the 2008 Police Act, and began work in 2009. Its main purposes are to investigate complaints against the police and to minimize and bring to an end corruption, excessive use of force and other offences by the police.

- In New Zealand, the Independent Police Conduct Authority is an independent body that considers complaints against New Zealand Police and oversees their conduct.

- In the Philippines, the People's Law Enforcement Board receives complaints, conducts investigations and hearings, adjudicates on citizens' complaints against Philippine National Police officers and members, and issues clearances for police officers and members.[162]

- In San Jose, California, United States of America, the Independent Police Auditor can review details of investigations and determine whether it agrees with the findings, and it audits police investigations into citizens' complaints and deaths.[163] Some police auditors in other cities can also investigate and make recommendations on the complaints process and on the underlying conditions leading to police misconduct.[164]

Box 5 contains some information on the African Policing Civilian Oversight Forum.

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[160] APCOF, *An Audit of Police Oversight in Africa* (see footnote 25).

[161] Before the Enforcement Agency Integrity Commission Bill in 2005, the Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police recommended the establishment of an Independent Police Complaints and Misconduct Commission. The draft bill provided the Commission with a broad mandate and broad powers, but was held up for various reasons. In 2009, the Minister of the Interior drafted the alternative Enforcement Agency Integrity Commission Bill, which was accepted by Parliament in 2009.

[162] Melchor C. de Guzman, "Complainants' views about civilian review of the police: a study of the Philippines", *Asian Journal of Criminology*, vol. 3, No. 2 (December 2008), pp. 117-138.

[163] Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17).

[164] Mehta, "International models for civilian oversight of the police" (see footnote 25).

Box 5.   African Policing Civilian Oversight Forum

The African Policing Civilian Oversight Forum, established in 2004, is a coordinating network of independent oversight bodies and civil society organizations based in Africa. It is not a professional body for oversight but has an advocacy role, focusing its efforts on convincing Governments in Africa of the importance of establishing civilian oversight mechanisms. It has observer status with the African Commission on Human and People's Rights.[a]

The network issues a range of studies into the effectiveness and impact of both internal and external accountability mechanisms that are being used on the continent. It has also conducted an audit of police oversight in Africa describing the accountability mechanisms in place for each country, which could also serve as a benchmark for future audits.

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[a] See www.apcof.org.za.

2.   Hybrid structures

Hybrid structures are under the control of the executive, or even the police, but are meant to act independently. They sometimes report to the police directly, rather than the parliament, and in some countries the police participate in their investigations. They tend to receive more political support, undoubtedly in part because they are under the control of the political authorities and also because in some countries, external independent accountability is regarded as alien to the current accountability system. It is worth exploring some examples of hybrid structures, as these may be easier to implement than a fully independent body, serving as an intermediary step to establishing fully-fledged independent oversight structures.

Canada

In Alberta, Canada, the Alberta Serious Incident Response Team has jurisdiction over all sworn police officers in the Province of Alberta.[165] Its mandate is to investigate incidents or complaints involving serious injury or death of any person, and matters of a serious or sensitive nature that may have resulted from the actions of a police officer. The Team does not take complaints from the public; files are forwarded to it by the Solicitor General. The public needs to forward any complaints to the police agency in question. The Team is lead by a civilian director, who is a lawyer and Crown Prosecutor. His team consists of a civilian assistant director, 2 civilian criminal analysts, 4 civilian investigators and 10 sworn police officers. The director may also engage public overseers from the community to ensure independence in the investigative process. Once an investigation has been completed, the director reviews the results to ensure completeness and fairness. A report can be forwarded to the office of the Crown Prosecutor requesting an opinion on charges.

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[165] More information about the Alberta Serious Incident Response Team is available from www.solgps.alberta.ca/programs_and_services/public_security/ASIRT/Pages/default.aspx (accessed 2009).

Liberia

Another example of a hybrid structure can be found in Liberia where the Liberia National Law Enforcement Association is probably best described as a non-governmental organization whose members are police officers (those that have undergone police training and those that are currently working within any of Liberia's law enforcement agencies).[166] It has roughly 500 members, representing nearly 20 per cent of the police.[167] It is similar to a police union in that it strives to improve police training and other working conditions. In addition to that, the Association is working to ensure the Liberian police respect and protect human rights and uphold integrity. To this end, they are involved in various programmes and training activities around the country. According to their website, the mission of the Association is as follows: "The Liberia National Law Enforcement Association is a professional body, which seeks to improve the quality of law enforcement services, promote a more humane and democratic approach to justice administration which takes into consideration respect for human rights, liberty and dignity; encourage community participation in meeting the challenges of crime and disorder, and seek the welfare of the members of the law enforcement profession."[168]

The Association receives complaints from police officers regarding unfair or arbitrary punishment by the administration (mainly unfair dismissal), and can also receive complaints from members of the general public. It reviews such complaints and forwards them to the police. Depending on the response, it then informs the Ministry of Justice of the complaints, seeking its intervention. The organization has a programme for monitoring and reporting on police abuses but this has not been implemented due to a lack of resources. The nature of the work with the police and other security services makes it very challenging to openly criticize the police when some issues arise, as this may jeopardize relations with the police.

Netherlands

In the Netherlands, there is a specific hybrid arrangement combining the judiciary and the police. The *Rijksrecherche* (National Police Internal Investigations Department), a division of the police that was established over a century ago, is the only police agency that operates under the exclusive responsibility and authority of the Board of Procurators General of the Public Prosecutions Department. The Rijksrecherche is called in to conduct criminal investigations into officials. It is separate from the regular police and investigates them. The Rijksrecherche is deployed in cases where it is considered absolutely crucial not only that the investigation is carried out independently but also that this is perceived to be the case.[169]

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[166]Based on personal communication with Cecil Griffiths, President of the Liberia National Law Enforcement Association.

[167]Cecil Griffiths, *Promoting Human Rights Professionalism in the Liberian Police Force* (Minneapolis, Center for Victims of Torture, 2004). Available from www.newtactics.org.

[168]See www.linlea.org. Users of the present *Handbook* considering setting up a structure similar to the Liberia National Law Enforcement Association may find it useful to take note of Griffiths, *Promoting Human Rights Professionalism in the Liberian Police Force*, which describes how the organization came about and what challenges it had to overcome.

[169]For more information, see www.rijksrecherche.nl.

3.   Other independent oversight bodies

Most countries have other civilian bodies that are not limited to the police but also oversee the entire public sector, often through a specific thematic lens, such as human rights or corruption. Many countries have established a national human rights institution. Some countries have adopted both institutions, typically with the human rights body dealing with protection of human rights in general and the ombudsman dealing with case-based complaints.

For example, the National Human Rights Commission in India,[170] operating under the 1993 Protection of Human Rights Act, was formed to receive complaints and to investigate allegations of human rights violations and the failure to prevent these. The powers of the Commission are broad: it can investigate individual complaints but also the factors underlying the alleged misconduct. It can recommend structural changes to prevent future wrongdoings and can also recommend financial compensation for the victim. It can also educate the public.

Similarly, the *Procuraduría para la Defensa de los Derechos Humanos* (Human Rights Ombudsman Office), in El Salvador,[171] has field offices throughout the country where people can file complaints.[172] The Office can determine the admissibility of the complaint and conduct investigations. It has the right to have access to all necessary documentation from the authorities accused and the right to presume that the allegations are true if such access is not granted. For each case, the Ombudsman may formulate recommendations on how to prevent the abuse from recurring.[173]

Additionally, many countries have established anti-corruption bodies,[174] with some countries choosing to vest the preventive and enforcement functions in different bodies, while others have opted to concentrate in a single body both the mandate to investigate individual complaints and cases and the power to identify and address systemic vulnerabilities to corruption practices. Examples of anti-corruption bodies are the Anti-Corruption Commission of Bangladesh, the Indonesian Komisi Pemberantasan Korupsi (KPK), the Kenya Anti-Corruption Commission, the Anti-Corruption Commission of Sierra Leone, the Corrupt Practices Investigation Bureau in Singapore and the Inspector General of Government of Uganda.[175]

Most countries have multiple agencies that each play a role in the oversight of the public sector, and coordination among them can create a challenge.[176] While some duplication is not necessarily problematic, inter-agency competition must be avoided as far as

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[170] See www.nhrc.nic.in.

[171] See www.pddh.gob.sv.

[172] Washington Office on Latin America, Themes and Debates in Public Security Reform, cited in Osse, *Understanding Policing: A Resource for Human Rights Activists* (see footnote 9).

[173] See www.rindhca.org.ve for the network of national human rights institutions in the Americas. Similar structures exist in Africa (see www.nanhri.org) and the Asia-Pacific region (see www.asiapacificforum.net). For general information on national human rights institutions, see www.nhri.net.

[174] United Nations Convention against Corruption, arts. 6 and 36.

[175] Indonesian Komisi Pemberantasan Korupsi (KPK) www.kpk.go.id; Anti-Corruption Commission of Sierra Leone, www.anticorruption.sl; Anti-Corruption Commission of Bangladesh, http://acc.org.bd/; the Kenya Anti-Corruption Commission, www.kacc.go.ke/; Inspector General of Government of Uganda, www.igg.go.ug/; the Corrupt Practices Investigation Bureau of Singapore, http://app.cpib.gov.sg/cpib_new/user/default.aspx?pgID=21.

[176] Tait, "Policing oversight and complaints mechanisms" (see footnote 113).

possible, especially in the light of the limited resources of most of these agencies. Even more worrying is that some complaints do not fall within the remit of any agency, which may result in complaints being left uninvestigated.[177]

E.   Indicators of success

Establishing an independent oversight structure must not be the last step. The structure must be monitored for both the quality of its service delivery and its impact on police performance so that it can identify problems and their causes and try to improve its performance.[178] Like the police, the independent oversight body is accountable for its effectiveness, its resource utilization (efficiency) and integrity. Also similar to the police, measures of success include aspects of both effectiveness and legitimacy. The independent body must be transparent in its operations and successes and be held accountable, usually to the Parliament or a committee of elected representatives.[179] It must also be representative of the people served and engage all the relevant actors in the police complaints system, not only the police and the complainants, but also prosecutors, police unions (if applicable), civil society organizations and non-governmental organizations.[180] Its effectiveness in engaging all these players is one indicator of success. The key indicators of success are summarized below:

Effectiveness:	• Improved police service delivery
	• Reduction in police misconduct
Efficiency:	• Efficient resource utilization
	• Timely resolutions
Legitimacy:	• Confidence and cooperation of civil society, as reflected, for example, in the confidence of members of the bar, labour unions and professional associations, corporate organizations and the mass media
	• The level of perceived integrity of the complaints process, measured by whether both complainants and police officers regard the process as fair, thorough and objective
	• Perceived integrity of commissioners

The success of the complaints process must not be evaluated only on the basis of complainants' satisfaction, as studies have shown that such satisfaction is biased by the outcome of the case.[181] Therefore, combined evaluation strategies that include the alleged offender must be used.

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[177] Changwon Pyo, "Examining existing police oversight mechanisms in Asia" (see footnote 159).

[178] See also Alemika, "Police accountability institutions and mechanisms in Nigeria" (see footnote 32); Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17); Guzman, "Complainants' views about civilian review of the police" (see footnote 162).

[179] Council of Europe, "Opinion of the Commissioner for Human Rights" (see footnote 79).

[180] Ibid.

[181] Guzman, "Complainants' views about civilian review of the police" (see footnote 159).

Potential evaluation strategies include:[182]

- Audits of complaints files
- Audits of training and recruitment of investigators
- Audits of implementation of the recommendations of the oversight body
- Surveys of public awareness of the oversight body and the complaints process
- Surveys to determine the satisfaction of complainants and police officers with the oversight body and the complaints process
- Surveys of public confidence
- Analysis of data on police activities (such as arrests, stops, searches and complaints) and observations of police practice

F.   Summary

Box 6 below summarizes the key features of the most successful external police oversight mechanisms as identified by the Special Rapporteur on extrajudicial, summary or arbitrary execution in his study on police oversight mechanisms (A/HRC/14/24/Add.8).

Box 6.   Key features of the most successful external police oversight mechanisms

Powers

- The mechanism should be authorized by legislation to receive complaints from any person.
- Police should be required by law to report to the external agency all deaths of individuals in police custody and deaths due to police action, and there should be penalties for non-reporting and delays in reporting.
- The agency should be required to record and track complaints and abuses and keep comprehensive records.
- The agency should be authorized to undertake investigations into complaints received.
- The agency should have the power to compel police cooperation with its investigations and should have full investigatory powers, similar to those of a police investigator.
- The agency should have the power to refer cases for criminal prosecution to the public prosecutor and suggest disciplinary measures to the police department. A strong agency will be able to enforce proposed disciplinary measures.
- An agency should be able to provide or refer witnesses to witness protection where necessary.
- An agency should be able to propose general reform measures on policing to the police force and the government.

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[182] Miller, "Civilian oversight of policing: lessons from the literature" (see footnote 17).

Resources

- The mechanism should be adequately resourced and funded, and be provided with sufficient funds to allow it to carry out comprehensive investigations and hire skilled staff.

Independence

- The mechanism should have full operational and hierarchical independence from the police and be free from executive or political influence.

- Making police staff members of an external agency should generally be avoided.

- The agency should generally have different reporting lines from those of the police department.

- The agency should be established constitutionally or created through legislation (not executive order).

- The agency's members should be democratically appointed following consultation with or approval by the legislature, and should have the security of tenure.

- Financial independence should be secured by having the agency's budget approved by the legislature, with statutory guarantees for the size and timing of the disbursement of the annual budget.

Transparency and reporting

- The mechanism should be required to issue regular reports to the Government and the public on its activities.

- It should maintain a website with easily accessible information.

- It should respond in a timely fashion to citizen complaints.

- It should maintain detailed data on police abuses. Civilian oversight mechanisms are uniquely placed to conduct statistical or general reviews of patterns in police killings, including their causes, and should do so.

- Its budget and expenses should be publicly reported.

Community and political support and civil society involvement

- The government should publicly support the work of the agency.

- Both the government and the agency should conduct community outreach to explain the agency's role and the importance of police accountability.

- The external mechanism should consult with and seek the support and involvement of civil society organizations in its work.

An effective police accountability system should include an independent body that has complete discretion in the exercise of its functions and powers, has a statutory underpinning and independent and sufficient funding, reports directly to parliament and whose commissioners and staff are transparently appointed based on merit rather than any affiliation, such as an affiliation with a political party. Some independent bodies give direction to police policies beforehand; others evaluate whether police complied with policy and operational guidelines afterwards. The focus of the present chapter is on independent oversight bodies that can investigate and monitor complaints against the police.

Such independent police complaints bodies must have oversight over the entire police complaints system. This means that all complaints must be recorded with them. Moreover, independent police complaints bodies must have investigative powers, be able to initiate investigations of their own accord and intervene in investigations conducted by the police.

When setting up an independent police complaints body, care should be taken to ensure that it is complementary to existing police accountability mechanisms. It may sometimes be more effective to alter an existing structure so that it meets the criteria of independence or add a police-specific chapter to an existing independent oversight body overseeing the entire public sector (such as a national human rights institution), rather than to create a new structure. In any event, an assessment should be made of the strengths and weaknesses of the current system so that the new body targets the right issues and does not replicate the shortcomings of the old system. A number of criteria have been identified for the success of these bodies, including political commitment, the existence of a clear mandate, adequate financial and human resources, police engagement and support of the general public.

Setting up a hybrid structure that is not separate from the executive but does have a clear mandate underlining its independence can serve as an intermediate step towards the establishment of a fully independent police oversight structure. Consideration could be given to supporting the development of existing hybrid structures into structures that fully meet the criteria of independence.

Independent and hybrid structures alike must themselves be scrutinized in order to prevent the creation of new powerful institutions lacking accountability. Their effectiveness, efficiency and legitimacy with both the police and the general public must be assessed, among other indicators.

The challenges that independent oversight structures may face and possible solutions are as follows:

Challenge	*Recommendations or suggestions in addressing that challenge*
Lack of true and visible political commitment	• Gathering reliable data, for example through a public survey, on public confidence in the police and expectations of police performance for submission to the political authorities • Lobbying for reports by external observers, such as United Nations special rapporteurs, which can serve as a catalyst for change • Engaging in the security debate to increase public pressure • Identification of pro-reformists and seeking ways to support them

	• Gaining the commitment of those who may be able to influence the authorities, for example. international donors ("third-party commitment")
	• A regional approach[a] including, for example:
	Identification of joint regional problems where police may need to cooperate with neighbouring countries. This can also help to establish a form of peer review among police agencies in different countries.
	Debates in a neighbouring country, which can help to influence the domestic debate and policies.
Unclear or unrealistic mandate	• Limitation of the mandate to serious complaints only
	• Clarification and practical application of functions and powers
	• Ensuring that investigative and recommendation powers are adequate
	• Ensuring the mandate (or part thereof) is police-specific and earmarking resources for police-specific issues and cases
Inadequate financial resources	• Strategies for raising additional financial resources (with awareness of the impact on public perception when accepting funding from international and bilateral donors)[b]
	• Exploration of alternative ways of fulfilling the mandate, such as alternative means of settling complaints like mediation[c]
	• Ultimately referring the problem to those responsible
Inadequate human resources, for example lacking moral authority or quality	• Fixed tenure for commissioners
	• Ensuring that commissioners and staff are representative
	• Limiting the percentage of police officers; hiring retired police officers only or officers from other districts than those where the body operates
	• Requiring investigators to have a university degree, for example, in law or criminology, as is the practice in some countries
Lack of trust on the part of the police	• Conducting joint investigations with the police
	• Overseeing police investigations (rather than taking them over entirely from the police)

	• Incorporating a focus on police officers' rights
	• Advocating and applying fair proceedings
	• Communication plan to inform police of the role and function of the independent body
Lack of trust on the part of the public; lack of public commitment	• Development of a communication strategy explaining the need for an independent oversight body and what it can and cannot do
	• Active outreach to marginalized minorities
	• Creation of some quick wins
	• Clear and transparent indicators of success
	• Transparency in procedures and decisions
	• Openness to (external) scrutiny

[a] See Tait, "Policing oversight and complaints mechanisms" (see footnote 113); Griffiths, *Promoting Human Rights Professionalism in the Liberian Police Force* (see footnote 167).

[b] Alemika, "Police accountability institutions and mechanisms in Nigeria" (see footnote 32).

[c] Perez, "External governmental mechanisms of police accountability" (see footnote 11).

V. Before, during and after police actions and operations: strengthening internal accountability and promoting police integrity

A. Role of leadership in internal accountability

At the heart of an effective police accountability system is the integrity of the internal police hierarchy, from strategic management to day-to-day supervision. A clear and unambiguous line of command is essential to ensure lawful orders and professional instructions are complied with.

It is impossible to regulate every single police action in advance through laws, regulations and standard operational procedures. Given the discretion available to police officers in their actions, within the bounds of law, policies and instructions, to a great extent policing takes place at the moment of delivery and is accounted for afterwards.

This is why police accountability requires an effective reporting system that enables management and other oversight bodies to review the trail left by officers' actions and inactions and assess their appropriateness. In particular, any use of firearms must always be reported, in addition to the use of other police powers. In the interests of maintaining the integrity of this reporting system, it is essential to establish a working culture in which integrity and transparency are valued. This can be facilitated through various interventions, including by actors from outside the police, but primarily the responsibility of those in charge of the police. Figure VII illustrates the relationship between leadership, culture and conduct.

Figure VII. The relationship between leadership, culture and conduct

Police supervisors at any level need to be aware that their behaviour has a strong impact on the organizational culture, which in turn contributes to police behaviour. Worldwide, the police culture is often characterized by what is referred to as the "blue wall of

silence."[183] Such a culture, valuing loyalty over integrity,[184] facilitates misconduct by keeping it concealed. Any attempt to enhance police integrity needs to be accompanied by measures to enhance transparency and stimulate a culture of openness, in other words, a professional ethos in which awareness of and respect for accountability during police actions is fully ingrained. Police leadership will have to take the lead in realizing this.[185]

Police leadership must ensure an effective internal disciplinary system that is applied in a fair way (all the principles discussed in chapter III above apply equally). This includes dealing with complaints from civilians and extends to procedures for officers to complain about their colleagues, for example in situations of sexual violence or harassment. Police agencies have often appointed officers to hear such complaints in confidence. Effective internal discipline also requires a system to prevent unethical behaviour, including corruption and the solicitation of bribes, as well as corruption within the force. In one form of corruption, organized criminal networks bribe or blackmail police officers into selling information or disrupting major investigations. Again, police leadership must ensure measures to prevent their staff from falling into these traps. If misconduct does occur, it needs proper investigation and correction.

The approach taken to misconduct is an important indicator of the values guiding the leadership. In responding to the misconduct and eradicating it within the organization, the underlying causes of wrongdoings have to be addressed and preventive measures adopted.

Aside from dealing with misconduct, leadership has an important role in rewarding ethical behaviour. Examples of extraordinary police actions, often combining courage, alertness and professionalism, which have an enormous impact on the public image of the police and as a consequence on public confidence, can serve as benchmarks for future behaviour, feeding into the "corporate story" of the police and providing guidance for future officers.

Box 7 contains some information on resources for developing police leadership.

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[183] Louise Westmarland, "Police ethics and integrity: breaking the Blue Code of Silence", *Policing and Society*, vol. 15, No. 2 (2005), pp. 145-165.

[184] Piet van Reenen, "Police integrity and police loyalty: the Stalker dilemma", *Policing and Society*, vol. 8, No. 1 (1997), pp. 1-45.

[185] Carl B. Klockars, Sanja Kutnjak Ivkovic and Maria R. Haberfeld, *Enhancing Police Integrity* (Dordrecht, Netherlands, Springer, 2006).

Box 7. Developing police leadership

The International Association of Chiefs of Police, which, despite its name, targets police chiefs from the United States in particular, has a website with a lot of useful material about leadership development. One of the resources is the recommendations from the first President's Leadership Conference on police leadership in the twenty-first century covering such topics as the executive role, forces of change and preparing for the executive role (see www.iacp.org).

The International Academy Bramshill, in the United Kingdom, under the National Policing Improvement Agency, offers an International Commanders Programme and an International Strategic Leadership Programme (see www.npia.police.uk).

B.   Preserving and enhancing police integrity

For police to be able to carry out their job fairly and effectively, the necessary conditions, including guidelines and codes of conduct, well-prepared police staff and good working conditions, need to be in place. This is also reflected in the Seoul Declaration of INTERPOL, which defines the key factors to be taken into account in a national integrity programme for law enforcement. Meeting these criteria may present a challenge, especially in post-conflict countries. However, not all of the elements are resource-intensive, such as a code of conduct that supports officers in their work by helping them to achieve professional judgement, training that prepares recruits for the future rather than preserving conservative values and recruitment from a representative pool.

1. Codes of conduct

Laws set the framework in which police are to operate, and international law sets the framework for national legislation. The legislative branch of Government is responsible for ensuring that domestic legislation is in accordance with international law and the Ministry of the Interior and the police are responsible for ensuring that policy guidelines and standard operational procedures accord with the spirit of the law. Codes of conduct can be seen as bridging any gap between the law and police practice, pursuant to article 8, paragraph 2, of the United Nations Convention against Corruption, "in particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions."

Such codes have been developed throughout the world under a variety of names. While terms such as "code of conduct", "ethical code", "code of ethics" or "professional code" are often used interchangeably, an "ethical code" is often restricted to issues such as punctuality, correct uniform and the manner in which an officer addresses superiors, where a transgression might amount to neglect of duty. "Codes of conduct" usually address the core aspects of police work and powers, such the use of force, the power to arrest and detain and non-discrimination.

Some codes formulate values to guide police conduct aspiring to the highest ethical standards (for example: "a police officer is always honest"), while others contain

concrete "do's" and "don't's" (for example, a police officer must not accept gifts for carrying out his normal duties) that can be used as a benchmark for disciplinary proceedings. An example of a value-based code is the INTERPOL Code of Conduct for Law Enforcement Officers, the full text of which can be found in annex III.

Restrictive codes often state precisely which behaviours officers must practice or avoid. An example is the Code of Conduct for Law Enforcement Officials (see chapter II). Such codes of conduct often incorporate articles from other regulations, standard operational procedures and laws. In fact, they tend to summarize articles relevant to police work.

Box 8 below contains some examples of codes.

Box 8.   Examples of codes of conduct

The Code of Ethics as adopted by the Police Service of Northern Ireland in 2008[a] is a disciplinary code, laying down the standards and behaviours expected of police officers and providing concrete guidance on how police should conduct themselves when carrying out their duties in line with human rights principles (to which the code explicitly refers).

The Southern African Regional Police Chiefs Cooperation Organisation adopted its Code of Conduct for Police Officials in 2001.[b] The 13 articles of the Code address respect for human rights; non-discrimination; use of force; torture, cruel, inhuman or degrading treatment; protection of persons in custody; victims of crime; respect for the rule of law and code of conduct; trustworthiness; corruption and abuse of power; performance of duties; professional conduct; confidentiality; and property rights.[c]

The INTERPOL Code of Ethics for Law Enforcement Officers is more like an oath, whereas its Code of Conduct sets value-based aspirations for conduct (both are included in annex III of the present Handbook).

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[a] The statutory authority for the Code of Ethics can be found in section 52 of the Police (Northern Ireland) Act 2000. The Code of Ethics is available from: www.psni.police.uk/code_of_ethics_2008.pdf (accessed 7 December 2009).

[b] Harare resolution on the Code of Conduct for Police Officials by the Southern African Regional Police Chiefs Cooperation Organisation (available from www.kubatana.net/docs/demgg/sarpcco_code_of_conduct.pdf-SARPCCO), adopted at the Sixth Annual General Meeting, Mauritius, 27-31 August 2001 (accessed 13 October 2009).

[c] There is an equivalent for Eastern Africa, called the Eastern African Police Coordinators Organization. Together with the African Police Civilian Oversight Forum they are currently working on establishing a common standard for policing. Based on personal communication with Sean Tait, coordinator of the African Police Civilian Oversight Forum (20 December 2009).

There are different ways to develop a code. According to one model, the code might be developed by a group of experts (often academics and high-ranking public officials) and then presented to the police. Under another model, the code might also be developed through a joint process involving many police throughout the service. It is widely believed that the process of developing a code, with its inherent discussions on desirable police actions and conduct, serves a purpose in itself. The open discussion and reflection stimulated by the process are much needed in creating a police culture of high integrity.

An approach combining the advantages of both models is a standard code developed by experts that the police adapt to local needs. For example, the Code of Conduct of the Southern African Regional Police Chiefs Cooperation Organisation (see box 8 above) is to be regarded as setting minimum standards, to which national requirements can be added. The resolution adopting the Code states that efforts must be undertaken to disseminate it through training. The Code of Ethics of Northern Ireland (see box 8 above) was developed in a joint process that involved the Policing Board, the police and civil society (interested groups, organizations and members of the public).

Auditing the effective implementation of a code can provide valuable information on its effectiveness. For example, the African Police Civilian Oversight Forum audits implementation of the Code of Conduct of the Southern African Regional Police Chiefs Cooperation Organisation.[186] Such audits can also reveal the necessity to adapt or renew the existing code (what is found acceptable today may not be tomorrow).[187]

Values guiding professional conduct, such as honesty, integrity, non-discrimination and respect for human rights must obviously be at the heart of every code. In post-conflict situations, it may be helpful if the code includes specific references to the prohibition of gender-based violence and the promotion of inter-ethnic cooperation and respect for the rule of law.

These issues need to be regulated, whether as part of a code or through another statutory process:[188]

- Standards relating to police management
- Standards on the use of police powers, most notably the use of force and the power to arrest and detain
- Standards of conduct when carrying out policing tasks not requiring the use of police powers
- Standards relating to engaging the public
- Standards related to the use of information (privacy issues, confidentiality of information and whistle-blowing)
- Standards related to the acceptance of gifts and/or money
- Standards of conduct related to conduct among colleagues
- Standards of conduct when off-duty (for example, relating to whether side jobs are accepted and how these are to be reported)
- Standards on dealing with misconduct (reporting misconduct, investigating misconduct, procedural rules for disciplinary and criminal proceedings)
- Standards on receiving, recording and investigating complaints by members of the public

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[186] See also chapter II.B and chapter IV.B.1 of the present *Handbook*.

[187] United States Department of Justice, January 2001.

[188] United Nations Convention against Corruption, art. 8; Code of Conduct for Law Enforcement Officials; Southern African Regional Police Chiefs Cooperation Organisation Code of Conduct for Police Officials; European Code of Police Ethics; United States, *Principles for Promoting Police Integrity: Examples of Promising Police Practices and Policies.*

2.   Recruitment, selection and vetting

Recruitment aims to establish a representative pool from which future police candidates can be selected. Selection and training aim to ensure police agencies are staffed by people able and willing to respect and protect principles of integrity.

Recruitment procedures should ensure that people are aware of vacancies and are willing and able to apply for jobs with the police. They should be designed to ensure that the police will be representative of the people they serve.[189] This is especially important in post-conflict situations, where police may find themselves in heavily divided societies: "In the context of a peace process, multi-ethnicity is a practical necessity if wartime divisions are to be overcome and former warring factions to be reconciled."[190]

More specifically, recruitment should take into account the following:[191]

- Representation should be at all levels within the police agency.
- Recruitment policies and practices should be updated to ensure they are attracting a full range of qualified individuals, including from underrepresented groups.
- Targets should be set and maintained for the recruitment of ethnic groups, minorities and women.
- Causes for low recruitment of minorities and women should be evaluated.
- Human resources policies should be revised and adapted to ensure they are non-discriminatory, gender-sensitive and family-friendly.
- Job descriptions should be updated to accurately reflect the skills required in modern policing.
- Measures should be taken to depoliticize the culture and symbols of the police force as a means of encouraging members of diverse communities to apply.
- Recruitment offices should be accessible; there should be some way for people in rural areas to apply.
- The application process should not cost too much (sometimes various medical and administrative certificates such as proof of residency are required, at a significant cost to obtain).
- Recruitment policies and selection criteria should be regularly reassessed.

The next step, selection, should be transparent and fair. Selection criteria must aim to achieve a representative police agency of high integrity, in which officers fulfil predetermined criteria. Selection, aiming to predict future behaviour, must be based on the candidates' merit rather than on their ethnic or political background. It must be a neutral and objective process aiming to establish a police agency that is skilled, professional, representative and of high integrity.

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[189] As is called for in General Assembly resolution 34/169, adopting the Code of Conduct for Law Enforcement Officials.

[190] Hansen, "Strengthening the police in divided societies" (see footnote 116), p. 353.

[191] Taken from Osse, *Understanding Policing: A Resource for Human Rights Activists* (see footnote 9) and Valasek, "Security sector reform and gender" (see footnote 33).

Apart from physical criteria and criteria related to the education of future candidates, selection criteria for individual officers should include:[192]

- Background checks for criminal records (usually those convicted of criminal offences are ruled out, especially when these involve violence. Minor offences such as speeding are sometimes accepted).

- Background checks for human rights violations (candidates having committed such violations should never be accepted).

- Background checks for gender-based violence (candidates having committed such violence should never be accepted).

- Background checks for active discriminatory behaviour (candidates demonstrating such behaviour should not be accepted).

- Willingness to swear an oath that should, as a minimum, stress respect for human rights principles and abstention from corruption.

Box 9 contains some information on gender reform in the Nicaragua police.

Box 9.   Gender reform in the Nicaragua police[a]

The modernization of the National Police Force of Nicaragua demonstrates the beneficial impact of initiatives to mainstream gender and increase the participation of women. A broad range of gender reforms of the Nicaraguan police were initiated in the 1990s, following pressure from the Nicaraguan women's movement and from women within the police. As part of a project backed by GIZ, the German development organization, specific initiatives were undertaken including:

- Training modules within the police academies on gender-based violence

- Women's police stations

- Reform of recruitment criteria including female-specific physical training and the adaptation of height and physical exercise requirements for women

- Transparent promotion requirements

- Family-friendly human resource policies

- Establishment of a consultative council on gender (*Consejo Consultivo de Género*) as a forum for discussion and investigation into the working conditions of female officers

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[a] From Valasek, "Security sector reform and gender" (see footnote 33), p. 5.

Police recruitment and selection present distinct challenges in countries with a history of conflict and neglect of human rights. Sometimes, an entirely new police force needs to be established, although more often the existing system is reformed, sometimes

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[192] Osse, *Understanding Policing: A Resource for Human Rights Activists* (see footnote 9).

amalgamating existing police and security forces (for example, as part of the peace agreement), or new recruits are enlisted, integrating them into existing structures.[193] Often there is a strong call from public and international donors to replace officers who were employed in the old system with new candidates who were not involved in violations committed in the past.[194] In these situations, a mechanism needs to be developed that enables the new leadership to distinguish the perpetrators of violations from those that have a clean record, both for new candidates as well as for officers already serving. This is the main purpose of vetting.

Vetting can be defined as "assessing integrity to determine suitability for public employment."[195] It usually entails "a formal process for the identification and removal of individuals responsible for abuses, especially from police, prison services, the army and the judiciary".[196] In so doing, the authorities aim to (re-)establish public confidence and (re-)legitimize public institutions.[197] Arrangements for dealing with those who do not meet the vetting criteria may be contained in peace agreements, for example through transitional justice arrangements such as truth and reconciliation commissions.

Due process guarantees need to be respected in a vetting process, including notification of the parties under investigation of the allegations against them and provision of an opportunity to respond before a body administering the vetting process. This means that those charged are entitled to reasonable notice of the case against them, have the right to contest the case and have the right to appeal an adverse decision with a court or other independent body.[198]

Additionally, a vetting process needs to be designed to prevent undesirable consequences such as a "governance gap" because of the removal of large numbers of public employees (in particular senior or expert employees), which may disrupt the functioning of public service, and destabilization due to the removal of public employees who cannot find alternative employment and are not integrated into society. Post-conflict circumstances represent extreme challenges, but also provide unique historic opportunities for institutional change.[199]

Background conditions in place prior to a vetting process include the following:[200]

- Political conditions, determined by government authority and political will
- Institutional conditions, determined by the positions that are subject to vetting
- Individual conditions, determined by the nature of the persons to be vetted

[193] Rauch and van der Spuy, *Recent Experiments in Police Reform in Post-Conflict Africa* (see footnote 30).

[194] Hansen, "Strengthening the police in divided societies" (see footnote 116).

[195] Office of the United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Vetting—An Operational Framework* (New York and Geneva, 2006), p. 4.

[196] Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616, para. 52).

[197] Office of the United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States.*

[198] Report of the Secretary-General on the rule of law and transitional justice, para. 52.

[199] For more concrete operational guidelines on how to implement vetting step by step please refer to the *Rule-of-Law Tools for Post-Conflict States: Vetting.*

[200] Alexander Mayer-Rieckh and Pablo de Greiff, eds., *Justice as Prevention: Vetting Public Employees in Transitional Societies*, Advancing Transitional Justice Series (New York, Social Science Research Council, 2007).

- Legal conditions, determined by the vetting mandate
- Operational conditions, determined by whether resources are adequate
- Temporal conditions related to the timing of the process

Besides being applied in post-conflict settings, vetting can be used in non-conflict settings, for example, as a tool to clean up a police agency that is heavily infected with corruption. Also, the instrument can be used to vet police recruits for histories of gender-based violence, including domestic violence.[201] Moreover, organizations need to conduct background checks on employees and repeat such checks at regular intervals, for example every five years.

3.   Training

Basic police training varies widely from country to country and can range in length from a few months to four years.

Unlike in the past, in contemporary police training the emphasis is usually not primarily on learning how to use force and on "hard" police skills such as shooting and running an obstacle course. Instead, methods of persuasion, negotiation and mediation are taught as a means to limit the use of force and firearms. Trainees are equipped with skills for the day-to-day realities of their jobs through modules on human rights, community policing, gender-based violence, disciplinary procedures and basic criminal investigation techniques, among other topics.[202]

Also, gender issues receive more attention in today's police training. It is recommended that gender issues be included in the basic training for all police personnel, including civilian staff, and that mandatory and comprehensive training on gender sensitivity and sexual harassment be provided for all police personnel. In-depth skill-building training on specific topics such as interviewing victims of trafficking in persons and protocols for responding to domestic violence, anti-gay violence, child abuse and sexual assault should be offered as well.[203]

Some organizations have made police training materials available on the Internet, such as the following:

- Center for Problem-Oriented Policing (www.popcenter.org)
- European Police College (CEPOL) (www.cepol.europa.eu)
- International Association of Chiefs of Police (www.iacpo.org)

Police oversight can begin during inception training. For example, civilian staff and other non-police members can be invited to conduct training sessions, which provides recruits with practice in dealing with members of the public and prevents the police from becoming isolated from the rest of society. Some police schools take this a step further and have set up training oversight committees in which training modules are discussed with and evaluated by police officers and external actors. Additionally, as the

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[201]Bastick and Valasek, "Police reform and gender" (see footnote 103).

[202]Washington Office on Latin America, *Protect and Serve? The Status of Police Reform in Central America* (see footnote 29).

[203]Bastick and Valasek, "Police reform and gender" (see footnote 103).

willingness to accept scrutiny is an important component of oversight, students may be subjected to performance evaluations (similar to job performance evaluations), and teachers may be held accountable through evaluations of training modules.

In line with international human rights standards, most countries train students in human rights principles as well as police ethics, either in specialized modules or as part of the overall training.[204] Human rights training tends to focus on the human rights principles in international and regional law that are relevant for police work. Ethics training can help to strengthen an officer's moral judgement, which is an important skill for good police work.[205] Human rights and ethics must be given prominence and taught in a manner that stresses their relevance to police practice. An example of such an approach, aimed at judges rather than police, can be found in Nigeria, where training materials have been developed for the judiciary, on the theory and practice of professional ethics, using case studies.[206]

Human rights and ethics training clearly does not stop after inception training. Follow-up training activities, both on and off the job, must continue to emphasize the ethical and integrity-related aspects of police work. This is particularly relevant for the training of police officers in managerial positions, given their impact on police culture and professional ethics.

Both inception training and on the job training need to be evaluated carefully at regular intervals to assess whether they have a positive impact on police performance.[207]

4. Performance evaluations and promotions

To assess individual conduct, police need to establish an incentive structure that includes a set of performance criteria to be used as the basis for the assessment. This needs to include criteria that reflect the officer's moral fitness for the job as well as his or her achievements. Achievements must not merely be assessed on the basis of such data as the number of crimes detected, as this can be counterproductive and promote unethical conduct. Instead, achievements need to be assessed on the basis of such criteria as responsiveness to community needs, responsiveness to gender issues and respect for human rights.[208]

Periodic performance interviews (for example every 6-12 months) are a useful tool for identifying problematic and satisfactory performance alike, discussing mutual expectations and identifying areas that require further action to improve performance. What has been discussed and agreed needs to be formally recorded in the officer's personnel file:

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[204] As called for in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 20.

[205] UNODC, in collaboration with Austria, the European Anti-Fraud Office (OLAF) and other stakeholders, has established an International Anti-Corruption Academy, based in Austria. The Academy aims to enhance awareness, expertise, networking and research on anti-corruption related matters (see www.iaca-info.org).

[206] The Judicial Ethics Training Manual for the Nigerian Judiciary is available from www.unodc.org/documents/corruption/publications_unodc_judicial_training.pdf (accessed 11 August 2010).

[207] O'Neill, *Police Reform and Human Rights: A HURIST Document* (see footnote 1).

[208] Bastick and Valasek, "Police reform and gender" (see footnote 103).

> "Evaluations provide supervisors with an opportunity to encourage and praise desired behaviour and to notify employees when unacceptable behaviour has been reported. Early in the process of recognising inappropriate attitude or behaviour, the supervisor must communicate his or her concern with the officer, offer assistance, and explain that the agency will expect positive change from the officer… In the case of poor performance, the supervisor can develop a Performance Improvement Plan, identify the specific areas of concern, and use the plan to address and overcome the noted deficiencies."[209]

The retention and advancement of female personnel requires special attention.[210] It may be helpful to review job assessment standards and promotion criteria to ensure that these are not conducive to discrimination and to ensure equal access to job training for career advancement. It is also advisable to establish female police associations and mentor programmes.

Special consideration needs to be given to evaluating the performance of police officers in leadership positions. Some countries have started to establish concrete and measurable performance indicators for the police agency as a whole. An example from the United Kingdom is given in box 10.

Box 10. The Police Authorities (Best Value) Performance Indicators Order 2008

The Police Authorities (Best Value) Performance Indicators Order includes indicators for assessing police performance including, but not limited to the following:[a]

- Percentage of users that are satisfied with the overall service provided by the police
- Comparison of satisfaction between users from different groups
- Percentage of police officer recruits from minority ethnic groups compared to the percentage of people from minority ethnic groups in the economically active population
- Percentage of female police officers compared with the overall force strength
- Number of crimes per 1,000 population (specified for different categories)
- Percentage of offences brought to justice
- Traffic incidents and accidents
- Percentage of working hours lost due to sickness for police officers and staff

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[209] *Building Trust Between the Police and the Citizens They Serve* (see footnote 12), pp. 11-12.

[210] From DCAF, *The Gender and Security Sector Reform Toolkit*, Tool 2, Practical note, 2008b, p. 3.

For some of these criteria, concrete standards are set, for example, that 85 per cent of users should be satisfied with the police, that women should make up 25 per cent of the force or that the number of people killed in traffic accidents should not exceed a certain figure. The chief of police is the main individual responsible for ensuring that his or her agency meets the criteria defined. As such, meeting the criteria should be part of his or her performance appraisal. Failure to meet the criteria needs to be explained in a clear and transparent manner and, depending on the reasons, may have negative consequences.

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[a] Available from www.opsi.gov.uk/si/si2008/uksi_20080659_en_1 (accessed 11 August 2010).

5. Working conditions: respecting the human rights of police officers

Respect for human rights includes respecting the human rights of police officers. They also have to be properly equipped and adequately paid to be able to carry out their duties effectively and preserve their integrity.

Police have the same rights as anybody else, including:

- *The right to life.* A police officer has the right to be well-prepared and well-equipped before being sent into a life-threatening situation.
- *The right to good working conditions.* Good working conditions include equitable remuneration, leisure time, adequate equipment and clean and adequate police stations.
- *The right to a fair trial.* Police officers have the right to a fair trial under both criminal and disciplinary proceedings.

6. Whistle-blowing

If a police officer knows about misconduct within his or her unit, he or she should discuss this with his or her superior, and if this is not effective, discuss it with someone higher up in the chain of command. However, misconduct almost always occurs and tends to persist in situations of ineffective supervision. Therefore discussing misconduct with line managers is difficult, as these are the very people that have an interest in keeping malpractice hidden. Moreover, whistle-blowing procedures often allow for whistle-blowing only when the internal lines of complaint have proved ineffective.

Article 8 of the Code of Conduct for Law Enforcement Officials states the following:

> "Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power."

The commentary on the article states that:

> "Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other

remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur."

Discussing malpractice and misconduct within the force might be problematic, because police work is bound by rules of confidentiality. Measures are usually in place to prevent State officials from disclosing information of a confidential nature. In order to avoid the persistence of a police code of silence and its devastating effect on transparency and accountability, good leadership, an independent internal complaints system and appropriate measures to protect whistle-blowers are fundamental. As a last resort, whistle-blowers should be able to bring violations to the attention of public opinion through the mass media.[211]

C.   Gathering feedback: collecting and analysing data

As stated in chapter I, good policing is effective and fair and is perceived as such. It is important for police to have access to reliable information about the results of their work to know whether they are carrying out their functions properly and designing appropriate policies.

As fact and perception are distinct and may not even correlate—for example in the case of sense of security and real levels of crime—both must be measured.[212] In addition, it is useful to conduct surveys on both public satisfaction and confidence in the police, two quite different concepts.[213] Public satisfaction measures the quality of service delivered, as experienced by the public, while public confidence is about whether the public generally believes police will operate in the public interest and with integrity.

In sum, relevant police data should include measurements of the following:

- Crime levels
- Sense of security
- Public confidence in police
- Public satisfaction after police involvement

A useful tool is the International Crime Victim Survey, a major research project with more than 150 surveys done in over 80 different countries since 1989.[214] UNODC has a number of publications regarding crime statistics that may prove useful as reference material, such as the *Manual on Victimization Surveys* and the United Nations Surveys

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[211] Additionally, the Code of Conduct states: "Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession." See also *Legislative Guide for the Implementation of the United Nations Convention against Corruption* (see footnote 114), pp. 32-33.

[212] Todd Foglesong and others, *Measuring Progress toward Safety and Justice: A Global Guide to the Design of Performance Indicators Across the Justice Sector* (New York, Vera Institute of Justice, 2003).

[213] Desmond Rea, Debbie Donnelly and Joanne Fitzsimons, "International comparison research: models of police governance and accountability" (London, Association of Police Authorities/Northern Ireland Policing Board, 2009).

[214] See http://english.wodc.nl/images/ob257_full%20text_tcm45-103353.pdf.

of Crime Trends and Operations of Criminal Justice Systems that are carried out at intervals. Also, UNODC offers technical support to countries for the design, implementation and analysis of data collection and crime victim survey activities.[215]

An example of a survey on a police force is described in box 11 below.

Box 11. Light blue: perceptions of security and police performance in Kosovo[a]

The United Nations Development Programme in Kosovo pioneered an important initiative in police reform: the first comprehensive opinion survey examining public perceptions of the police and gauging the general sense of security or lack thereof across Kosovo's 30 municipalities. The objective of the United Nations Development Programme survey, "Light blue: perceptions of security and police performance in Kosovo", was to understand what the population, the primary client of the police, thought of the police's performance in preventing crime and providing security. It sought to clarify what the public knows about the Kosovo Police Service, its training, where police are stationed, and the range of its activities, as well as measure the public's perception of the "professionalism" of the Service. Researchers asked 6,000 people a range of questions, including:

- How many police officers are assigned to the station in your area, and how often do you see them on foot patrol?

- How often do you encounter a Kosovo Police Service officer and what is the nature and quality of the interaction?

- Do you see the Kosovo Police Service as effective partners, working to help the community?

- Do Kosovo Police Service officers treat people with respect?

- How quickly do Kosovo Police Service officers respond when called to emergencies?

- Do you feel safer now than you did one year ago?

- Is crime increasing or decreasing in your municipality?

Through such questions, the survey assessed police performance to date and evaluated the impact of human rights training at the police school and on the job mentoring and monitoring performed by the United Nations International Civilian Police. The results provided key baseline information, an empirical basis for evaluating and reformulating professional development priorities, operational guidelines and policy planning. More broadly, the wealth of information and insights allows an objective assessment of the efforts of the United Nations and the Organization for Security and Cooperation in Europe to build a new rights-respecting and crime-fighting police service in Kosovo over the past five years.

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[a] Box taken from O'Neill, "Police reform in post-conflict societies" (see footnote 1), p. 8.

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[215] See www.unodc.org/unodc/en/data-and-analysis/Crime-Monitoring-Surveys.html?ref=menuside (accessed 11 August 2010).

Similar surveys can be conducted by, for example, a national university or a non-governmental organization, or even by the police themselves—as long as the survey is conducted in a reliable manner that is also perceived to be trustworthy. The outcomes of the survey can serve as a starting point for a reform process, or to set a benchmark against which police are assessed.

Sometimes crime surveys have evolved from crime victimization into surveying broader issues such as public confidence in the State's arrangements for the maintenance of security. An example of this is the Afrobarometer, which is an independent, non-partisan research project that measures the social, political and economic atmosphere in Africa.[216] Its surveys are repeated regularly and because the instrument contains a standard set of questions, countries can be systematically compared and trends in public attitudes are tracked over time. Results are shared with decision makers, policy advocates, civic educators, journalists, researchers, donors and investors, as well as citizens. Surveys are conducted on a range of topics, one of which is "conflict and crime" (where questions are asked to ascertain how safe people feel and what their experience with crime and violence has been, for example).

There are also other methods to assess the police's effectiveness as well as the level of public confidence they enjoy. For example, quality management methodologies, though initially developed for corporate environments, have been adapted to policing contexts and are being used more and more to assess and benchmark police organizations as well.[217]

UNODC has gained considerable experience in conducting assessments of the integrity and capacity of criminal justice systems in a number of countries, including in Indonesia and Nigeria.[218] *The Criminal Justice Assessment Toolkit*, as developed by UNODC in 2006,[219] can be used to assess the integrity and accountability of police.

D.   Summary

Effective police accountability is a requirement under international law. Equally important, however, is that accountability needs to be a professional responsibility that serves as a measure of police leadership's commitment to enforcing professionalism and integrity throughout the force. It starts at the top with leaders and managers who value integrity as evidenced by their daily behaviour and decisions. The responsibility of police leadership to ensure police integrity and compliance with the law consists of the following aspects:

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[216] See www.afrobarometer.org. Surveys are conducted in Benin, Botswana, Burkina Faso, Cape Verde, Ghana, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mozambique, Namibia, Nigeria, Senegal, South Africa, the United Republic of Tanzania, Uganda, Zambia and Zimbabwe.

[217] There are different methodologies in use, for example International Organization for Standardization (ISO) certification and the European Foundation for Quality Management.

[218] See *Assessment of the Integrity and Capacity of the Justice System in Three Nigerian States: Technical Assessment Report* (2006), available from www.unodc.org/documents/corruption/publications_nigeria_assessment.pdf and *Assessment of Justice Sector Integrity and Capacity in Two Indonesian Provinces: Technical Assessment Report* (2006), available from www.unodc.org/pdf/corruption/publications_indonesia_e_assessment.pdf.

[219] See www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html (accessed 11 August 2010).

- A clear line of command
- Clear and unambiguous instructions and orders
- Transparency of decision-making
- Installing an effective reporting system that is followed up by supervisors
- Standard operational procedures that give guidance to police officers on how to implement laws and policies and carry out certain actions
- Establishing and reinforcing a mechanism for members of the public to file a complaint about the police
- Unequivocal support for the independent oversight body and its authority regarding the handling of complaints
- Establishing and reinforcing a mechanism for police officers to file a complaint against, for example, a colleague or a superior
- Establishing and reinforcing a procedure for whistle-blowing
- A structure for effectuating disciplinary proceedings
- Taking corrective measures following proven neglect of duty or criminal offences

Codes of conduct are an important tool for police officers to guide them in their daily decisions on how to respond to certain situations and when to use police powers. They can also serve as a benchmark for disciplinary proceedings. Care should be taken, however, to ensure that codes of conduct are consistent with other legislation and regulations; also, their status must be clear, as well as their enforcement.

Recruitment procedures need to aim to attract a representative portion of society and selection criteria for new police officers must be fair and transparent and based on merit rather than money. Police training must prepare officers to carry out their functions with integrity. It must address the moral aspects of police work as well as human rights and how this relates to police practice. Working conditions for police officers must be fair and meet local standards. Obviously, the police should enjoy the same economic rights as anyone else.

The police must be able to assess the effectiveness of their efforts. Having reliable data about crime and measures of public confidence is key, and these data should feed into the development of new policies and operational guidelines. Setting clear and fair performance indicators against which officers are assessed at regular intervals can help to identify officers of high integrity and can also serve as an early warning of a lack of integrity in officers.

Various strategies may be employed to meet challenges to police integrity:

Challenge	*Recommendations or suggestions*
Unwillingness or inability on the part of police leadership to tackle problems of integrity	- Clear formulation of the criteria that police leadership should meet

	• A programme to develop future leadership allowing new leaders to grow and mature before they are appointed to top positions. For example, coaching or mentoring and training; promotion of a period of work outside the police; promotion of international networking
	• Rewards for behaviour that serves the development of a culture of integrity and no tolerance of unethical behaviour of any kind
	• Obligation for police leaders to provide public explanations when they fail to take measures aimed at promoting integrity and when they allow unethical behaviour under their command
	• Inclusion of an investigation into the role of line managers whenever there is a case of police misconduct
Lack of resources and poor working conditions	• A budget analysis including a focus on how resources are allocated
	• Improvement of working conditions. Some measures are inexpensive such as limiting working hours, allowing leisure time, cleaning police stations, cleaning barracks (if applicable), applying disciplinary proceedings in a fair manner, providing clear and fair instructions
	• If possible, prioritization of resources for community policing
	• No tolerance of attribution of misconduct to a lack of resources
Internal corruption	• No tolerance of internal corruption; cleaning up the top ranks if necessary
	• Consideration of the use of vetting as a tool to identify current superiors above a certain rank who have engaged or are engaging in corrupt activities
Lack of an ethos of professionalism	• Obligation on the most senior leaders to take the lead in developing a professional ethos. Inclusion of this in their performance appraisals
Inconsistent legal framework, where lack of compliance remains uncorrected	• Identification of where the legal framework does not accord with international human rights principles; ensuring that standard operational procedures do accord with these international principles

	• Assessment of different laws and regulations applicable to policing (including standard operational procedures) and identification and resolution of internal inconsistencies
Lack of codes of conduct or unclear codes	• Drafting of codes of conduct that are a useful tool for police officers in their daily work • Involvement of rank and file officers in the drafting process • Development of a programme to disseminate the code of conduct, making it "come alive" • Audit of the implementation and usefulness in practice of the code of conduct • Ensuring that the disciplinary consequences of disobeying the code of conduct are clear and well-understood
Unrepresentative police	• Review of recruitment policies and procedures • Targets for those groups that are underrepresented
Unfair selection procedures, where new recruits have to pay to be admitted	• Clear selection criteria, measurable where possible • Audit of selection procedures at regular intervals, for example, using "mystery recruits" • No tolerance of internal corruption, cleaning up the top ranks if necessary
Inadequate training	• Assessment of the training curriculum with a focus on evaluating how well it meets modern policing needs and identification of potential areas for improvement • Ensuring police trainers are of high integrity and setting the right example • Rigorous selection criteria for police trainers • Involvement of civilian trainers in police training • Integration of ethics and human rights into training modules, relating them to police practice • Civilian oversight over police training
Absence of fair and clear performance indicators	• Clear performance indicators to be used to assess the entire force • Inclusion of measures of public confidence and public satisfaction in these performance indicators
Unreliable police statistics	• Communication of the importance of reliable statistics • Making the deliberate manipulation of statistics a disciplinary offence

VI. Before and after police operations and actions: strengthening accountability to the State

A. State accountability

The three pillars of the State, the executive, the judiciary and the legislature, all play a role in police accountability. State accountability regarding the police involves establishing the framework within which the police should operate. Each pillar of the State has its own responsibilities. The legislature is responsible for defining the boundaries of the framework, the executive is responsible for implementing the framework and the judiciary and the legislature are responsible for assessing whether the framework has been implemented correctly, with the evaluation serving as guidance for future operations. If the framework within which the police have to carry out their functions is inadequate, unlawful or corrupt in any way, the police find themselves handicapped and will have difficulty in carrying out their functions legitimately and professionally. If the framework is not maintained and if the police can ignore regulations without consequences, this will result in a lack of accountability and ultimately impunity for police misconduct.

The legislation that forms the basis for police operations is usually national. However, the policies used as a basis for police operations and priority-setting are sometimes decentralized. In federal States, policing is sometimes subject to State assemblies or governors. In central States, State accountability may also include provincial and local State representatives, such as the mayor or prefect and municipal administration and the municipal council at the local or city level, and the governor and the provincial administration and the provincial council at the provincial or district level. In countries that have decentralized policing these bodies play an important role in police accountability.

B. The parliament

The parliament drafts laws and evaluates their implementation. This also applies to laws relevant to policing. The main human rights principles are laid down and protected in the constitutions of most countries—the right to life, respect for human dignity and non-discrimination, the prohibition of torture, the presumption of innocence and other fair trials principles, the right to private property, freedom of movement and of

association. "[These provisions] set limits on the action of public authorities in their exercise of coercive powers and also provide parameters for complaints against abuse of power by the police."[220]

Most countries have a police act, a criminal code and a criminal procedures code establishing the actions police may take when investigating crime, and sometimes have additional security legislation. Usually, the provisions of all these instruments are rendered as instructions on how the police should carry out their functions and how they can use their powers (the standard operational procedures).

The police act of a country defines:

- The functions of the police
- The people that constitute the police
- The requirements for working as a police officer
- The powers that the police have to carry out their functions
- When and how the police can use their powers
- How the use of police powers is to be reported

It usually also specifies:

- How police are financed
- The authority to which the police are to report
- The overall authority

The police act must be known to and understood by sworn-in police officers. It is crucial that there is a piece of legislation that is accessible to the public stating the functions of the police. The primary and most basic principle of police accountability is accountability to the law. Countries considering reforming their police act or developing a new one, and other police-related legislation, may find guidance in the *Model Codes for Post-Conflict Criminal Justice*, containing a Model Criminal Code, Model Criminal Procedures Code, Model Detention Act and a Model Police Powers Act.[221]

Additionally, parliaments usually approve, or reject, the budget for the police. The annual budget approval process is a powerful tool for raising questions and proposing alternatives related to security issues.

Effective parliamentary oversight over the police is contingent on a thorough understanding of the details of policing, and of the powers and tools parliamentarians have at their disposal. Parliamentarians must not rely solely on information provided by the police and the Ministry of the Interior, as the parliament is responsible for overseeing those institutions. Their access to information should be secured. They should also be provided with sufficient resources to enable oversight functions.

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[220]Alemika, "Police accountability institutions and mechanisms in Nigeria" (see footnote 32), p. 14.

[221]Vivienne O'Connor and Colette Rausch, eds., *Model Codes for Post-Conflict Criminal Justice*, vol. 1, *Model Criminal Code* (Washington, D.C., United States Institute of Peace Press, 2007); Vivienne O'Connor and Colette Rausch, eds., *Model Codes for Post-Conflict Criminal Justice*, vol. 2, Model Code of Criminal Procedure (Washington, D.C., United States Institute of Peace Press, 2008). Volume 3, which includes the model Police Powers Act, is forthcoming.

Most parliaments have established a specialized committee for dealing with security-related matters that has the power to randomly scrutinize the administrative and financial affairs of the police. Such specialized committees can accumulate expertise and experience in this field. An example is the Public Security Commission in the State Assembly of Rio de Janeiro, Brazil. Annual reports on police performance may also be laid on the table of the legislature and are discussed.

Instruments or tools that may be used by parliaments for securing democratic oversight of the security sector include the following:[222]

General powers

- To initiate legislation
- To amend or to rewrite laws
- To question members of the executive
- To summon members of the executive to testify at parliamentary meetings
- To summon military staff and civil servants to testify at parliamentary meetings
- To summon experts to testify at parliamentary meetings
- To obtain documents from the executive
- To carry out parliamentary inquiries
- To hold hearings

Budget control

- Access to all budget documents
- The right to review and amend security budget funds
- Budget control exercised at the level of programmes, projects and line items
- The right to approve or reject any supplementary security budget proposals

Procurement

- Obligation of the executive to fully inform parliament on procurement decisions
- The right to approve or reject contracts
- Review of the following phases of procurement:

    Specifying the need for new equipment

    Comparing and selecting a manufacturer

- Assessing offers for compensation and offset

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[222] Adapted from Hans Born, Philipp Fluri and Anders B. Johnsson, eds., *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices* (Geneva, Inter-Parliamentary Union and Geneva Centre for the Democratic Control of Armed Forces, 2003), p. 76.

General security policy: The right to approve or reject

- Security policy concept
- Crisis management concept
- Force structure

Security personnel

- The right to approve or reject the personnel plan
- The right to fix ceilings for manpower
- The right to approve or reject or the right to be consulted on the highest appointments

Members of parliament may find it useful to take note of *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*, published by the Geneva Centre for the Democratic Control of Armed Forces, which provides guidance for parliamentarians on the role they can play in democratic security sector oversight.[223]

C.   Ministry of the Interior

1.   Role and functions of the Ministry of the Interior

The executive is the branch of the State that is responsible for carrying out the State's responsibilities. The police form part of this executive pillar. In most countries, the Ministry of the Interior[224] oversees the police, inspects the police and drafts guidelines for police operations.[225] As discussed in chapter V, internal accountability consists of installing an effective line of command headed by the national chief of police (or, in countries where policing has been decentralized, the Board of Police Commissioners). The national chief of police reports to either the Minister of the Interior or to the Prime Minister, who in turn reports to the parliament.

The Police Inspectorate usually inspects police compliance with the policies formulated by the Ministry on a more strategic level, rather than individual cases of police misconduct. Such inspectorates exist in both common-law and civil-law countries, such as the following:

- Her Majesty's Inspectorate of Constabulary in the United Kingdom
- Haitian National Police Inspectorate General
- The various inspectorates for the different police agencies in France, such as:

    Inspection Générale de la Gendarmerie Nationale, for the Gendarmerie

    Inspection Générale de la Police Nationale, based in Paris

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[223] Available from www.dcaf.ch/Publications/Publication-Detail?lng=en&id=25289.

[224] See footnote 3 above.

[225] Other Ministries that are relevant to the police include the Ministry of Finance and sometimes the Ministry of Defence.

Inspection Générale des Services de la Police Nationale, for the rest of the country[226]

Some inspectorates are internal structures that are not separate from the police, but are part of the police and report to the chief of police, for example, in Brazil for the Military Police, and in Romania and in Indonesia. Also, some inspectorates, for example in Kosovo, Haiti and Portugal, investigate some complaints against the police.[227] Box 12 below describes an example in Portugal.

Box 12. *Inspecção-Geral Da Administração Interna* in Portugal

The Inspectorate-General of Home Affairs in Portugal has a particularly broad mandate:[a]

- To investigate deaths following discharge of firearms and ill-treatment during arrest or in police custody
- To monitor disciplinary procedures and investigate disciplinary complaints against the police (and some other bodies operating in the sphere of security), also on its own initiative (ex officio)
- To inspect private security companies and police stations
- To audit organizations as a whole or their financial performance specifically
- To recommend structural changes in police policies and good practices
- To draft legal opinions

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[a] For more information see www.igai.pt. The *Inspecção-Geral* is a hybrid structure (see chapter IV.B).

It is considered good practice for police to be accountable to a separate governmental structure. Following accountability to the law, for many police forces this is the first line of accountability outside the force. In most countries this structure is a separate Ministry of the Interior that is usually responsible for:

- Drafting the overall vision for the police (that should be discussed and approved by parliament). An example is the Policing White Paper delivered in 2009 by the Home Office in the United Kingdom, which will (according to the Home Office) "make the police more accountable to the public and deliver significant cost savings by working better in partnership, improving efficiency and standardizing procurement."[228]

- Setting performance indicators based on the overall vision.

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[226] For more information about the functions of these different Inspectorates in English, see Rea, Donnelly and Fitzsimons, "International comparison research" (see footnote 213).

[227] It could be argued that they are hybrid structures as discussed in chapter IV.D.2 above.

[228] United Kingdom, Home Office, *Protecting the Public: Supporting the Police to Succeed* (2009). Available from www.official-documents.gov.uk/document/cm77/7749/7749.pdf.

- Standard operational procedures that give practical guidance for police operations and actions, for example on how to carry out an arrest, how to use force and firearms, how to search premises and how to conduct a body search.
- The disciplinary code.
- Inspecting the police.
- Hiring and firing of the national police chief.

2. The relationship between the police and the executive and the risk of political interference

A particular concern for police in dealing with the executive, whether at the national, provincial or local level is what is commonly referred to as political interference.[229] Democratic principles require governments to have authority over the police, provide clear policy direction, prepare policing plans and set standards or performance indicators, but appropriate democratic government control must not become political interference that threatens impartial policing in the public interest.[230]

The best safeguard against undue interference is the existence of clear and transparent procedures defining appropriate political direction and well-functioning accountability systems.[231] Such procedures need to be incorporated into the law and need to include procedures related to the hiring and firing of senior police officers. As an absolute minimum, politicians must refrain from interfering in operational law enforcement decisions in individual cases.[232]

To prevent political interference, as a rule of thumb, decisions about police deployment, operations and actions as well as new appointments need to follow these principles:

1. Decisions must be made in a transparent manner.
2. Police must be open to external scrutiny.
3. Police must respect the law.

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[229] Stenning explores the relationship between the police and the executive in detail. Philip Stenning, "Ingredients for a good police/executive relationship", paper presented to the Roundtable Workshop on Police Reform in South Asia: Sharing of Experiences, New Delhi, 23-24 March 2007. Available from www.humanrightsinitiative.org/programs/aj/police/exchange/ingredients_for_a_good_police_executive_relationship.pdf (accessed 12 August 2010).

[230] Bruce and Neild, *The Police That We Want* (see footnote 104); Commonwealth Human Rights Initiative, *Police Accountability: Too Important to Neglect, Too Urgent to Delay* (see footnote 17). Stenning formulates this as follows: "How to achieve the dual objectives of, on the one hand, democratically accountable, impartial and fair policing, and on the other, policing and a police institution that are insulated from undesirable and undemocratic partisan political control and influence by governments. (…) At the heart of this dilemma, of course, is the relationship between the police and the governments which establish and sustain them." (Stenning, "Ingredients for a good police/executive relationship", p. 2).

[231] Bruce and Neild, *The Police That We Want* (see footnote 104); Commonwealth Human Rights Initiative, *Police Accountability: Too Important to Neglect, Too Urgent to Delay* (see footnote 17).

[232] Stenning, "Ingredients for a good police/executive relationship". Stenning does however admit that there may be situations where such interference may be justified, for example, when there are higher order interests at stake such as international relations between countries.

D.   Prosecutors, judges and the law

The legal framework outlines the parameters for police accountability to the judiciary. This means in practice that if a court orders an individual to be arrested or released, the police are to comply. It also means that if the police consider using investigative methods that need authorization from an investigative judge, they must seek such authorization beforehand, and if they fail to obtain this they must refrain from using these methods. Police are also accountable to the judiciary when they find themselves under criminal investigation and can be held accountable under civil proceedings as well.

Like the police, prosecutors and judges must behave with integrity and refrain from acts of corruption. If the judiciary lack integrity, the course of justice is not guaranteed even if the police adhere to the highest ethical standards. This is why article 11 of the United Nations Convention against Corruption requires States parties to take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary. Such measures may also be introduced and applied within the prosecution service in those States parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.[233]

E.   Summary

State accountability is contingent on the role of the three pillars of the State in overseeing the police and giving direction. Parliaments must approve only laws that accord with international human rights principles and facilitate policing with integrity for which police are to be held accountable. Parliamentarians need to be critical with regard to policing issues, refraining from relying on the police, who they are supposed to oversee, as their sole source of information. Parliamentarians must ensure they have a thorough understanding of policing, enabling them to raise questions about policing and security policies and seek alternatives when appropriate. Also, they can discuss annual reports on police performance, question members of the executive and summon members of the executive and experts to testify at parliamentary meetings.

The Ministry of the Interior plays an important role by providing guidance, for example by developing the national vision on policing and also by drafting operational guidelines, as well as in evaluating compliance with those guidelines. Most Ministries of the Interior have an inspectorate for this purpose. In any event, an inspecting body that is separate from the police is recommended.

The third pillar of the State is the judiciary, which plays an important role in police accountability, especially the judge with the final say on whether police have acted in line with the law.

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[233] See *Legislative Guide for the Implementation of the United Nations Convention against Corruption*, pp. 34-36.

Political interference may pose a great threat to professional and impartial policing with integrity. Having clear and transparent procedures defining appropriate government control is key to reducing illegitimate interference. As an absolute minimum, the State must refrain from interfering in specific operational decisions.

The challenges to State accountability may be addressed in the following ways:

Challenge	Recommendations or suggestions
An inconsistent legal framework	• Review of the legal framework for internal inconsistencies and compliance with international legal principles, suggesting amendments as required • Review the relationship of the legal framework to standard operational procedures
Lack of independent scrutiny by Parliament	• Establishment of a separate parliamentary committee overseeing police and/or security matters • Separation of the issue of national security from public security • Workshop or conference for parliamentarians to discuss and explore their functions vis-à-vis policing and security matters followed up with training initiatives to ensure parliamentarians have the skills and knowledge to carry out their functions
Political interference with operational policing matters	• Clear and transparent procedures defining appropriate government control • Research into case studies on government interference that can be discussed publicly in order to demarcate legitimate control and illegitimate interference • Consideration of making political interference a disciplinary or even criminal offence
Political interference in police appointments	• Ensuring that only appointments of the highest rank or ranks are subject to political control with all other appointments is an internal matter to be decided by police management; specific statement of the difference in law • Clear and transparent selection and dismissal criteria with regard to appointments that are subject to political control
Lack of independence of the judiciary	• Increased operational and practical distance between police and investigative judge • Vetting for current members of the judiciary • Promotion or rewards for members of the judiciary who respect their professional impartiality

VII. Before police operations and actions: engaging the public—the role of civil society

A. Listening to the public

The police may exercise accountability and respond to the public either through a formal institution established for this purpose or through more informal groups, some of which may operate completely outside government control. Through public accountability measures, the police can show that they appreciate community concerns and take these into account in setting priorities. By being responsive to the public, police can enhance "public consent", which is commonly seen as a precondition for effective policing within a democratic framework.

The public does not constitute one entity sharing the same needs, let alone the same perspective on the role and functions of the police. In most countries, the public is a conglomerate of ethnic and religious groups, and within these groups there are specific subgroups such as women, the elderly and children who may have specific concerns. Also, groups representing different socio-economic strata tend to have different opinions about police priorities. In countries suffering from high levels of violent crime, certain groups, in particular the poor, may find themselves marginalized and criminalized,[234] and in fact left "unpoliced". In countries emerging from conflict situations, societies are often even more fragmented than usual, with groups in society seeking protection for, or benefits for, one ethnic group only.[235]

All groups in civil society must have their role in informing the police about their concerns and worries. Police must facilitate all these different groups where they can, listening to their input and responding to their concerns in a professional and legitimate way. Ensuring that all groups have their say prevents police bias, or the perception that such a bias exists towards a particular group, favouring their specific needs rather than serving the public interest.

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[234]Silvia de Ramos and Julita Lemgruber, "Brazil: urban violence, public safety policies and responses from civil society", in *Social Watch Report 2004: Fear and Want—Obstacles to Humanity* (Montevideo, Social Watch, 2004), pp. 136-137.

[235]Hansen, "Strengthening the police in divided societies" (see footnote 116).

Engaging civil society groups should also enable the public to provide input to police reform operations and other processes aimed at enhancing policing.[236] This requires that the reform efforts follow an evolutionary path rather than a path where goals and targets are set beforehand and additional ones cannot be accommodated along the way.[237] "Though reform proposals are often easier to introduce from the top, sustained change is clearly more likely when it is supported and demanded by the public, because this promotes accountability and transparency."[238] Moreover, non-governmental and civil society organizations play an important role in agenda-setting when advocating for police reform. An example of this is the Committee on the Administration of Justice in Northern Ireland, which was consistently involved in the process of police reform and continues to monitor its implementation.[239]

Public accountability provides civil society with a tool for "watching the police" and monitoring police performance. This watchdog role is necessary for scrutinizing the police, but is also an indication of public satisfaction with the police.[240]

In sum, public accountability serves four objectives:

- Learning about the concerns of the public
- Engaging the public in police reform plans
- Performing a watchdog function
- Providing an indicator of public satisfaction

B.   Definition of the public

The issue of who represents the public must be considered in the light of the fact that civil society is composed of various groups.[241]

Roughly four different groups or conglomerates of people can be distinguished. First are those bodies that are part of the formal accountability system, intended to provide input to the police. Second are the groups that grow over the years, sometimes starting from informal community gatherings that gradually evolve into think tanks and non-governmental organizations. Third are the various professional entities within society that play a role in holding the police to account, such as the Bar Council and the media. Finally, there are individual members of the public who voice their concerns in a direct manner.

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[236] Perez, "External governmental mechanisms of police accountability" (see footnote 11).

[237] Volha Piotukh and Peter Wilson, "Security sector evolution: understanding and influencing how security institutions change" (London, Libra Advisory Group, 2009). Available from www.libraadvisorygroup.com/assets/docs/SecuritySectorEvolutionLibraJuly2009.pdf.

[238] International Council on Human Rights Policy, *Corruption and Human Rights: Making the Connection* (Versoix, Switzerland, 2009), p.70.

[239] See www.caj.org.uk.

[240] Eden Cole, Kerstin Eppert and Katrin Kinzelbach, eds., *Public Oversight of the Security Sector: A Handbook for Civil Society Organizations* (United Nations Development Programme and Geneva Centre for the Democratic Control of Armed Forces, 2008). Available from www.dcaf.ch/Publications/Publication-Detail?lng=en&id=95396.

[241] "Civil society generally refers to the sphere of voluntary collective actions by citizens that develop around shared interests, purposes and values. (…) Civil society's actions ultimately translate into not-for-profit activities for the collective benefit of society, defining them against other civic coalitions which subvert the public good (such as organized crime gangs)." Cole, Eppert and Kinzelbach, *Public Oversight of the Security Sector*, p. 14.

1.   Representational bodies

An important and very relevant aspect of public accountability is whether there is an element of representation. In many countries, the authorities have established representational structures, often at the local level, to facilitate community engagement, ranging from formal structures to more informal ones. Some countries have formal legislative structures at the local level, such as city councils, overseeing the police. An example of this is the Police Board, in Canada, which oversees the municipal police. The Canadian Police Board is an appointed form of local government, consisting of locally elected officials and citizen representatives[242] responsible for overseeing a territorial police department. Every municipality in Canada that operates its own police force is required to establish such a board. Another example is the District Policing Partnerships that operate under the District Councils in Northern Ireland.[243]

An example of a more informal structure can be found in Rio de Janeiro, Brazil, where the police set up monthly community breakfasts where members of the communities have breakfast with the area commander and discuss their concerns. Slightly less informal are the Community Policing Forums in South Africa, which again are primarily aimed at developing relations between police and communities. They do not have a formal monitoring role, but can raise their concerns with the police, though the police are not obliged to respond to them. Similar structures exist in Malawi,[244] Uganda (where they are called "local councils"[245]) and Bosnia and Herzegovina (where they are called "security forums"[246]). Members of these structures do not usually have a formal representational role, meaning that they are not elected to represent their communities, and the functioning of such structures can be strongly personality driven.

2.   Non-governmental organizations, civil society organizations and self-appointed groups

There are also various self-appointed structures that have evolved in countries around the world. Examples of these are human rights non-governmental organizations, student groups, think tanks, neighbourhood groups, women's organizations and religious groups. It is important for police to relate to groups like these, because they may be able to voice the concerns of particular sectors of society, in particular of those vulnerable groups in society that may have difficulty in gaining access to the police, and similarly the police may find such groups difficult to access.

The position and important contribution of civil society has been specifically recognized in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (referred to in chapter II of the present *Handbook*).

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[242] See website of the Canadian Association on Police Boards (www.capb.ca).

[243] Provided for in the Police (Northern Ireland) Act 2000 (c.32, available from www.legislation.gov.uk/ukpga/2000/32/contents). See also www.districtpolicing.com.

[244] Commonwealth Human Rights Initiative, *Police Accountability: Too Important to Neglect, Too Urgent to Delay* (see footnote 17).

[245] Bruce Baker, "Multi-choice policing in Uganda", *Policing and Society*, vol. 15, No. 1 (March 2005), pp. 19-41; Commonwealth Human Rights Initiative, The Police, *The People, The Politics: Police Accountability in Uganda* (New Delhi, 2006).

[246] Hansen, "Strengthening the police in divided societies" (see footnote 116).

An initiative by a non-governmental organization in Mexico is described in box 13 below.

Box 13. Police certification in Mexico

The Professional Police Certification Center (Certipol) was launched in June 2007 by a non-governmental organization, the Institute for Security and Democracy (INSYDE) in Mexico.[a] Certipol, as an authoritative body, independent from both the government and from police agencies, will measure compliance with international standards recognized for police work in a democratic state of a given police agency through an audit of a police department's administration practices, field operations, management and overall organization. Police agencies' participation is voluntary.

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[a] See www.insyde.org.mx.

3. Professionals: the Bar, the media and academia

Other bodies playing an important role in voicing the concerns of the public are professional bodies, in accordance with their professional ethics. For example, lawyers in many countries provide legal services to the public, thus enabling them to obtain compensation for wrongdoings by State representatives, including the police (either through a civil suit or in another way), or take cases to a higher, even international, court if local justice fails. At the national level, the Bar is often an important actor whose observations on police actions and procedures prove to be valuable feedback for the police.

In many countries, the media also play an important role in voicing the concerns of the public regarding the levels of crime or violent crime in a certain area, and in shaping opinions. Another group that may give voice to the public are academics, both in universities as well as those working for private research institutions. They often conduct research into public opinion on matters related to policing, such as security and crime. Additionally, they sometimes conduct evaluative research into police practices and particular operations. They can also conduct surveys about public confidence in the police (see chapter V.C above). An important function of academic research conducted outside the police is that it can serve to validate police statistics.[247]

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[247] Bruce and Neild, *The Police That We Want* (see footnote 104). For more information on different actors in civil society see also Christopher Stone, "Police accountability and the quality of oversight", Conference summary of the Conference on Police Accountability and the Quality of Oversight, The Hague, 19-21 October 2005. Available from www.altus.org/index.php?option=com_content&view=article&id=31&Itemid=87&lang=en# (accessed 18 December 2009).

C.   Strategies and methodologies civil society can use

Human rights groups and other civil society organizations nowadays often engage with the police, seeing police as potential human rights protectors.[248] Also, human rights and anti-corruption groups can work together, tackling potential pitfalls.[249] Indeed, "where levels of corruption are high, human rights are less likely to be respected: both types of organizations have good reason to promote civil and political rights that hold power to account and enable civil society to organize and work effectively. (…) Opportunities exist for both human rights and anti-corruption organizations to collaborate in a broad range of activities—from participatory budgeting and tracking of public expenditure to the formation of citizens' advisory boards and lobbying and advocacy campaigns."[250]

Strategies civil society may use when working on policing issues include:[251]

- Research and information
- Legal assistance and witness protection
- Awareness-raising
- Advocacy, campaigning and actions
- Training (for example for police trainers, police officers)
- Monitoring, including the use of audits of the police, and the police account-ability system in particular
- Budget analysis

Additionally, some civil society organizations work with the police in community polic-ing arrangements, informing the police about community concerns and sharing the responsibility for finding solutions with the police. Civil society organizations working with the police on community policing initiatives have helped improve police perform-ance and have successfully facilitated a better relationship between the police and civil society organizations.

Members of civil society may find it useful to take note of *Public Oversight of the Security Sector: A Handbook for Civil Society Organizations*, published by the United Nations Development Programme and the Geneva Centre for the Democratic Control of Armed Forces, which provides structured guidance for civil society organizations on the role they can play in democratic security sector oversight.[252]

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[248] About the shift from the formerly often polarized relationship between police and human rights groups to a more effective cooperation, see International Council on Human Rights Policy, *Corruption and Human Rights* (see footnote 238); and Osse, *Understanding Policing: A Resource for Human Rights Activists* (see footnote 9).

[249] See Transparency International, "Human rights and corruption", Working paper No. 5 (Berlin, 2008); Inter-national Council on Human Rights Policy, *Corruption and Human Rights* (see footnote 238).

[250] International Council on Human Rights Policy, *Corruption and Human Rights* (see footnote 238), p. 69.

[251] Cole, Eppert and Kinzelbach, *Public Oversight of the Security Sector* (see footnote 240); *Understanding Policing: A Resource for Human Rights Activists* (see footnote 9).

[252] Cole, Eppert and Kinzelbach, *Public Oversight of the Security Sector* (see footnote 240).

D.   Facilitating civil society in order to sustain public accountability

It is a key responsibility of governments to ensure the participation of civil society, enabling police to give effect to the principle of being responsive to the people and also to improve their services. Police authorities need to proactively include women's organizations in this, as in post-conflict settings in particular, women may be reluctant to deal with the police unless expressly encouraged to do so. The ability of civil society organizations to be involved in police accountability is dependent on the cooperation and protection of governments and police authorities alike.

Article 13, paragraph 1, of the United Nations Convention against Corruption states the following:

> Each State Party shall take appropriate measures … to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:
>
> *(a)*   Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
>
> *(b)*   Ensuring that the public has effective access to information;
>
> *(c)*   Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
>
> *(d)*   Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
>
> > (i)   For respect of the rights or reputations of others;
> >
> > (ii)   For the protection of national security or ordre public or of public health or morals.[253]

Governments must be willing to share information with the public they serve. When they fail to do so, members of the public must have access to information (or freedom of information), and thus be able to force governments to make their decision-making transparent.[254] They establish the "right to know" legal process. Access to information also entails the prohibition of government bodies from withholding information about human rights violations and other abuses of office. A basic principle behind most

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[253] Also, the review mechanism established by resolution 3/1 of the Conference of the States Parties to the United Nations Convention against Corruption, held in Doha 9-13 November 2009, requires involvement of civil society and the private sector into the review process (CAC/COSP/2009/15, sect. I.A., resolution 3/1, annex, para. 28).

[254] *Good Governance Practices for the Protection of Human Rights* (United Nations publication, Sales No. E.07. XIV.10); International Council on Human Rights Policy, *Corruption and Human Rights* (see footnote 239).

freedom of information legislation is that the burden of proof falls on the body asked for information, not the person asking for it. The requester does not usually have to give an explanation for their request, but if the information is not disclosed a valid reason has to be given. Over 85 countries, from all regions of the world, have adopted laws to guarantee access to information to the public. This is also an important empowerment measure governments can take to enhance public participation.

Over the years, the police have become progressively more open to engaging with civil society. An example of this is the European Platform for Policing and Human Rights, which operated under the auspices of the Council of Europe at the beginning of the twenty-first century, in which both police and human rights non-governmental organizations participated. In 2004, the platform issued a leaflet discussing the advantages and disadvantages for human rights non-governmental organizations in establishing engagement with the police and vice versa.

It also presented a template for police and human rights non-governmental organizations to cooperate effectively, which addressed the following points:[255]

1.   Building trust.

2.   Agreement on the aims and activities of the partnership.

3.   Agreement on rules of engagement for the partnership.

4.   Identification of which non-governmental organizations to work with. The non-governmental organization should be stable, accountable and able to add value to the police.

5.   Agreement on the status of engagement in both entities.

6.   Agreement on mechanisms of communication.

7.   Agreement on monitoring and review arrangements to measure effectiveness.

8.   Provision of resources for the partnership.

Another example is provided by the Liberia National Law Enforcement Association (see chapter IV.D.2 above) that developed programmes to educate the public about their rights and responsibilities, about the role of criminal justice institutions in society and about actions that can bring pressure on the government to initiate reforms and improve human rights records.[256]

E.   Summary

Effective police accountability requires the police to engage with the public, in order to learn about their concerns and involve them in police reform plans and to be able to assess public confidence in the police. Also, the public can play a watchdog role that can help in maintaining or enhancing police integrity. However, rarely will the public speak with one voice. Therefore, police need to engage with different groups in society,

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[255] European Platform for Policing and Human Rights, "Police and NGOs: why and how human rights NGOs and police services can and should work together" (2004).

[256] Griffiths, *Promoting Human Rights Professionalism in the Liberian Police Force* (see footnote 167).

including those that are set up for that purpose, such as community policing forums, as well as informal groups such as civil society organizations, women's organizations and student groups, in addition to groups that may wish to maintain some distance from the police, such as human rights non-governmental organizations. Additionally, the Bar and academics have information that can help the police improve their services. Finally, the media play an important role. All of these actors can give voice to ordinary citizens, including those that tend to be marginalized and overlooked.

Police should actively facilitate public participation, and should take the initiative with those groups and organizations that do not come forward readily, as this enables them to be responsive to the people, a core aspect of democratic policing. They should also protect those who step forward from undue repercussions, whether initiated by police or by others in society.

The following suggestions are proposed for dealing with challenges that may arise in relation to public accountability:

Challenge	*Recommendations or suggestions*
Refusal to allow public participation in priority-setting on the part of the police (or their authorities)	• An initial, smaller project that can serve as an experiment • Sharing of international experiences, preferably from similar countries to which the authorities can relate • Study of examples where such participation improved policing, and where the lack of it led to ineffective policing • Advice that public participation is a requirement of democratic policing and explanation of the different purposes it can serve
Refusal on the part of the police to engage with those members of the public who are critical towards them	• Dialogue between critical community members and those open to dialogue from within the police, chaired by a neutral interlocutor if necessary • Support from outside the police, for example from the judiciary • Regional conference to discuss regional problems • Invitation of a foreign, retired chief of police to participate in regional meetings
Use of a representational body as a platform to serve partisan interests	• A contract or a vow, for new members of these bodies to symbolize their commitment to the interests of all they represent • Limitations on the tenure of the members of the bodies • Vetting of the members of the bodies

	• Dissolution of the platform and re-establishment from scratch
Corruption of the representational body by the police	• Investigation into undue influence of the representational body by the police
	• Identification of the highest-ranked officer responsible and pressing of disciplinary charges
	• A contract or a vow, for new members of these bodies to symbolize their commitment to the interests of all they represent
	• Limitations on the tenure of the members of the bodies
	• Vetting of the members of the bodies
	• Dissolution of the platform and re-establishment from scratch
Lack of confidence in civil society to engage with the police	• Additional effort on the part of police and commitment to engaging with the public and refraining from improper interference

VIII. Road map for effective accountability and promotion of integrity

Effective police accountability requires:

1. A system in which police, the State, the public and independent bodies are represented

2. A system involving monitoring before, during and after police operations and actions

3. A system allowing for corrective action

4. A system that targets individual police officers, their supervisors and the institution as a whole

These four aspects must be present for a police accountability system to be effective. Additionally, only when there are multiple actors involved in scrutinizing the police can each of these defend their own interests without jeopardizing the legitimacy of the policing system. Facilitating the development of this institutional framework is one of the key challenges for democratic States, as it ensures that the police can be scrutinized and sometimes criticized, which is key to maintaining integrity.

Ascertaining whether a police accountability system is biased

A way to assess whether control over the police is shared equitably among different players is to verify whether crucial powers and decisions are limited to certain people only. If, for a given country, the answers to the questions below always involve the same institution, so that the roles of the other players are ignored, this can be taken as an indication that the accountability structure has a bias towards this institution and needs to be adapted accordingly.

Questions to ascertain whether a police accountability system involves different players equitably

Who drafts new legislation, including police acts and other legislation relevant to the police?

- Who can provide policy input and set priorities for policing?
- Who can define operational procedures for police?
- Who can check how operations went?
- Who can intervene in police operations?
- Where can members of the public file complaints?
- Who is responsible for setting up complaints procedures and for the day-to-day management of these?
- Who investigates police officers in cases of misconduct, either under disciplinary or criminal proceedings?
- Who decides on disciplinary consequences following complaints investigations?
- Who can appoint new police chiefs and senior staff?
- Who appoints staff below the top level?
- Who can dismiss officers?
- Who evaluates police operations?
- Who evaluates overall police functioning?
- Who decides on police budgets?
- Who oversees police expenditure?
- Who decides on the procurement of new police equipment?
- Who keeps statistics on police performance, including the number of complaints?
- Who monitors public confidence in the police?
- How can members of the public engage with the police and express their concerns?
- How do the police engage with the media?

## Steps to be taken in ensuring effective police accountability

The present *Handbook* followed an institutional approach, the underlying model of which was presented in chapter I, focusing on the three core functions of police accountability:

- *Policy input and direction-setting before operations and actions.* For police to be able to accept accountability for their actions, they need to be provided with the framework and tools to ensure expectations are met.
- *Supervision.* Proper supervision is required during actions and operations.
- *Review and evaluation after operations and actions.* Internal and external review of operations and actions is required to promote improvements in subsequent performance.

Figure IV above (in chapter I) presented a conceptual model to facilitate an assessment of the current police accountability system and the identification of gaps and weaknesses. The road map presented in table 2 below identifies what needs to be done to ensure effective police accountability, and who needs to take the lead in this. The road map can be used to draft a grand design for police reform, aiming at improving overall police accountability, or it can be used to develop a piecemeal approach where different aspects of accountability are targeted one by one.

Despite its linear presentation, the road map needs to be regarded as a cyclical process of ever-improving fair and effective policing, as shown in figure VIII below.

Figure VIII.   Ever-better policing
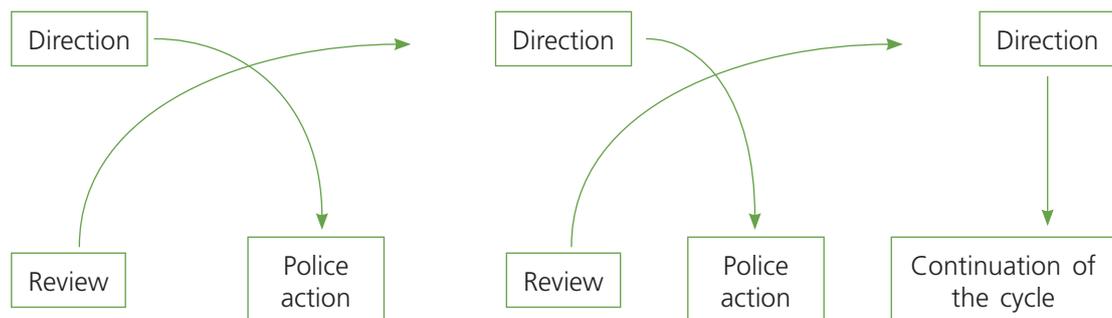
The third column in table 2 below specifies the lead actor only. However, more players can be identified at each stage. For example, members of the public can give their opinion whenever they want (directly or for example on the opinion pages in newspapers) and an oversight body's findings can be used for direction-setting.

The responsibilities of different actors are not always as clearly demarcated as suggested here. However, the specific responsibilities assigned to the different actors are of less importance than the fact that the functions are covered, and that the staff of the institutions involved have clear guidelines on their objectives that also specify their distinct positions and lines of accountability. This can prevent illegitimate cross-interference and prevent the avoidance of responsibility. Also important is the distinction between what needs to be done by an independent body and what can be done by bodies representing the State. As stated repeatedly, to ensure impartiality and prevent interference, oversight over the police complaints system should lie with an independent body.

Table 2.   Road map for effective accountability and the promotion of integrity

	Instrument	Lead actor
Direction-setting prior to operations and actions	Laws that define police functions and powers unambiguously, and define when and how the Government can intervene in police operations. There should also be clear laws on appointment and promotion processes, in particular for top ranks	Parliament
	Policies that give guidance for police prioritization	Government (Ministry of the Interior), Parliament, provincial and municipal authorities
	Realistic and fair allocation of budget to police and within the police	Parliament, Ministry of Finance, Ministry of the Interior, sometimes police
	Standard operational procedures and policy guidelines	Ministry of the Interior, sometimes police
	Input from the public, including policy input	Ministry, police, non-governmental organizations, civil society organizations, media, academia, public
	Knowledge about concerns of the public (regarding crime, security and the police)	Ministry, police, community policing forums, police boards, civil society organizations, non-governmental organizations, media, academia, public
	Clear instructions	Line of command
	Fair and effective complaints process	Government (Ministry of the Interior), Parliament, police, independent body
	Codes of conduct[a]	Ministry of the Interior and police
	Recruitment, selection and training	Ministry of the Interior and police
	Satisfactory working conditions	Ministry of the Interior and police
	Fair disciplinary procedures	Ministry of the Interior and police
	Schemes to prevent corruption and other misconduct and enhance integrity	Ministry of the Interior and police
	Integration of lessons learned into new policies and guidelines	All
Supervision during police actions and operations	Supervision immediately before, during and immediately after operations and actions	Police line of command

	Instrument	Lead actor
	Daily supervision and ongoing awareness of accountability principles	Police line of command
	Supervision of criminal investigations (in civil law systems)	Prosecutor or investigative judge
Review after police operations, management and administration	Monitoring of police performance (including identification of patterns)	Independent oversight body, parliamentary committees, Ministry (including inspectorate), police, non-governmental organizations, civil society organizations, media, academia, public
Responding to complaints	Reception and investigation of complaints, recommendations for further action	Independent oversight body, police
Punishing and correcting misconduct	Civil litigation	Legal aid groups, lawyers
	Launch of inquiry into policing concern or specific misconduct	Parliamentary committee, Ministry of the Interior, police management, independent oversight body, non-governmental organizations
	Appropriate action against offender	Police management for disciplinary offences; judge for criminal offences

[a] In countries with police unions, these can play a strong advocacy role for these issues.

Annex I. An overview of international instruments relevant to policing

The full texts of these instruments are available from www.ohchr.org.

Binding treaties

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto
- Convention on the Elimination of All Forms of Discrimination against Women
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Rights of the Child
- Geneva Conventions

    Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949 (Third Geneva Convention)257

    Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (Fourth Geneva Convention)[258]

- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts
- International Convention for the Protection of All Persons from Enforced Disappearance[259] (not yet entered into force as at 6 August 2010)
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- United Nations Convention against Corruption

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[257] United Nations, *Treaty Series*, vol. 75, No. 972.

[258] Ibid., vol. 75, No. 973.

[259] General Assembly resolution 61/177, annex.

Declarations and principles

- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Code of Conduct for Law Enforcement Officials adopted by the General Assembly in its resolution 34/169 of 17 December 1979

    Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials adopted by the Economic and Social Council in its resolution 1989/61 of 24 May 1989 and endorsed by the General Assembly in its resolution 44/162 of 15 December 1989

- International Code of Conduct for Public Officials adopted by the General Assembly in its resolution 51/59 of 12 December 1996
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power[260]
- Declaration on the Protection of All Persons from Enforced Disappearance[261]
- Guidelines on the Role of Prosecutors[262]
- Milan Plan of Action[263]
- Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[264]
- Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions[265]
- Standard Minimum Rules for the Treatment of Prisoners
- Universal Declaration of Human Rights[266]

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[260] General Assembly resolution 40/34, annex.

[261] General Assembly resolution 47/133.

[262] *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.26, annex.

[263] *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

[264] General Assembly resolution 55/89, annex.

[265] Economic and Social Council resolution 1989/65, annex.

[266] General Assembly resolution 217 A (III).

Annex II. International Code of Conduct for Public Officials

I. General principles

1. A public office, as defined by national law, is a position of trust, implying a duty to act in the public interest. Therefore, the ultimate loyalty of public officials shall be to the public interests of their country as expressed through the democratic institutions of government.

2. Public officials shall ensure that they perform their duties and functions efficiently, effectively and with integrity, in accordance with laws or administrative policies. They shall at all times seek to ensure that public resources for which they are responsible are administered in the most effective and efficient manner.

3. Public officials shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual or improperly discriminate against any group or individual, or otherwise abuse the power and authority vested in them.

II. Conflict of interest and disqualification

4. Public officials shall not use their official authority for the improper advancement of their own or their family's personal or financial interest. They shall not engage in any transaction, acquire any position or function or have any financial, commercial or other comparable interest that is incompatible with their office, functions and duties or the discharge thereof.

5. Public officials, to the extent required by their position, shall, in accordance with laws or administrative policies, declare business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest. In situations of possible or perceived conflict of interest between the duties and private interests of public officials, they shall comply with the measures established to reduce or eliminate such conflict of interest.

6.   Public officials shall at no time improperly use public moneys, property, services or information that is acquired in the performance of, or as a result of, their official duties for activities not related to their official work.

7.   Public officials shall comply with measures established by law or by administrative policies in order that after leaving their official positions they will not take improper advantage of their previous office.

III.   Disclosure of assets

8.   Public officials shall, in accord with their position and as permitted or required by law and administrative policies, comply with requirements to declare or to disclose personal assets and liabilities, as well as, if possible, those of their spouses and/or dependants.

IV.   Acceptance of gifts or other favours

9.   Public officials shall not solicit or receive directly or indirectly any gift or other favour that may influence the exercise of their functions, the performance of their duties or their judgement.

V.   Confidential information

10.   Matters of a confidential nature in the possession of public officials shall be kept confidential unless national legislation, the performance of duty or the needs of justice strictly require otherwise. Such restrictions shall also apply after separation from service.

VI.   Political activity

11.   The political or other activity of public officials outside the scope of their office shall, in accordance with laws and administrative policies, not be such as to impair public confidence in the impartial performance of their functions and duties.

Annex III. International Criminal Police Organization (INTERPOL) standards

The Seoul Declaration

Noting that law enforcement is an essential element for the maintenance of fundamental human rights, for the preservation of life and property, and the protection of the innocent,

Acknowledging that:

- Corruption can destroy the efficient functioning of any society and diminish the ability of law enforcement to accomplish its mission
- A corrupt law enforcement officer

    undermines the confidence and trust of the public vis-à-vis the State in general, and the civil service and law enforcement in particular,

    is an obstruction to the pursuit of justice and thus ineffective in the fight against crime in general,

Considering that corruption can only be combated effectively if a holistic approach is followed, and as part of a comprehensive national and international effort,

The Member States of the International Criminal Police Organization (INTERPOL);

Declare that a top priority of all Member States should be to ensure that law enforcement is free of corruption. This requires a firm commitment at the highest political and administrative levels to establish and maintain the highest standard of integrity throughout the civil service, but particularly within law enforcement,

Declare that a national integrity programme for law enforcement must take into account the following key factors:

1. The three-tier approach to combating corruption: education and prevention, operational/investigation, and public relations;

2. Recognizing the necessity for a code of conduct for law enforcement officers, and where practicable, adopting and implementing such a code as recommended by the INTERPOL Group of Experts;

3. Recognizing the necessity for a code of ethics for law enforcement officers, and where practicable, adopting and implementing such a code as recommended by the INTERPOL Group of Experts;

4. Refining the recruitment process to include integrity testing, oral interviews and background investigations in order to determine as far as possible the degree of the applicant's integrity, without regard to status, sex, race, religion or political beliefs;

5. Due to the transnational nature of crime it is essential for law enforcement to cooperate with all legally authorized agencies and their representatives in the pursuit of justice, both on a national and international level, and to encourage cooperation with all entities with a serious commitment to combating crime in general, but corruption specifically;

6. All law enforcement officials should receive continual professional training and education in all aspects pertaining to law enforcement, with special attention to ethics and integrity;

7. The management structures involved in anti-corruption initiatives should be responsible for:

- Reviewing annually the statements of assets and liabilities of all personnel in accordance with national legislation

- Ensuring the units' accountability and transparency to the community

- Monitoring factors that can identify corruption

- Identifying weaknesses in working methods, administrative and legal processes

- Ensuring that proper internal and external audit procedures are introduced and maintained

- Availing themselves of the advances in information technology and ensuring that these tools are available for all personnel

- Creating appropriate structures to protect informants and whistleblowers

- Enforcing efficient and swift procedures to ensure that complaints of the community receive proper attention,

8. The remuneration received by law enforcement officials should be sufficient to afford them a decent and reasonable standard of living.

Code of conduct for law enforcement officers

The principles

The primary duties of law enforcement officers are the protection of life and property, the preservation of public peace, and the prevention and detection of criminal offences. To fulfil these duties law enforcement officers are granted extraordinary powers; citizens therefore have the right to expect the highest standards of conduct from them.

This Code sets out the principles which guide law enforcement officers' conduct. Where officers hold a discretion whether or not to exercise their powers, the Code does not seek to restrict that discretion; it rather aims to define the parameters of conduct within which that discretion should be exercised.

This Code applies to the conduct of law enforcement officers in all ranks whilst on duty, or whilst off duty if the misconduct is serious enough to indicate that the individual is not fit to remain a law enforcement officer, or to undermine public confidence in the organization or the profession.

The Code will be applied in a reasonable and objective manner. Where sanctions for misconduct are available and under consideration, due regard will be paid to the degree of negligence or deliberate fault and to the nature and circumstances of an officer's conduct.

1. Honesty and integrity

It is of paramount importance that citizens have faith in the honesty and integrity of their law enforcement officers. Officers should therefore be open and truthful in their dealings; avoid being improperly beholden to any person or institution; and discharge their duties with integrity.

2. Fairness and tolerance

Law enforcement officers have a particular responsibility to act with fairness and impartiality in their dealings with citizens and colleagues, treating all with courtesy and respect. Officers must avoid favouritism of an individual or group, and all forms of victimization or discrimination.

3. Use of force and abuse of authority

Officers must never knowingly use more force than is reasonable, nor should they abuse their authority.

4. Performance of duties

Officers should be conscientious and diligent in the performance of their duties. Officers should attend work promptly when rostered for duty. If absent through sickness or injury, they should avoid activities likely to retard their return to duty. They should sustain and, where possible, improve their professional knowledge and competence.

5. Lawful orders

Unless there is good and sufficient cause to do otherwise, officers must obey all lawful orders and abide by the regulations of their organization. Officers should support their colleagues in the execution of their lawful duties, and oppose any improper behaviour, reporting it where appropriate.

6. Confidentiality

Information which comes into the possession of a law enforcement agency should be treated as confidential. It should not be used for personal benefit and nor should it be

divulged to other parties except in the proper course of law enforcement duty. Similarly, officers should respect, as confidential, information about law enforcement policy and operations unless authorized to disclose it in the course of their duties. Personal comment should not be voiced in ways or circumstances likely to damage public confidence in the organization or the profession.

7. Impairment

Whilst on duty(*) officers must not be impaired due to alcohol or narcotic abuse. Officers should not consume alcohol when on duty unless specifically authorized to do so or it becomes necessary for the proper discharge of their duty. Officers must not consume illegal narcotics whether on or off duty except with the prior knowledge and informed consent of their organization.

(*) An officer who is unexpectedly called out for duty should be able, at no risk of discredit, to say that he or she has consumed alcohol and may not be ready for duty.

8. Appearance

Unless on duties which dictate otherwise, officers should always be smart, clean and tidy whilst on duty in uniform or in plain clothes.

9. General conduct

Whether on or off duty, law enforcement officers should not behave in a way which is likely to bring discredit upon their organization or the profession. This principle applies to former law enforcement officers too.

10. Cooperation and partnership

Law enforcement officers should cooperate with and assist others lawfully mandated to prevent and detect crime within the same jurisdiction, and beyond with the consent of the competent authorities in each jurisdiction.

"We believe in a free and just society. To be truly just, society must embrace high standards of integrity and openly resist corruption.

To this end we join with the community to ensure such standards and accept responsibility to fight all forms of corruption through education, prevention, and effective law enforcement."

Code of ethics for law enforcement officers

"I hold my law enforcement powers on behalf of the people. Through my professional and personal example, I shall demonstrate that I respect them and I shall strive to realize their high expectations of me.

I am sworn to protect them and I shall enforce their laws in good faith, fairly, with courage and integrity, to the best of my ability.

In so doing, I shall build their trust and confidence in the law.

I shall never betray them by wilfully abusing my powers, authority or knowledge.

To these ends, I serve the people."

Global standards to combat corruption in police forces/services

Article 1

Objectives

To ensure that the police forces/services of each Member State of INTERPOL have high standards of honesty, integrity and ethical behaviour in and in connection with the performance of their policing functions.

To promote and strengthen the development by each Member State of INTERPOL of measures needed to prevent, detect, punish and eradicate corruption in the police forces/services within its national boundaries and to bring to justice police officers and other employees of police forces/services who are corrupt.

Article 2

Definitions

Corruption

The solicitation or acceptance, whether directly or indirectly, by a police officer or other employee of a police force/service of any money, article of value, gift, favour, promise, reward or advantage, whether for himself/herself or for any person, group or entity, in return for any act or omission already done or omitted or to be done or omitted in the future in or in connection with the performance of any function of or connected with policing.

The offering or granting, whether directly or indirectly, to a police officer or other employee of a police force/service of any money, article of value, gift, favour, promise, reward or advantage for the police officer or other employee or for any person, group or entity in return for any act or omission already done or omitted or to be done or omitted in the future in or in connection with the performance of any function of or connected with policing.

Any act or omission in the discharge of duties by a police officer or other employee of a police force/service which may improperly expose any person to a charge or conviction for a criminal offence or may improperly assist in a person not being charged with or being acquitted of a criminal offence.

The unauthorized dissemination of confidential or restricted police information whether for reward or otherwise.

Any act or omission in the discharge of duties by a police officer or other employee of a police force/service for the purpose of obtaining any money, article of value, gift, favour, promise, reward or advantage for himself/herself or any other person, group or entity.

Any act or omission which constitutes corruption under a law of the Member State.

Participation as a principal, co-principal, initiator, instigator, accomplice, accessory before the fact, accessory after the fact, conspirator or in any other manner in the commission or attempted commission of any act referred to in the preceding provisions of this article.

Police force/service means each police force or police service or other official body with a responsibility to perform policing functions within the national boundaries of the Member State.

Article 3

Principles

To make corruption within police forces/services a high-risk crime.

To promote and maintain a high standard of honesty, integrity and ethical behaviour within the police forces/services of each Member.

To foster the recruitment and training as police officers of persons of high levels of integrity, honesty, ethical standards and expertise.

Article 4

Measures

Each member of the General Assembly commits to:

Standards of conduct

4.1   Establishing and maintaining high standards of conduct for the honest, ethical and effective performance of policing functions.

4.1.1   Such standards should mandate and be directed towards an understanding and application of honest, ethical and appropriate behaviour, the avoidance of conflicts of interest, the proper use of public resources in and in connection with the fair and impartial application of the law, the performance of policing functions, the reporting of acts of corruption in and in connection with and the performance of policing functions and the establishment and strengthening of public confidence in police officers and police forces/services as part of the system of justice.

4.1.2   Such standards should accept that it is an obligation of the police force/service to seek out and effectively deal with corruption within the police force/service.

4.1.3   Such standards should impose an obligation on police officers and other employees of a police force/service to report to the appropriate person or authority acts or omissions, which constitute or may constitute corruption within the police force/service.

4.2   Setting up and maintaining effective mechanisms to oversee and enforce the high standards of conduct required in and in connection with the performance of policing functions;

Recruitment, posting, promotion and termination

4.3   Having and maintaining effective systems for the recruitment of police officers of high levels of integrity, honesty, ethical standards and expertise;

4.4   Ensuring that the systems for recruitment, posting, promotion and termination of police officers and other employees of the police forces/services are not arbitrary but are based on fairness, openness, ability and performance;

Training

4.5   Having a system for instructing police officers and others engaged in and in connection with the performance of policing function of the standards and ethical rules applicable to the performance of such functions;

4.6   Having and maintaining a system for the training, including on-going training, of police officers and other employees in the police forces/services which reinforces the high standards of conduct referred to in Article 4.1;

Corruption

4.7   Putting in place deterrents to the bribery of those performing or engaged in or in connection with the performance of policing functions;

4.8   Using their best endeavours to ensure that the mechanisms and systems for the prevention, detection, punishment and eradication of corruption in and in connection with the performance of policing functions in its police forces/services are kept abreast of current practice as recognised by the General Assembly of INTERPOL;

4.9   Having an effective system that obliges police officers and other employees of the police forces/services to report, enables them and members of civil society to report corruption and that protects those who report corruption in good faith;

4.10   Establishing mechanisms to encourage participation by civil society in activities and efforts to prevent corruption in the police forces/services;

4.11   Establishing and enforcing procedures for the declaration and registration of the income, assets and liabilities of those who perform policing functions and of appropriate members of their families;

Systems

4.12   Having and maintaining systems of revenue collection, money and property handling and for the control and preservation of evidence that ensure that those collecting or handling public money, dealing with evidence or handling property are accountable and that the systems are such as to deter corruption;

4.13   Having and maintaining systems for the procurement of goods and services that are based on openness, efficiency, equity and certainty of the rules to be applied and that seek the best value for money;

Monitoring

4.14   Establishing a mechanism such as an oversight body or bodies to monitor the systems and measures established for preventing, detecting, punishing and eradicating corruption within the police forces/services and the adequacy, application and effectiveness of such systems and measures;

4.15   Conferring or causing to be conferred on a designated authority, whether internal or external, such powers to carry out investigations and bring to justice without fear or favour, affection or ill will those who engage in corruption and dishonesty in the course of or associated with the carrying out of policing functions and adequately resourcing and funding such authority;

4.16   Providing for a system for the recruitment of officers for such designated authority who are of high integrity and that ensures that such officers are not disadvantaged by recruitment to any such designated authority;

4.17   Providing adequate safeguards to prevent abuse of powers by those engaged in the anti-corruption system and to minimise unnecessary infringements of individual rights;

Review, reporting and research

4.18   Requiring public reporting at least once each year of the work and findings in relation to the monitoring of the systems and measures referred to in Article 4.14 and their adequacy, application and effectiveness;

4.19   Ongoing research in relation to current best practice for the prevention, detection, punishment and eradication of corruption in and in connection with the performance of policing functions;

4.20   Reviewing at appropriate and regular intervals the measures and systems for the prevention, detection, punishment and eradication of corruption in and in connection with the performance of policing functions;

General

4.21   Making corruption by a police officer or other employee of a police force/service a serious criminal offence;

4.22   Having legislation enacted to allow the proceeds of corruption and related crimes to be forfeited;

4.23   Bringing into being or causing to be brought into being such legislative, administrative and other measures as may be necessary to prevent, detect, punish and eradicate corruption in the police forces/services;

4.24   Taking all practicable steps to ensure that the rates of remuneration for police officers and other employees of the police forces/services are such as to enable them and their families to maintain a reasonable standard of living without having to resort to other employment or to corruption;

General Assembly

4.25   Reporting at least once each two years, or at such shorter intervals as the General Assembly may resolve, on the measures taken and the mechanisms and systems in place to implement the standards set out in this protocol and the effectiveness of such mechanisms, systems and measures;

4.26   Permitting the monitoring by, and cooperating with, such person or persons as may be appointed by the Secretary General for the purpose of monitoring the mechanisms, systems and measures in place in relation to its police forces/services to achieve the objective and meet the standards referred to in this protocol and the effectiveness of such mechanisms, systems and measures.

Bibliography

African Policing Civilian Oversight Forum. *An Audit of Police Oversight in Africa.* Cape Town: African Minds, 2008.

Alemika, E. Police accountability institutions and mechanisms in Nigeria. Unpublished manuscript. 2009.

Amnesty International. *Public Outrage: Police Officers Above the Law in France*. AI index: EUR 21/003/2009. London: Amnesty International, 2009.

_____. Unfinished business: police accountability in Indonesia. AI index: ASA 21/013/2009. London: Amnesty International, 2009.

Association for the Prevention of Torture. Civil society and national preventive mechanisms under the Optional Protocol to the Convention against Torture. Geneva: Association for the Prevention of Torture, 2008.

Baker, Bruce. Multi-choice policing in Uganda. *Policing and Society*, vol. 15, No. 1 (March 2005), pp. 19-41.

Bastick, Megan, and Kristin Valasek, eds. *Gender and Security Sector Reform Toolkit.* Geneva: Geneva Centre for the Democratic Control of Armed Forces, Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and International Research and Training Institute for the Advancement of Women, 2008.

Bayley, David H. *Changing the Guard: Developing Democratic Police Abroad.* New York: Oxford University Press, 2006.

_____. *Democratizing the Police Abroad: What to Do and How to Do It?*, Issues in International Crime. Washington, D.C.: United States of America, Department of Justice, National Institute of Justice, June 2001.

_____. The contemporary practices of policing: a comparative view. In *Civilian Police and Multinational Peacekeeping: A Workshop Series—A Role for Democratic Policing*, J. Burack, W. Lewis and E. Marks. Washington, D.C.: United States, Department of Justice, National Institute of Justice, 1997.

Born, Hans, and Albrecht Schnabel, eds. *Security Sector Reform in Challenging Environments*. Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2009.

_____, Philipp Fluri, and Anders B. Johnsson, eds. *Parliamentary Oversight of the Security Sector: Principles, Mechanisms and Practices*. Geneva: Inter-Parliamentary Union and Geneva Centre for the Democratic Control of Armed Forces, 2003.

Bruce, David, and Rachel Neild. *The Police That We Want: A Handbook for Oversight of Police in South Africa*. Johannesburg: Centre for the Study of Violence and Reconciliation, Open Society Foundation for South Africa and Open Society Justice Initiative, 2005.

Burack, J., W. Lewis, and E. Marks. *Civilian Police and Multinational Peacekeeping: A Workshop Series–A Role for Democratic Policing*. Washington, D.C.: United States, Department of Justice, National Institute of Justice, 1997.

Call, Charles T. Challenges in police reform: promoting effectiveness and accountability. International Peace Academy Policy Report. New York: International Peace Academy, 2003.

Cavallaro, James L. *Crime, Public Order and Human Rights*. Versoix, Switzerland, International Council on Human Rights Policy, 2003.

Changwon Pyo. Examining existing police oversight mechanisms in Asia. Background report presented at the workshop entitled "Improving the Role of the Police in Asia and Europe", New Delhi, 3-4 December 2008.

Cole, Eden, Kerstin Eppert, and Katrin Kinzelbach, eds. *Public Oversight of the Security Sector: A Handbook for Civil Society Organizations*. United Nations Development Programme and Geneva Centre for the Democratic Control of Armed Forces, 2008. Available from www.dcaf.ch/Publications/Publication-Detail?lng=en&id=95396.

Commonwealth Human Rights Initiative. *Feudal Forces: Democratic Nations—Police Accountability in Commonwealth South Asia*. New Delhi: Commonwealth Human Rights Initiative, 2007.

_____. *Police Accountability: Too Important to Neglect, Too Urgent to Delay*. New Delhi: Commonwealth Human Rights Initiative, 2005.

_____. *The Police, the People, the Politics: Police Accountability in Tanzania*. New Delhi: Commonwealth Human Rights Initiative, 2006.

_____. *The Police, the People, the Politics: Police Accountability in Uganda*. New Delhi: Commonwealth Human Rights Initiative, 2006.

Council of Europe, Commissioner for Human Rights. Opinion of the Commissioner for Human Rights concerning independent and effective determination of complaints against the police. CommDH(2009)4. Strasbourg: Council of Europe, 12 March 2009.

Crawshaw, Ralph, Barry Devlin, and Tom Williamson, eds. *Human Rights and Policing: Standards for Good Behaviour and a Strategy for Change*. The Hague: Kluwer Law International, 1998.

Davies, Tom. The work of the Independent Police Complaints Commission. Paper presented at the UNODC conference in Mauritius, November 2008.

European Platform on Police and Human Rights. Police and NGOs: why and how human rights NGOs and police services can and should work together. 2004.

Ferret, Jerome. The State, policing and "Old Continental Europe": managing the local/national tension. *Policing and Society*, vol. 14, No.1 (March 2004), pp. 49-65.

Foglesong, Todd, and others. *Measuring Progress toward Safety and Justice: A Global Guide to the Design of Performance Indicators across the Justice Sector*. New York: Vera Institute of Justice, 2003.

Goldschmidt, Jona, and Anonymous. The necessity of dishonesty: police deviance, "making the case", and the public good. *Policing and Society*, vol. 18, No. 2 (2008), pp. 113-135.

Greene, Jack R., and others. *Police Integrity and Accountability in Philadelphia: Predicting and Assessing Police Misconduct*. Document No. 207823. 2004. Available from www.ncjrs.gov/pdffiles1/nij/grants/207823.pdf.

Greenwood, David, and Sander Huisman, eds. *Transparency and Accountability of Police Forces, Security Services and Intelligence Services*. Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2004.

Griffiths, Cecil. *Promoting Human Rights Professionalism in the Liberian Police Force*. Minneapolis: Center for Victims of Torture, 2004. Available from www.newtactics.org.

Guzman, Melchor C. de. Complainants' views about civilian review of the police: a study of the Philippines. *Asian Journal of Criminology*, vol. 3, No. 2 (December 2008), pp. 117-138.

Hansen, Annika S. Strengthening the police in divided societies: empowerment and accountability in Bosnia-Herzegovina. *Policing and Society*, vol. 18, No. 4 (2008), pp. 339-361.

Harris, Frank. *The Role of Capacity-Building in Police Reform*. Organization for Security and Cooperation in Europe, Department of Police Education and Development, OSCE Mission in Kosovo, 2005. Available from: www.osce.org/kosovo/item_11_19790.html (accessed 18 December 2009).

Hopkins, Tamar. *An Effective System for Investigating Complaints against Police: A Study of Human Rights Compliance in Police Complaint Models in the US, Canada, UK, Northern Ireland and Australia*. Melbourne: Victorian Law Foundation, 2009.

Human Rights Watch. *Out of Sight: Endemic Abuse and Impunity in Papua's Central Highlands*. Volume 19, No. 10(C). New York: Human Rights Watch, 2007.

Independent Commission on Policing for Northern Ireland. *A New Beginning: Policing in Northern Ireland—The Report of the Independent Commission on Policing for Northern Ireland*. 1999. Available from http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf.

Internal Controls and Disciplinary Units. Themes and Debates in Public Security Reform: A Manual for Public Society. Washington, D.C.: Washington Office on Latin America, 2000.

_____ *External Controls*. Themes and Debates in Public Security Reform: A Manual for Public Society. Washington, D.C.: Washington Office on Latin America, 2000.

International Council on Human Rights Policy. *Corruption and Human Rights: Making the Connection*. Versoix, Switzerland: International Council on Human Rights Policy, 2009.

International Crisis Group. Bangladesh: getting police reform on track. Asia Report No. 182. 11 December 2009.

Ismail, Shahindha. The Police Integrity Commission of the Maldives. *Network for Improved Policing in South Asia (NIPSA) Newsletter*, vol. 1, No. 2 (December 2009).

Jobard, Fabien. France. In *Transparency and Accountability of Police Forces, Security Services and Intelligence Services*, David Greenwood and Sander Huisman, eds. Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2004.

Klockars, Carl B., and others. The measurement of police integrity. *NIJ Research in Brief*, May 2000. Washington, D.C.: United States Department of Justice, Office of Justice Programs, 2000.

_____, Sanja Kutnjak Ivkovic, and Maria R. Haberfeld. *Enhancing Police Integrity. Dordrecht*, Netherlands: Springer, 2006.

López Portillo Vargas, Ernesto, and Hugo Frühling, eds. *Responsabilidad Policial en Democracia: Una Propuesta para América Latina*. Mexico City: Instituto para la Seguridad y la Democracia and Centro de Estudios en Seguridad Ciudadana, 2010.

Low, Lucinda A. The United Nations Convention against Corruption: the globalization of anticorruption standards. Paper prepared for the Conference of the International Bar Association, International Chamber of Commerce and the Organization for Economic Cooperation and Development entitled "The Awakening Giant of Anticorruption Enforcement", London, 4-5 May 2006.

Marenin, Otwin. *Restoring Policing Systems in Conflict Torn Nations: Process, Problems, Prospects*. DCAF Occasional Paper, No. 7. Geneva: Geneva Centre for the Democratic Control of Armed Forces, June 2005.

Mayer-Rieckh, Alexander, and Pablo de Greiff. *Justice as Prevention: Vetting Public Employees in Transitional Societies*. Advancing Transitional Justice Series. New York: Social Science Research Council, 2007.

Mehta, Swati. International models for civilian oversight of the police. Unpublished manuscript. 2009.

Miller, Joel. Civilian oversight of policing: lessons from the literature. New York: Vera Institute of Justice, 2002.

Murphy, Kristina, Lyn Hinds, and Jenny Fleming. Encouraging public cooperation and support for police. *Policing and Society*, vol. 18, No. 2 (June 2008), pp. 136-155.

Neild, Rachel. Confronting a culture of impunity: the promise and pitfalls of civilian review of police in Latin America. In *Civilian Oversight of Policing: Governance, Democracy and Human Rights*, A. Goldsmith and C. Lewis, eds. Portland, Oregon: Hart, 2000.

Northern Ireland Office. *Devolving Policing and Justice in Northern Ireland: A Discussion Paper*. Belfast: Northern Ireland Office, 2006. Available from http://cain.ulst.ac.uk/issues/politics/docs/nio/nio160206.pdf.

O'Connor, Vivienne, and Colette Rausch, eds. *Model Codes for Post-Conflict Criminal Justice*, vol. 1, Model Criminal Code. Washington, D.C.: United States Institute of Peace, 2007.

_____, *Model Codes for Post-Conflict Criminal Justice*, vol. 2, *Model Code of Criminal Procedure*. Washington, D.C.: United States Institute of Peace, 2008.

_____, *Model Codes for Post-Conflict Criminal Justice*, vol. 3, *Model Police Powers Act and Model Detention Act*. Washington, D.C.: United States Institute of Peace, forthcoming.

Odinkalu, Chidi A. *Criminal Force: Torture, Abuse and Extrajudicial Killings by the Nigeria Police Force*. New York: Open Society Institute and Network on Police Reform in Nigeria, 2010.

O'Neill, William G. *Police Reform and Human Rights: A HURIST Document*. New York: HURIST, 2004.

_____. Police reform in post-conflict societies: what we know and what we still need to know. Policy paper. New York: International Peace Academy, 2005.

Organization for Security and Co-operation in Europe, *Guidebook on Democratic Policing by the Senior Police Adviser to the OSCE Secretary General*, 2nd ed., (Vienna, 2008)

Organisation for Economic Co-operation and Development. *OECD DAC Handbook on Security System Reform: Supporting Security and Justice*. Paris: OECD, 2007.

Osse, Anneke. Corruption prevention: a course for police officers fighting organized crime. Crime, *Law and Social Change*, vol. 28, No. 1 (1997), pp. 53-71.

_____. *Understanding Policing: A Resource for Human Rights Activists*. Amsterdam: Amnesty International Nederland, 2006.

Perez, Thomas E. External governmental mechanisms of police accountability: three investigative structures. *Policing and Society*, vol. 10, No. 1 (2000), pp. 47-77.

Piotukh, Volha, and Peter Wilson. Security sector evolution: understanding and influencing how security institutions change. London: Libra Advisory Group, July 2009. Available from www.libraadvisorygroup.com/assets/docs/SecuritySectorEvolutionLibraJuly2009.pdf.

Police Assessment Resource Center. *Review of National Police Oversight Models for the Eugene Police Commission*. Los Angeles: PARC, February, 2005.

Punch, Maurice. Rotten orchards: "Pestilence", police misconduct and system failure, *Policing and Society*, vol. 13, No. 2 (2003), pp. 171-196.

Ramos, Silvia de, and Julita Lemgruber. Brazil: urban violence, public safety policies and responses from civil society. In *Social Watch Report 2004: Fear and Want—Obstacles to Humanity*. Montevideo, Social Watch, 2004, pp. 136-137.

Rauch, Janine, and Elrena van der Spuy. *Recent Experiments in Police Reform in Post-Conflict Africa: A Review*. Johannesburg: Institute for Democracy in South Africa, 2006.

Rea, Desmond, Debbie Donnelly, and Joanne Fitzsimons. International comparison research: models of police governance and accountability. London: Association of Police Authorities/Northern Ireland Policing Board, 2009.

Reenen, Piet van. Police integrity and police loyalty: the Stalker dilemma. *Policing and Society*, vol. 8, No. 1 (1997), pp. 1-45.

Rover, Cees de. *To Serve and to Protect: Human Rights and Humanitarian Law for Police and Security Forces*. Geneva: International Committee of the Red Cross, 1998.

Schedler, Andreas. Conceptualizing accountability. In *The Self-Restraining State: Power and Accountability in New Democracies*, Andreas Schedler, Larry Diamond and Marc F. Plattner, eds. Boulder, Colorado: Lynne Rienner Publishers, 1999, pp. 13-28.

Stenning, Philip. *The Idea of the Political "Independence" of the Police: International Interpretations and Experiences*. Paper prepared for the Ipperwash Inquiry. 2004.

_____. *Ingredients for a good police/executive relationship*. Paper presented to the Roundtable Workshop on Police Reform in South Asia: Sharing of Experiences, New Delhi, 23-24 March 2007. Available from www.humanrightsinitiative.org/programs/aj/ police/exchange/ingredients_for_a_good_police_executive_relationship.pdf.

Stone, Christopher. Police accountability and the quality of oversight. Conference summary of the Conference on Police Accountability and the Quality of Oversight, The Hague, 19-21 October 2005. Available from www.altus.org/index.php?option=com_ content&view=article&id=31&Itemid=87&lang=en# (retrieved 18 December 2009).

_____. Tracing police accountability in theory and practice: from Philadelphia to Abuja and Sao Paolo. *Theoretical Criminology*, vol. 11, No. 2 (2007), pp. 245-259.

_____, and Heather H. Ward. Democratic policing: a framework for action. *Policing and Society*, vol. 10, No. 1 (2000), pp. 11-45.

_____, and Merick Bobb. Civilian oversight of the police in democratic societies. Paper prepared for the Global Meeting on Civilian Oversight of Police, Los Angeles, 5-8 May 2002.

Tait, Sean. Policing oversight and complaints mechanisms: an overview of past experience and current debates in Africa. Unpublished manuscript. 2009.

Tandon, Usha. Conceptualizing human rights of police. *The Indian Police Journal*, vol. LIV, No. 2 (April-June 2007), pp. 45-52.

Transparency International. Human rights and corruption. Working paper No. 5. Berlin: Transparency International, 2008.

_____. *Global Corruption Barometer 2009*. Berlin: Transparency International, 2009.

Tshabalala, Tommy. Police oversight and complaints mechanism–South African experience. Paper presented at the United Nations Office on Drugs and Crime Workshop on Police Accountability, Nairobi, 20-21 July 2009.

Uildriks, Niels A., and P. van Reenen. *Policing Post-Communist Societies: Police-Public Violence, Democratic Policing and Human Rights*. Antwerp: Intersentia, 2003.

United Nations, Department of Peacekeeping Operations and United Nations Office on Drugs and Crime. *United Nations Criminal Justice Standards for United Nations Police*. New York: United Nations, 2009.

_____, Economic and Social Council. Report of the Secretary-General on mainstreaming the gender perspective into all policies and programmes in the United Nations system. 12 June 1997. E/1997/66

_____, General Assembly and Security Council. Report of the Secretary-General on securing peace and development: the role of the United Nations in supporting security sector reform. 23 January 2008. A/62/659-S/2008/39.

_____, Office of the United Nations High Commissioner for Human Rights. *Good Governance Practices for the Protection of Human Rights*. Sales No. E.07.XIV.10. 2007.

_____, Office of the United Nations High Commissioner for Human Rights (2006). *Rule-of-Law Tools for Post-Conflict States: Vetting—An Operational Framework*. New York and Geneva: 2006.

United Nations Office on Drugs and Crime. *Criminal Justice Assessment Toolkit*. 2006. Available from www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html.

_____. *Handbook on Planning and Action for Crime Prevention in Southern Africa and the Caribbean Regions*, Criminal Justice *Handbook* Series. United Nations publication, Sales No. E.09.IV.1.

_____. *Judicial Ethics Training Manual for the Nigerian Judiciary*. Available from www.unodc.org/documents/corruption/publications_unodc_judicial_training.pdf (accessed 11 August 2010).

_____. *Legislative Guide for the Implementation of the United Nations Convention against Corruption*. United Nations publication, Sales No. E.06.IV.16.

United Nations, Security Council. *Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies*. 23 August 2004. S/2004/616.

United States of America, Department of Justice, Office of Community Oriented Policing Services and International Association of Chiefs of Police. *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement*. 2009.

United States of America, Department of Justice. *Principles for Promoting Police Integrity: Examples of Promising Police Practices and Policies*. January 2001. Available from www.ncjrs.gov/pdffiles1/ojp/186189.pdf.

Walker, Samuel. *Police Accountability: The Role of Civilian Oversight*. Wadsworth Professionalism in Policing Series. Belmont, California: Wadsworth Thompson Learning, 2001.

_____, Stacy Osnick Milligan and Anna Berke. *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-Line Supervisors*. Washington, D.C.: United States, Department of Justice, Police Executive Research Forum, 2006.

Washington Office on Latin America. *Protect and Serve? The Status of Police Reform in Central America*. Washington, D.C.: Washington Office on Latin America, 2009.

Westmarland, Louise. Police ethics and integrity: breaking the Blue Code of Silence. *Policing and Society*, vol. 15, No. 2 (2005), pp. 145-165.