



Police Accountability in the United States, Canada, UK, Germany and France

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edited by Lucia Re

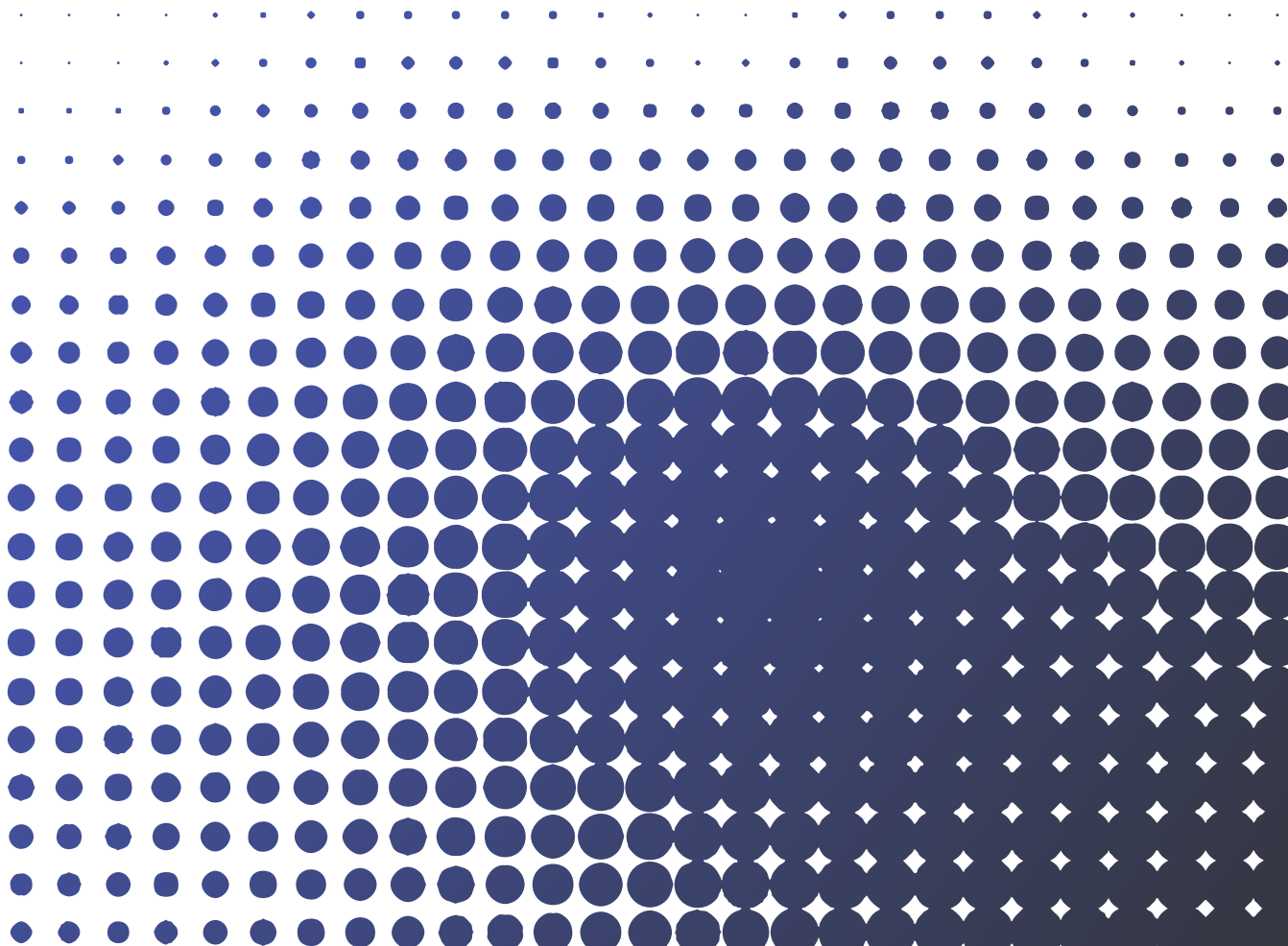
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INTRODUCTION

by Lucia Re

This volume deals with Police Accountability in the United States, Canada, the United Kingdom, Germany and France. The concept of "accountability" in English – a notion used in the international debate – presents a broad semantic spectrum, referring to the ideas of transparency, responsiveness and responsibility. This is a very broad topic, encompassing such aspects as the efficiency, the transparency and democratic character of law enforcement agencies, the relationship between the powers of the state, and the various forms of abuse and misconducts that can be committed by agents and that must be identified and, if necessary, sanctioned. We have chosen to focus on this last aspect, which is the most urgent and the most discussed in the public debate. With respect to it, specific monitoring bodies and mechanisms have been set up in many jurisdictions. Even limiting our research to this profile, there are many types of abuse and misconduct that can be committed by law enforcement agents: from the illegitimate use of force, to gender-based violence, to corruption, to various forms of omission. Moreover, there are many systems through which accountability can be sought: internal to the police force or external, based on civil society participation or entrusted mainly to the ordinary judiciary, etc. These depend primarily on the histories of legal and democratic systems.

Indeed, police accountability to citizens is one of the elements that identify the rule of law, where the use of force and, more generally, the exercise of executive power must take place through law and in compliance with legal norms. For this to be possible, it is necessary to set up mechanisms to control and sanction the actions of law enforcement agencies and to encourage transparency in their actions. This cannot be done, however, following a top-down approach. It seems, rather, necessary to start from the way police systems have been formed and the operational styles of law enforcement agencies. These can certainly be reformed in the light of scientific debate and the demands coming from civil society and international human rights monitoring bodies. For reforms to be effective, however, they need to be designed according to the different contexts and to be shared as much as possible. Police forces need to enjoy

public trust in order to fulfill their mission. Their institutional action and prestige can only be strengthened by the establishment of effective accountability systems.

The challenges that have arisen especially since the end of the twentieth century - globalization with the consequent transformation of national sovereignties, which have become increasingly "disaggregated"¹, the fight against terrorism and international organized crime, a management of migration often entrusted mainly to the police, the pluralization and fragmentation of domestic societies, and the erosion of the welfare state, the construction of a European space, increasingly perceived as a Western "fortress" to be defended instead of as an area of "freedom, security and justice" open to the rest of the world - have made the tasks of law enforcement agencies more complex. They have often been invested with a managerial-type culture that is ill-suited to the role entrusted to them within the architecture of constitutional states. The challenges of the present must be addressed from a legal, political, social and administrative framework that has been historically shaped.

A number of factors depend on the history of different legal and democratic systems that are decisive for the construction of police accountability mechanisms, including: a centralized system or, on the contrary, a federal system; a conception of the state and of the relationship between administration and citizens inspired by a vertical model, in which citizens' rights were progressively recognized, or, on the other hand, a more markedly liberal genesis of the state model; the public monopoly of the use of legitimate force or the presence of private police and the spread of weapons among the civilian population; the level of trust in institutions and social cohesion, etc. Also influencing police accountability are: the composition of the citizenry, in particular the presence or absence of historical minorities; the adoption or rejection of multiculturalism; the more or less pronounced attention to women's rights and gender minorities; the relationship that has been established with the immigrant population; the institutional attitude and prevailing sentiment of the population toward the colonial past, even where adherence to the colonial legacy is not explicitly assumed and takes the form more of an "epistemic privilege" than an official ideology; the spread and strength of civil society organizations and protest movements, etc. Last but not least,

¹ Slaughter, A. M. (2004). *A New World Order*, Princeton, Ma.: Princeton University Press.

of importance are the specific history of law enforcement agencies and their composition.

While we can therefore agree that the way in which the exercise of police powers is controlled is a crucial indicator of the democratic nature of a country², we must, however, avoid thinking that the mechanisms of accountability can be uniform and that it is possible to simply generalize, not to say import, the systems formed in some countries, although in some cases these may appear to be more articulate, if not more "advanced," and may serve, at least in part, as a guide. In order to reflect on each country's internal models and, in our case, on the Italian one in particular, it is therefore necessary to study in depth the paradigms adopted in different countries, starting with the police models that have been formed over time, the legislation regulating them and the specific criticalities to the law enforcement activity conducted in different national contexts. In fact, the study can enable one to understand which elements can be considered common and which are peculiar to a given context. It also makes it possible to identify models or distinct experiences from which to draw inspiration, readjusting them according to national specificities. Sometimes, in fact, a fine design of police accountability mechanisms may be completely unrealistic if it does not move from the actual experiences of law enforcement, the social conditions in which police operate, the legal framework and, not least, the possibility of an adherence of the police themselves to a culture that favors the control and sanction of different forms of misconduct. The study of police accountability must therefore start from a knowledge of the essential data and then examine the effectiveness of the different mechanisms in place.

To this end, we have carried out an initial analysis of police models, legislation, systems of accountability and "critical thresholds" of the work of the police, with reference to some countries that seemed to us of particular interest for a comparative reflection that would serve as a premise for a study of the Italian system³: the United States, Canada and the United Kingdom - representative of the so-called "Anglo-American" model - and Germany and France, representative of the "continental" model

² Jones, T., Newburn, T. & Smith, D.J. (1996) Policing and the Idea of Democracy. *British Journal of Criminology*, 36(2), 182-198.

³ Cf. the volume edited by Giuseppe Campesi resulting from this same PRIN research.

of policing and members of the European Union. This volume thus aims to provide an initial "map" to orient oneself in the study. It does not neglect a gendered perspective, highlighting how gender inequalities affect policing and the effectiveness of supervisory systems. It contextualizes these dynamics within the main pressing social issues in the different jurisdictions. Among these, issues such as systemic racism, excessive use of force, sexism, and unequal treatment toward vulnerable social groups, including ethnic minorities, indigenous and immigrant populations, emerge. These factors, combined with legislative and administrative fragmentation present in many contexts, generate significant challenges in ensuring transparency, impartiality and effectiveness of law enforcement accountability. The lack of shared standards and inefficient oversight mechanisms often contribute to perpetuating abuse and discrimination, making structural reform inspired by greater inclusiveness and the centrality of respect for human rights necessary.

Also highlighted in the volume are the strengths and advances of the various police systems analyzed, which are committed to providing concrete and operational responses to the most debated issues within each country. Crucial appear to be, in particular: the redefinition of training - both initial and continuous - of officers; recruitment mechanisms and those regulating career advancement, assignments to operational units, and the assignment of specific tasks; material working conditions (numbers, shifts, etc.); the creation and functioning of the hierarchical chain; the enhancement - both material and symbolic - of the role of officers as actors deputed to the protection of citizens' fundamental rights; collaboration between different police forces; and a transparent relationship with political actors. Also of significant importance are: the adjustment of operational practices and endowments; the improvement of transparency mechanisms; the increase of study and research activities with institutional openness to civil society; the introduction of more inclusive and human rights-oriented strategies of communication and approach towards the public; without neglecting a reflection on the impact of the use of new technologies on security and public order management.

This volume is intended as a useful tool for research, policy-makers, education, actors in the legal field, as well as civil society, with the aim of stimulating debate and

discussion on the topic of law enforcement accountability. It weaves together legislative data, case-law analysis, academic studies and contributions from the press and civil society organizations. It examines the various mechanisms of police accountability through analysis of legislation, internal policies and operational practices, highlighting the problems and strengths of each system.

The research collected in this volume was coordinated and edited by Lucia Re, head of the research unit at the University of Florence in the PRIN PNRR project "Repolity." Vincenzo Scalia's collaboration was particularly valuable in designing the contents of the volume, with particular reference to the comparative grid chosen, in the bibliographical research, as well as in supervising the chapter on the United Kingdom. Ilaria Boiano wrote the chapters on the United States, Canada and Germany. She also collaborated with Antonino Azzarà in writing the chapter on the United Kingdom, while Ester Mareello delved into police organization and accountability mechanisms in France. The research team is grateful to Marco Cecchi who conducted a literature search and an initial survey of the U.S. and Canadian systems.

CHAPTER 1

Police Accountability in the United States

by Ilaria Boiano

1. Introduction

In the United States, police forces operate at multiple levels: federal, state and local, reflecting the decentralized structure of the country's system of government. This chapter aims to provide a summary of the organization of the U.S. police, in light of the relevant legislation and accountability framework that characterizes their activities, taking into account case law, scholarly literature and documentation produced by civil society. Special emphasis will be placed on police activity and its compliance with the law and international standards, with reference also to specific social issues of relevance in American society. On the one hand, the relationship between institutions, including oversight agencies such as the police, and social groups subject to systemic discrimination, including African American communities, native peoples, and immigrant groups, will be analyzed. On the other, the chapter will examine the issue from a gender perspective, assessing the impact of gender and sex inequalities on policing and the effectiveness of accountability and oversight mechanisms.

2. Police model

The structure of policing in the United States reflects the country's complex federal institutional organization. Just as political power is divided between the central government and the states, similarly the management of law and order is decentralized into different levels of responsibility, which are divided among the federal, state and local governments.

The police system, regarded as the most decentralized in the world, has fragmentation and an extraordinary degree of duplication and conflict of jurisdiction. Although each community has the right to operate its own police department, no one can prevent federal or state officials from conducting local investigations of crimes

within their jurisdiction⁴ . So, in the U.S. one finds not a single state agency with a coherent and legible purpose, but a group of diverse institutions (more than 12,000 local police departments), each with its own mandates and institutional lines.

Five main types of police agencies are identified:

1) the federal system, consisting of the Department of Homeland Security and the Department of Justice, which includes the FBI, the Drug Enforcement Administration, the Secret Service, the Postal Inspection Service and others;

2) Specialized police agencies;

3) police forces and criminal investigation agencies established by each of the 50 states of the Union;

4) sheriffs' departments found in several thousand counties, plus some county police forces that duplicate sheriffs' police jurisdictions or replace them;

5) police forces of about 1,000 cities and more than 20,000 towns and cities in New England;

6) Police about 15,000 incorporated villages, hamlets and towns.

To this list must be added special categories, various forces attached to the authorities governing bridges, tunnels and parks; police forces at university campuses; and some units that police special districts established for fire protection, soil conservation and other purposes. Although there are tens of thousands of police forces throughout the United States, most of them consist of only a few officers.

The current structure of American policing also reflects public opposition to any concentration of police power. It has been argued that the system would suffer, and local governments would be weakened, if all crimes became federal crimes and if all police power were transferred to Washington, D.C. According to this view, local problems require local remedies. On the other hand, it has also been argued that integration and consolidation of police forces would reduce costs and increase efficiency. While this debate continues, many small municipalities in the United States

⁴ Walker, S. (1997). *Popular justice: A history of American criminal justice* (2nd ed.). Oxford: Oxford University Press.

have chosen to maintain their own police forces, while others have joined together to form regional police departments .⁵

a. The federal law enforcement system

There are more than 90 U.S. federal agencies and 27 inspector general offices that employ full-time personnel authorized to make arrests and carry weapons.⁶

According to the **Bureau of Justice Statistics**, an agency of the U.S. Department of Justice established in 1979 to collect, analyze, and publish statistics related to the justice system and law enforcement, in the year 2020, ninety agencies employed 136,815 full-time federal law enforcement officers, of which 3,742 (2.7 percent) were employed by the Offices of Inspectors General (OIG). About 61% of federal law enforcement officers were white, 21% Hispanic and 10% black. About 15% of federal law enforcement officers and 13% of federal law enforcement supervisory personnel were women. About half (49%) of federal law enforcement officers worked for the Department of Homeland Security in FY 2020; nearly a third (30%) worked for the Department of Justice. Most (90%) of federal law enforcement officers worked for agencies in the executive branch of government⁷.

⁵ Altamimi, H., Liu, Q., & Jimenez, B. (2023). Not too much, not too little: Centralization, decentralization, and organizational change. *Journal of Public Administration Research and Theory*, 33(1), 170-185.

⁶ U.S. Air Force Office of Special Investigations, U.S. Army Criminal Investigation Division, U.S. Bureau of Alcohol, Tobacco and Firearms, U.S. Capitol Police, U.S. Central Intelligence Agency, U.S. Coast Guard Investigative Service, U.S. Customs and Border Protection, U.S. Defense Criminal Investigative Service, U.S. Defense Intelligence Agency, U.S. Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, U.S. Department of Commerce, NOAA, National Marine Fisheries Service, U.S. Department of Homeland Security, U.S. Department of State's Diplomatic Security Service, U.S. Department of Transportation, National Highway Traffic Safety Administration, Office of Odometer Fraud Investigation, U.S. Drug Enforcement Administration, U.S. Federal Bureau of Investigation, U.S. Federal Protective Service, U.S. Immigration and Customs Enforcement, U.S. IRS Criminal Investigations Division, U.S. Marshals Service, U.S. Naval Criminal Investigative Service, U.S. Office of Special Investigations, U.S. Park Police, U.S. Postal Inspection Service, U.S. Probation and Pretrial Services, U.S. Secret Service. These U.S. federal agencies operate in various areas of law enforcement and national security. Some, such as the U.S. Air Force Office of Special Investigations and the Naval Criminal Investigative Service, deal with crimes internal to the armed forces, while others, such as the FBI and DEA, focus on broader issues, national security and combating drug trafficking, respectively. Agencies such as Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) deal with border protection and immigration laws. Others, such as the Secret Service, specialize in protecting senior officials and fighting financial crimes. Many of these agencies also provide investigative and security support domestically and internationally, ensuring cooperation between different institutions and the protection of public safety and U.S. territory.

⁷ Brooks, C. (2023). *Federal law enforcement officers, 2020 – Statistical tables* (Revised September 29, 2023). Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.

The most common primary function of officers was criminal investigation or law enforcement (68 percent), followed by correctional functions (15 percent) and police response or patrol (9 percent). **Customs and Border Protection (CBP)** employed more federal law enforcement officers than any other agency (46,993) in the Fiscal Year 2020, accounting for more than one-third (34 percent) of all federal law enforcement officers employed, including Offices of Inspectors General (OIG) and agencies other than OIGs. Among executive departments, the Department of the Interior experienced the largest percentage decrease (-18%) in the number of officers from Fiscal Year 2016 to Fiscal Year 2020.⁸

Among the many agencies are the following:

- **Federal Bureau of Investigation (FBI):** is the federal investigative and homeland security agency of the United States, founded in 1908. The FBI operates as a national law enforcement and intelligence agency, with responsibility for protecting the United States from domestic threats and federal crime. It is the only member of the U.S. intelligence community with broad powers to address both national security and criminal threats. The FBI's main responsibilities include: preventing and countering terrorist attacks both on U.S. soil and abroad; counterintelligence; cybercrime; public corruption; civil rights; organized crime and drug trafficking. The FBI works in cooperation with other federal, state and local agencies, as well as law enforcement agencies in other countries, to coordinate investigative operations and maintain internal and external security.

- **Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF):** is a U.S. federal agency with a long history dating back to 1972 and is responsible for enforcing laws related to certain regulated products, such as firearms, explosives, alcohol and tobacco, products that often fund criminal activities. The ATF is not limited to the purely investigative aspect; it also has a regulatory role, monitoring and regulating the legal trade in firearms and explosives, ensuring that those who trade in these areas comply with federal laws. An important aspect of the ATF concerns its work in arson prevention and investigation, where it employs teams of experts who work with local and

⁸ <https://www.justice.gov/agencies/chart/grid#law-enforcement>;
<https://bjs.ojp.gov/library/publications/federal-law-enforcement-officers-2020-statistical-tables>.

international authorities. The agency also actively participates in counterterrorism operations because of its expertise in handling explosives and countering illegal arms trafficking, which is often linked to terrorist groups. In addition to domestic protection, the ATF provides support to foreign law enforcement agencies, particularly in cases where weapons and explosives originate from or are headed to the United States. The agency also provides technical support through advanced systems such as the **National Integrated Ballistic Information Network (NIBIN)**, which allows weapons to be linked to specific crimes, facilitating national criminal investigations. In addition, the ATF works closely with other federal agencies, such as the FBI and the Drug Enforcement Administration (DEA), in broader investigations related to organized crime, drug trafficking and terrorism.

- The before-mentioned **Drug Enforcement Administration (DEA)** is the U.S. federal agency that enforces laws and regulations relating to controlled substances. Its main task is to combat the cultivation, production and distribution of illegal drugs, tackling not only petty crimes but also the large criminal organizations that traffic these substances for the U.S. market. The DEA conducts large-scale investigations, often in cooperation with other federal and international agencies, to dismantle criminal networks operating both domestically and globally. In addition to the purely law enforcement aspect, the DEA also supports educational, and prevention programs aimed at reducing the availability and abuse of controlled substances on the market. These programs aim to raise awareness of the risks associated with drug use and provide preventive solutions, thus promoting an integrated approach to combating drug trafficking, which is not only limited to the legal aspect but also addresses the social and economic causes of the phenomenon.

- **INTERPOL Washington** is the U.S. office that represents the country to the **International Criminal Police Organization (INTERPOL)**. Its main mission is to facilitate law enforcement cooperation internationally to combat transnational crime. This office operates under the auspices of the **U.S. Attorney General** and is a point of contact between U.S. and international agencies. INTERPOL Washington plays a crucial role in coordinating investigative operations involving crimes such as drug trafficking, terrorism, money laundering, human trafficking, and cybercrimes. By collaborating

with other countries, it provides essential support in apprehending internationally wanted criminals and sharing crucial information for global-scale law enforcement operations. The agency works closely with other U.S. federal agencies, such as the **FBI** and **DEA**, and with local and state law enforcement agencies, ensuring that investigations into international crimes receive the support they need.

- The **U.S. Marshals Service (USMS)**, is one of the oldest federal agencies in the United States, founded in 1789. Today, it is responsible for performing a wide range of tasks crucial to the operation of the federal justice system. The USMS ensures the security of the federal courts, protecting judges, witnesses and judicial personnel. An important responsibility of the USMS is the arrest of federally wanted criminals, including the country's most dangerous fugitives. The agency also manages the **Witness Protection Program**, which ensures safety and anonymity for government witnesses and their families, especially in organized crime or terrorism cases where their testimony is essential to the success of investigations. The USMS also handles the transportation and custody of federal prisoners, ensuring that detainees are transferred safely between facilities and during court hearings. Another key aspect of the work is the management and seizure of illegally obtained assets, a task that includes the custody, management and sale of assets seized from criminals, an activity that helps deprive criminal organizations of illegally obtained resources. The USMS is also involved in the recovery of missing children, working with other law enforcement agencies to locate and bring children home.

b. The state system of law enforcement

The law enforcement system in the United States includes more than 17,000 state and local agencies, with staffing levels ranging from a single officer to more than 30,000. Many of these agencies are municipal police departments run by local governments, but there are different types of police agencies with specific tasks.

- **State police** or **Highway Patrol** often perform policing duties, including highway patrol and statewide investigations. In some states, there is only a highway patrol, while investigative functions are assigned to a separate entity such as a **State Bureau of**

Investigation. State police assist local law enforcement agencies in investigations and emergencies that exceed the resources or jurisdictional boundaries of local agencies.

- **Special Jurisdiction Police** provide policing services for specific entities or areas within other jurisdictions. These include parks, schools, transportation infrastructure (such as airports and subways), hospitals, housing authorities, and government buildings. These departments are generally comprehensive agencies, providing the same services as local police forces.

- **Sheriffs and Deputy Sheriffs** are usually tasked by the state to enforce state laws at the county level. Primary duties include managing local jails, serving warrants and court citations, and responding to calls for service in areas outside the jurisdiction of local police forces.

c. **The local law enforcement system**

Local Police Departments (LDPs) in the United States represent the primary police forces at the municipal level, charged with enforcing laws within their specific jurisdictions, maintaining public order, and protecting citizens. These agencies operate under the authority of local governments, such as cities or municipalities, and vary widely in size and resources. Some local police departments may have only a few officers, while others, such as the **New York Police Department (NYPD)**, may have tens of thousands of officers.

The main functions of local police departments include:

- Land patrol
- Responding to emergency calls
- Criminal investigations
- Traffic Management
- Community collaboration: Many local police departments have collaborative programs with communities to build trust and promote crime prevention. These programs may include community policing initiatives, in which officers work closely with residents to identify and solve local problems.
- Protection of public events

The structure of a local police department depends on the size of the agency and the needs of the community it serves. Smaller departments have a simplified hierarchy, with few specialized divisions. In contrast, larger police departments, such as the **Los Angeles Police Department (LAPD)**, may be divided into specialized units and divisions that deal with specific functions, such as narcotics, gangs, organized crime, and terrorism prevention. The resources available to each department vary widely. Larger departments in metropolitan areas have advanced technologies, such as body-worn cameras, predictive crime analysis systems, and their own forensic laboratories. In contrast, smaller local agencies may have fewer resources and depend on support from state or federal agencies for more complex matters, such as technological investigations or for interstate crimes.

Local police forces often collaborate with state agencies, such as the State Police or Highway Patrol, and federal agencies, such as **the FBI and DEA**, especially on crimes that cross jurisdictional boundaries or require specialized expertise. Collaboration can include assistance in complex investigations, sharing of resources and information, and coordination in large-scale operations.

Local police departments are the ones most often at the center of debates over reform and accountability. In recent years, social justice movements have raised the issue of police use of force, especially in urban settings⁹. This has led to a growing focus on the need for transparency, training and oversight within local law enforcement. Reforms include the adoption of technologies such as body-worn cameras to ensure accountability and the promotion of community policing initiatives to strengthen trust between law enforcement and communities.¹⁰

⁹ Walsh, D. P. J., & Conway, V. (2011). Police governance and accountability: Overview of current issues. *Crime, Law and Social Change*, 55(1), 61-86; Diphorn, T., McGonigle Leyh, B., & Sooter, L. (2021). Transforming police reform: Global experiences through a multidisciplinary lens. *Policing: A Journal of Policy and Practice*, 15(1), 340-347.

¹⁰ Groff, E. R., Haberman, C., & Wood, J. D. (2020). The effects of body-worn cameras on police-citizen encounters and police activity: Evaluation of a pilot implementation in Philadelphia, PA. *Journal of Experimental Criminology*, 16(4), 463-480; Koen, M. C., Willis, J. J., & Mastrofski, S. D. (2019, October 13). The effects of body-worn cameras on police organization and practice: A theory-based analysis. Retrieved from SUNY: <https://suny.edu>; Ariel, B., Sutherland, A., Henstock, D., Young, J., Drover, P., Sykes, J., Megicks, S., & Henderson, R. (2017). "Contagious accountability": A global multisite randomized controlled trial on the effect of police body-worn cameras on citizens' complaints against the police. Retrieved from Cambridge University: <https://cam.ac.uk>; Newell, B. C. (Ed.). (2020). *Police on camera: Surveillance, privacy, and accountability* (1st ed.). London: Routledge.

3. Accountability Model

The United States adopts a police system based on democratic principles, similar to the Canadian model, but characterized by the peculiar fragmentation and territorial multiplication of police forces.

This model is based **on public consensus, accountability to elected officials, and compliance with the rule of law**, but its effectiveness in terms of monitoring, investigating, and sanctioning irregularities and wrongdoing has additional complexities arising from the highly fragmented jurisdictions and relevant legislation.

Traditionally, it has been believed, according to the model based on public consensus and community control, that police proximity to the local community ensures greater accountability and fairness, and indeed at the level of civil society there remains a prevailing view of the value and effectiveness of community accountability mechanisms for local police forces (e.g., through citizen review boards or residency intake requirements). In fact, shifting the inquiry to a diachronic examination of federal and state reforms, it has been found that centralized oversight and the systematization of laws and regulations have improved the system.¹¹

Police supervision in the United States is carried out primarily through internal bodies and, in some cases, through civilian oversight commissions at the local or state level. However, supervision varies widely: some cities, such as New York or Los Angeles, have developed robust systems of police monitoring through independent bureaus, while in other rural or less urbanized areas, supervision may be less rigorous.

In many U.S. cities, public participation in police oversight is achieved through the creation of civilian commissions charged with reviewing cases of misconduct. Civil society organizations and activist groups, such as Black Lives Matter, have pushed for greater transparency and public involvement in the *accountability* process. However, public participation is not uniform across the country and often depends on pressure from civil society and local movements.

In the United States, citizens can file complaints against the police through a variety of means: internally, directly to police agencies, or externally, through civil review

¹¹ Walker, S., & Archbold, C. (2020). *The new world of police accountability* (3rd ed.). Thousand Oaks, CA: SAGE Publications.

boards or judicial authorities. Sanctions vary widely: in some cases, officers may be fired or prosecuted, but in many cases punishments may be milder or not applied, often sparking controversy and protests.

Police transparency in the United States is a topic of debate. In some states, there is a requirement to make use-of-force reports and other important statistics public, but this level of transparency is not uniform. Some cities have developed online portals where citizens can access data on crime and police activities, while other jurisdictions are more reluctant to share such information.

At the federal level, the Federal Bureau of Investigation (FBI) and other agencies keep detailed statistics on crime and police intervention through Uniform Crime Reporting (UCR), but not all local and state agencies participate or report data with the same comprehensiveness. This can create discrepancies in data and information, making it difficult to accurately assess the performance of various police forces.

External evaluations of police forces in the United States can be conducted by independent organizations, civilian commissions, or federal agencies such as the Department of Justice (DOJ), which has the authority to initiate investigations into systematic misconduct within police departments. These investigations can lead to *consent decrees*, which are agreements between the federal government and local police departments that impose structural reforms.

a. Regulatory framework

In the United States, the regulatory framework governing policing is fragmented among federal, state and local laws.

At the federal level, norms governing police conduct are derived from various federal laws and legislative measures that aim to ensure respect for civil rights and protection of people in interactions with law enforcement. Key landmark regulations include:

- **Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 14141, now recodified as 34 U.S.C. § 12601)**: this law allows the federal government to investigate and monitor state or local law enforcement practices that violate people's federal rights, such as excessive use of force, unlawful arrests, or systematic

discrimination. If a pattern of civil rights violations is identified, the Department of Justice can intervene and impose reforms through agreements or court orders.

- **Omnibus Crime Control and Safe Streets Act of 1968:** this act includes anti-discrimination provisions that prohibit police agencies that receive federal funding from discriminating on the basis of race, color, sex, or national origin. Violation of these provisions can result in the loss of federal funds.

- **Civil Rights Act of 1964 (Title VI):** prohibits agencies receiving federal funds from discriminating on the basis of race, color, or national origin. Law enforcement agencies that violate these rights may be subject to penalties, including federal lawsuits and the need to reform discriminatory practices.

- **Federal Criminal Enforcement:** sections 18 U.S.C. §§ 241 and 242 criminalize the conduct of persons who, acting under the law (i.e., using the power conferred by a government agency), willfully deprive or conspire to deprive others of their rights protected by the Constitution or laws of the United States. This includes cases of excessive force, sexual assault, intentional false arrest, theft or fabrication of evidence leading to loss of liberty. Violations of these laws carry criminal penalties such as fines or imprisonment, but a private civil suit cannot be brought on this basis.

- **Federal Civil Enforcement: Police Misconduct Provision:** section 34 U.S.C. § 12601 makes it unlawful for state or local law enforcement officials to engage in a pattern or practice of conduct that deprives people of their constitutional rights. This may include excessive force, discriminatory harassment, false arrests, coercive sexual conduct, and illegal stops or searches. To intervene, the Department of Justice (DOJ) must show that the agency has a pattern or practice of unlawful conduct, not just an isolated incident. The sanctions provided are injunctive orders, which aim to end the illegal conduct and change agency policies, but do not provide individual compensation for victims.

- **Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973:** these regulations prohibit discrimination against people with disabilities by state, local, and federal law enforcement agencies. They cover all law enforcement activities, such as interrogations, arrests, and emergency services,

and also protect those who assist people with disabilities. Victims of violations can file civil lawsuits without first filing a complaint with DOJ.

At the state level, each state has its own laws to regulate the work of its police forces, defining the jurisdiction and procedures that must be followed.

These bodies answer to different political authorities and their actions are subject to both internal and external review, with specific mechanisms for dealing with abuses or inappropriate behavior.

3.2. Operating instructions

Every police agency, regardless of level (federal, state, or local), follows an operations manual that details standard procedures, such as use of force, arrest, investigation, and interactions with the public. For example, the FBI and other federal agencies have very detailed procedures that also cover the handling of sensitive investigations into high-profile crimes, while at the local level, operating procedures vary among police departments, often tailored to the specific needs of communities. Operational guidelines are subject to review and updating to adapt to new regulations and social changes.

3.3. Training and resources

Training for police officers in the United States varies considerably by agency and level of government. Federal forces, such as the FBI, receive in-depth training on complex crimes and threats such as terrorism, while training for state and local forces focuses on practical tasks such as law enforcement and emergency management. In recent years, efforts have been made to improve training related to topics such as de-escalation, appropriate use of force, and respect for civil rights. However, there are significant differences in resources and skills between large cities and rural areas.¹²

¹² Eterno, J. A., Stickle, B., Scharff Peterson, D., & Das, D. K. (Eds.). (2021). *Police behavior, hiring, and crime fighting: An international view* (1st ed.). London: Routledge.

3.4 Monitoring and supervision

Since the beginning of the history of U.S. policing, there has been a debate over who should control the police to ensure that they operate within the law. In the early stages, local politicians were in control of the police, but this led to widespread corruption. With the rise of the progressive movement in the early 20th century, attempts were made to reduce political influence through the creation of **independent police commissions** composed of "respectable" citizens, although these efforts were not always successful.¹³

In the past decade, one of the most significant steps to increase police accountability at the federal level was taken in 2014, when President Barack Obama established the **President's Task Force on 21st Century Policing**.

This task force was created with the goal of examining police-related problems and proposing reforms to improve police-community relations.

Among the task force's main recommendations in the final report is the adoption of **procedural justice** strategies in police-citizen interactions.¹⁴

Procedural justice implies that police officers treat citizens with respect, providing them with the opportunity to explain their actions during encounters with the police so that they can perceive that they have been treated fairly.¹⁵

This approach is based on the idea that if citizens feel they have been treated fairly, they will see the police as a legitimate and trustworthy entity.

Another central theme of the task force report was **de-escalation training** and changes to policies on the use of force by police departments. Although there is no single definition of de-escalation in the context of the police profession, it generally refers to techniques that teach officers to slow down, create space between themselves and the involved citizen, and use communication strategies to prevent tense situations from escalating into the use of force. After George Floyd's murder in 2020, for example,

¹³ Archbold, C. A. (2021). Police accountability in the USA: Gaining traction or spinning wheels? *Policing: A Journal of Policy and Practice*, 15(3), 1665-1683; Bobb, M. (2003). Internal and external police oversight in the United States. *PREA Resource Center (PRC)*; U.S. Commission on Civil Rights. (2000). Revisiting who is guarding the guardians? A report on police practices and civil rights in America.

¹⁴ President's Task Force on 21st Century Policing. 2015. *Final Report of the President's Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services.

¹⁵ Kutnjak Ivković, S., Maskály, J., Donner, C. M., Mraović, I. C., & Das, D. K. (Eds.). (2022). *Exploring contemporary police challenges: A global perspective* (1st ed.). London: Routledge.

the Minneapolis Police Department introduced a policy requiring officers to document how they applied de-escalation techniques during potentially dangerous encounters, even if no physical force was used.

The task force also recommended that police departments operate **transparently**, increasing public trust and ensuring legitimacy. An example of transparency is public access to information regarding complaints against officers, arrest data, and access to departmental policies on the use of force. Posting this information on police department websites is an easy way to increase transparency.

Finally, the task force report stressed the importance of increasing **police accountability**, suggesting stricter monitoring of officers' actions, including through technologies such as body cameras. Despite efforts, cases of improper use of force continue to emerge, especially against racial minorities.

A persistent problem is the lack of a unified system to track and report these incidents nationwide. Although U.S. police agencies have only started reporting police-involved shootings to the FBI since 2019, participation remains voluntary, with only 42 percent of agencies contributing data in 2020. In order to assess the effectiveness of accountability strategies, all U.S. police agencies should be required to report these incidents on an annual basis.

3.4.1. External mechanisms

The United States has adopted various external mechanisms to oversee the work of police forces, with increasing participation of civilian oversight commissions. In many cities, these commissions are tasked with reviewing cases of excessive force and other inappropriate behavior. In addition, the Department of Justice (DOJ) has the authority to directly intervene in local police departments accused of discriminatory practices or systematic civil rights violations, often through consent decrees (decrees imposing mandatory reforms).

The Department of Justice through its Civil Rights Division dedicates an office to special litigation related to audits of **Conduct of Law Enforcement Agencies**.¹⁶

¹⁶ <https://www.justice.gov/crt/conduct-law-enforcement-agencies>

If a violation of the Violent Crime Control and Law Enforcement Act of 1994; Omnibus Crime Control and Safe Streets Act of 1968; or the Civil Rights Act of 1964 (Title VI) is identified, the Department of Justice can intervene and impose reforms through agreements or court orders, with risk of loss of federal funds; penalties, including federal lawsuits; and the need to reform discriminatory practices.

During investigations, the Civil Rights Division of the Department of Justice collaborates with police officers and local community members, using experts in police practice to review documents, incidents and agency policies. These experts also help develop solutions and evaluate whether the adjustments adopted have resolved legal violations.

Issues addressed include the use of excessive force, unlawful stops, searches or arrests, and discriminatory practices.¹⁷ The Civil Rights Division has addressed cases of discrimination based on race, ethnicity, national origin, gender and sexual orientation, as well as unlawful responses to people observing or recording police actions.

Results of the Civil Rights Division's work include agreements and court orders that often require greater transparency, community-police partnerships, discrimination prevention, independent oversight, improved use-of-force investigations, and more effective officer training. The reforms achieved, the office's webpage states, are presented as models for constitutional and effective policing nationwide, improving community trust in law enforcement and increasing officer and agency accountability.

The work conducted has been systematized into thematic publications that aim to provide uniform federal guidance to law enforcement agencies:

- *Addressing Police Misconduct brochure*¹⁸
- *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity*¹⁹
- *Improving Law Enforcement Response to Sexual Assault and Domestic Violence by Identifying and Preventing Gender Bias*²⁰

¹⁷ Inter-American Commission on Human Rights. (2018). *African Americans, police use of force, and human rights in the United States* (OEA/Ser.LV/II. Doc. 156/18). Organization of American States.

¹⁸ <https://www.justice.gov/crt/addressing-police-misconduct-laws-enforced-department-justice>.

¹⁹ <https://www.justice.gov/crt/case-document/file/1388381/dl?inline>.

²⁰ <https://www.justice.gov/ovw/page/file/1509451/dl?inline>. The guide is intended to help law enforcement agencies recognize, mitigate, and prevent gender and other biases that can undermine the response to

Litigated cases are collected and published with all initiatives and actions taken on the webpage [www.justice.gov/crt/special-litigation-section-cases-and-matters - police](http://www.justice.gov/crt/special-litigation-section-cases-and-matters-police).

The procedures and goals pursued are compiled in the *Police reform report, 2017*²¹, which focuses on improving police-community relations through the enforcement of laws prohibiting a "**pattern or practice**" of illegal or unconstitutional conduct by law enforcement agencies. The report describes one of the central tools used by the **Civil Rights Division** to investigate and correct systemic misconduct in police agencies.

Investigations occur in response to complaints of systemic violations, such as excessive force, unlawful arrests, or discriminatory behavior. When investigations reveal civil rights violations, the **Civil Rights Division** negotiates **reform agreements** to ensure that law enforcement practices are constitutional and effective, while restoring trust between police forces and the communities they serve. The report shows that since 2012, 11 new investigations into police misconduct have been opened and 19 reform agreements have been reached, often in partnership with local U.S. Attorneys' Offices.

The report also aims to make reform work more transparent by explaining typical steps in an investigation and providing examples of cases where the **Civil Rights Division** has been successful in changing law enforcement practices. It is emphasized that this approach is critical not only to respect constitutional rights, but also to improve the safety of both officers and citizens.

The surveys and outcomes are systematized in the *Federal Interventions Dashboard* and a collection of best practices is found, however, dating back to 2001.²²

External surveillance is mainly implemented through **civilian review boards** and **police commissions, investigative agencies** and **monitors**.

and investigation of crimes such as sexual assault, domestic violence, and other forms of gender-based violence. The guide establishes eight core principles that, when integrated into law enforcement policies, trainings and practices, help ensure that gender bias, both intentional and unintentional, does not undermine efforts to keep victims safe and ensure that perpetrators are held accountable. The guide also promotes ongoing training for officers to recognize unconscious biases and improve their ability to respond with sensitivity and competence to cases of domestic violence or sexual assault, helping to create a justice system that is fair and respectful of the rights of all involved.

²¹ Department of Justice, Civil Rights Division. (2020). *Addressing police misconduct laws enforced by the Department of Justice*. Retrieved from: <https://www.justice.gov/crt/addressing-police-misconduct-laws-enforced-department-justice>

²² <https://www.ojp.gov/pdffiles1/ojp/186189.pdf>.

These bodies, created to ensure that police forces are accountable to the public, are often tasked with reviewing internal investigations conducted by law enforcement agencies. However, many of these bodies do not have sufficient powers to conduct independent investigations or impose sanctions.

By the 2000s, more than 100 U.S. cities had established some form of external oversight, often in the form of **civilian review boards**. These bodies provide a level of oversight separate from the police authority itself, with the goal of providing greater transparency and accountability by reviewing cases once the internal police investigation is concluded. However, these review bodies have limited powers, as they cannot conduct independent investigations, issue sanctions or recommend policy changes, but only suggest further investigations or review completed ones.

Civic review commissions are a key tool for increasing police accountability by involving citizens in monitoring police conduct. These commissions vary in their composition and functions in different cities, but the common element in all of them is the active participation of citizens in police monitoring.

In 2020, about **61 percent of the 100 most populous cities in the United States** had a civic review commission. In addition, **22 new commissions** have been created since the year **2014**. As of December **2020**, the National Association for Civic Monitoring of Law Enforcement (NACOLE) had **131 civic review commissions** spread across various cities in the United States, but not including jurisdictions that use auditors or police monitors. These commissions may change over time: some are discontinued, revisited, or even abandoned, while others are created in response to new needs for accountability and transparency.

Civic review commissions vary in size and power: some have only an advisory role, while others have the power to independently investigate and recommend disciplinary action. The increasing creation of such commissions reflects a growing demand from local communities for transparency and accountability to law enforcement, especially following incidents of police abuse of power or excessive use of force.

In recent decades, some jurisdictions in the United States have adopted oversight models that include **external monitors**. These monitors evaluate the entire system of a police department, focusing on systemic problems such as organizational culture and

operating procedures. One example is **Los Angeles County**, which created the **Office of Independent Review (OIR)**, a group of experienced civil rights attorneys who oversee the internal investigations of the sheriff's department.

City authorities, such as mayors and police commissioners, have significant influence on the conduct and accountability of police departments. However, local government involvement in police oversight varies greatly from city to city. In some cities, such as New Orleans and Prince George's County, reform authorities have taken concrete measures against police misconduct, such as installing cameras in patrol cars and appointing independent auditors to investigate misconduct cases.

3.4.2. Internal mechanisms

Police forces in the United States have developed **internal oversight offices** known as Internal Affairs, whose job is to investigate officer misconduct, including cases of corruption, excessive use of force, and violations of internal department policies. These offices collect reports and initiate investigations using procedures similar to those of traditional criminal investigations. Internal Affairs investigators assess whether the officers involved should be subject to internal criminal or disciplinary sanctions, which may include suspensions, dismissals or, in the most serious cases, legal proceedings.

In parallel, many police forces have introduced **Use of Force Review Boards**, committees charged with reviewing incidents in which officers use force. These boards assess whether officers' use of force complies with departmental guidelines and policies. Their goal is to ensure that officers use force appropriately and proportionately, preventing abuse and ensuring transparency in operating procedures.

The establishment of such internal mechanisms reflects the importance of maintaining a certain level of accountability within law enforcement and responding to growing public demands for greater transparency. However, despite their widespread use, Internal Affairs offices and use-of-force review boards are often subject to criticism, especially for the perception that they lack impartiality as investigations are conducted by members of the same police force. This has led many cities to call for **independent external audits** or **civic review boards** to ensure a greater level of transparency and accountability of the police force.

3.5. Outcomes of internal and external audits: criminal, civil and disciplinary sanctions

Internal and external investigations can lead to various consequences for officers involved in misconduct. Criminal sanctions may include formal charges and prosecution in cases of serious violations such as murder or abuse of power. Civil sanctions involve financial compensation to victims of abuse, while disciplinary sanctions may include suspensions, demotions, or dismissals.

At the system level, as noted above, reductions or exclusions from federal funds can be imposed.

However, the outcome of these trials varies widely by jurisdiction and the nature of the charge. The perceived failure to properly punish accused officers has led to protest movements and demands for reform.²³

3.6. Human rights protection bodies

In the United States, there are numerous bodies and organizations that monitor and protect human rights in the context of law enforcement.

At the government level, the Department of Justice plays a central role, intervening in cases of systematic civil rights violations.

Outside of government, nongovernmental organizations such as the American Civil Liberties Union (ACLU), Human Rights Watch and other civil society organizations work to expose abuses and propose legislative reforms. These bodies play an important role in overseeing human rights and raising public awareness of issues such as police brutality and discrimination.

4. Critical thresholds

In police management and accountability, this critical threshold represents the point at which law enforcement performance, if not properly corrected or monitored, can

²³ Archbold, C. A. (2021). Police accountability in the USA: Gaining traction or spinning wheels? *Policing: A Journal of Policy and Practice*, 15(3), 1665-1683; Carter, D. L. (2017). *Law enforcement intelligence: A guide for state, local, and tribal law enforcement agencies*. U.S. Department of Justice; Campaign Zero. (continuous reporting). Police scorecard. Retrieved from: <https://policescorecard.org>

generate serious consequences for public safety, public trust and respect for human rights. In the context of the police accountability system in the United States, the concept of critical threshold can apply at various levels, discussed in more detail below.

The decentralized nature of policing in the United States, which includes more than 18,000 independent agencies at the local and state levels, is a significant obstacle to police reforms at the national level. This fragmented system slows the implementation of reforms and often limits the effectiveness of efforts to improve officer accountability. Decentralization not only complicates interagency coordination, but also increases variability in the management of accountability practices.

4.1. Lack of adherence of police personnel

A key obstacle is the lack of staff adherence to new technologies and accountability strategies, such as the use of body cameras. Many operations officers and supervisors fear that these technologies will increase the risk of being sanctioned for even minor violations, or reduce their operational discretion. Resistance to these technologies is fueled by an internal culture rooted in loyalty to colleagues and distrust of superiors and citizens, thus creating a climate hostile to any form of external oversight or transparency. This culture runs counter to the recommendations of the **President's Task Force on 21st Century Policing**, which promotes collaboration and transparency as key elements in improving public trust and accountability.

4.2. Effectiveness issues in accountability strategies

Available research on accountability strategies, such as early intervention (EI) systems, has mixed results. Some cities, such as Los Angeles and Pittsburgh, reported reductions in the use of force and complaints against officers after the introduction of these systems, but other research showed problems with accuracy, with systems not flagging problem officers in a timely or effective manner. Evidence on the effectiveness of de-escalation training is also limited, making it difficult for police managers to decide whether to invest in such initiatives.

4.3. Limited resources

The implementation of accountability technologies and strategies requires substantial financial resources. For example, the adoption of an EI system can cost up to \$2 million, and the use of body-cams involves high costs for data storage and maintenance²⁴. Some experts suggest that funds earmarked for police-related litigation could be used to fund these initiatives. In cities such as New York and Los Angeles, millions of dollars have been allocated to pay for litigation arising from police actions²⁵, funds that could instead be allocated to prevent such litigation through the adoption of accountability technologies.

4.4. Limited influence of the federal government

Under the Obama administration, major changes were made at the federal level to promote law enforcement accountability, including the creation of the Task Force and funding for body-cams. However, the Trump administration has scaled back many of these efforts, focusing more on crime control. This shift in priorities has slowed the progress of reforms geared toward transparency and accountability.

On May 25, 2022, on the second anniversary of George Floyd's death, President Biden signed Executive Order 14074, entitled "Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety."²⁶ . This executive order provides:

- **Restrictions on the use of force:** Requires federal agencies to restrict the use of techniques such as neck grabs and no-knock warrants.²⁷
- **Creation of a national registry:** Establishes a national database to monitor officer misconduct, facilitating information sharing among agencies. The Department of

²⁴ Hung, V., & Babin, S. (2016). A market survey on body worn camera technologies (PDF). Laurel, MD: Johns Hopkins University Applied Physics Laboratory.

²⁵ Lartey, J. (2020). Cities spend millions on police misconduct settlements. Could that money go to reform instead? *The Guardian*. Retrieved from <https://www.theguardian.com/us-news/article/2024/may/25/police-misconduct-payment-2020-protest>

²⁶ <https://www.govinfo.gov/content/pkg/FR-2022-05-31/pdf/2022-11810.pdf>

²⁷ Annually, unannounced searches are documented in a public report. For 2023-2024, the report is available at <https://www.justice.gov/usdoj-media/olp/media/1352941/dl?inline>

Justice released the **National Law Enforcement Accountability Database (NLEAD)** in May 2023.²⁸

- **Promoting responsible policing practices:** Encourages the adoption of uniform standards for the use of force and training in de-escalation techniques.

Since the adoption of Executive Order 14074, the U.S. Department of Justice has been publishing an implementation report, along with other public agencies responsible for implementing the adopted provisions. On **May 24, 2024**, the DOJ released an updated fact sheet²⁹ on the series of initiatives to improve transparency, accountability and effectiveness of law enforcement and the criminal justice system. These included updating guidelines against racial profiling, creating standards to encourage state, tribal, local, and territorial (STLT) law enforcement agencies to adopt Executive Order policies, and publishing a report on the implementation of the First Step Act to improve conditions of incarceration and support the social reintegration of inmates, including through education and training programs for people in detention. Alternatives to incarceration were promoted with investments in community models to deal with minor offenses without resorting to arrest.

Guidelines for psychological support and mental health improvement for police officers were also introduced, along with strategies to improve responses to people in behavioral or mental health crisis.

The use of federal funds for the purchase of military-style weapons and equipment by local law enforcement agencies has been prohibited, and data collection systems on use of force, deaths in custody and other transparency indicators have been strengthened through programs such as the National Incident-Based Reporting System (NIBRS).

The Department offered technical assistance and training to agencies to implement the planned reforms.

²⁸ <https://www.nlead.gov>

²⁹ <https://www.justice.gov/olp/department-justice-fact-sheet-implementing-executive-order-advancing-effective-accountable>

4.5. Obstacles posed by police unions

Police unions pose a significant challenge to the implementation of reforms aimed at improving accountability. Union contracts often include clauses that limit the investigation of officers and require the destruction of disciplinary records after a certain period of time, hampering the ability of police forces to monitor problematic officer behavior. These clauses make it difficult for civic review committees to exercise effective oversight, thus limiting the impact of external accountability initiatives.

4.6. Relevant social issues

a) Use of force

Excessive use of force by law enforcement undermines public trust in institutions. When incidents of violence cross a critical threshold, without being addressed through structural reforms, adequate training and supervision, serious repercussions such as protests, unrest and institutional crises can occur.

Numerous media investigations and academic research have highlighted how police use of excessive force has damaged public trust. The murder of George Floyd in 2020 is a case in point, with nationwide and international protests leading to calls for police reform.

The Washington Post and *The Guardian* maintain databases on cases of police shootings that illustrate the disproportionate use of force against racial and ethnic minorities.³⁰

b) Systemic racism

Systemic racism is a deeply rooted phenomenon in police structures, manifested through discriminatory practices such as racial profiling. When a police department, or an entire jurisdiction, shows disproportionate rates of arrests and checks against ethnic minorities, it risks causing an irreparable fracture in the trust of marginalized communities in the authorities, with both social and political repercussions. Racism in law enforcement manifests itself through discriminatory practices such as racial

³⁰ *The Washington Post's Fatal Force Database* <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>; *The Guardian's The Counted* <https://www.theguardian.com/us-news/series/counted-us-police-killings>

profiling, where ethnic minority individuals are purposely more subject to stops and arrests because they are viewed biased as more likely to break the law. Various reports, including those of the American Civil Liberties Union (ACLU) and the Department of Justice, highlight how common these practices are in many jurisdictions in the United States.³¹

c) Corruption

Corruption within the police force is another factor that erodes public trust. When officers act corruptly or complacently toward illegal activities, without proper accountability and oversight mechanisms a critical threshold can be crossed that undermines the legitimacy of institutions. Incidents of corruption can result in a state of social anarchy and warrant public protests, demanding significant reforms. Notorious cases include those of the New Orleans Police Department, where officers were implicated in corruption and abuse, and the Rampart case in Los Angeles in the 1990s, which led to reform of the department.³²

d) Sexism and prejudice

Sexism and gender bias within law enforcement agencies are further obstacles to institutional effectiveness. Discrimination against women, both internally among personnel and in interactions with the public, remains unpunished or underreported. Without adequate reforms to eliminate gender discrimination, trust in law enforcement by victims of gender-based violence and sexual minorities can be severely undermined, making it difficult to obtain justice. Evidence of this is the current lively debate in the United States about so-called transformative justice, a model of justice designed specifically for victims of gender-based violence that disregards interaction with the criminal justice system, starting with the police force, which is accused of fostering secondary victimization especially of black and Latino women and

³¹ ACLU - Racial Profiling <https://www.aclu.org/issues/racial-justice/race-and-criminal-justice/racial-profiling> , Department of Justice Reports on Police Practices <https://www.justice.gov/opa/pr/justice-department-announces-findings-investigation-chicago-police-department>.

³² Reese, R. (2003). *The multiple causes of the LAPD Rampart scandal*. The Cal Poly Pomona Journal of Interdisciplinary Studies, 16, 85-98.

homosexuals, as well as transgender people. Sexism is still entrenched in many police departments, where women are often the victims of discrimination and harassment. A significant example is the lawsuits brought by female police officers, as in the case of the class action lawsuit against the NYPD in 2018. Many organizations, including the Center for Policing Equity, work to counter these issues through research and advocacy.³³

³³ Center for Policing Equity <https://policingequity.org/>.

CHAPTER 2

Police Accountability in Canada

by Ilaria Boiano

1. Introduction

In Canada, police forces operate at three levels: federal, provincial and municipal. This chapter aims to provide a summary of the Canadian police organization, in light of the relevant legislation and with regard to the accountability framework that characterizes its activities. Case law, academic literature, and civil society documentation review will allow an in-depth examination of the policing and its compliance with the law and international standards. Special attention will be paid to social issues of particular prominence in Canadian society. On the one hand, the chapter deals with the relationship between institutions, including oversight agencies, and social groups exposed to serious and enduring discrimination, especially indigenous and immigrant populations. On the other hand, the discussion will examine the impact of gender and sex discrimination on policing and the effectiveness of accountability mechanisms.

2. Police model

The Canadian police system responds in its structural and organizational characteristics, according to the classic taxonomy of the relevant literature, to the Anglo-Saxon typology³⁴, with a decentralized and plural management, an overall demilitarization and a strong relevance of local bodies as well as of the link with territorial communities. These elements also guide accountability mechanisms and define the transparency policies of the police corps, from the central to the local level.

The result, then, is a complex and layered model that not only mirrors the British model, but also reworks and adapts it to the country's articulated legal and territorial

³⁴Mawby, R. I. (Ed.). (1999). *Policing across the world: Issues for the twenty-first century*. London: Routledge. Mawby, R. (2010). World policing models. In M. Natarajan (Ed.), *International crime and justice* (pp. 409-415). Cambridge: Cambridge University Press. Scalia, V. (2022). Polizia e policing. In T. Pitch (Ed.), *Devianza e questione criminale. Temi, problemi e prospettive* (pp. 263-282). Roma: Carocci.

framework, influenced in its development by the peculiar history of relations, even violent ones, with the country's native communities. As is well known, Canada is a federal state consisting of **ten Provinces** and **three Territories**, grouped into four main regions: Western Canada, Central Canada, Atlantic Canada, and Northern Canada.

The parliamentary form of government traces the British model: the head of the Executive is formally the British Sovereign who exercises his powers through a Governor General, but, in reality, by virtue of constitutional custom, the Government is headed by the leader of the party that obtains the majority of seats in the House of Commons (lower house).

Canada is known for its cultural and geographic multiplicity with which public institutions have grappled over time, sometimes repressing, sometimes, more recently, seeking dialogue and inclusive and transformative solutions.

In this socio-historical context, a composite model has emerged in which multiple police forces act within the country, with non-homogeneous intervention capacities correlated with territorial rootedness.

Specifically, police services are divided as follows:

- federal services;
- provincial services;
- municipal services.

Peculiar to Canada, which also reverberates on the organization of territorial and community control agencies, is the constitutional recognition of Indigenous People, the collective name by which the native peoples of North America and their descendants are understood, which are distinguished into First Nations, Inuit and Métis³⁵ and their rights are the subject of Part II of the Canadian Charter of Rights and Freedoms (1982).

³⁵According to the 2021 Census, more than 1.8 million people in Canada identify themselves as Indigenous, which represents 5 percent of Canada's total population. It is noteworthy to highlight that Indigenous peoples are the fastest growing population in Canada - they grew by 9.4 percent between 2016 and 2021 - and the youngest in Canada - about 28 percent were under the age of 25 in 2021. See INSTAT. (2024). *Indigenous population in Canada: 2021 Census*. Retrieved from <https://www.rcaanc-cirnac.gc.ca/eng/1100100013785/1529102490303> For a more in-depth discussion see Indigenous Peoples Atlas of Canada. (n.a.) *Truth and Reconciliation*. Retrieved from <https://indigenouspeoplesatlasofcanada.ca/section/truth-and-reconciliation/>

Indigenous policing services are established for territorial communities of indigenous peoples.

a. Federal Level

At the federal level of the Canadian police system operates the **Royal Canadian Mounted** Police (hereafter RCMP), in French Gendarmerie Royale du Canada or, in jargon, Mounties.

The RCMP was founded in 1873, originally as the North-West Mounted Police, and is responsible for law enforcement nationwide as well as national security protection and border control.

The **Royal Canadian Mounted Police Act** (R.S.C., 1985, c. R-10)³⁶ governs the operations and powers of the RCMP, defining its mandate and responsibilities in enforcing federal laws, conducting complex criminal investigations, and protecting government institutions. The law also provides for cooperation between the RCMP and other law enforcement agencies, both provincially and internationally, to ensure coordinated action against organized crime, terrorism and other security threats, working with agencies such as Interpol and Europol, and participating in peacekeeping missions under the auspices of the United Nations.

The RCMP also plays a key role in **rural and remote communities**, where it is often the only available police force, as is the case in the provinces of Manitoba and Nova Scotia and the territory of Nunavut, where the RCMP plays an integrated community-wide role, providing police services ranging from crime prevention to public education.

In terms of operational data, the RCMP's official website (www.rcmp-grc.gc.ca) provides detailed statistics on the corps' activities, including annual reports describing operations, resources deployed, and results achieved. In particular, the **RCMP's Annual Report** is an interesting resource for understanding the evolution of the corps' operations and strategies, prospects for adapting to criminal phenomena, and

³⁶Royal Canadian Mounted Police Act (R.S.C., 1985, c. R-10). Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/R-10/>.

following an approach at least formally oriented toward the protection of people's fundamental rights³⁷.

In this regard, it should be emphasized that the RCMP actually moves throughout the entire national territory, because it provides police services of a federal nature everywhere (e.g., for matters related to organized crime and terrorism, national security, espionage, drug trafficking, border control, human trafficking, corruption, money laundering etc.). It also ensures - where required - municipal, provincial or rural policing services: subcontracting, the latter, to appropriate local authorities, with which it makes arrangements for the direct and/or indirect conduct of the activity. Interestingly, Ontario and Quebec do not outsource any municipal policing tasks to the federal police. In any case, as a general rule, the federal police supports rather than replace local police forces; and a singularity of its operation is that, while serving all Canadians, the RCMP's responsibilities vary from place to place.

While there is no formal hierarchy among the different police forces in Canada, the RCMP appears to be the most prominent. This prestigious position is due to both its long history and its extensive operational presence. In fact, the RCMP operates through more than 800 detachments and has 3,503 buildings scattered across the country, providing police services in more than 600 indigenous communities, covering 22 percent of the Canadian population.³⁸

According to data published in *Our next chapter: The RCMP 2024-27 strategic plan*, the RCMP has more than 19,000 police officers, supported by more than 11,000 civilian members and public servants³⁹, and has responsibility for strategic areas such as combating serious and organized crime, financial crimes, cybercrimes, and national security⁴⁰. In addition, the RCMP is tasked with enforcing federal laws, protecting

³⁷ The latest available report covers 2022, published in 2023: Royal Canadian Mounted Police. (2023). *RCMP federal policing annual report 2022*. Retrieved from <https://rcmp.ca/en/corporate-information/publications-and-manuals/rcmp-federal-policing-annual-report-2022#s13>

³⁸ Roach, K. (2022). *Canadian policing: Why and how it must change* (pp. 351-376). Toronto: Irwin Law.

³⁹ Of the serving officers, 21.5 percent are women, 6.6 percent belong to indigenous peoples, and 13.7 percent belong to ethnic minority groups. In 2024-25, 1,280 cadets will enter the RCMP Training Academy (Depot). The RCMP is also supported by 10,076 public service employees and 2,647 civilian members. See Royal Canadian Mounted Police (RCMP). (2024). *Our next chapter: The RCMP 2024-27 strategic plan*. Retrieved August 31, 2024, from <https://rcmp.ca/en/corporate-information/publications-and-manuals/our-next-chapter-rcmp-2024-27-strategic-plan>

⁴⁰ Data taken from Royal Canadian Mounted Police. (2021). *About the RCMP*. Retrieved from <https://www.rcmp-grc.gc.ca/en/about-rcmp#>

Canadian borders, safeguarding designated persons, critical infrastructure, and the democratic institutions of Canada and in international fora⁴¹. A clear example of the RCMP's importance is the **Canadian Police Information Centre**, operated by the RCMP's National Police Services program, at the Federal Police Headquarters. This center is a crucial node for data collection and distribution, providing essential real-time information to territorial commands to support their operations.⁴²

2.2. Provincial level

At the provincial level, the Canadian policing system is characterized by the presence of autonomous police forces operating within individual provinces and territories, with the aim of ensuring public safety and enforcement of local laws.

Some provinces, such as British Columbia and Newfoundland and Labrador, outsource most provincial policing duties to the RCMP through specific contracts, while Ontario and Quebec have established their own provincial police forces:

- **Ontario Provincial Police (OPP)**: is the second largest police force in the country after the RCMP, with very broad territorial jurisdiction that includes rural areas, provincial roads, and small communities that lack a municipal police force. The OPP also has a number of local mandates through contracts with municipal governments and First Nations, at which it operates as a local police force and provides frontline services. The OPP is regulated by the Ontario Government's Comprehensive Ontario Police Services Act, 2019, along with the Community Safety and Policing Act, 2019 and Strengthening Safety and Modernizing Justice Act, 2023.

- **Sûreté du Québec (SQ)**: founded in 1870, it is the main provincial police force in Québec and one of the oldest in Canada. The SQ is responsible for enforcing provincial laws, managing road safety, and conducting investigations into serious crimes that exceed the jurisdiction of municipal police forces. The **Police Act du Québec** (L.R.Q., c. P-13.1) regulates its activities, outlining its duties and responsibilities and establishing

⁴¹ These responsibilities are organized according to an annual strategic plan that is divided by programs: Federal Policing Intelligence, Federal Policing Investigations, Federal Policing National Governance, International Operations, and Protective Operations.

⁴² More official information about the Canadian Police Information Center can be found at Canadian Police Information Centre. (2022). *CPIC Anniversary*. Retrieved from <https://www.cpic-cipc.ca/anniversary-anniversaire-eng.htm>

criteria for collaboration with other police forces. The SQ's official website (www.surete.qc.ca) provides annual statistics, reports on operations and updates on public safety initiatives, as well as a historical review inaugurated on the one hundred thirty-fifth anniversary of the police force's founding.⁴³

In some provinces, such as Alberta and Nova Scotia, provincial policing is instead managed by the RCMP, through provincial contracts between the federal government and the provinces that outline the areas of responsibility and specific services provided by the RCMP within these jurisdictions, and also establish their funding.

2.3. Municipal level

The municipal level of the Canadian police system is diverse and has jurisdiction over a wide area of urban settings and local communities, with responsibilities for law enforcement, including local law enforcement, the protection of persons and the maintenance of law and order within the boundaries of the cities or municipalities in which they operate. Each municipal police force is established and regulated by provincial laws, which define the mandate and specific competencies.

The numerically largest municipal police corps are found in large cities such as Toronto, Vancouver, Calgary, and Montréal. These corps enjoy autonomy and are answerable to municipal authorities, which provide for their establishment, regulation and training, although they work closely with provincial police forces and the RCMP to deal with serious crimes or matters beyond their jurisdiction. The most important municipal police corps include the following: **Toronto Police Service** (TPS) is the largest municipal police force in Canada; **Vancouver Police Department** (VPD), regulated by the laws of the province of British Columbia; **Service de police de la Ville de Montréal** (SPVM).

Provincial regulations governing municipal police vary from province to province, but generally include provisions on governance, funding, accountability, disciplinary procedures, and operational standards, with a focus on preventing racial profiling, hate crimes and gender-based violence. Areas of specialization for alternative conflict

⁴³ *Cahiers d'histoire de la Sûreté du Québec* delves into the development and professionalization of units, history of uniforms and vehicles, etc. <https://www.sq.gouv.qc.ca/organisation/histoire/>

resolution are developed and all pursue, including through online platforms (website, social network pages), the goal of ensuring informational transparency about the organization, procedures, monitored and processed by city councils, and statistics on activities and structure. Web pages often publish photographs of women or people from minority groups to promote the image of gender inclusive police corps committed to diversity management.

2.4. Indigenous policing services

First Nations police services constitute a distinctive element by which the Canadian police system also operationalizes at the level of institutional structures and oversight agencies the recognition of the autonomy and self-determination of indigenous communities, promoting and implementing an approach to public safety that is culturally sensitive and respectful of local traditions.

The creation of First Nations police services is due to the **First Nations Policing Program (FNPP)**, a 1991 federal initiative aimed at providing indigenous communities with a policing system compatible with their specific traditions, cultures and needs. The program is managed by Public Safety Canada, a department established in 2003 to ensure coordination among all federal departments and agencies responsible for national security and the protection of Canadian citizens.⁴⁴

In addition to the FNPP, the **First Nations and Inuit Policing Facilities Program** contributes to improving the policing infrastructure in indigenous communities by ensuring the necessary facilities to operate effectively and safely.

First Nations police forces can operate independently or in collaboration with other police forces, such as the RCMP, through integrated policing arrangements that allow flexible operations to address specific problems within communities, such as drug trafficking, domestic violence, and traditional land management, with the goal of

⁴⁴ The Public Safety Canada Department partners with five agencies and three review bodies as well as other levels of government, first responders, community groups, the private sector and other nations on issues of homeland security, border strategies, counter-crime, emergency management and other safety initiatives. The five agencies in partnership include the RCMP, along with Canada Border Services Agency (CBSA); Canadian Security Intelligence Service (CSIS); Correctional Service of Canada (CSC); and Parole Board of Canada (PBC).

providing security while respecting indigenous traditions of community relations management.

Emblematic examples of these services include the **Anishinabek Police Service (APS)**, which operates in several communities in Ontario, and the **Nishnawbe-Aski Police Service (NAPS)**, which serves several remote communities in northern Ontario. Both of these police forces are rooted in the cultural traditions of their respective communities.

Currently, the Canadian government is working with First Nations and other key partners to **co-create federal legislation** recognizing First Nations police services as an essential service.

2.5. Specialized police agencies

In addition, specialized police agencies deal with special issues:

- for border control, the Canada Border Services Agency;
- for homeland security and intelligence, the Canadian Security Intelligence Service;
- For air transport, the Canadian Air Transport Security Authority;
- For fisheries and the marine environment, the Fisheries and Oceans Canada Conservation and Protection Officers;
- for nuclear and radiological safety, the Canadian Nuclear Safety Commission Inspectorate.

Without giving rise to stand-alone institutions, there are still - within the various police realities - task forces or specialized units that deal with social emergencies or singular types of crime.

Specifically, the most widespread specialized units reflect the intervention priorities that have been consolidated at the international level on the protection of domestic and international law and order (e.g., on organized crime, human trafficking, terrorism, cybercrime), but also the guidelines derived from the recommendations of human rights organizations. Thus, specialized groups focusing on bullying, gender-based violence, hate crimes, and racist crimes are prevalent at all levels. Additionally, reflecting territorial and political particularities, these groups are instrumental in

fostering reconciliation with First Nations, Inuit, and Métis communities and in preventing specific forms of victimization targeting them.

3. Accountability Model

Canada adopts a **democratic model of policing**, based on public consent, answerability to elected officials, and adherence to the rule of law⁴⁵. This approach is contrasted with policing in authoritarian states, where both public consent and compliance are lacking.⁴⁶

It is argued that the democratic policing model places in tension, on the one hand, the need to safeguard the independence of the police from special interests and, on the other hand, the obligation to hold them accountable to those who are elected. Also looming is the conflict between effectiveness in crime control and the need to respect due process and the fundamental rights and freedoms of people⁴⁷. To mitigate these tensions, a **model of external accountability**, such as civilian oversight, which is often perceived by the public as more impartial than internal oversight, has emerged in the context of British import models.

In order to describe and "interrogate" the model developed in Canada, the evaluation parameters developed by the United Nations⁴⁸ and supplemented by relevant research and studies will be taken into account and include testing of: 1) a comprehensive regulatory framework; 2) clear and complete operational instructions; 3) training and resources; 4) monitoring and oversight plan; 5) public participation in the police oversight process; 6) procedures for complaints and effective sanctions; 7)

⁴⁵ Roach, K. (2014). Models of civilian police review: The objectives and mechanisms of legal and political regulation of the police. *Criminal Law Quarterly*, 61(1), 29-73; Hope, K. R. (2020). Civilian oversight for democratic policing and its challenges: Overcoming obstacles for improved police accountability. *Journal of Applied Security Research*, 16(4), 423-455; Puddister, K. (2023). Oversight and accountability for serious incidents in Canada: Who polices the police? *Canadian Public Administration*, 66, 392-397.

⁴⁶ Bowling, B., Reiner, R., & Sheptycki, J. (2019). *The politics of the police* (5th ed.). Oxford: Oxford University Press; Rowe, M. (2020). *Policing the police: Challenges of accountability in a liberal democracy*. London: Routledge.

⁴⁷ Walker, S. (2001). *Police Accountability: The Role of Citizen Oversight*. Belmont, CA: Wadsworth.

⁴⁸ United Nations Office on Drugs and Crime. (2011). *Handbook on police accountability, oversight and integrity*. Criminal Justice Handbook Series, Vienna-New York: United Nations. Retrieved from https://www.unodc.org/pdf/criminal_justice/Handbook_on_police_Accountability_Oversight_and_Integrity.pdf

transparency and accessibility of information; 8) documentation and statistics; and 9) external evaluation procedures.

3.1. Regulatory framework

The legal framework that defines the responsibility of the police in Canada is multifaceted and multi-layered, encompassing written and unwritten constitutional principles, including rule of law, federalism, and the Canadian Charter of Rights and Freedoms. These are supplemented by "aboriginal rights," legislative standards, duties established by the common law in administrative and private spheres, internal codes, rules and operational guidelines, as well as Canada's legal obligations under various international human rights conventions.

The Constitution of Canada represents the fundamental legal framework, determining the structure and functions of government and guaranteeing the rights and freedoms of Canadian citizens. The Constitution is composed of several acts, agreements and laws, including the Constitution Act, 1867 and the Constitution Act, 1982⁴⁹, the latter incorporating the **Canadian Charter of Rights and Freedoms**, a fundamental part of the Constitution of Canada, which guarantees fundamental rights and freedoms, such as freedom of expression, freedom of religion and the right to due process. This Charter has a significant impact on policing, as it sets the limits within which authorities can operate and protects citizens from abuses of power.⁵⁰

Articles of the Canadian Charter of Rights and Freedoms relevant to policing include: Article 7, which guarantees the right to life, liberty and security; Article 8, which protects against unreasonable search and seizure; and Article 9, which prohibits arbitrary detention; Article 10 establishes rights upon arrest or detention; while Article 11 defines rights in criminal matters; Article 12 protects against cruel and unusual treatment or punishment; and Article 15 guarantees the right to equality before the

⁴⁹ Justice Laws Website. *Constitution Acts, 1867 to 1982*. Retrieved from <https://laws-lois.justice.gc.ca/eng/const/page-1.html>

⁵⁰ Department of Justice Canada. *Charter of Rights and Freedoms*. Retrieved from <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/index.html>

law, preventing discrimination. These articles are crucial in establishing the limits of police operations while respecting the constitutional rights of Canadian citizens.

The Charter has been extensively interpreted and applied by the Supreme Court of Canada through numerous Charter cases, i.e., court cases that have helped define and shape the application of the Charter, including police operations. These cases have played a crucial role in delineating police responsibilities and ensuring that their actions respect the constitutional rights of citizens.⁵¹

Criminal Code⁵² is the primary legislative source for defining crimes and criminal procedure, with provisions on arrests, interrogations, investigations and notifications, providing the essential legal framework for the proper conduct of criminal proceedings:

- Article 25: Defines the justification for using necessary force in good faith and when authorized by law. Deadly or serious force is permissible strictly for self-defense or to protect others.

- Article 26: Establishes criminal liability for excessive use of force.

- Article 27: Permits reasonably necessary force to prevent crimes that may cause serious harm.

- Article 28: Protects individuals making an arrest from criminal liability if they act in good faith, even when mistakenly arresting the wrong person.

- Article 29: Requires informing the arrestee of the reason for their arrest and carrying a warrant, though failure to meet these requirements does not remove protections against criminal liability.

Articles 494 and 495 regulate the warrantless arrest allowed to private citizens and police officers, specifying that they may arrest without a warrant anyone who is

⁵¹ In 2021 and 2022, the Hidden Racial Profiling Project (HRPP) of the Faculty of Law at Western University helped the Toronto Star identify more than 600 court rulings over the past decade that found Canadian police violations of the Charter of Rights and Freedoms against the public. Violations have included the use of excessive force, unreasonable searches, and failure to disclose the right to counsel without delay. The full investigation is available at The Toronto Star. (2022). *Police officers across Canada are violating people's rights with alarming frequency*. Retrieved from https://www.thestar.com/interactives/police-officers-across-canada-are-violating-people-s-rights-with-alarming-frequency-disturbing-unreleased-video/article_1c3c578c-11e0-11ee-9fea-871fbc9bf7f6.html.

⁵² Criminal Code of Canada (R.S.C., 1985, c. C-46). Retrieved from <https://laws-lois.justice.gc.ca/eng/acts/c-46/>.

committing a crime or anyone who is reasonably suspected of committing a more serious crime.

Articles 496, 497, 498 and 499 deal with how a person arrested without a warrant may be released, ensuring that individuals are not arbitrarily detained and may be released pending trial unless there are special reasons to maintain detention.

Article 501 regulates notice to appear, promise to appear, and acknowledgment.

Articles 503 and 515 govern judicial provisional release (commonly known as **bail**) to ensure that defendants are not unfairly or prolongedly detained without trial unless there are compelling reasons to deny release.

Articles 511-514 deal with the issuance of arrest warrants.

In Canada, the legal system is characterized by the coexistence of two legal traditions: common law and civil law. This duality is also reflected in the regulation of police accountability and responsibility, which is handled through a complex web of public law regulations.

Predominant in much of Canada, the common law, particularly for civil liability cases, is relevant to police accountability because the courts play a crucial role in defining the civil and criminal responsibilities of police officers. Decisions of the courts, particularly the Supreme Court of Canada, not only interpret but also evolve the legal framework in which police operate, providing, through precedent, essential guidance on how police should conduct investigations, manage the use of force, and respond to human rights violations.

Case law examines the civil and constitutional accountability of police actions and omissions. Such cases are crucial as forms of public accountability, as they allow injured persons to directly hold police officers, law enforcement authorities, councils, and executive bodies accountable for their activities.

For example, in **Jane Doe v. Metropolitan Toronto (Municipality) Commissioners of Police** (1998), the Court ruled that the police can be held liable for both negligence and violation of the Constitution, recognizing a **due diligence** toward women victims or potential victims of crime. This case highlighted how negligence in investigative conduct can result in a violation of constitutional rights, particularly the right to security

of the person and gender equality enshrined in the Canadian Charter of Rights and Freedoms.

Another relevant example is **Odhavji Estate v. Woodhouse** (2003), in which the Supreme Court of Canada allowed family members of a person killed during a police investigation to bring an action for negligence and misfeasance in public office against the officers involved and the police chief. The Court emphasized the importance of the link between police misconduct and the obligation of public officers to uphold the rule of law, highlighting how negligence in the performance of duties can lead to both civil and constitutional liability.

In **Hill v. Hamilton-Wentworth Regional Police Services Board** (2007), the Supreme Court of Canada ruled that police are not immune from civil liability for negligent investigation, recognizing the tort of "negligent investigation." This case marked an important step forward in Canadian jurisprudence, recognizing that police can be held civilly liable if their investigative conduct falls below the standard that a reasonable police officer should maintain, causing harm to a suspect.

For a plaintiff to prove police liability, he or she must prove the following:

- the police were aware, or should have been aware, of a real and immediate risk to the life of an identified individual resulting from the criminal acts of a third party, thus giving rise to a duty of care toward that individual;
- the police failed to take necessary measures within the limits of their powers, which, reasonably assessed, could have avoided this risk, thus violating the required standard of care;
- the plaintiff suffered damages as a result of the police's negligent actions or inaction.

In the province of Québec, where the **civil law** system applies, the **Code civil du Québec** regulates civil responsibilities, including those of police officers. Here, the law provides a detailed framework governing every aspect of civil relations, including interactions between the police and citizens.

In the context of police accountability, **public law regulations play a central role** and encompass the so-called Police Acts, which vary according to the level of government (federal, provincial or First Nations) and territorial specificity.

- **Royal Canadian Mounted Police Act (RCMP Act):** this act regulates the work of officers at the federal level, including procedures for the discipline and accountability of officers through internal and external control mechanisms.⁵³

- **Provincial Police Acts:** each province and territory has its own Police Act, which regulates local police forces. These acts define the duties, responsibilities and control mechanisms for police forces in the various jurisdictions.⁵⁴

- **First Nations Policing Policy:** aimed at police forces operating in First Nations communities. Recognizing the importance of a culturally sensitive approach tailored to the needs of Indigenous peoples, the guidelines enable communities to have greater control over their own security while ensuring that police practices remain aligned with national standards and accountable.⁵⁵

It is necessary not to forget the privacy framework (Privacy Act)⁵⁶ and all the norms - including those of international level - on human rights, which draw (in addition to the Constitution and the Canadian Charter of Rights and Freedoms) further limits on police action.

Relative to Canadian legislation incident on policing, there is an ongoing debate on the need for reforms to ensure greater transparency and accountability of officers, especially with regard to issues related to racism (also rampant at the institutional level), excessive use of force (on the street and/or in facilities where authorities belong or are competent), secondary victimization, and underestimation of the seriousness of gender-based violence conduct. These issues have led to legislative initiatives to increase transparency and accountability of officers, with a focus on abuses of power and systemic discrimination.

⁵³ Royal Canadian Mounted Police Act (R.S.C., 1985, c. R-10), accessible at <https://laws-lois.justice.gc.ca/eng/acts/R-10/page-4.html#h-421406>

⁵⁴ For some of these acts: Comprehensive Ontario Police Services Act, 2019, S.O. 2019, c. 1 - Bill 68, <https://www.ontario.ca/laws/statute/S19001>; Manitoba Police service act, Bill 16, <https://web2.gov.mb.ca/bills/39-3/b016e.php>; British Columbia Police Act [RSBC 1996], https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96367_01; Alberta Bill 6: Police Amendment Act, 2022, <https://www.assembly.ab.ca/assembly-business/bills/bill?billinford=11991&from=bills>.

⁵⁵See Jones, N. A., Ruddell, R., Nestor, R., Quinn, K., & Phillips, B. (2014). *First Nations policing: A review of the literature*. Collaborative Centre for Justice and Safety, University of Regina. Retrieved from <https://web.archive.org/web/20171013102703/http://www.firstnationspolicing.ca/wpcontent/uploads/2012/02/APD-First-Nations-Policing-Policy-1996.pdf>.

⁵⁶ Privacy Act (R.S.C., 1985, c. P-21), <https://laws-lois.justice.gc.ca/eng/acts/P-21/>.

In this context, the book *The Wicked Problems of Police Reform in Canada* by Laura Huey, Lorna Ferguson, and Jennifer L. Schulenberg (2023) contributes to the debate, arguing that no meaningful and sustainable reform can succeed without answering the fundamental question, "What exactly do we want the police to do?" The authors point out that the challenge of defining the mandate of the police is complicated by the complex nature of the social problems that law enforcement is called upon to solve, such as mental health, substance abuse, homelessness, and missing persons management, as well as gender-based violence and discrimination. These problems are rooted in deep-seated and interconnected causes, so the authors use the phrase "wicked problems," which suggests that solutions must be sought beyond the criminal justice system but continue to be treated as policing problems.

The book argues that in order to bring about meaningful change in public policing, there needs to be innovative and systemic policies that address the real causes of these social problems and that limit the role of the police to what is really within its purview. Moreover, they should not overburden it with tasks for which it is not adequately equipped. The debate on police reform, therefore, should be broadened to include a discussion of the role of the police in society and how public policy can better support both communities and law enforcement.

This critical perspective highlights the importance of considering not only transparency and accountability within the police force, but also a redefinition of their operational mandate in order to more effectively address the complex social challenges Canada faces.

Indeed, there has been a debate in the country, ranging from discussions of structural and operational reforms, aimed at modernizing police forces management and organization, to promoting better working environments. A new regulatory framework has been proposed in the context of comprehensive justice reform⁵⁷ as well as initiatives to modernize the police force, starting with the RCMP, with a focus on supporting employee welfare, combating harassment and sexual violence against

⁵⁷ For roundtables sponsored by the Ministry of Justice since 2015, see reports available at <https://www.justice.gc.ca/eng/rp-pr/other-autre/tcjs-tsjp/p1.html>

female officers in the workplace⁵⁸ and enhancing the organization's role in reconciliation with indigenous peoples.⁵⁹

As an illustration of the ongoing reform path with strong civil society involvement, we mention the case of the province of Alberta, the result of at least a decade of advocacy, geared "to enhance and preserve public confidence and transparency in Alberta policing to better reflect current community and police officer standards and expectations."⁶⁰

Alberta's municipalities established a working group composed of municipalities of all sizes to respond to the consultation sponsored by the province's central government. This group developed a written submission for review, in collaboration with Alberta Municipalities' Safe and Healthy Communities Committee, in spring 2019.

3.2. Operating Instructions

Each police service has operations manuals that provide detailed instructions on a wide range of activities, including use of force, evidence management, arrest and detention procedures, and emergency response. The guidelines establish when and how officers may use force, including protocols for the use of firearms, tasers, pepper spray, and other control equipment. The goal is to ensure that the use of force is always proportionate to the threat and consistent with human rights.

These procedural guides include instructions on how to make an arrest legally and safely, how to treat detainees in custody, and procedures to follow to ensure that detainees' rights are respected.⁶¹

3.3. Training and resources

⁵⁸ See on this issue the report Bastarache, M. (2020). *Broken lives, broken dreams: The devastating effects of sexual harassment on women in the RCMP*. Final report on the implementation of the Merlo Davidson Settlement Agreement. Retrieved from <https://www.rcmp-grc.gc.ca/en/final-report-implementation-merlo-davidson-settlement-agreement>.

⁵⁹ <https://www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/trnstn-bndrs/20231123-2/04-en.aspx>.

⁶⁰ https://www.abmunis.ca/advocacy-resources/resolutions-library/provincial-police-act-overhaul?utm_source=chatgpt.com.

⁶¹ Please refer to the official web pages: <https://rcmp.ca/en/corporate-information/publications-and-manuals>

In Canada, the training and resources available to the police are critical to ensuring that officers operate effectively and meet international standards. However, there are several issues regarding the level of training and resources available, as well as some critical issues that have emerged over the years.

Police officers in Canada must complete a training program at accredited police academies. One of the main institutions is the **Royal Canadian Mounted Police (RCMP) Depot Division** in Regina, Saskatchewan, which provides training for federal police officers.

The training covers a wide range of topics, including:

- **Criminal and civil law**
- **Arrest techniques**
- **Crisis management**
- **Use of force**
- **Shooting training**
- **Evidence collection procedures**
- **Mental health and cultural awareness**

Officers must attend regular refresher courses to stay abreast of new laws, technologies, and operational practices. Continuing education is mandatory and may include specializations in areas such as domestic violence, counternarcotics, mental health management, and more.

Training on **de-escalation** and crisis management has been enhanced in recent years in response to criticism of excessive use of force and incidents involving people with mental disorders.

Canada seeks to align its policing practices with international standards, such as following the United Nations guidelines on human rights in law enforcement and adhering to the principles of **Policing by Consent**, recognized as part of the ethical and operational framework for police forces that emphasize respect for human rights and social responsibility.⁶²

⁶² A fundamental principle of policing in the United Kingdom and other Western democracies, including Canada, which is based on the idea that police authority derives from the consent of the public, rather than the coercive power of the state. This concept was first formulated by Sir Robert Peel, the founder of modern British policing, in 1829 when he created the London Metropolitan Police Service. "Policing by

Police forces in Canada are generally well equipped with modern technology, including body-worn cameras, digital evidence management systems, and access to advanced databases for investigations.

However, disparities in available resources exist between large cities and rural or remote areas, where access to advanced technologies and staffing may be limited.

Police forces in Canada do, in fact, receive funding at both the federal and provincial levels. However, there are concerns that, in some jurisdictions, budgets are insufficient to adequately address contemporary challenges, such as the rise of cybercrime or the management of health crises, including those related to mental health, which sees the police acting in a subsidiary manner to other public agencies that should be cooperating, such as health protection agencies.

Recent social movements, such as **Defund the Police**⁶³, have consequently raised the debate about the need to reallocate some police funding to social and mental health services, arguing that these resources could be more effective in preventing crime.

Despite ongoing training, there have been serious events that have raised concerns about the adequacy of training, particularly regarding the use of force and the management of people with mental disorders. Some human rights and indigenous community advocacy groups have criticized the police for an overly militarized approach and lack of adequate cultural training.

In remote areas, especially in indigenous communities, resources are often limited, with reduced access to specialized training, equipment and adequate personnel. This has led to increased pressure on officers in these areas and concerns about how emergency situations are handled.

Consent" is based on a few basic principles. The first principle is that the legitimacy of the police derives from the consent of the public, which means that the police operate with the approval of the community they serve, rather than through the imposition of power. In addition, police use of force should be minimal and proportionate, employed only when absolutely necessary to maintain public order and safety. Another key principle is that the police serve the community, acting in the public interest and responding to the needs of the community. The police must also operate impartially, ensuring that the law is applied fairly and without discrimination. Finally, the police are held accountable for their actions, operating with transparency and responsibility to the public and supervisors.

⁶³ <https://defundthepolice.org/canada/>

Recently, human rights legislation has been used to hold Canada accountable when it comes to funding police services for indigenous communities. For example, the Canadian Human Rights Tribunal (CHRT) ruled that the federal government discriminated against a Quebec First Nation by underfunding its police service for several years.⁶⁴ The complaint filed by the Pekuakamiulnuatsh First Nation, represented by Chief Gilbert Dominique, denounced the underfunding of the First Nations Policing Program (FNPP), claiming that it undermines public safety in indigenous communities, including the Innu Mashteuiatsh Nation. **The CHRT acknowledged that the FNPP perpetuated systemic discrimination against First Nations, similar to what was found in 2016 regarding the First Nations Child and Family Services program.**

Dominique pointed out that inadequate funding has negatively affected the quality and sustainability of police services in indigenous communities, causing a gap with services offered to non-indigenous communities. The lack of stable and adequate funding is a common problem for many indigenous police forces in Canada, such as the Nishinawbe Aski Police Service and the Kativik Regional Police Force.

The CHRT rejected the federal government's argument that the court did not have jurisdiction over the case.

3.4. Monitoring and supervision

In Canada, there are several mechanisms for control and oversight of policing. These are both internal mechanisms (primarily, chain of command) and external mechanisms (which take the form of the need to be accountable to the community or/and to particular institutions, to which one is not in a hierarchical relationship). Within the framework of these accountability procedures, which are in fact complementary, evaluations and judgments take place on the basis of documentation. In this sense, the reporting of the activity accomplished is a crucial element.

3.4.1. Internal mechanisms

⁶⁴ Canadian Human Rights Tribunal, Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v. Public Safety Canada, 2022 CHRT 4 January 31, 2022 File No.: T2251/0618, <https://www.canlii.org/en/ca/chrt/doc/2022/2022chrt4/2022chrt4.html>

One of the key elements of **internal** control are the Internal Affairs Units, which are charged with investigating misconduct or violations of the code of ethics by police officers. They act independently of day-to-day operations and conduct disciplinary investigations that can lead to sanctions, suspensions or dismissals of officers involved in inappropriate behavior.

Another internal control mechanism is **hierarchical supervision**. Each level in the chain of command is responsible for supervising subordinate agents, ensuring that they operate in accordance with policies and operational guidelines. This internal control is useful in scrutinizing the goodness of performance first and foremost from a functionalist perspective, i.e., efficiency and effectiveness, but also gives due consideration to the protection of the fundamental rights of the citizens involved in the various operations. Periodic evaluations of officers' performance, conducted by their supervisors, are another tool for monitoring conduct and identifying any problems, allowing for timely corrective action.

Another crucial element of internal control are the **codes of conduct and ethics policies** adopted by police forces, which clearly establish acceptable behaviors and professional expectations for officers. These codes serve as a guide for daily conduct and are closely monitored through **internal reviews and audits**. Police forces conduct regular audits to assess compliance with the policies by reviewing closed cases, use of force, and other operational practices. The results of these audits can lead to policy changes or further investigation if irregularities are found. When violations are found, **internal disciplinary committees** step in, reviewing evidence, conducting hearings and deciding on disciplinary sanctions to be applied, such as suspensions, demotions or dismissals.

In addition, many police forces use an **early warning system** to identify officers who may be at risk of problematic behavior. These systems monitor indicators such as repeated complaints, excessive use of force, or frequent absences, allowing supervisors to intervene before problems become serious.

In parallel with internal controls, police forces in Canada are subject to **transparency mechanisms** that allow the community to assess their performance. Police forces regularly produce internal documents that account for their activities and

are reviewed by management to ensure compliance with operational policies and procedures; in addition, at least once a year, police are required to submit a detailed report that includes statistical data on crimes apprehended and/or detected, the policies and directives-guidelines that have directed police actions, and the different types of interventions carried out. These reports are crucial in providing a clear picture of law enforcement activity and ensuring that their operations are aligned with community expectations. In addition to these formal reports, police forces collect **reports and feedback from the community** through surveys, public meetings, or dedicated phone lines, which help improve transparency and accountability.

An additional level of transparency is provided **holding public trials**, during which the community can observe how justice is administered and evaluate the evidentiary hold of police investigations, allowing the public to play an active role in monitoring the work of law enforcement agencies, strengthening confidence in justice.

An increasingly important element in police accountability is **camera power**, which includes the use of **body-worn cameras** and public monitoring of police operations, known as **copwatching**. These technological tools record interactions between police and citizens, providing objective evidence that can be used to verify police operations. Video cameras in public or private places, which often capture police interventions, provide an additional monitoring tool. Such footage can be used to confirm or refute official versions of events, increasing transparency and contributing to tighter control over the exercise of police power.

Finally, included, at least in a broad sense, in the concept of accountability is the participation of police staff in education and professional development programs on topics ranging from ethics to conflict management, from social class diversity to different techniques of engagement in the field. The purpose of these trainings is to promote a culture of transparency, good professional behavior and police accountability: policing that is intelligent and informed, as well as duly aware of the repercussions-disciplinary and judicial-that improper or/and illegal activities may have.

3.4.2. External mechanisms

Civilian oversight agencies, known as **Serious Incident Response Teams (SIRTs)**, are responsible for investigating the criminal conduct of police officers, especially in cases of serious injuries or deaths during interactions with the public. Each Canadian province and territory has its own SIRT, or relies on those of other jurisdictions. For example, Saskatchewan's SIRT, operational since January 2023 is the newest, while Ontario's **Special Investigations Unit (SIU)**, established in 1990, is the oldest agency. Smaller provinces, such as New Brunswick and Prince Edward Island, collaborate with other jurisdictions to ensure effective monitoring, as in the case of Nova Scotia's SIRT, which extends its jurisdiction to New Brunswick. These agencies are often created in response to crises of public confidence in the police, as demonstrated by the creation of Ontario's SIU following community protests against police killings of black men. Other agencies, such as British Columbia's **Independent Investigations Office (IIO)** and Manitoba's **Independent Investigation Unit (IIU)**, grew out of recommendations made following the Taman Inquiry (2008)⁶⁵ and the Aboriginal Justice Inquiry (2008)⁶⁶ that delved into the very real risk of bias in police investigations of their colleagues by police officers themselves, with consequent impact on the lack of public trust this approach engenders as much about the police themselves as it does about the effectiveness of response and restorative intent.

According to Kate Puddister's comparisons⁶⁷, it can be concluded that many SIRT agencies follow Walker's Class I model, in which investigations are conducted by an outside organization and supervised by a non-police officer (usually a member of the legal profession). However, in some provinces, such as Alberta and Quebec, investigators may include former police officers, which may raise concerns of bias in favor of the police. Only a few agencies, such as Ontario's **Special Investigations Unit (SIU)**, British Columbia's **Independent Investigations Office (IIO)**, and Manitoba's

⁶⁵ Salhany, R. (2008). *Report of the Taman Inquiry into the Investigation and Prosecution of Derek Harvey-Zenk*. Government of Manitoba.

⁶⁶ Hamilton, A. C., & Sinclair, C. M. (1991). *Report of the Aboriginal Justice Inquiry of Manitoba*. Government of Manitoba; Salhany, R. (2008). *Report of the Taman Inquiry into the Investigation and Prosecution of Derek Harvey-Zenk*. Government of Manitoba.

⁶⁷ Puddister, K. (2023). Oversight and accountability for serious incidents in Canada: Who polices the police? *Canadian Public Administration*, 66(3), 396-397.

Independent Investigation Unit (IIU), operate with an investigative team that is completely civilian in background.

These investigative units, also called "oversight agencies," are established through provincial or state laws that define their powers, responsibilities, and degree of independence from the individual and corresponding territorial Police service act.⁶⁸

In some provinces, oversight agencies are created through specific statutes that are not part of general police laws, for example, **The Independent Investigations Office of British Columbia Act**, which establishes the powers and structure of the IIO of British Columbia, and the **Independent Investigation Unit Act (Manitoba)**, which regulates the **Independent Investigation Unit (IIU)** in Manitoba. In addition to the laws, specific regulations and directives issued by the relevant ministries may outline the operational details and procedures to be followed by these agencies. In some cases, as noted above, oversight agencies are created in response to recommendations from public inquiries that highlight the need for independent police oversight. Recommendations from these inquiries may influence the creation of new regulations or the adjustment of existing ones.

In general, the legally defined competencies grant the power to review, monitor and investigate-with autonomy and independence-the actions of police officers, on behalf of the community, as we often read in regulatory sources and founding acts that explicitly invoke the "principles of public accountability" that bind the police corps and imply the responsibility of those who act not only to the state, but also to the community.

Oversight commissions move on the legal level (going so far as to initiate liability actions, both civil and criminal), on the political level (going so far as to direct, or at least condition, police operations) and on the civil level.

The goals set by oversight agencies are especially the following:

- prosecuting, proactively (*ante factum*) or reactively (*post factum*), undue conduct and deterring its commission or recurrence, ensuring independent and timely

⁶⁸ Police Services Act (Ontario): this act provides for the creation of the Special Investigations Unit (SIU) of Ontario and defines its powers and duties; Police Act (British Columbia): this act regulates the Independent Investigations Office (IIO) of British Columbia.

investigations, assessing violation of laws and protocols, and imposing sanctions regardless of the rank of the agent involved, to demonstrate that violations are not tolerated;

- improve the collective perception of law enforcement, for example by building platforms through which citizens can file complaints and see that their concerns are being addressed in a fair and impartial manner;

- foster transparency and promote trust in the police by publishing the outcomes of investigations conducted and recommendations, with updates on penalties imposed.

3.5. Public participation

Public participation is considered an indispensable corollary to the principle of police by consent, which is fundamental to police oversight. In Canada, citizens can voice their concerns through various forums and advisory councils involving community representatives, making recommendations that are frequently included in internal guidelines. They also note online forums and platforms, useful for handling complaints and imposing sanctions, supported by independent bodies that ensure impartial oversight. For example, the **Toronto Police Services Board** regularly issues guidelines covering officer conduct policies and procedures for handling citizen complaints.

3.6. Outcomes of internal and external control: criminal, civil and disciplinary sanctions

In Canada, police forces are subject to a complex system of sanctions that are primarily divided into three areas: criminal, civil, and disciplinary, each of which responds to specific violations or misconduct by officers.

Criminal sanctions intervene when a police officer commits a crime that violates the Criminal Code or other criminal laws. In these cases, the officer may be arrested and formally charged with crimes such as excessive force, abuse of office, or corruption. These cases are handled like any other criminal case, and if convicted there are prison sentences, fines, community service orders, and, in some cases, disqualification from serving as a police officer may be decided.

Parallel to criminal penalties, there are civil penalties, which result from lawsuits filed by individuals or groups who have suffered harm as a result of a police officer's actions. Victims of misconduct may seek compensation for the damages suffered, which may include both property and moral damages. In many cases, to avoid a lengthy and expensive trial, the parties may opt for an out-of-court settlement, in which the police or the officer involved agrees to pay compensation. In addition, victims can also obtain injunctions to prevent further abuse, thereby strengthening the protection of their rights.

In addition to criminal and civil penalties, there are disciplinary sanctions, which are administered internally by the police force itself and are applied in response to violations of the internal code of conduct or for behavior that, while not constituting a crime, is nevertheless considered inappropriate or contrary to professional standards. Disciplinary sanctions can range from formal warnings or cautions to temporary suspension of the officer, which can be done with or without pay. In the most serious cases, an agent may be demoted to a lower grade or even dismissed. In some cases, in addition to or as an alternative to sanctions, the staff member may be required to participate in remedial training programs, with the goal of addressing and remedying identified deficiencies in his or her behavior.

3.7. Human rights protection bodies

In addition to internal oversight mechanisms and oversight agencies specific to the police force, there are several **external oversight commissions** in Canada, such as **Human Rights Commissions**, which play a crucial role in monitoring and ensuring law enforcement compliance with human rights laws and ethical standards.

Human Rights Commissions operate at the federal and provincial levels, each with a mandate to promote and protect human rights within their respective jurisdictions. These commissions have the power to receive and investigate complaints of discrimination and human rights violations, which may also involve the police. For example, if an individual believes he or she has been discriminated against by the police because of his or her race, ethnicity, gender or other protected characteristics, he or she may file a complaint with the appropriate human rights commission.

Noteworthy is the work of the **Canadian Human Rights Commission**, which operates at the federal level and oversees the implementation of the **Canadian Human Rights Act**, intervening in cases where it is suspected that the RCMP or other federal agencies have violated human rights. If the Commission finds that there is sufficient evidence of a violation, it can take the case to the Canadian Human Rights Tribunal, which has the power to issue corrective orders and impose reparations on victims.

Similar commissions exist at the provincial level, such as the **Ontario Human Rights Commission** and the Quebec **Commission des droits de la personne et des droits de la jeunesse**, which perform similar functions in monitoring provincial and municipal police forces. These commissions may conduct investigations into complaints of human rights violations and, in some cases, may intervene in legal disputes or issue recommendations to change police practices.

In addition, there are **special commissions** or **advisory committees** that can be established at the local or regional level to address specific community concerns about the police. These bodies may include community representatives, human rights experts, academics, and other stakeholders, with the goal of providing advice and recommendations to police forces on how to improve their practices and community relations. For example, the **Toronto Police Accountability Coalition** is a citizens' group that works to promote police accountability in Toronto, often interacting with local authorities to propose reforms and monitor the implementation of policies.⁶⁹ These **oversight commissions** operate independently of the police force and provide an additional layer of external oversight, helping to ensure that the police respect human rights and operate ethically and transparently.

4. Critical thresholds

Although Canada has historically valued a friendly and collaborative approach between police and communities, deep-seated critical issues emerge that require careful examination and an incisive response. These issues are not only the result of individual behavior, but also reflect structural and cultural problems within police institutions.

⁶⁹ <https://www.tpac.ca>

The critical aspects of Canadian policing pertain mainly to the "classic" American criticality: racism, which is followed by discrimination based on preconceptions and prejudices.⁷⁰

From this perspective, it is imperative to develop and improve, where they already exist, relationships between police and marginalized communities. A friendly and collaborative approach - which has always been valued in Canada, but needs to be renewed and further enhanced in light of current times - makes it possible to reduce crime rates by certain individuals and within certain urban areas, of which - indirectly - the quality of life is definitely improved.

On the formal level, institutional efforts, from the federal to the territorial level, are made to reform the police from within by promoting proper conduct internally and in the performance of duties, responding to investigations, sanctions and public opinion. However, specific issues remain problematic and provide the measure of the social conflicts that are still open in the Canadian legal system and that also affect the work of the police.

4.1. Deaths caused by the use of force by the police

Cases, in recent years, have been on the rise in Canada. The *Tracking Injustice - A living data set tracking Canadian police-involved deaths of 2023* reported a 66.5 percent increase over the previous decade in deaths occurring during or shortly after contact with police; and the data are most troubling in areas where racial prejudice (toward people of color and indigenous people) is pronounced and blatantly manifest. Some of the aforementioned civilian oversight commissions, as anticipated, have flourished precisely as a retort to killings, life-threatening injuries or different but equally serious acts committed by law enforcement agents. What is more, the picture is aggravated by the presumption of credibility of the word of police officers: which has a not inconsiderable weight for the reconstruction of facts, even in court.

4.2. Systemic racism and discrimination

⁷⁰ The Ontario Human Rights Commission describes communities that face racism as "racialized" and devotes extensive discussion to *racist profiling* of police. See <https://www.ohrc.on.ca/en/racial-discrimination-brochure>

One of the most entrenched problems is systemic racism, which manifests itself through discriminatory practices such as ethnic profiling and unjustified violence against black and indigenous communities. These practices not only violate basic human rights, but also fuel a climate of distrust and fear among affected communities. Racism within the Canadian police force has been compared to that found in the United States, albeit with characteristics specific to the Canadian context. Police forces tend to treat these communities with implicit biases, often leading to presumptions of guilt and discriminatory treatment. The need to address and dismantle these practices is urgent, as they undermine the legitimacy of police institutions and compromise their role as community protectors.

4.3. Violence against women

4.3.1. Indigenous Women

Another critical issue is the insufficient police response to cases of violence against indigenous women. The final report of the **Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG)** highlighted serious shortcomings in the investigation and protection offered to these women. The police were accused of negligence, lack of cultural sensitivity and, in some cases, indifference to complaints filed by victims. These shortcomings have had devastating consequences, contributing to the perpetuation of a cycle of violence and impunity. Improving the police response requires not only structural reforms, but also cultural change within the police force, with specific training on indigenous women's rights and sensitive handling of cases of gender-based violence.

4.3.2. Secondary victimization of women in gender-based violence cases and violation of due diligence

Many women who report gender-based violence experience secondary victimization, that is, they are traumatized by the very institutions that are supposed to help them. This can occur because of dismissive attitudes, inadequate handling of evidence or skepticism about victims' testimonies. Police and justice systems are

required by international law to provide due diligence, ensuring that victims receive adequate support and that perpetrators are held accountable.

The Ontario Human Rights Commission released a report on systemic discrimination within the Ontario police, highlighting that women, particularly those from ethnic and indigenous minorities, are often subject to discriminatory practices and negligent handling of their complaints. The report stressed the importance of establishing due diligence standards to ensure that investigations are conducted without bias and with adequate protection for victims. The **End Violence Against Women (EVAW) Network**, which collaborates with various Canadian agencies, has produced studies showing that victims of gender-based violence often experience treatment that worsens their condition. In particular, the report *Mapping Violence* explores the phenomenon of secondary victimization in reporting and investigation processes. Recommendations include the creation of more humane, victim-centered protocols with appropriate training for police officers and judges. The Canadian Ministry of Justice produced *Justice Canada's Report on Intimate Partner Violence (IPV)*, noting that inappropriate case management leads to secondary victimization. The study recommends specific protocols for victims of gender-based violence, with ongoing psychological support and a sensitive reporting process that avoids stressful interrogations and ensures adequate legal protection.

4.3.3. Sexual harassment within the police toward female officers

In Canada, federal and local police forces have been involved in several internal sexual harassment scandals, with cases leading to numerous class action lawsuits. Allegations of sexual harassment and gender discrimination against women within the Royal Canadian Mounted Police (RCMP) have received particular attention, helping to highlight a culture of sexism and discrimination in security institutions. One of the most notorious cases involves a class action lawsuit filed against the RCMP in 2012 by two former officers, Janet Merlo and Linda Davidson, who alleged years of sexual harassment, gender discrimination, and retaliation they suffered for trying to make their voices heard. The complaints included allegations of unwelcome sexual comments and behavior, humiliating treatment, and a culture of secrecy and non-

cooperation that punished those who dared to speak out. In 2016, the RCMP agreed to a \$100 million settlement to compensate victims, officially acknowledging that there was a structural problem within the organization. Another case involved the Toronto Police Service, where officer Alison Toller reported sexual harassment, intimidating behavior, and the spread of a misogynistic and discriminatory culture for years. Officer Toller reported being subjected to sexist jokes and retaliation after she filed her complaint. Her story brought to light the need for internal reforms and support systems for victims within the municipal police. The Vancouver Police Service has also been accused of maintaining a discriminatory culture toward women, with several officers and civilian employees reporting harassment and discrimination. In 2018, some of them participated in a class action lawsuit, alleging a lack of adequate support systems and disciplinary action against assailants.

These cases have led to increased pressure on the Canadian police to implement zero-tolerance policies toward sexual harassment and to improve internal reporting systems. In addition to financial arrangements, police forces have been urged to:

- Establish more effective protocols for reporting harassment: ensuring anonymity and protection for those who choose to report;
- Provide mandatory sexism and discrimination awareness training: with the goal of promoting a culture of respect and gender equality;
- Create independent oversight bodies to monitor behavior within the police force and intervene in cases of misconduct.

4.4. Regulatory inconsistency and legal fragmentation

The justice system in Canada is characterized by marked regulatory inconsistency, with laws and practices varying significantly across provinces and territories. This fragmentation creates inconsistencies in law enforcement, leading to disparities in the treatment of citizens and responses to crimes. Some jurisdictions may apply the law more rigorously, while others may overlook similar problems, undermining public trust in the justice system. A more consistent and coordinated regulatory framework at the national level could help reduce these disparities and ensure more uniform application of the laws.

4.5. Transparency and internal reporting

Despite efforts to improve transparency, such as the use of body cameras and the publication of annual reports, significant gaps in internal reporting and public access to information remain. In many cases, internal reports and investigations of controversial incidents remain opaque, fueling suspicions of a cover-up. This transparency deficit not only erodes public trust, but also hinders improved operational practices within the police force. It is essential to strengthen transparency mechanisms and ensure that internal processes are open to more rigorous public scrutiny.

4.6. Training and outreach

The training of police officers represents another critical issue. Although continuing education programs are mandatory, they often do not adequately address the skills needed to handle cross-cultural conflict situations or to deal with social diversity issues. Lack of specific training on topics such as ethics, diversity management, and gender-based violence prevention limits officers' ability to operate competently and respectfully. Investing in more targeted, high-quality training is seen as crucial to promoting positive change and preventing future abuse.

4.7. Media influence and institutional response

The influence of media coverage on institutional reaction is a factor that cannot be overlooked. Often, it is only when an incident receives wide media visibility that the police and relevant institutions take more stringent corrective action. This phenomenon creates a perception of selective justice, where corrective actions seem more motivated by the need to manage public image than by a genuine commitment to justice. It is considered critical that police accountability be consistently ensured, regardless of media coverage, to maintain public trust and the integrity of the justice system. With regard to the critical threshold for accountability, the question that arises is this: what is the threshold crossed at which a single incident occurring in the course

of policing or a systemic behavioral pattern arouses attention and triggers a reaction (of control: internal or external), such that it elicits an outcry, investigation, detection, and punishment?

The factors that, in this perspective, help to define the line demarcating the materialization, or not, of the investigative-accurate-repressive-punitive reaction are basically: (i) the seriousness of the incident(s); (ii) the visibility of the conduct and its possible recurrence; (iii) the perceptual diffusion (with or without the related protest) among the public; (iv) the accessibility, for the purposes of their practicability, of the instruments of accountability; (v) the transparency of internal procedures; (vi) the adequacy of the applicable legal institutions and their punctiliousness, along with the consistency--unfortunately, fatally flawed by the fragmented nature of the varied federal, provincial, and municipal provisions--of the legal framework; (vii) the level of trust and social confidence placed in law enforcement; and (viii) the mass-media coverage of the event that occurred.

CHAPTER 3

Police Accountability in the United Kingdom

By Ilaria Boiano and Antonino Azzarà*

1. Introduction

The U.K. model of policing quintessentially represents the prototype of *community policing* (in fact also referred to as the Anglo-Saxon model), i.e., a diffuse, highly decentralized type of policing on a territorial basis, marked by managerial autonomy and the pursuit of consensus from the population as a basis for legitimacy. This model contrasts with the continental French-style model, which is typically centralized and militarized. Historically, however, the policing models found in Scotland and Northern Ireland have had characteristics more akin to continental police than community policing-inspired, due to their colonial past.⁷¹

The Anglo-Saxon model of modern policing, which since the establishment of the **Metropolitan Police Service** founded by Sir Robert Peel has been exported with readjustments to specific contexts in the U.S., Canada, Australia, New Zealand and Japan⁷², is based on a close relationship of democratic consensus between the police and the local population. In fact, the so-called bobby, named after Robert Peel himself, performs unarmed police service. For this reason, the Anglo-Saxon model of policing is also referred to as community policing and is shaped as a service for the benefit of citizens rather than an instrument of control as opposed to the population.

Anglo-Saxon policing is connoted by its decentralized and plural character⁷³. Although the top leadership of the police (Chief Constables) are not directly elected by the people as is the case in the U.S., the **Police and Crime Commissioner** (PCC) is elected by universal suffrage following the 2012 reform. The PCC in turn appoints **chief constables**, but among them the principle of operational independence applies whereby the police remain functionally independent of political power to ensure impartiality.

⁷¹ Mawby, R. (1999). *Policing across the world: Issues for the XXI Century*. London: Routledge.

⁷² *Ibid.*

⁷³ Scalia V. (2022). *Policing and policing: between dangerous classes, cultures and knowledge*, in T. Pitch (ed.), *Deviance and the criminal question. Themes, problems and perspectives*, Rome: Carocci.

By virtue of this relationship of trust with the population, the issue of *accountability* has always shaped the Anglo-Saxon model of policing, and in recent years it has become increasingly prominent on the political agenda in the United Kingdom. Indeed, since the 1981 Brixton riots, which were followed by the Scarman Report⁷⁴, attention has been focused on the heavy racial discrimination acted out by the police against the Afro-Caribbean population. In fact, the issue of race remains to this day a key issue in Anglo-Saxon policing.

2. Police model

Today, policing in the United Kingdom is composed of territorial, national, and special forces that together create a complex structure coordinated by a number of central bodies such as the **Home Office** and the National **Police Chiefs Council** (NPCC). There are a total of 48 police forces, of which 43 are territorial police forces in England and Wales, while Scotland and Northern Ireland each have a national police force. Under Section 2 of the Police Act 1996 there is one police force for each district outlined in Schedule 1. These districts roughly trace the boundaries of counties and metropolitan districts. The **Metropolitan Police Service** (MPS) and City of London Metropolitan District Police have specific functional jurisdiction. The MPS is among the oldest police in the world still in operation. Founded by Sir Robert Peel, its creation is generally made to coincide with the birth of modern policing⁷⁵. Moreover, the MPS with its 33,000 officers for a population of about eight million people is the largest police force in the United Kingdom. The **City of London** Police (CoLP), on the other hand, operates in the so-called *square mile* and is the main police force for countering economic crime.⁷⁶

⁷⁴ Documents related to the second phase of the Scarman inquiry were published in November 1981 at the *University of London Library* - <https://archives.libraries.london.ac.uk/resources/MS897.pdf>

⁷⁵ Campesi G. (2009). *Genealogy of public security. Theory and history of the modern police device*. Verona: Ombre corte.

⁷⁶ City of London Police, *City of London policing plan:2020-2023*, p. 2 <https://www.cityoflondon.police.uk/SysSiteAssets/media/downloads/city-of-london/about-us/Policing-Plan-2020-2023.pdf>

In addition to the 41 district police and those of the London Metropolitan District and City of London, there are three special police forces with cross-cutting expertise in certain areas:

British Transport Police: the BTP controls the British rail network and, unlike the other police, reports to the Ministry of Transport rather than the Home Office⁷⁷. The BTP has a presence in England, Wales, and Scotland, while it has been out of service in Northern Ireland since 1983 following the *troubles* between Independents and Unionists⁷⁸. This special police force is financed mainly by the railway industry and only to a lesser extent by public funds.

Civil Nuclear Constabulary: the CNC was established in 2005 as a result of the Civil Nuclear Constabulary - Energy Act of 2004. Its function is to protect civil nuclear sites and radioactive materials during transportation. For this reason it operates mainly near nuclear power plants, research laboratories and related storage facilities. Over time, this police has specialized mainly in counterterrorism activities related to nuclear site sabotage actions. It consists of about 1,500 highly specialized officers equipped with state-of-the-art weapons and equipment.⁷⁹

Ministry of Defence Police: established by the Ministry of Defence Police Act of 1987, the MDP is a national civilian police force that operates primarily in the service of the Ministry of Defence (MOD), but also other UK government departments and NATO partners in the country. Many of the officers in this specialized force hold the title of armed anti-terrorism officers (AFO-CT). Unlike the military police force, and although not part of the Home Office police force, the MDP is a civilian force whose officers have the same policing powers as other British law enforcement agencies.⁸⁰

Despite the high degree of operational decentralization of policing in the United Kingdom, central and coordinating functions are provided by the Home Office on which

⁷⁷ House of Commons Library. (2019). *British Transport Police (BTP)*, Number CBP 3119, May 14 - <https://researchbriefings.files.parliament.uk/documents/SN03119/SN03119.pdf>

⁷⁸ Davison, R. (2013). *The BTP in Northern Ireland*, in "British Transport Police History Group," August https://www.btphg.org.uk/?page_id=8045.

⁷⁹ Civil Nuclear Police Authority. (2023). *Annual Report & Accounts 2022/23*. July 13 - https://assets.publishing.service.gov.uk/media/64afc686c033c1001080622a/CNPA_Annual_Report_and_Accounts_2022-23.pdf.

⁸⁰ <https://www.mod.police.uk/our-force/>

most police forces depend. The Home Office, for example, sets strategic priorities through documents such as the Strategic Policing Requirement (SPR)⁸¹ and coordinates financial resources for local forces. In addition, the Ministry appoints such apex figures as the Commissioner of the Metropolitan Police and the Director General of the Independent Office for Police Conduct (IOPC). A second coordination body among the different territorial police forces is the **National Police Chiefs Council (NPCC)**, which brings together the Chief Officers of each police force in the United Kingdom, the Director General of the National Crime Agency, and the Chief Executive of the College of Policing.

2.1. Office of Constable

Constable status is shared by every police force, regardless of rank or body. Indeed, every constable holds the status of *constable*, which confers the power to prevent, investigate and suppress crime, as well as to protect public order⁸². Constable, being a common law institution, is not governed by written sources that specifically enshrine the duties and responsibilities associated with the role⁸³. In most cases, police officers in England and Wales can exercise these powers throughout the territory of both nations.

2.2. Operational independence

The governance structure of police forces in the United Kingdom is based on the principle of operational independence, which gives police chiefs, the **chief constables**, full responsibility for the operational matters of their forces. Under this principle, chief constables have the power to make autonomous decisions without direct interference, although they are subject to some level of political oversight. Consequently, police officers are also directly accountable to their chief constables and not to political policy-making bodies.

⁸¹ The last SPR was published in March 2015, <https://www.gov.uk/government/publications/strategic-policing-requirement>

⁸² See House of Commons Library. (2020). *Police powers; an introduction*. April, <https://commonslibrary.parliament.uk/research-briefings/cbp-8637>

⁸³ Halsbury's Laws, Vol. 84 (Police and Investigatory Powers), paras 1 and 40; *Rice v Connolly* [1966] 2 Q.B. 414.

Like constable status, operational independence does not have a clear and peaceful legal definition. The *Policing Protocol Order 2011*, in paragraph 35, specifies that operational independence, since it is not defined by rigid legislation, is, by its nature, "fluid and contextual." This means that operational decisions fall within the sphere of "direction and control" of chief constables, which may vary according to the circumstances of the particular case.

The figure of the chief constable reflects the delicate balance between operational independence and subjection to political control. While direct political interference is not expected, it is not completely exempt from political influence. Some areas, such as the organization of police resources and decisions on specific investigations, are recognized as operational and therefore independent prerogatives. However, the line between strictly operational matters and those subject to political influence is not always clear. The *Policing Protocol Order 2011* lists some examples of operational matters that are the police's own responsibility, but it is stressed that the list is purely illustrative, thus leaving room for real gray areas.

Due to its ambivalent nature in relation to the political oversight body and the strong discretion it carries, the concept of operational independence has attracted several criticisms. The *Patten Report* saw a revision of the model in England and Wales inspired by the Northern Irish model derived from the Good Friday Agreement⁸⁴. Thus, it was proposed that the concept of operational independence be replaced with the concept of "operational responsibility," with the aim of enhancing the concept of accountability as a balancing tool against broad discretion to protect independence, i.e., acting independently while being responsible for one's actions.

2.3. Policing by consent

The British model of policing based on consensus is developed through constant interaction between the police and the population. The key concept from which this vision of *policing* stems is that the legitimacy of the police derives not from a vertically

⁸⁴ Independent Commission on Policing for Northern Ireland. (1999). *A new beginning: policing in Northern Ireland*, September, pp. 32-33 - <https://cain.ulster.ac.uk/issues/police/patten/patten99.pdf>

imposed type of authority, but from the consensus that the police are able to obtain from the population about their actions.

This principle dates back to 1829, when the *nine general instructions*⁸⁵ were introduced for the first Metropolitan Police Service (MPS) officers, known as the **Peelian Principles**, named after Sir Robert Peel, Secretary of the Interior at the time of the founding of the MPS.

According to these principles, the police lose their legitimacy the moment they no longer enjoy community support. This consensus, however, is not maintained by populistically pandering to public opinion, but by ensuring impartial law enforcement along with a use of force limited to what is strictly necessary.

Some of the most important tools through which the police build direct contact with the community are *beat* meetings (direct meetings with residents) and *Independent Advisory Groups* (composed of community representatives). These forums allow citizens to express opinions and receive updates on local policies.

Finally, citizens have the opportunity to influence police priorities through voting. In England and Wales, **Police and Crime Commissioners** (PCCs) and **Deputy Mayors** play a crucial role to the extent that they set local goals for police chiefs and monitor the effectiveness of their actions so that they are in line with community expectations.

3. Scotland and Northern Ireland

In Scotland and Northern Ireland, police management is part of the so-called delegated powers⁸⁶. This allows the Scottish and Northern Irish governments greater management independence from the central government. Despite this autonomy, **Police Scotland** and the **Police Service of Northern Ireland** (PSNI) share many characteristics with English and Welsh forces.

⁸⁵ <https://www.gov.uk/government/publications/policing-by-consent/definition-of-policing-by-consent>

⁸⁶ *Devolved* matters are those areas of government where the UK Parliament has transferred decision-making competence to specific institutions such as the Scottish Parliament, the Welsh, Northern Ireland and London Assemblies, or other local government bodies. See <https://www.gov.uk/guidance/devolution-of-powers-to-scotland-wales-and-northern-ireland>

3.1. Scotland

One element that distinguishes the Scottish policing system from that of England and Wales is the presence of the **Scottish Police Authority (SPA)**, a public institution independent of both government and the national police. Established as a public body on April 1, 2013 as a result of the *Police and Fire Reform (Scotland) Act 2012*, this organization was created to ensure the accountability of the chief constable, promote and support the improvement of policing, as well as oversee its effectiveness. It is also responsible for the management and delivery of Forensic Services in Scotland and the *Independent Custody Visiting Scotland* program. The complaints handling system is entrusted to the **Police Investigations & Review Commissioner (PIRC)**, an independent body that reviews complaints and conducts investigations into specific incidents involving Police Scotland, filling a similar role to the Independent Office for Police Conduct (IOPC) in other parts of the United Kingdom. In parallel, **Her Majesty's Inspectorate of Constabulary Scotland (HMICS)** assesses the overall performance of the police force and monitors the work of the SPA.

3.2. Northern Ireland

The national police service in Northern Ireland is vested in the **Police Service of Northern Ireland (PSNI)**, which reports to the Northern Ireland government's Ministry of Justice. Established in 2001 to replace the Royal Ulster Constabulary (RUC) as part of the peace process and political reforms that followed Good Friday Agreement of 1998. This transition was intended to create a police force that was more representative and accepted by the population, especially the Catholic and nationalist community, which in the past had often perceived the RUC as sectarian⁸⁷. The PSNI operates under the supervision of the **Northern Ireland Policing Board**, an independent body designed to ensure that the police act in the best interests of the entire community. In addition, the PSNI's *accountability* system includes the **Police Ombudsman for Northern Ireland**, charged with independently investigating complaints against the police.

⁸⁷ David, O., & Hugh, F. (2017). *An Illustrated History of the Police Service in Northern Ireland and Its Forerunners: From Peel to Psni*. Hill - Gloucestershire: Amberley Publishing Plc.

4. Accountability Model

Accountability in the UK is implemented by a network of actors and tools designed to monitor, regulate, evaluate and sanction police performance, taking into account local and national needs. Those involved often have the ability to operate on both organizational and individual *accountability*.⁸⁸

The main actors involved in the accountability model are as follows:

- **Police and Crime Commissioners (PCCs)**: elected locally in England and Wales, they set police priorities in their areas, monitor performance and manage financial resources. As such, they monitor police performance according to the criteria of effectiveness and efficiency against their own policy directions.⁸⁹

- **The Independent Office for Police Conduct (IOPC)**: is an independent body that collects complaints about cases of police abuse. It also makes recommendations for improving operational practices to prevent such conduct by providing evaluations on the entire complaint system. It is headed by a Director General appointed by the crown at the suggestion of the Home Office.

- **Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)**: was established in 1856 and is one of the main institutions in the police force system, along with the Home Office. This body plays a crucial role in ensuring the efficiency, effectiveness and legality of the police force by supervising its activities, conducting thorough inspections and submitting detailed reports. Although it focuses primarily on Home Office police forces, it can also extend to other police forces when requested. Periodically evaluates police forces on the three basic pillars of policing (i.e., effectiveness, efficiency and legality) by providing recommendations to address any critical issues. It exercises its powers of control and supervision over the police forces of England, Wales, and Northern Ireland. It consists of a Council composed of a Chief Inspector, three Inspectors, an Assistant HMI and a Chief operating officer. Inspectors,

⁸⁸ On this distinction compare Jones, T. (2012), *The Accountability of Policing*, in T. Newburn (Ed.). *Handbook of Policing*. Abingdon: Routledge, pp. 694- 724 and Campesi, G. (2024). *What is policing? A critical introduction*. Bologna: DeriveApprodi.

⁸⁹ Choose My PCC, *About police and crime commissioners and police, fire and crime commissioners* <https://www.choosemypcc.org.uk/about-pccs/>

upon appointment, assume the status of Inspectors of Constabulary under Section 54 of the Police Act 1996 and Inspectors of Fire and Rescue Authorities under Section 28 of the Fire and Rescue Services Act 2004.

- **Home Office:** Finally, the Ministry of the Interior can exercise interference in the management of police agencies that are deficient in effectiveness, efficiency and legality to address issues that cannot otherwise be resolved.⁹⁰

4.1. Organizational Accountability

As mentioned earlier, the concept of operational independence gives the figure of the *constable* the power to act autonomously to ensure impartiality. However, this independence does not exclude the obligation to follow the general guidelines set by the political bodies, which define the strategic priorities of police policies. The territorial policy-making body par excellence, which stands at the apex of individual police forces, are the **Police and Crime Commissioners** (PCCs), which are subject to several mechanisms of democratic accountability. First, since they are composed of politicians elected directly by the electoral body, they are subject to a form of accountability that takes the form of a choice at the ballot box that occurs every four years.⁹¹

In addition to elections, PCCs are subject to formal oversight by **Police and Crime Panels** (PCPs), composed of **local councillors**. These bodies act as oversight committees, monitoring the work of PCCs between election rounds, similar to how parliamentary committees act vis-à-vis the central government.

The Home Office has the power to take direct action against CCPs it considers to be deficient in effectiveness. In addition to these official means, PCCs, like all political bodies, are also accountable to the public. Some, in fact, have voluntarily chosen to resign during their term of office.

Also on the organizational accountability side, the other two supervisory authorities also perform directing functions. Specifically, HMICFRS evaluates the police

⁹⁰Brown, J. (Ed.). (2021). *Policing in the UK*. House of Commons Library, p.13 - <https://researchbriefings.files.parliament.uk/documents/CBP-8582/CBP-8582.pdf>

⁹¹ The last election, originally scheduled for May 2020, was postponed to May 6, 2021 due to the coronavirus pandemic.

in England, Wales and Northern Ireland annually through reports in which it scores each police force based on the criteria of effectiveness, efficiency and legitimacy.⁹²

Through inspections and based on complaints, HMICFRS identifies areas for improvement or *causes for concern*, or critical areas that can be improved through recommendations⁹³. PCCs are required to comply with these recommendations. However, it is the Home Office that has the power to issue binding directives to PCCs, and not HMICFRS.

Inspections can take place independently or be commissioned by the Home Office. In the latter case, the inspection often concerns structural problems involving the country's entire police system.

4.2. Individual Accountability

Accountability, in its individual dimension, refers to "the mechanisms through which incidents of misconduct, if any, are identified and sanctioned once they have occurred."⁹⁴ Complaint is the key instrument through which incidents of misconduct are brought to the attention of police oversight authorities. The complaint can be addressed to the three institutions mentioned above, namely: Independent Office for Police Conduct, Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, and also to the Police and Crime Commissioners. Of these, the IOPC has the function of investigating the most serious complaints, including cases of death following police intervention⁹⁵. The IOPC also monitors the complaint system and recommends solutions regarding systemic circumstances that may foster incidents of misconduct. Also subject to observation and evaluation by the IOPC is the entire complaint system in order to identify its weaknesses and propose improvements.⁹⁶

⁹² The reports can be found at <https://www.justiceinspectors.gov.uk/hmicfrs/peel-assessments/peel-2018/>. The latest report on the state of the police force is based on inspections conducted between March 2020 and March 2021 (<https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/state-of-policing-2020.pdf>)

⁹³ <https://www.justiceinspectors.gov.uk/hmicfrs/peel-assessments/how-we-inspect/>

⁹⁴ Campesi, G. (2024), cited above, p. 75.

⁹⁵ Brown, J., (Ed.). (2021). *Policing in the UK*. House of Commons Library : <https://researchbriefings.files.parliament.uk/documents/CBP-8582/CBP-8582.pdf>

⁹⁶ Ibid, pp. 15-16.

The complaint process consists of four stages. In the first stage, the complaint is registered by the receiving authority, which assesses whether the misconduct exposed is likely to constitute a criminal report. Second, the receiving authority must assess whether the complaint is worthy based on its seriousness of being brought to the attention of the IOPC. For particularly serious conduct, forwarding to the IOPC is mandatory. After this preliminary stage of qualifying the seriousness of the conduct, initial investigations are made into what is narrated in the complaint. Finally, the complainant is asked to decide whether the final examination of the complaint should be reviewed by the IOPC or the relevant PCC.

Where misconduct while not constituting a crime is likely to undermine the public's trust in the police, disciplinary action may be taken against the officer or officers. Disciplinary sanctions may consist of written warnings, demotions or dismissal.⁹⁷

4.3. Critical thresholds

IOPC's analysis of complaints revealed several critical issues about the real effectiveness of this *accountability* tool. Since 2013, only 0.7 percent of officers accused of misconduct have been fired⁹⁸. In addition, the threshold for determining the filing of a complaint with the IOPC has been found to be too high, going in fact to coincide with the integration of criminal conduct⁹⁹. Added to this is the fact that the average time for processing a complaint is particularly long, taking into account that it takes approximately 400 days for a complaint to be settled. Finally, the discretion left at the initial stage of the procedure with respect to the authority responsible for examining complaints results in most of them being examined by the same police force to which the complaining officer belongs.¹⁰⁰

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https://assets.publishing.service.gov.uk/media/5e3ae3efed915d09378bf705/Home_Office_Statutory_Guidance_0502.pdf

⁹⁸ <https://www.met.police.uk/SysSiteAssets/media/downloads/met/about-us/baroness-casey-review/baroness-casey-review-interim-report-on-misconduct.pdf>, pp. 3-9.

⁹⁹ Ibid, p. 14.

¹⁰⁰ Ibid, p. 26.

5. Regulatory framework

In the United Kingdom, the legal framework structuring the mechanisms of accountability, sanction and redress for police misconduct and misconduct is complex and ordered on several hierarchical levels. It consists, in fact, of international norms, national laws, regulations and codes of conduct, each with a specific role in defining the responsibilities and operational limits of police officers.

At the international level, in addition to the UN Conventions¹⁰¹, primary reference is the **European Convention on Human Rights (ECHR)** ratified by the United Kingdom in 1951 and implemented in the British legal system through the **Human Rights Act of 1998**. This act guarantees fundamental rights and freedoms and requires police forces to respect rights such as life (Article 2), liberty and security (Article 5) and respect for privacy (Article 8).

It is also worth mentioning the **European Code of Police Ethics**¹⁰², approved by the Council of Europe, a code which, although not binding, is an authoritative and recognized reference for defining guiding principles for ethical police conduct, such as respect for human rights and proportionality in the use of force, as well as for monitoring the effectiveness of accountability systems.

At the national level, in addition to the aforementioned **Human Rights Act of 1998**¹⁰³, it is worth mentioning the **Police and Criminal Evidence Act (PACE) of 1984**¹⁰⁴, a key law regulating the powers and procedures of the police in England and Wales. The following are some of the key provisions governing police action and the protection of citizens' rights:

Article 1 - Stop and Search Powers: This article gives the police the power to stop and search people and vehicles if there is "reasonable suspicion" that a person possesses illegal items, such as weapons, drugs or stolen property. The law stipulates that the use of this power must be justified by specific suspicions and not by bias or discriminatory reasons, with the aim of preventing abuse and discrimination.

¹⁰¹ As of the *United Nations Code of Conduct for Law Enforcement Officials* (1979).

¹⁰² <https://rm.coe.int/the-european-code-of-police-ethics-pdf/1680b003e0>

¹⁰³ <https://www.legislation.gov.uk/ukpga/1998/42/contents>

¹⁰⁴ <https://www.legislation.gov.uk/ukpga/1984/60/contents>

Article 8 - Search Warrants: Article 8 regulates the issuance of search warrants, specifying that the police may seek permission from a magistrate to enter a home and search if there is reasonable suspicion of criminal activity. This article also establishes the limits of these powers and the need for justification based on concrete evidence.

Article 17 - Access to Evidence and Wanted Persons: Article 17 allows police to enter a home without a warrant under specific circumstances, such as to arrest a person suspected of a serious crime, to protect a life in danger, or to prevent serious damage to property. This article requires the police to operate within a framework of necessity and proportionality.

Article 24 - Powers of Arrest: Article 24 regulates the power of arrest without a warrant, defining the conditions under which it is lawful and appropriate to arrest a person. According to PACE, the police must have reasonable grounds to believe that arrest is necessary, such as to prevent harm, prevent flight, or protect evidence essential to the investigation.

Articles 30-37 - Detention and Custody: These articles establish the conditions for detention in custody, ensuring that the rights of detainees are respected. Arrangements for the registration of detainees and their rights during detention are specified, such as the right to counsel, the right to regular recess, and review of the case by a superior officer.

Article 54 - Search of Detainees: regulates the search of detainees for security and preventive purposes to ensure that they do not have dangerous or illegal objects with them. The search shall be conducted in a respectful and appropriate manner, taking into account the dignity of the detained person.

Article 60 - Surveillance of Interrogations: the PACE also establishes the need to record and monitor interrogations with suspects to ensure the integrity of statements. This article serves to prevent coercion and abuse during interrogations by ensuring the transparency of investigations and the reliability of evidence collected.

The **Equality Act of 2010**¹⁰⁵ prohibits discrimination on the basis of "protected characteristics," such as age; disability; gender reassignment; marriage and civil union; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. The law

¹⁰⁵ <https://www.legislation.gov.uk/ukpga/2010/15/part/2/chapter/1>

imposes an obligation on the police to treat every individual with fairness and respect. Any discriminatory act may be subject to legal action for determination of liability and for compensation and redress.

It is also worth mentioning the **Data Protection Act of 2018**, which covers the processing of personal data by the police and sets strict restrictions to protect citizens' privacy. Any inappropriate use of personal data can lead to penalties.

Officers can be criminally prosecuted for serious abuses, such as violence and discrimination, under common criminal law. The Crown Prosecution Service evaluates the evidence to determine whether there is a sufficient basis for indictment. Victims of police misconduct can seek compensation through civil lawsuits for physical injury, moral damage, and economic loss. Vicarious liability allows police to be sued for the actions of their officers, securing damages even when the officer is not directly responsible.

There are, in addition, **secondary legislation and regulations**, such as the **Police Conduct Regulations of 2020**, which govern the behavior of officers by setting standards of professional conduct and providing disciplinary sanctions for those who violate the regulations, as well as the College of Policing's **Training and Professional Development Regulations**, by which requirements for ongoing training of officers on topics such as human rights, use of force, and evidence management are established. Failure to adhere to the training standards may result in disciplinary action.

Finally, references for conduct are the **College of Policing's Codes of Ethics and Practice**, which set the unavoidable ethical standard, violation of which can lead to disciplinary sanctions, and the **PACE Codes of Practice**, attached to the Police and Criminal Evidence Act, which offer detailed guidelines on searches, arrests, and interrogations. Violations can lead to sanctions, and noncompliance can adversely affect the legitimacy of evidence collected.

The **National Police Chiefs' Council (NPCC)** issues operational guidelines that, while not as binding as laws, strongly influence police practices. Its guidelines cover a wide range of topics, such as the treatment of vulnerable people and the handling of protests, while the **Independent Office for Police Conduct (IOPC)** issues guidelines

for handling complaints against the police and conducts independent investigations into serious cases of misconduct.

A review of the accountability system was recently announced by the British government in light of the monitoring conducted by Dame Louise Casey and Lady Elish Angiolini¹⁰⁶, to restore communities' confidence in the police and ensure that officers have the security they need to perform the delicate task of ensuring safety¹⁰⁷.

Among the measures announced were:

- Law enforcement officers authorized to carry firearms, if charged with crimes, are entitled to the "presumption of anonymity," meaning their names and other personal information will not be made public until there is a final conviction in court.

- Raising the threshold for reporting officers to the Crown Prosecution Service (CPS) by the Independent Office for Police Conduct (IOPC), only in cases where there is a reasonable prospect of conviction.

- An expedited review of the criteria for evaluating situations in which a police officer causes the death of a person **unjustifiably or as a result of using force disproportionately and out of necessity, thus in a manner not in accordance with the law** (cases of manslaughter or voluntary manslaughter).

- A review of the CPS guidelines on offenses committed by officers while on duty.

- Creation of a national database of lessons learned in cases of death or serious injury after contact with the police.

- Codification of the right to review IOPC decisions for victims.

The Secretary of State for the Department of the Interior (**Home Secretary**), announced reforms to address fundamental problems in police evaluation and conduct processes.

¹⁰⁶ Home Office. (2024). *New reforms to boost confidence in police accountability system*. <https://www.gov.uk/government/news/new-reforms-to-boost-confidence-in-police-accountability-system>

¹⁰⁷ Angiolini, E. (2024). *Angiolini Inquiry: Independent inquiry into issues raised by the case of Sarah Everard*. London: Home Office. https://assets.publishing.service.gov.uk/media/65e05420cf7eb1b0e5f57eff/E02740018_Angiolini_Inquiry_HC_530_Accessible.pdf

6. Issues

The urgency of deep reforms to strengthen accountability and transparency of the British police is now at the center of public debate. Issues such as systemic racism, misogyny, protest management, and misconduct pose crucial challenges to the UK justice system, revealing the need for cultural change beyond disciplinary sanctions or more restrictive regulations. Addressing these issues requires structural interventions and an overhaul of the way law enforcement interacts with diverse communities, ensuring an inclusive and civil rights-friendly approach.

6.1. Dismissals for misconduct

Between April 2023 and March 2024, nearly 600 officers were fired for various forms of misconduct, marking a 50 percent increase over the previous year. The most serious allegations that led to the dismissals included sexual assault, possession of child pornography images and discriminatory behavior.¹⁰⁸

This dramatic increase in layoffs has highlighted some internal structural problems, such as ineffective **internal oversight and accountability** to identify and resolve misconduct issues early. The high levels of layoffs also reflect a response to public pressure for transparency and justice. However, the use of dismissals may be a belated measure and symptomatic of deeper problems in police culture and practices. This has led to initiatives to strengthen selection protocols and procedures for monitoring officer behavior. Police leaders also stressed the importance of continuous monitoring tools and a corporate culture that incentivizes ethical behavior.

6.2. Systemic racism and discrimination

The case of Chris Kaba, killed by police in London in 2022¹⁰⁹, highlighted the problem of systemic racism in policing practices. Kaba, an unarmed young black man, was killed during a policing operation. The case sparked widespread protests and calls for reform,

¹⁰⁸ College of Policing. (2024). *Police dismissals: 2023-2024*. <https://www.college.police.uk/ethics/barred-list/police-dismissals-2023-2024>

¹⁰⁹ The Guardian. (2024, October 21). *What we now know about the 13 seconds before Chris Kaba was shot*. <https://www.theguardian.com/uk-news/2024/oct/21/what-we-now-know-about-the-13-seconds-before-chris-kaba-was-shot>

considering that the practice of ethnic profiling is one of the most controversial issues in British policing, which still focuses with disproportionate frequency on policing people from black and minority communities. The Kaba case also revived critical thinking about the use of force against ethnic minority people, often without concrete evidence or immediate threats to public safety.

6.3. Protest management and new police powers

With the growing number of environmental demonstrations in the United Kingdom, the government implemented new regulations in July 2023 to ensure law and order. These powers allow the police to take stricter action against protesters belonging to groups such as "Just Stop Oil" and "Extinction Rebellion." With the expanded powers, there are reports that the police may make more aggressive and militarized use of force, leading to more confrontational management of demonstrations. Indeed, the new powers given to the police have raised concerns about the right to freedom of expression and protest, which is severely restricted according to human rights organizations and activist individuals engaged in environmental awareness and protest actions.

In response, several organizations have called for a review of the regulations, instead proposing mediation measures and protocols to balance public safety and respect for civil rights.

6.4. Misogyny and gender-based violence within the police.

A survey conducted in 2021 revealed serious deficiencies in the handling of cases of gender-based violence and sexual harassment within the Metropolitan Police¹¹⁰. This study, covering the period 2012-2018, brought to light the magnitude of sexual harassment allegations made against members of the police themselves, but only a small proportion of these allegations (119 out of 600) were upheld and properly investigated. This imbalance between allegations received and disciplinary action taken

¹¹⁰ Casey, L. (2023). *Final report: An independent review into the standards of behavior and internal culture of the Metropolitan Police Service.* Metropolitan Police Service. <https://www.met.police.uk/SysSiteAssets/media/downloads/met/about-us/baroness-casey-review/update-march-2023/baroness-casey-review-march-2023a.pdf>.

highlighted an internal culture characterized by tolerance and, in some cases, omertà toward inappropriate behavior.

Several factors appear to contribute to this issue, including a **culture of tolerance** that downplays the seriousness of sexual harassment within the police force; a **lack of effective reporting mechanisms** for internal victims who still fear retaliation as a result of their complaints. Also noted was the lack of meaningful actions in response to allegations, which confirms distrust in the adequacy of the adequate internal accountability system.¹¹¹

¹¹¹ *Ibid.*

CHAPTER 4

Police Accountability in Germany

by Ilaria Boiano

1. Introduction

In Germany, **homeland security** and **crime fighting** reflect a complex and layered system rooted in a long legal and organizational tradition. The structure of **security policies** is based on a multilevel division between the **Bund**, the **states** and the **municipalities**, each with specific competencies and complementary roles. At the federal level, the approach traditionally privileges **the repressive** function of punishment over **prevention**, a principle rooted in **German criminal law**. This orientation is based on central concepts such as **free will**, **guilt** and **culpability**, making criminal law an instrument of last resort, applicable only when other forms of **social control** are ineffective or disproportionate to the seriousness of crimes.

The Police, within this framework, play a **subsidiary** role in the prosecution of crimes, serving as an auxiliary body to the **Office of the Prosecutor General**, which is primarily responsible for criminal prosecutions. Only in the most serious cases, such as terrorism, organized crime or hateful crimes, does the Prosecutor take a direct role, leaving the Police to conduct the preliminary investigation. However, since the 1990s, a gradual change has been observed, with increasing recognition of **prevention** as a priority objective. This process has broadened the scope of Police intervention, strengthening their role in **primary prevention** and in combating complex phenomena such as organized crime.

Prevention has found particular development at the **municipal** level, with the introduction of a "**Neighborhood Police**," designed to be closer to citizens and focused on **conflict** resolution rather than mere repression. This **proactive** approach has fostered the integration of security into **local communities**, involving citizens themselves as active players in creating a safe environment. This development has been realized through increasing **cooperation** between the **federal state**, **states**, and **municipalities**, which have combined traditional **repressive** measures with new

preventive strategies. Despite this progress, challenges related to a certain **bipolarity** of the system persist: while the **Bund** continues to strengthen the repression-prevention pair, the **states** and **municipalities** focus on **decentralized** forms of **social control** and interventions geared toward **social prevention**.¹¹²

At the **legislative** level, major **reforms** have responded to new criminal and social challenges. In the 1970s, **counterterrorism** laws provided a necessary response to domestic threats, while the 1990s saw a proliferation of regulations aimed at combating **drug trafficking** and **organized crime**. At the same time, there has been **decriminalization**, especially in **juvenile criminal law**, with the introduction of measures such as **mediation** and **diversion**, i.e., the set of alternative measures to the criminal trial that aim to "divert" a person accused of a crime from the traditional justice system to educational, social or rehabilitation programs in order to avoid formal criminal proceedings or conviction.

However, these innovations have not always been balanced with the strengthening of **criminal sanctions**, which is particularly evident in **tertiary prevention**.

Security policy planning, led by the **Ständige Konferenz der Innenminister und -senatoren der Länder**, has defined a new security concept based on the integration of **repression** and **prevention**. This model is based on close **cooperation** between **police, civil and military intelligence services** and the coordination of preventive strategies. Despite progress, **structural** and **technical** obstacles remain that complicate the linear and homogeneous development of security policies. The **federal state** continues to promote **repressive** measures and criminal policies, while the **states** and **municipalities** pursue broader social control based on subjective perceptions of **security** and local interventions.¹¹³

In this context, citizen involvement becomes central, through **social** and economic **prevention** practices. Germany, therefore, faces a transformative phase in which balancing **repressive** tradition and **preventive** innovation is the key to responding to

¹¹² Feltes, T. (2014): Challenges of rural policing in Germany. *Policing and Society*, 24(3), 345-362. Bielejewski, A. (2023): *Holding down the Fort: Policing Communities and Community-Oriented Policing in Rural Germany*. Cham: Springer.

¹¹³ Bielejewski, A. (2023): *Holding down the Fort: Policing Communities and Community-Oriented Policing in Rural Germany*. Cham: Springer.

new criminal challenges and ensuring **inclusive and effective security**. **Police** accountability is part of this complex framework, with law enforcement functions divided among different levels of government. Transparency and protection of human rights are primary goals of the police accountability system, but issues remain related to federal fragmentation and lack of standardization across states. To address these challenges, the implementation of structural reforms and accountability policies at the federal level could strengthen integrity and public trust in German police forces.

2. Police model

2.1. The federal law enforcement system

In Germany, the basic principle is that of the competence of the states under the terms of Article 30 of the Constitution, policing is the affair of the states; however, the general principle sees three exceptions: the **Bundesgrenzschutz- BGS** (Service in charge of the defense of the federal state borders), the **Bundeskriminalamt- BKA** (Federal Crime Office), and the **Bundestagsinspektion** (Inspection of the Bundestag). Federal police forces operate under the supervision of the **Bundesministerium des Innern und für Heimat, BMI** (Federal Ministry of Interior and Homeland).

Bundespolizei (BPOL)¹¹⁴ : is responsible for border protection, the security of rail and air transport networks, and the protection of critical infrastructure. It also provides support to the police forces of the individual states in emergency situations or for special operations. It is subordinate to the Ministry of the Interior and is headquartered in Potsdam, Brandenburg.

Bundesgrenzschutz, BGS: Germany's Federal Border Police was established in 1951 as a paramilitary force tasked with ensuring internal security during the Cold War period. Its transformation into a modern police force, renamed Bundespolizei (federal police) in 2005, marked a significant evolution in its functions and responsibilities. An interview with Werner Heinrich Schumm, former deputy chief of staff of the BGS, highlighted how this force handled complex tasks, including border control, rail and air security, and support operations in the international arena. Schumm described the BGS's transition from an organization with strong military characteristics to a civilian

¹¹⁴Bundespolizei. *Bundespolizei: [Homepage](#)*.

institution, highlighting the central role of training, international collaboration and structural reforms.¹¹⁵

These developments have enabled the Bundespolizei to adapt to the security needs of a Germany that is increasingly integrated into the European Union, with a growing focus on external border control and the fight against transnational crime.

Bundeskriminalamt (BKA)¹¹⁶: is the federal agency in charge of investigating serious crimes such as terrorism, organized crime and international drug trafficking. It functions as the central office for cooperation between federal and state police forces and represents Germany at international organizations such as Interpol and Europol. It is headquartered in Wiesbaden, with offices in Berlin and Bonn. Its establishment dates back to March 1951, when the Gesetz über das Bundeskriminalamt und die Zusammenarbeit des Bundes und der Länder in kriminalpolizeilichen Angelegenheiten, abbreviated as **BKAG** (Law for the Establishment of a Federal Criminal Police Office), came into force. Shortly thereafter, the Kriminalpolizeiamt für die Britische Zone (Criminal Police Office for the British Zone) in Hamburg was transformed into the Bundeskriminalamt (Federal Criminal Police Office). This institution responded to the mandate of the German Constitution, which authorized the establishment of central agencies at the federal level for the management of police information and communications, as well as for criminal police activities. Wiesbaden was designated as the headquarters of the new institution in the same year.

The development of the Bundeskriminalamt as the Federation's criminal police over the course of more than 50 years is linked to the evolution of national and international crime and the specific role of the BKA within the security system in Germany, Europe, and the world.

In the early years, the BKA's work focused on building itself as a central national police agency and on international cooperation. In the 1970s and 1980s, the terrorist activities of the **Rote Armee Fraktion (RAF)** had a decisive impact on the work of the

¹¹⁵Schumm, W. H. (Ret.), & Harnischmacher, R. F. J. (2010). Interview with leading police director: Deputy Chief of Staff of the Federal Border Police of the Federal Republic of Germany. In O. Marenin & D. K. Das (Eds.), *Trends in policing: Interviews with police leaders across the globe, Volume Three* (pp. 161-ff.). Milton Park: Taylor & Francis Group.

¹¹⁶ Bundeskriminalamt (BKA). Homepage https://www.bka.de/EN/Home/home_node.html.

Bundeskriminalamt. Since the mid-1980s, in addition to combating terrorism, the BKA has focused on the growth of international drug trafficking and the expansion of organized crime. The reunification of Germany and European unification in the late 20th century marked a turning point for the BKA, which faced new challenges arising from rapid technological progress, particularly in the areas of information and communications, which were also used by criminals. After September 11, 2001 terrorist attacks in the United States, the fight against international terrorism became the focus of global security policies. This has forced security agencies, both national and international, to review their organizations and interactions with other agencies in the security system.

The reorganization of the State Security Division within the BKA has significantly strengthened investigative capabilities against international terrorism. The Federal Crime Bureau since 1994 has established a service dedicated to **Police Crime Prevention and Public Relations**. This service is responsible for collecting, analyzing and disseminating information on national and international prevention models, promoting research projects and serving as an exchange platform for those involved in crime prevention.

The **prevention information hub**, established in 1995, aims to identify gaps and priorities in prevention research by facilitating cooperation between police and other institutions.

In December 2004, the **Gemeinsames Terrorismusabwehrzentrum- GTAZ** (Joint Center for Countering Terrorism) was established at the Berlin headquarters, where information on international terrorism is collected and analyzed by different agencies. This step forward was completed with the creation of the **Internationale Koordination** (International Coordination) division in January 2005 to further enhance cooperation with international partners.

The Bundeskriminalamt has more than 7,000 employees from 70 different professional fields.

Bundesministerium des Innern und für Heimat- BMI (Federal Ministry of the Interior and Homeland): is responsible for the supervision of the federal police force, ensuring centralized standards for the management and monitoring of homeland

security operations. In addition to the supervision of police forces, the ministry deals with issues related to national security, constitutional protection and emergency management.

2.2. The State law enforcement system

In Germany, the management of security and crime prevention is characterized by a complex, multilevel organization in which each **Land** operates its own **state police force**, responsible for maintaining law and order and prevention at the regional level. These bodies operate following Land-specific regulations, but within a federal regulatory framework. Each German Land has its own state police force, responsible for most **law enforcement** and public order maintenance at the regional level. The police forces of the states comprise two main branches:

- **Schutzpolizei (Public Order Police)**: Manages daily security, patrolling and emergency situations.

- **Kriminalpolizei (Investigative Police)**: Handles the investigation of the most serious crimes, such as murders and economic crimes.

State police follow their own regulations, set by state governments, but operate within the federal regulatory framework. Decentralization provides flexibility in responding to local needs, but can create discrepancies between regional states in terms of priorities and resources.

2.3. The local law enforcement system

At the local level, there are a number of auxiliary forces that deal mainly with administrative tasks, such as traffic management and urban surveillance. These corps are generally not involved in matters of public order or serious crime, but cooperate with state forces.

The police, at the regional and municipal levels, assume a crucial role in balancing the functions of **repression** and **prevention**, which are the two basic tools of criminal law.

Prevention is distinguished into **general prevention** and **special prevention**. The former has a collective deterrence function: sanctions and punishments not only aim

to deter citizens from committing crimes, but also to legitimize the criminal justice system and foster acceptance of norms. Special prevention, on the other hand, is individualized, focusing on resocialization of offenders and deterrence from recidivism. At the operational level, a distinction between **positive prevention** and **negative prevention** is evident. Positive prevention is supported by extra-criminal norms, such as those in social legislation, which act on the primary causes of deviance, while negative prevention is based on deterrence resulting from criminalization.

The different stages of prevention are divided into three main levels:

- **Primary prevention** involves socioeducational measures or policies that address the root causes of deviance, such as policies for social integration, urbanization and national education. This stage focuses on systemic interventions that reduce risk situations and create a social environment less conducive to crime.
- **Secondary prevention** focuses on people at risk, implementing measures such as slum clearance, community policing and traffic control. It is a form of prevention directed at the manifestation of crime and often involves the police in an active role.
- **Tertiary prevention** targets offenders, using sanctions and corrective measures to prevent recidivism.

Despite the articulation between primary, secondary and tertiary prevention, the German federal structure presents **challenges in coordination between levels of government**. The distinction between police prevention and municipal prevention is not always clear, as the latter often results in a local declination of traditional police prevention. This is compounded by organizational and financial difficulties, prompting many municipalities to delegate the direction of prevention projects to the police, maintaining an overlap between administrative and operational responsibilities.

At the municipal level, security and public order are entrusted to local departments that collaborate with state police forces. Municipal governments manage crime prevention initiatives through **Ordnungsämter** (public order offices), which regulate aspects such as licensing and control of commercial and urban planning activities.

The Revierpolizei is a distinctive element of community policing in the state of Brandenburg, which is characterized by a large geographic area with a relatively small population and high population dispersion. Unlike Berlin, which shares a border and

employs about 25,000 officers for an urban population of 3.5 million, Brandenburg employs about 8,000 officers to cover a larger, mostly rural area with a population of only 2.5 million. This imbalance directly affects the distribution of resources and the ability of the police to respond effectively to local community needs.

Brandenburg's police system has multiple hierarchical levels, with 14 Ländkreisen and four independent cities, further divided into four **Polizeidirektionen** (North, South, East, West). Under these directorates operate the **Polizeiinspektionen**, which are responsible for the day-to-day activities of patrolling, emergency response, crime prevention, and community contact through specialized units such as the Revierpolizei. In an environment where violent crimes are rare and the resolution rate for crimes against life is 100 percent, the work of the Revierpolizei focuses accordingly on petty crime, trafficking and prevention.¹¹⁷

The Revierpolizei emerges as a key pillar of community policing. The main tasks include:

1. Direct contact with the public (e.g., schools, nursing homes);
2. Traffic monitoring and road safety;
3. Management of citizens' complaints;
4. Prevention activities, including raising awareness against political and juvenile crime.

Revierpolizei officers, while technically part of the Schutzpolizei, work with a significant level of autonomy. They often operate in rural areas with low population density, where each agent may be responsible for more than 4,500 residents spread over remote villages. This autonomy results in more personal interaction with local communities, strengthening social ties but also exposing agents to logistical challenges.

One of the main obstacles to police work is the phenomenon of population decline. Since German reunification, the population of many rural areas of Brandenburg has declined by nearly a quarter. Youth emigration to larger cities and the resulting aging

¹¹⁷ Polizeipräsidium Brandenburg. (2014). *Polizeistatistik Brandenburg 2013*. Potsdam: Polizeipräsidium Brandenburg. Eckert, S., & Willisch, A. (2012). *Ländlicher Raum in der DDR: Eine soziologische Perspektive*. Frankfurt am Main: Campus Verlag. Feltes, T. (2014). Challenges of rural policing in Germany. *Policing and Society*, 24(3), 345-362.

of the local population have transformed social and cultural dynamics, leaving entire villages almost deserted. These changes not only complicate the planning of police activities, but amplify perceptions of socioeconomic decline, often associated with reduced educational and employment opportunities.¹¹⁸

The relationship between the Revierpolizei and the local community is based on a delicate balance between institutional formality and personal interactions. Officers not only enforce the law, but also serve as mediators and reference figures for citizens, integrating themselves into the social fabric through face-to-face meetings, visits to local events, and active participation in community life. However, citizens' expectations often exceed operational capabilities, requiring officers to handle situations that are not always within their primary competence.

The Revierpolizei model in Brandenburg reflects an approach to community policing that seeks to balance operational needs with the cultural and demographic specificities of the area. Although critical issues related to lack of resources and fragmented communities have emerged, the Revierpolizei's widespread presence is a significant example of how policing can adapt to complex rural settings, enhancing the role of officers as intermediaries between institutions and citizens.¹¹⁹

2.4. Collaboration and Coordination

Despite the fragmentation of the system, coordination between the federal, state and municipal levels is ensured through various initiatives:

- **Ständige Konferenz der Innenminister und Senatoren der Länder-IMK:** a forum where the interior ministers of the states and the federal government discuss and plan joint strategies.

- **Kooperationszentren (Cooperation Centers):** Facilities such as **the Gemeinsames Terrorismusabwehrzentrum-GTAZ (Joint Counterterrorism Center)**, which facilitate the exchange of information between agencies.

¹¹⁸ Amt für Statistik Berlin-Brandenburg. (2019). *Statistiken zur Bevölkerungsentwicklung in Brandenburg*. <https://www.statistik-berlin-brandenburg.de/bevoelkerung>. Glaeser, A. (2000). *Divided in unity: Identity, Germany, and the Berlin police*. Chicago: University of Chicago Press.

¹¹⁹ Pate, A. M., & Skogan, W. G. (1985). Community policing: Promises and pitfalls. *Crime and Justice*, 8, 99-158.

Germany has taken a proactive approach to crime prevention, developing initiatives at the local and regional levels. Each state has implemented specific projects to address juvenile crime, domestic violence, and drug addiction. For example:

- **Baden-Württemberg:** initiated the **Kommunale Kriminalprävention** ("Municipal Crime Prevention") project, which focuses on reducing crime situations and increasing perceived safety.

- **Bavaria:** created the **Sicherheitsbeirat** and **Stadtpolizei**, involving volunteers in the fight against crime.

- **Berlin:** developed **Aktion Sicherheitsnetz** ("Action Safety Net") to strengthen cooperation between police, citizens and institutions.

These projects emphasize the importance of **primary prevention**, which aims to reduce the social and environmental causes of crime, and **secondary prevention**, which aims to limit criminal situations.

2.5. Challenges and prospects

The German police system represents a model of **multilevel security**, balancing local autonomy with central coordination. However, to ensure an effective response to contemporary challenges, it will be necessary to strengthen cooperation between institutions and improve the distribution of resources. Despite progress, the system does, in fact, have some critical issues:

- **Regional disparities:** Each state has autonomy in managing its police force, which can lead to significant differences in the quality of services provided.

- **Limited resources:** Some states and municipalities struggle to adequately fund prevention projects.

- **Complex Coordination:** The need to harmonize policies among different levels of government remains a challenge, especially in emergency or trans-regional crime situations.

3. Accountability Model

3.1. Regulatory framework

The police accountability system in Germany is anchored in respect for international law, human rights and the German Constitution. The Constitution, federal regulations and state regulations set the framework for police operations and the protection of citizens' rights. The German Constitution gives the states exclusive responsibility for most police functions, while the federal level has limited responsibilities, including border control and combating international crime.

Criminal regulations define the responsibilities and limits of police activities, specifying punishable conduct and how laws are enforced. The police operate in accordance with the German Criminal Code (Strafgesetzbuch - StGB) and the Code of Criminal Procedure (Strafprozessordnung - StPO), which regulate crimes and investigative procedures, respectively. For example:

- **Use of force:** Must be proportionate and justified, respecting human rights and individual dignity. Abuses of force can be prosecuted.

- **Investigative procedures:** These are subject to strict requirements, such as the requirement to obtain a judicial warrant for searches and wiretaps.

On the subject of protecting the rights of citizens against potential abuses by the police, civil actions for damages are configured for violations of fundamental rights, such as unlawful arrests or excessive use of force, and the jurisdiction of administrative courts to challenge decisions of police authorities, such as the issuance of restraining orders, is regulated. This protection is provided by Article 19(4) of the Constitution, which gives administrative courts jurisdiction to review decisions of public authorities, including the police. Disputes over administrative acts fall within the scope of the **Administrative Courts Act (Verwaltungsgerichtsordnung - VwGO)**, which regulates how citizens can file appeals against administrative measures.

A typical case concerns preventive and public safety measures, such as the issuance of removal orders (Platzverweis) or bans on access to certain areas. These measures, issued on the basis of the states' Police Laws (Polizeigesetze), aim to protect public safety, but must strictly respect fundamental rights, such as personal freedom and freedom of movement. In the event of a dispute, the citizen can appeal to the

relevant administrative court in the Land to seek the annulment of the order, arguing that it is disproportionate or lacks a legal basis. These control mechanisms ensure that the police operate within the bounds of legality, avoiding abuse and providing constant supervision. The German court system, with its multilevel structure, also allows for appeals against first instance decisions, further strengthening safeguards for citizens.

3.2. Internal Control Mechanisms.

In Germany, the police accountability system integrates operational instructions, targeted training, hierarchical supervision and internal control mechanisms to ensure that law enforcement activities respect the principles of the rule of law, human rights and transparency.

3.2.1. Operating instructions and training

Police officers receive continuing education, which is a cornerstone for maintaining professional and ethical standards. Courses include mandatory modules on:

- **Human rights**, based on the European Convention on Human Rights and the German Constitution, which reaffirm the importance of respect for human dignity and the principle of non-discrimination.

- **Proportionate use of force**, in accordance with the Federal Guidelines on the Use of Force (Richtlinien für den Schusswaffengebrauch) and the police laws of the individual states, which establish strict criteria for the use of coercive means.

- **Conflict management**, with de-escalation techniques and communication approaches aimed at reducing tensions in interactions with the public.

Police academies include specific modules on interculturalism and discrimination prevention, in line with European directives and Council of Europe recommendations, which aim to reduce prejudice and stereotypes. For example, the North Rhine-Westphalia Police Academy's "Interkulturelle Kompetenz" program is recognized for its focus on cultural diversity.¹²⁰

¹²⁰Franzke, A. (2016). *Interkulturelle Kompetenzen der Polizei*. https://www.professor-franzke.de/pdf/Franzke_Interkulturelle_Kompetenzen_Polizei_DNH_2016-3.pdf ; see also Steinhäuser, A., & Beckmann, F. (2024). Interkulturelle Kompetenz und interkulturelles Training im Polizeistudium. In M. S. Staller & S. Koerner (Eds.), *Diversität und Polizei* (pp. 215-237). Cham: Springer Gabler.

3.2.2. Hierarchical supervision

Hierarchical supervision plays a crucial role in ensuring compliance of police activities with regulations and fundamental rights.

Every operation is subject to a system of control through a clear chain of command, where superiors are responsible for checking the legality and proportionality of actions taken.

Any deviations, such as excessive use of force or discriminatory behavior, are reported through official channels and can lead to disciplinary proceedings. These are regulated by the Bundesdisziplinarordnung (Federal Discipline Act) and the police regulations of the states.

3.2.3. Internal departments for supervision

Each police authority has specialized units in internal supervision, known as **Interne Revision**. These units are charged with investigating allegations of misconduct, abuse of power, or unethical behavior by officers. They operate under internal law enforcement regulations as set forth in Polizeidienstvorschrift 100 (PDV 100), which specifies standard operating procedures and criteria for internal investigations.

These departments work closely with the administrative and criminal courts, as well as with external oversight commissions, such as the Polizeibeauftragte, which are an independent form of oversight over police activities.

3.3. External Control Mechanisms

The German legal system offers an articulated structure to ensure the legitimacy and transparency of police actions through jurisdictional mechanisms, independent bodies and political oversight. However, this complexity also reflects some critical issues and operational challenges.

3.3.1. Ordinary and administrative jurisdiction

German courts play a crucial role in reviewing the legality of police actions. Citizens can challenge decisions made by police authorities through:

- Administrative appeals, which allow consideration of whether measures taken, such as restraining orders or searches, comply with national and regional laws.
- Ordinary judicial interventions, which may be required to examine possible violations of constitutional rights, such as the right to privacy or personal liberty.

This interaction between administrative and ordinary jurisdiction ensures multilevel control over police activities, promoting transparency and rights protection.

3.3.2. Independent bodies

To complement the courts, Germany uses independent commissions for complaints against the police (**Unabhängige Polizeibeschwerdestellen**). These bodies are charged with collect and evaluate citizen complaints regarding abuse, discrimination, or excessive use of force and propose recommendations for improving police operational practices.

In addition, the **Ombudsman** and various nongovernmental organizations play an independent monitoring role, focusing on law enforcement compliance with human rights. These bodies are an essential channel for strengthening public trust in the system.

3.3.3. Parliamentary and federal oversight

At the federal level, Parliament and the Federal Audit Office (**Bundesrechnungshof**) scrutinize the work of the police, with a focus on the use of public funds and transparency in operations. This level of oversight is critical to ensuring that resources are used efficiently and in accordance with institutional goals.

As mentioned, the German model is based on a decentralized approach, where each Land has autonomy in setting local policies and regulations. This flexibility allows regulations to be tailored to the specific needs of the territories, but it also requires close cooperation between state and federal levels to address common issues, such as organized crime or transnational terrorism. The Constitution and international treaties provide an essential framework for ensuring consistency and respect for fundamental rights.

3.4. Organization and monitoring

Jacobs, Christe-Zeyse, Keegan and Pólos explore in depth the complex dynamics of **organizational changes** in German police forces promoted to improve their transparency and accountability, analyzing them through the lens of **organizational identity** and **organizational culture**¹²¹. The scholars' central argument is that changes imposed on established managerial practices can conflict with pre-existing values and cultural norms, generating threats to the organization's collective identity. These conflicts, if not properly managed, can trigger **uncertainty, distrust, and adaptive reactions** that often undermine the very goals of the reforms.

Organizational identity represents an answer to the question "Who are we as an organization?" and is defined by central, distinctive and enduring characteristics. When managerial changes violate entrenched cultural norms, there is a loss of what is "taken for granted" within the organization. This causes individuals to question the consistency between new practices and core values, creating a sense of **misalignment** and deep **ambiguity**.

In the case of the German police, the introduction of **performance indicators** and new **personnel evaluation** systems undermined central aspects of the organization's identity. Officers, accustomed to a bureaucratic model based on solidarity and predictability, perceived these reforms as a threat to their professional and personal values. For example, new performance indicators have transformed agents' historically public service-oriented work into a sequence of measurable tasks, fueling a perceived loss of **autonomy** and **professionalism**. Reactions to these changes included adaptive strategies such as manipulating data and adopting behaviors that, while formally conforming to the new rules, emptied their meaning.

Perceptions of normative violations often generate **processes of search and adjustment**. Officers react by trying to protect elements deemed essential to collective identity, often adapting new practices to old cultural patterns. For example, in the case of the new evaluation systems, officers negotiated informal compromises to maintain a balance between merit and seniority, thereby circumventing the rigid quotas

¹²¹ Jacobs, G., Christe-Zeyse, J., Keegan, A., & Pólos, L. (2008). Reactions to Organizational Identity Threats in Times of Change: Illustrations from the German Police. *Corporate Reputation Review*, 11(3), 245-261.

imposed by the system. These behaviors reflect an attempt to preserve cultural coherence, but they also undermined the effectiveness of the reforms.

The authors point out that reactions to change can produce unpredictable effects. Breaches of organizational identity not only generate immediate resistance, but can also erode trust and undermine future attempts at change. Once triggered, these dynamics are difficult to reverse, leading to a progressive deterioration of internal relationships.

Organizational changes in the police force must be approached with caution. The authors warn against excessive enthusiasm for radical reforms that could threaten central aspects of organizational identity. It is critical to respect the existing culture and integrate new practices in a way that is consistent with shared values. Clear communication, active member involvement, and a narrative that emphasizes continuity between past and future are essential strategies to mitigate uncertainty and facilitate acceptance of change.

The authors also highlight the risk of **institutional myopia** in public organizations, such as police forces, which often do not perceive signs of internal frustration because of their perceived stability and immunity from market pressures. This can lead to discontent being ignored until a critical state is reached, compromising the organization's ability to respond effectively to the needs of its members and the social environment.

In summary, the article emphasizes that managing organizational change requires a delicate balance between innovation and respect for pre-existing identity and culture. Changes that challenge central elements of organizational identity risk undermining the long-term legitimacy and stability of the organization, highlighting the importance of a reflective and inclusive approach.

3.5. Training, resources, guidelines

Police training in Germany includes education on human rights and de-escalation practices. Resources for training and continuing education are distributed at both the state and federal levels, and aim to ensure that officers meet ethical and legal standards.

The training system for aspiring officers is rigorous and standardized¹²². To enter the police service, a high school diploma (Abitur) and a bachelor's degree in public administration or police management from specific academic institutions are required. This approach aims to ensure that officers have not only technical skills but also a values-based background focused on cooperation and trust.

Aspiring agents participate in an intensive three-year program that includes training in law, psychology, sociology and leadership. The quality of education is considered a crucial element in promoting highly qualified and reliable agents. The system also includes a selective master's program to enter the higher levels of the hierarchy.

Germany has built a police system geared toward transparency and service to the citizen. External oversight is supported by high levels of public trust in the police, reaching about 80 percent, which is significantly higher than in many other European countries and the United States.¹²³

Agent selection is conceived as an inherent self-selection process. Aspirants show higher levels of trust and willingness to enforce cooperative norms than their peers. This is reflected in experimental results in which police candidates invest more in rewarding cooperative behavior and punishing uncooperative behavior.

The German police selection process thus succeeds in attracting individuals motivated by an intrinsic sense of social responsibility, and this helps to strengthen the effectiveness of the supervision model and maintain a high degree of legitimacy among the population.¹²⁴

Emphasis on mutual trust and intrinsic motivation of officers is considered a key factor in the success of the German police in maintaining high standards of human rights compliance. Continuing education and training are essential tools to ensure that officers act as social mediators rather than mere enforcers of norms.

¹²² Friebel, G., Kosfeld, M., & Thielmann, G. (2019). Trust the police? Self-selection of motivated agents into the German police force. *American Economic Journal: Microeconomics*, 11(4), 59-78.

¹²³ *Ibid.*

¹²⁴ *Ibid.*

3.5.1. Operating instructions

In Germany, operational instructions for police forces are critical to ensure that officers' activities comply with the principles of legality, proportionality, and respect for human rights. These directives govern the use of force, the handling of evidence, and the conduct of officers during investigations, with the goal of minimizing violations and ensuring fair and impartial treatment.

a) Use of Force

The use of force by German police is governed by specific regulations that set strict criteria:

- **Proportionality:** Force should be commensurate with the perceived threat and used only when strictly necessary.

- **Necessity:** The use of force is permitted only if there are no less coercive alternatives to achieve the legitimate goal.

- **Legality:** Every action must have a clear legal basis in accordance with national laws and international human rights treaties.

These principles are enshrined in the individual states' police laws and federal guidelines on the use of force.

b) Management of Evidence

The collection, preservation and presentation of evidence follow standardized procedures to ensure the integrity of the investigative process:

- **Chain of custody:** Every piece of evidence must be documented and tracked from the time of collection until presentation in court, ensuring that there is no manipulation or loss.

- **Accurate documentation:** Officers are required to prepare detailed reports describing the circumstances of evidence collection, including date, time, place and manner.

- **Safe storage:** Evidence should be stored in controlled environments to prevent deterioration or contamination.

These procedures are outlined in internal police directives and criminal trial regulations.

c) Conduct during investigation

Police officers must adhere to high ethical standards during investigations:

- **Respect for rights:** it is mandatory to respect the fundamental rights of all people involved, including suspects, victims and witnesses.

- **Impartiality:** investigations should be conducted without bias, ensuring that all parties are treated fairly.

- **Transparency:** investigative procedures must be clearly documented, allowing review and control by the relevant authorities.

These standards are supported by continuing education programs that emphasize the importance of professional ethics and respect for human rights.

The emergence of communication strategies influenced by organizational differences, particularly the use of the social network Twitter, was also investigated, highlighting that internal hierarchy and distribution of resources affect the adoption of more dialogic or unidirectional approaches¹²⁵, linked directly to internal mechanisms of supervision and control. In fact, the use of social media by the German police is not uniform, but varies significantly depending on the hierarchical level and demographic characteristics of the area of responsibility.

It is worth citing a study conducted in light of the **2021 "Principles of Effective Interrogation,"** a universal protocol promoted by the United Nations to encourage non-coercive, information-gathering-based investigative methods: the operational practices of the German police were examined in depth, with key implications for police training and the implementation of harmonized investigative standards.¹²⁶

The absence of a unified federal method of interrogation in Germany creates significant variability among the methods adopted in different states. The German investigative system is based on Article §136a StPO of the Criminal Code, which expressly prohibits coercive methods such as ill-treatment, deception or hypnosis.

¹²⁵ Jungblut, M., & Jungblut, J. (2022). Do organizational differences matter for the use of social media by public organizations? A computational analysis of the way the German police use Twitter for external communication. *Public Administration*, 100(4), 821-840.

¹²⁶Baker-Eck, B., & Bull, R. (2023). How do German police officers of varying empathy levels react to different styles of interviewing a suspected sex offender? *International Journal of Law, Crime and Justice*, 74, 100610.

However, the actual techniques used vary, including accusatory, manipulative and confession-based approaches.

The objectives of the study were:

1. To examine how German agents perceive four styles of questioning (human, dominant, development of cognitive themes, and neutral).
2. Assess the association between the level of empathy of those conducting the interrogations and their reactions to these styles.

The study involved 109 German police officers enrolled in advanced training courses at two academies (Berlin and Bavaria). The participants were divided into four groups, each of which read a vignette describing one of four interrogation styles. Levels of empathy were then measured through the "**Reading the Mind in the Eyes Test (RMET)**" and their responses to eight questions related to the styles described were analyzed.

The interrogation styles analyzed are:

1. **Human style:** based on relationship building and respect for the suspect.
2. **Dominant style:** characterized by an aggressive, confrontational approach.
3. **Development of cognitive themes:** based on the identification of rationalizations or cognitive distortions of the suspect.
4. **Neutral style:** a balanced approach without marked elements of humanity or aggression.

The effects of different styles were investigated:

- **Perception of fairness:** officers rated the human style as most fair to the suspect.
 - **Aggressiveness:** the dominant style was perceived as the most aggressive.
 - **Humanity:** the human style was considered the most empathetic and respectful.
 - **Conduct of interrogation:** human-style interviewers were perceived to be better executed than others.
- No significant differences emerged on the perceived seriousness of the crime or the likelihood of confession, suggesting that German officers may not consider interrogation style a determining factor in obtaining confessions.

d) Role of empathy

- Agents with low levels of empathy rated the dominant style as more effective in obtaining confessions, but they also perceived that it made the crime more serious than it was.

- In contrast, agents with typical empathy showed greater ability to balance judgment between humanity and objectivity than the styles analyzed.

The study emphasizes the importance of integrating cognitive empathy into investigator training to improve relationship building with the suspect, minimizing the risk of false confessions. Cognitive empathy allows for healthy and professional emotional detachment, reducing the possibility of compassion fatigue. In addition, in concluding remarks, the study cited above considers whether Germany should consider adopting a uniform nationwide investigative model, similar to the U.K.'s **PEACE** method, which promotes an approach based on information gathering rather than coercion.

3.5. Outcomes of internal and external controls

Despite the robust regulatory system, the German model faces some significant challenges:

1. **Effectiveness of internal controls:** internal supervisory departments often face criticism for a perceived lack of transparency or independence, which could limit their credibility in the eyes of the public.

2. **External oversight:** the absence of an independent centralized national body to oversee the police force has been highlighted by several human rights organizations as a shortcoming that could undermine uniformity of oversight.

3. **Ongoing training:** consistent implementation of regulations requires regular investment in training and resources. Specific modules on human rights, discrimination prevention and conflict management need to be updated to meet new social challenges.

4. Critical Thresholds

4.1. Use of force

The debate over the excessive use of force by law enforcement officers in Germany is particularly relevant in light of recent studies highlighting critical aspects of the operational and psychological management of officers¹²⁷. The implementation of **body-worn cameras** has been a concrete attempt to improve transparency and accountability. Research conducted in six Thuringian police departments found that these have a moderate effect on de-escalation, with differential impacts depending on operational circumstances. Cameras were found to be less effective in contexts of citizen stress or intoxication and sometimes negatively affected citizen cooperation with the police. In addition, a gender-related differential effect emerged: female officers reported increased incidents of aggression when wearing cameras, suggesting possible psychological influences or pre-existing perceptions of vulnerability or a change in officer behavior.¹²⁸

The use of force by police, especially in custodial settings, is a crucial issue in preventing deaths in custody. Many studies have been conducted on the subject in Germany; in particular, research on deaths between 1993 and 2003 in police custody highlights a number of structural and operational issues¹²⁹. One of the main causes of such deaths is the lack of adequate management of detained persons, especially those in an altered mental and physical state. The report shows that in at least 55 percent of the cases analyzed, police failed to seek timely medical attention despite the detainees' obvious condition, such as signs of trauma or altered state of consciousness.

Moreover, in a significant number of incidents, failure to comply with monitoring requirements directly contributed to fatal outcomes. For example, one detainee's snoring was misinterpreted as "peaceful sleep," when in fact it was a sign of a severe

¹²⁷ Kruse, U., Kaufmann, J. M., Seidel, F., & Schweinberger, S. R. (2023). The de-escalating potential of body-worn cameras: Results from six German police departments. *Journal of Criminal Justice*, 88.

¹²⁸ *Ibid.*

¹²⁹ Heide, S., Kleiber, M., Hanke, S., & Stiller, D. (2009). Deaths in German police custody. *European Journal of Public Health*, 19(6), 597-601; Blaauw, E., Vermunt, R., & Kerkhof, A. (1997). Death and medical attention in police custody. *Medicine and Law*, 16(4), 593-606; McDonald, D., & Thomson, N. J. (1993). Australian deaths in custody, 1980-1989. *Medical Journal of Australia*, 159, 581-585; Norfolk, G. A., & Stark, M. M. (2000). Care of Detainees. In M. M. Stark (Ed.), *A Physician's Guide to Clinical Forensic Medicine* (pp. 149-178). Totowa, NJ: Humana Press. <https://doi.org/10.1385/1-59259-150-6:149>; Ross, D. L., & Chan, T. C. (2006). *Sudden Deaths in Custody*. Totowa, NJ: Humana Press.

epidural hematoma that led to his death. The absence of thorough checks at the time of arrest, such as failure to conduct a body search, also allowed some inmates to self-administer lethal doses of drugs inside their cells.

The issues that emerged involve not only individual conduct, but also systemic deficiencies, such as poor training of police officers in handling vulnerable people, including individuals with acute intoxication or brain trauma. The study notes that about 38 percent of the deceased detainees had received a medical evaluation prior to detention, but in two-thirds of these cases, diagnostic errors or poor decisions, such as not admitting people who were clearly unfit for detention to the hospital, were found.

The management of intoxicated or medically impaired detainees requires close cooperation between medical and law enforcement personnel, which is often not guaranteed. In the cases analyzed, there were frequent gaps in communication between doctors and police officers, such as the absence of clear and understandable instructions on monitoring protocols. A case in point is the case of a detainee with an obvious head injury who could have been saved through timely surgery but was left in the cell without proper care, leading to the conviction of the doctor involved for negligence.

Finally, the study points out that at least 26.6 percent of the deaths analyzed would likely have been unavoidable even with optimal management, due to unrecognizable preexisting medical conditions such as myocarditis or coronary thrombosis. However, better officer training, revised operational guidelines, and the introduction of preventive measures such as video surveillance in shared cells could significantly reduce the risks of preventable deaths in custody.

In parallel, Karoline Ellrich's article, "Violent Victimization, Professional Self-Esteem, and Punitivity of German Police Officers"¹³⁰, delves into the relationship between violent victimization experienced by police officers and their punitive approach. The author points out that victimized officers show a greater propensity to sustain severe sanctions, with an amplified effect in cases of repeated victimization. Surprisingly, a high state of professional self-esteem, rather than mitigating, may exacerbate the

¹³⁰ Ellrich, K. (2018). Violent victimisation, professional self-esteem, and punitivity of German police officers. *Policing and society*, 28(7), 787-805.

negative effect of victimization on punitiveness, underscoring the complexity of psychological dynamics. These findings raise questions about the role of trauma and personal resources in influencing officers' decisions, with important implications for the management of training, supervision, and psychological support. The article helps explain how work experiences influence use of force and punitive attitudes, adding a critical dimension to the debate on accountability and law enforcement reform.

4.2. Systemic racism

Ethnic profiling and discrimination against minorities remain critical problems, especially in urban areas. The study conducted by Krott, Krott and Zeitner (2018) takes us into the heart of the dynamics that shape police officers' attitudes toward ethnic minorities, offering a magnifying glass on a complex and often problematic reality¹³¹. The survey, which follows a group of young German police officers during their training and first year of professional practice, reveals an evolving scenario: xenophobic attitudes diminish during academic training, but tend to resurface, albeit slightly, during professional practice.

This phenomenon is not accidental but is the result of a number of psychological and social factors interacting in often unpredictable ways. On the one hand, academic training, with its modules focused on intercultural skills and critical reflection, seems to have a positive effect, progressively reducing xenophobic perceptions during the years of study. However, the transition from the academic setting to the operational environment, which is characterized by high stress, unpredictable schedules and frequent interactions with minority members in conflict situations, is a crucial testing ground. In this scenario, the progress achieved during training can be challenged.

Immersion in practical work exposes young agents to a reality of tensions and pressures, where organizational cultures that favor traditional approaches, passed on by more experienced colleagues, often come into play. In some cases, these approaches seem to have the power to overwrite skills acquired in the classroom, bringing back stereotypes and prejudices. Lack of supervision and a stressful work

¹³¹ Krott, N. R., Krott, E., & Zeitner, I. (2018). Xenophobic attitudes in German police officers: A longitudinal investigation from professional education to practice. *International Journal of Police Science & Management*, 20(3), 174-184.

environment may thus reinforce negative attitudes, suggesting that initial training alone is not sufficient to ensure lasting transformation.

But the study does not stop there. It highlights the need for more effective and consistent training and supervision policies. The idea is not just to "teach" during the academic period, but to keep this learning alive in subsequent years through periodic updates, practical field training and close monitoring of agents' behaviors. In addition, the importance of fostering an organizational culture that challenges stereotypes and values inclusion is emphasized.

The impact of this study goes beyond the single German case. Its findings can be extended to international contexts, offering a roadmap for addressing challenges related to perceptions and treatment of ethnic minorities in law enforcement. In an increasingly multicultural world, understanding and addressing the psychological and social dynamics underlying xenophobic attitudes becomes a priority not only to improve justice, but also to build more cohesive and inclusive societies

The issue of discriminatory categories used in German police reports, particularly the term "**Südländer**" ("Southern") and "südländisches Aussehen" ("Southern appearance")¹³² has been addressed. This term is used as a cultural substitute for "non-white" or "non-German." It is associated with criminality and social deviance, as demonstrated by public debates and media cases (e.g., 2015 refugees). Discrimination predominantly affects individuals of Mediterranean, Middle Eastern, and Asian descent, reinforcing historical stereotypes and North-South divisions in Europe. The public perception of "Südländer" reinforces racial stigmas, making these individuals targets of everyday discrimination in public spaces, transportation, and the media. The term is used to mask forms of institutional racism and "colorism" while avoiding direct accusations of racial discrimination. These terms not only violate fundamental principles enshrined in the **German Constitution**, but perpetuate a form of racism based on skin color and phenotypic stereotypes, posing a significant obstacle to Germany's social and cultural progress.

¹³² Ervedosa, C. (2022). The elephant in the room called "skin type IV": "Südländer" (Southerner) as a discriminatory category in German police reports. *Patterns of Prejudice*, 56(2-3), 123-156.

In particular, the use of terms such as "Südländer" violates several articles of the

German Constitution:

- **Article 1.1:** Protection of human dignity.
- **Article 3.1 and 3.3:** Principle of equality and prohibition of racial discrimination.
- **Article 116:** Inclusive definition of German citizenship, which should not depend on skin color or phenotype.

These categories are rooted in traditions of racist thought, such as the "Mediterranean race" theory, stigmatizing specific phenotypes (e.g., "type IV" skin, dark hair, dark eyes) and associating them with negative characteristics. This contrasts with the democratic and humanistic values of the **Grundgesetz**.

Racial profiling still appears to be legitimized by provisions such as **§22.1a** of the **Bundespolizeigesetz** (1994), which allows checks based on visual criteria in public places. The use of "Südländer" is part of a broader system of racial exclusion, despite the fact that post-conflict Germany tried to avoid explicit racial categories.

A study published in *Verfassungsblog* highlights how the current legal provisions of the Bundespolizei may contribute to an institutional structure that facilitates discriminatory practices.¹³³

Regulations, such as Section 22 Sec. 1a and Section 23 Sec. 1 No. 3 of the Bundespolizeigesetz (BPolG), authorize identity checks in defined areas without any specific suspicion, with the goal of preventing illegal immigration. However, the combination of broad discretion and the institutional culture of the German police, influenced by "cop culture," can lead to the formation of institutional knowledge based on racial stereotypes and narratives that are not supported by empirical data.

The federal Ombudsperson, established in 2024, could step in to analyze and correct these mechanisms, monitoring the accumulation of data and addressing structural racism. Despite the low success rates of controls (about 1 percent), these practices continue to be defended for their flexibility, often to the detriment of minorities.¹³⁴

¹³³ Siegel, J. (2024, October 17). German Police Controls and Structural Racism. *Verfassungsblog*.

¹³⁴ Sandhu, A. (2023). Racial Profiling im Lichte der Rechtsprechung: Zugleich ein Beitrag zur Auslegung von Art. 3 Abs. 3 S. 1 GG im europäischen Grundrechtsraum. *Zeitschrift für Öffentliches Recht und Völkerrecht (ZfL)*, 32, 271-292.

4.3. Sexism and prejudice

Sexism and bias within the German police and in the performance of public functions have been the subject of numerous studies and reports that highlight the challenges faced by both officers and individuals in interactions with law enforcement.

4.3.1. Internal Sexism within the Police Force.

Women police officers in Germany often face cultural and structural barriers that hinder their full integration and professional advancement. A study conducted by the Hans-Böckler Foundation analyzed the experiences of women in the German police force, highlighting how gender stereotypes and a masculinity-dominated organizational culture contribute to an unfavorable work environment for women.¹³⁵

It delves into how, since the 1980s, women have gradually entered a traditionally male field. Initial difficulties, such as inadequate uniforms and lack of access to certain operational tasks, are analyzed. The article points out that despite progress, gender stereotypes persist. Women are often perceived as less capable in situations requiring physical strength and endurance.

Performance evaluations, essential for promotions, systematically penalize women. Expectations of "flexibility" based on a full-time male model do not take into account the needs of those who, like many policewomen, work part-time to manage family responsibilities.

The highest, best-paid and most influential positions are rarely filled by women. In addition, family policies often hinder mothers, making it difficult to balance police work with family care.

Internal sexism is confirmed as a structural problem that negatively affects women both professionally and personally. According to reports in recent surveys¹³⁶, despite the growing number of female police officers-accounting for 29.3 percent of the total-

¹³⁵ Tondorf, K., & Jochmann-Döll, A. (2013). Nach Leistung, Eignung und Befähigung? Beurteilungen von Frauen und Männern im Polizeivollzugsdienst. *Arbeitspapier 276 der Hans-Böckler-Stiftung*.

¹³⁶ Ullrich, N. (2023, July 9). "Dein Arsch sah richtig gut aus": Frauen leiden massiv unter Sexismus bei der Polizei. *Panorama, n-tv*, available at [n-tv.de](https://www.n-tv.de).

and the increasing acceptance of women in the police force, significant disparities in treatment and frequent incidents of verbal and physical harassment persist.

Among the cases cited, female police officers have reported sexist comments and inappropriate behavior by male colleagues, often downplayed or ignored by higher authorities. This culture of sexism, fueled by a traditionally male-dominated hierarchy, creates a hostile work environment where victims of harassment are often ostracized or even forced to leave the service.

The testimonies also highlight the difficulties in career advancement for women, particularly those with family responsibilities or in part-time positions. Internal evaluation standards tend to penalize female police officers, with criteria that favor a male pattern of presence and availability, making it difficult for many to reach management positions.

A significant initiative is the "**Respect me, too**" working group established by the German police union (GdP), which aims to combat sexism within the police through tougher sanctions against perpetrators and increased support for victims. In addition, the group proposed the adoption of a code of conduct to promote respectful interaction in the workplace.

A comprehensive guide to preventing and addressing **sexual harassment in the workplace** is outlined in the document. The main points are highlighted below:

1. **Awareness-raising:** promoting a respectful work climate that ensures the dignity of every worker.
2. **Prevention:** structuring company policies that reduce harassment risk factors.
3. **Immediate interventions:** establish clear procedures for intervening in cases of harassment, protecting those involved.

4.3.2. Sexism in Citizen Interactions

Female citizens, particularly those from ethnic minorities, may be subject to discriminatory treatment by the police. A 2020 report by the European Network Against

Racism (ENAR) documented cases in which migrant women experienced ethnic profiling and sexism during police checks in Germany.¹³⁷

To address these issues, several measures have been proposed:

- **Mandatory training:** the introduction of training modules on gender equality and discrimination prevention was recommended to improve agents' awareness.

- **Cultural change:** promoting an inclusive organizational culture within the police force is essential to reducing sexism.

- **Oversight and accountability:** strengthening internal and external oversight mechanisms can ensure that discriminatory behavior is addressed effectively.

¹³⁷ European Network Against Racism (ENAR). (2020). *Briefing on policing racialized groups in Europe*. https://www.enar-eu.org/wp-content/uploads/policing_racialised_groups_-_briefing_ojeaku_without_cover_10_revised_22062020.pdf

CHAPTER 5

Police Accountability in France

by Ester Marello

1. Police model

There are several entities that make up the police force in France. Before illustrating their organization and composition, a brief introduction is necessary concerning the concept of police function, employed by French doctrine to order the different activities that the police are called upon to carry out and the missions entrusted to them, these being heterogeneous. This has led to a classification that sees the use of two categories: the function of **police administrative**, "preventive," on the one hand, and **police judiciaire**, "coercive," on the other¹³⁸. Of the former there is no legislative definition, but the doctrine holds that it consists of "regulating private activities to maintain public order," that it has as its purposes "security, tranquility and public health," and that it is preventive insofar as it is "intended to prevent the commission of crimes."¹³⁹ The definition of police judiciaire, on the other hand, is found in Article 14 of the **French Code of Criminal Procedure**, where it is indicated that it covers activities such as the ascertainment of violations of criminal law, the collection of evidence relating to them and the search for the perpetrators of them. It also encompasses the activity after the opening of the judicial investigation, inherent in the execution of the tasks delegated by the instructing jurisdictions. Rather, the distinction now illustrated is not merely notional; rather, it has significant repercussions, such as the authority under which the agent performs their missions: if these fall under the function of police judiciaire, the agent will be under the direction and control of the **judicial authority**, as provided for in the Code of Criminal Procedure¹⁴⁰; if, on the other hand, the tasks assigned to the agents fall under the function of police administrative, they will perform them under the direct or indirect dependencies of the **Ministry of the Interior**. The above should be kept in mind as we move into the study of the French police.

¹³⁸ Capogna, A., & Buisson, J. (2024). *Police et gendarmerie. Premier pôle des forces de sécurité*. Paris: Lefebvre Dalloz.

¹³⁹ *Ibid.*, p. 4.

¹⁴⁰ Arts. 12, 41, par. 2, and 81, par. 6, of the Code de procédure pénale.

In France today, the entities that qualify as police forces are, on the national level, the **Police nationale** and the **Gendarmerie nationale**, while on the local level the **Police municipale** operates. The current framework is relatively recent, taking into account that the Police nationale came into existence in **1966**¹⁴¹, with the **law of July 9**,¹⁴²: In the past, the Gendarmerie nationale was thus the only operational police force at the national level, while in the cities the municipal police intervened¹⁴³. Beginning in the second half of the 19th century, however, a gradual nationalization of municipal police began until **1941**, when the nationalization of the police took place in cities with more than 10,000 inhabitants¹⁴⁴. The present arrangement is thus the result of a gradual evolution that led to the formation of two state subjects, the subject of the considerations that follow here, and a local one, which will be dealt with later.

The youngest institution among those mentioned above, the Police nationale, is a police force with civilian status¹⁴⁵, hierarchically organized¹⁴⁶, which is entrusted with several missions and activities, including ensuring the protection of persons and property, preventing crime and delinquency, carrying out administrative police activities and maintaining public order¹⁴⁷. The institution is hinged in the Ministry of the Interior, under the direction and control of whose minister it is placed, except when the judiciary directs it, or when the officers exercise the function of judicial police¹⁴⁸. The Minister of the Interior is, in France, the political authority responsible for internal security-a matter for which it prepares and implements the political direction of the government¹⁴⁹-and is at the top of the chain of command of the police. The **Directeur général de la Police nationale** is directly subordinate to them. The latter is placed at the head of one of the directorates of the central administration of the Ministry of the Interior, the **Direction générale de la Police nationale** (DGPN)¹⁵⁰, which is among the

¹⁴¹ Ventre, A. (2002). Les polices en France. *Pouvoirs*, 102(3), 31-42.

¹⁴² Law of July 9, 1966, No. 66-492, portant organisation de la police nationale.

¹⁴³ Capogna, A., & Buisson, J. (2024), *Police et gendarmerie*, cit., p. 9.

¹⁴⁴ *Ibid.*

¹⁴⁵ Art. R. 434-2, par. 2, of the Code de la sécurité intérieure (CIS).

¹⁴⁶ Burg-Boillot, C. (2007). Le nouveau règlement général d'emploi de la police nationale. *AJFP*, 4, 179-184.

¹⁴⁷ Art. R. 411-2 CIS.

¹⁴⁸ Art. L. 411-1 CIS.

¹⁴⁹ Art. 1, par. 1, of Decree No. 2024-29 of January 24, 2024, "relatif aux attributions du ministre de l'intérieur et des outre-mer".

¹⁵⁰ Art. 6 of Decree No. 2013-728 of August 12, 2013, "portant organisation de l'administration centrale du ministère de l'intérieur et du ministère des outre-mer".

departments over which the Minister of the Interior has authority¹⁵¹ and which is itself composed of several directorates¹⁵². With the intervention of 2023 aimed at redesigning the organization of the Police nationale¹⁵³, the DGPN now has not only directorates at the central level, but also decentralized services consisting of the existing local directorates at the zonal, interdepartmental and departmental levels¹⁵⁴, placed under the authority of the state representatives competent in the administrative-territorial *découpage* considered¹⁵⁵. A further element of organizational complexity of the institution is related to the fact that the **Paris defense zone** does not fall under the attributions of the **Directeur général**, but rather under the **Préfet de police** of Paris, who is responsible for public order in that area¹⁵⁶: the **Préfet de police**, which is responsible for Paris and the three departments of Hauts-de-Seine, Val-de-Marne and Seine-Saint-Denis¹⁵⁷, is not hierarchically dependent on the DGPN, as the **Préfet de police** is directly subordinate to the authority of the Minister of the Interior¹⁵⁸. To grasp the structure of the institution as a whole, the image of a crossroad may be useful, whose two roads are represented by the **Direction générale de la Police nationale** and by the **Paris Police Prefecture** and have their junction at the **Minister of the Interior**, both being directly subordinate to its authority.

Hierarchy, as the founding element of the organization of the Police nationale, also intervenes in the structuring of the relations among its members, defining "the place of each member by the order of corps, the place in each corps by the order of ranks, and in each rank by the order of seniority, according to the functions."¹⁵⁹ These are the

¹⁵¹ Art. 5 of Decree No. 2022-827, dated June 1, 2022, "relatif aux attributions du ministre de l'intérieur"; Art. 1 of Decree No. 2013-728, cited above.

¹⁵² Art. 6 of Decree No. 2013-728, cited above.

¹⁵³ Decree of October 31, 2023, no. 2023-1012, "modifiant en matière d'organisation de la police nationale le code de la sécurité intérieure" and Decree no. 2004-374 of April 29 2004, "relatif aux pouvoirs des préfets, à l'organisation et l'action des services de l'Etat dans les régions et départements"; Decree of November 2, 2023, No. 2023-1013, "relatif aux services déconcentrés et à l'organisation de la police nationale".

¹⁵⁴ Capogna, A., & Buisson, J. (2024). *Police et gendarmerie*, cit.

¹⁵⁵ Art. 1 of Decree No. 2023-1013, cited above.

¹⁵⁶ Art. 72, par. 1, of Decree of April 29, 2004, No. 2004-374, "relatif aux pouvoirs des préfets, à l'organisation et à l'action des services de l'Etat dans les régions et départements".

¹⁵⁷ Capogna, A., & Buisson, J. (2024), *Police et gendarmerie*, cit. p. 16.

¹⁵⁸ *Ibid.*, p. 17.

¹⁵⁹ Art. 111-1, par. 1, Decree of June 6 2006, "portant règlement général d'emploi de la police nationale (RGEPN)".

terms in which the active personnel of the Police nationale are structured, divided into three corps¹⁶⁰ hierarchically ordered among them, with the **Corps de conception et de direction** (CCD) at the top¹⁶¹, followed by the **Corps de commandement** (CC)¹⁶² and, finally, the **Corps d'encadrement et d'application** (CEA)¹⁶³. Consistent with the definition of hierarchy indicated earlier, each of these corps sees its personnel organized into three grades, which in turn are composed of *échelons* (levels), the number of which varies according to the grade considered¹⁶⁴. A similar articulation is found in the other categories that make up the Police nationale's staff, namely **administrative, technical and scientific staff** (PATS)¹⁶⁵, operational police reserves (**réserves opérationnelles**)¹⁶⁶ and assistant policemen (**policiers adjoints**)¹⁶⁷, the latter two categories are both subordinate to the active staff.

The second and final state police force is the **Gendarmerie nationale**: "established to watch over the enforcement of the laws," it performs judicial police duties, which "constitutes one of its essential missions," and ensures "public safety and public order, particularly in rural and peri-urban areas, as well as on communication routes."¹⁶⁸ Its major difference from the Police nationale lies in its nature as an armed force¹⁶⁹ and therefore with military status, which is why the applicable regulations must be sought mainly in the **Code de la défense**. There has, however, been a significant rapprochement between the two institutions, not only with the provision of a **common code of ethics**¹⁷⁰, but also with the **2009 law, No. 971**¹⁷¹, which amended the **Code de**

¹⁶⁰ Art. 111-1 RGEPN.

¹⁶¹ Decree of August 2, 2005, No. 2005-939, "portant statut particulier du corps de conception et de direction de la police nationale".

¹⁶² Decree of June 29, 2005, No. 2005-716, "portant statut particulier du corps de commandement de la police nationale".

¹⁶³ Decree of December 23, 2004, No. 2004-1439, "portant statut particulier du corps d'encadrement et d'application de la police nationale".

¹⁶⁴ For the grades and levels of which the CEA is composed, see Articles 3 and 4 of Decree No. 2004-1439, cited above; the same information regarding the CC is found in Article 3 of Decree No. 2005-716, cited above, while that regarding the CCD is found in Article 5 of Decree No. 2005-939, cited above.

¹⁶⁵ Regarding the hierarchy in force in the PATS, see Article 120-2 RGEPN as amended by Article 5 of the Decree of December 5, 2022, "modifiant l'arrêté du 6 juin 2006 portant règlement général d'emploi de la police nationale".

¹⁶⁶ For the hierarchy of operational reserves, see Article 141-1 RGEPN.

¹⁶⁷ For the hierarchy of assistant police officers, see Art. 131-1 RGEPN.

¹⁶⁸ Art. L. 421-1 CIS.

¹⁶⁹ Art. L. 421-1, par. 1, CSI.

¹⁷⁰ Arts. R. 434-1 to R. 434-33 CSI.

¹⁷¹ Law of August 3, 2009, No. 2009-971, "relative à la gendarmerie nationale".

la défense by placing the Gendarmerie under the authority of the Minister of the Interior and thus removing it—at least in part—from that of the Minister of Defense, a configuration confirmed in Article L. 421-2 of the **Code de la sécurité intérieure** (CIS). In the current framework, the authority of the Minister of Defense over the Gendarmerie remains only with reference to the execution of military missions and the management of the institution's human resources, in which it participates¹⁷². The 2009 reform followed on the heels of the **2002 decree No. 889**¹⁷³, which, while still keeping the institution under the authority of the Minister of Defense, had given the Minister of the Interior the option of using the services of the Gendarmerie nationale for "the exercise of its internal security missions."¹⁷⁴

In light of these considerations, both the Police nationale and the Gendarmerie nationale, called upon to carry out both military and police missions, are now hinged within the Ministry of the Interior. **Decree No. 728 of August 12, 2013**, specifies how the latter's central administration also includes the **Direction générale de la gendarmerie nationale** (DGGN)¹⁷⁵, so that it necessarily finds itself subordinate to the authority of its minister¹⁷⁶. Similar to what has been said with regard to the Police nationale, the DGGN is also headed by a director general - the **Directeur général de la gendarmerie nationale** - and is composed of various directorates¹⁷⁷, whose organization and tasks are better detailed in the Decree of August 12, 2013.¹⁷⁸

The staff of the Gendarmerie nationale is also hierarchically organized, consistent with the military character of the institution. The general military hierarchy applies to it, with three corps: at the base are the rank military officers (**militaires du rang**), followed by the sub-officers and naval officers (**sous-officiers** and **officiers mariniers**) and, finally, the officers (**officiers**); military officers can be awarded the title of **Marshal of France** and **Admiral of France**, which represents a *dignité dans l'État* and places

¹⁷² Art. L. 3225-1, par. 2, of the Code de la défense.

¹⁷³ Decree of May 15, 2002, No. 2002-889, "relatif aux attributions du ministre de l'intérieur, de la sécurité intérieure et des libertés locales".

¹⁷⁴ Art. 3 of Decree No. 2002-889, cited above.

¹⁷⁵ Art. 1 of Decree No. 2013-728, cited above.

¹⁷⁶ Art. 5 of the Decree, No. 2022-827, cited above.

¹⁷⁷ Art. 7 of Decree No. 2013-728, cited above.

¹⁷⁸ Decree of August 12 2013, "portant organisation de la direction générale de la gendarmerie nationale".

them on a hierarchically higher level than the officers¹⁷⁹. Within each corps there are several ranks, hierarchically ordered¹⁸⁰. Furthermore, as specified by the **Code de la défense**¹⁸¹, military personnel are divided into four categories¹⁸²: **officers**¹⁸³ and **non-commissioned officers**¹⁸⁴ of the gendarmerie (1), **officers of the technical and administrative support corps of the national gendarmerie**¹⁸⁵ and **non-commissioned officers of the technical and administrative support corps of the national gendarmerie**¹⁸⁶ (2), **army volunteers serving with the national gendarmerie**¹⁸⁷ (3), and **officers, non-commissioned officers and military personnel of the rank of reservists of the national gendarmerie** (4).

2. Accountability Model

In France, police activity is subject to control and accountability mechanisms of both an internal and external nature, the effectiveness of which also depends on the possibility of tracing the identity of officers on duty. The recognizability of these has been fostered with the introduction by the **ministerial decree of December 24, 2013**¹⁸⁸ of the obligation for officers, whether in uniform or plainclothes, to display, with certain exceptions, the identification code known as the **RIO (referential number of identities and organization)**¹⁸⁹. From a combined reading of the 2013 ministerial decree and the **March 30, 2018 decree**¹⁹⁰, the current picture can be summarized as

¹⁷⁹ Art. L. 4131-1, par. 1, of the Code de la défense.

¹⁸⁰ Art. L. 4131-1, par. 1, of the Code de la défense.

¹⁸¹ Art. L. 4145-1 of the Code de la défense.

¹⁸² Rayne S. (2018). *Gendarmerie. Répertoire de droit pénal et de procédure pénale*, Paris: Dalloz, (updated: May 2024), §195.

¹⁸³ Decree of September 12, 2008, No. 2008-946, "portant statut particulier du corps des officiers de gendarmerie".

¹⁸⁴ Decree of September 12, 2008, No. 2008-952, "portant statut particulier du corps des sous-officiers de gendarmerie".

¹⁸⁵ Decree of December 24, 2012, No. 2012-1456, "portant statut particulier des officiers du corps technique et administratif de la gendarmerie nationale".

¹⁸⁶ Decree of September 12, 2008, No. 2008-953, "portant statut particulier des corps de sous-officiers et officiers mariniers de carrière des armées et du soutien technique et administratif de la gendarmerie nationale".

¹⁸⁷ Decree of September 12, 2008, No. 2008-955, "relatif aux volontariats militaires".

¹⁸⁸ Decree of the Minister of the Interior of December 24, 2013, "Arrêté relatif aux conditions et modalités de port du numéro d'identification individuel par les fonctionnaires de la police nationale, les adjoints de sécurité et les réservistes de la police nationale".

¹⁸⁹ Art. 1, par. 2, of the Decree of December 24, 2013, cit.

¹⁹⁰ Decree of March 30, 2018, "relatif au numéro d'immatriculation administrative des agents de la police nationale et de la gendarmerie nationale".

follows: officers of the Police nationale are required to wear the RIO, except in cases where they are assigned to the **Direction générale de la sécurité intérieure** (DGSI), where they will instead display the administrative registration number corresponding to the one assigned to them by the head of the service¹⁹¹; for members of the Gendarmerie nationale, the administrative registration number that will allow their identification corresponds to their operational matriculation number¹⁹².

What has been seen is functional in favoring the activity of those individuals, internal and external to the police, who participate in ensuring its control. Staying within the institution, they are first and foremost the hierarchical superiors of the officers, who hold the power of control over them¹⁹³. The hierarchical authority designated by the legal system as the holder of disciplinary power not only supervises subordinate officers, but also ensures their accountability for infractions committed, through the adoption of a sanction. In the disciplinary sphere, the personnel of the Police nationale are equated with civil service employees, whereby they are subject to the provisions of the **Code général de la fonction publique** relating to them¹⁹⁴ as long as these are compatible with its special statute¹⁹⁵, or with the derogatory rules contained in the **decree of May 9, 1995**¹⁹⁶. The military personnel of the Gendarmerie nationale, on the other hand, are the subject of *ad hoc* legislation, contained within the **Code de la défense**, which lays down specific rules on disciplinary and professional sanctions and the procedure to be followed in imposing them.¹⁹⁷

In addition to supervision by superiors, police officers are internally subject to that of "one or more general inspections"¹⁹⁸, namely the **Inspection générale de la Police nationale** (IGPN) for policemen and **the Inspection générale de la Gendarmerie**

¹⁹¹ Art. 1, par. 2, of the Decree of March 30, 2018, cit.

¹⁹² Art. 2 of the Decree of March 30, 2018, cited above.

¹⁹³ Art. R. 434-25, par. 1, CSI.

¹⁹⁴ Arts. L. 530-1 to L. 533-6 of the Code général de la fonction publique.

¹⁹⁵ Buisson J. (2019). *Le concept d'agent de la force publique. Répertoire de droit pénal et de procédure pénale*, Paris: Dalloz.

¹⁹⁶ Decree of May 9, 1995, No. 95-654, "fixant les dispositions communes applicables aux fonctionnaires actifs des services de la police nationale".

¹⁹⁷ Arts. L. 4137-1 to L. 4137-5 of the Code de la défense; arts. D. 4137-1 to D. 4137-142 of the Code de la défense.

¹⁹⁸ Art. R. 434-25, par. 2, CSI.

nationale (IGGN) for gendarmes. The IGPN constitutes an active service of the DGPN¹⁹⁹ deputed to control - throughout the national territory²⁰⁰ - the directorates and services of the Directorate General of Police, the Police Prefecture and the Directorate General of Security²⁰¹. Its current configuration is the result of a reform that took place in 2013²⁰², which arranged for the merger of the two inspections that previously existed in the Police nationale: the **IGS (Inspection générale des services)**, operational with reference to the Paris Police Prefecture, and the **IGPN (Inspection générale de la Police nationale)**, competent over the rest of French territory²⁰³. A 1986 decree had already intervened to merge the two²⁰⁴, but in fact the IGS had retained a certain autonomy²⁰⁵, which is why, for the actual merger of the two inspections, it was necessary to wait for the 2013 decree, which provided for the absorption of the IGS staff by the IGPN²⁰⁶, resulting in the abolition of the former for the benefit of the latter.

The missions entrusted to it are mainly three, namely, the general mission of inspection, study, audit and advice of the directorates and departments within its competence (1), the management of internal control and *maîtrise des risques* (2) and, finally, control over the execution of sanctions pronounced by the disciplinary authority (3)²⁰⁷. It is also an internal body aimed at promoting an increasingly deontology-friendly institution through the analysis, proposal and evaluation of professional rules and practices related to deontology²⁰⁸. In carrying out these tasks, the IGPN has, first and foremost, a power of judicial inquiry, exercisable on the initiative or on the instructions of the judicial authority - with whose requests it complies²⁰⁹ - but also a power of administrative inquiry, which can be carried out only on the instructions of

¹⁹⁹ Art. 6 of Decree No. 2013-728, cit.; Art. 1, par. 1, of Decree No. 2013-784 of August 28, 2013, "relatif aux missions et à l'organisation de l'inspection générale de la police nationale".

²⁰⁰ Art. 2, par. 1, of Decree No. 2013-784, cited above.

²⁰¹ Art. 1, par. 2, of Decree No. 2013-784, cited above.

²⁰² Decree No. 2013-784, cited above.

²⁰³ Moreau de Bellaing, C. (2023). Le contrôle de l'activité policière. In J. de Maillard & W. G. Skogan (Eds.), *Police et société en France* (p. 123-ff.). Paris: Presses de Science Po.

²⁰⁴ Susuni, J. (1990). A propos de l'inspection générale de la police nationale: IGPN. *Revue de science criminelle et de droit pénal comparé*, 4, 840-843.

²⁰⁵ Moreau de Bellaing, C. (2009). Violences illégitimes et publicité de l'action policière. *Politix*, 87(3), 119-141.

²⁰⁶ Art. 7 of Decree No. 2013-784, cited above.

²⁰⁷ Art. 3 of Decree No. 2013-784, cited above.

²⁰⁸ Art. 6, par. 3, of Decree No. 2013-784, cited above.

²⁰⁹ Art. 4, par. 1 and 2, of Decree No. 2013-784, cited above.

the administrative authorities specified in the decree²¹⁰. It should be pointed out that the Inspection's powers of inquiry are not accompanied by those of sanction; indeed, it does not hold disciplinary power²¹¹ and merely transmits to the administrative authority the findings and considerations it has arrived at at the end of the inquiry. In addition to solicitations from the judicial and administrative authorities, the IGPN also collects reports from individuals²¹², who can contact the Inspection through the virtual platform introduced in 2014²¹³ and accessible at the Ministry of the Interior's website²¹⁴. On the latter, in the section dedicated to the IGPN²¹⁵, annual reports regarding its activities are published, a transparency practice inaugurated in 2021²¹⁶ that denotes greater openness of the body.

The IGGN, on the other hand, is provided for in the **Code de la défense**²¹⁷, as amended by **Decree No. 2009-1727**²¹⁸, which replaced the Inspection générale - competent over the entire national territory and with respect to all Gendarmerie personnel²¹⁹ - with the **Inspection technique de la gendarmerie** - which was competent only with reference to military personnel²²⁰. Included in the DGGN, it is an internal body of the Gendarmerie in charge of implementing the instructions given by the Minister of the Interior and the Directeur général de la gendarmerie, carrying out the missions entrusted by them and ensuring compliance with the rules of deontology to which gendarmes are subject²²¹. The regulation of its attributions and organization was specified by decree of the Minister of the Interior, in accordance with the provisions of the Code de la défense²²², and is to be found in the **Decree of January**

²¹⁰ Art. 5 of Decree No. 2013-784, cited above.

²¹¹ IGPN, *Rapport d'activité de l'Inspection générale de la police nationale pour l'année 2020*, IGPN, 2021, p. 14, <https://mobile.interieur.gouv.fr/Publications/Rapports-de-l-IGPN>

²¹² Art. 4, par. 3, of Decree No. 2013-784, cited above.

²¹³ Decree of May 9, 2014, "Arrêté du 9 mai 2014 autorisant le traitement dénommé "plate-forme de signalement et d'alerte IGPN"".

²¹⁴ Art. 1, par. 1, no. 1, of the Decree of May 9, 2014, cit.

²¹⁵ <https://www.police-nationale.interieur.gouv.fr/nous-decouvrir/notre-organisation/organisation/linspection-generale-de-police-nationale-igpn>

²¹⁶ Cahn, O. (2022). Chronique de police. *Revue de science criminelle et de droit pénal comparé*, 1(1), 155-180.

²¹⁷ Arts. D. 3122-12 to D. 3122-14 of the Code de la défense.

²¹⁸ Decree of December 30, 2009, No. 2009-1727, "relatif à l'inspection générale de la gendarmerie nationale et modifiant le code de la défense (partie réglementaire)".

²¹⁹ Buisson J. (2019). Le concept d'agent de la force publique, cit.

²²⁰ Art. 4 of Decree No. 2009-1727, cited above.

²²¹ D. 3122-12, par. 2, of the Code de la défense.

²²² D. 3211-12, par. 3, of the Code de la défense.

15, 2019²²³, as amended in December 2019²²⁴ and July 2023²²⁵. It is thus that the IGGN is assigned ministerial and inter-ministerial missions; carries out study, investigation and evaluation activities with regard to all areas of the Gendarmerie's service; ensures that all personnel comply with the laws, regulations and procedures to which they are subject; and ensures that the recommendations made are followed up²²⁶. As the body in charge of compliance with deontology, the Inspection not only undertakes studies and makes recommendations in this regard that are useful, but also conducts administrative inquiries - on instruction and on its own initiative - into conduct that constitutes non-compliance with deontology, informing the judicial authorities where these are likely to constitute crimes. The IGGN is also kept informed of all infractions committed by staff, is responsible for collecting and processing not only reports from private individuals, but also those submitted by members of the Gendarmerie, who may report to the IGGN the misconduct of colleagues of which they have been victims or witnesses²²⁷. The judicial authority may also refer to the Inspection, thus called upon to carry out judicial inquiries concerning infractions likely to have been committed, during or off duty, by personnel of the gendarmerie²²⁸. An overview of its activities can be gleaned from reading the annual reports, which are now publicly accessible on the Ministry of the Interior's website, in its IGGN section.²²⁹

A further guarantee is related to the fact that the police force is also controlled by external parties, first and foremost the powers of the state. Like anyone else, the agent who violates the law exposes themselves to the intervention of the judicial authority, which ascertains the materiality of the facts and restores the violated order by inflicting the sanction prescribed by the legal system. The control of the officers and more generally of the administrative sector of public security is also attended by the

²²³ Decree of January 15, 2019, "relatif aux attributions et à l'organisation de l'inspection générale de la gendarmerie nationale". It repealed the decree that previously regulated the attributions of the IGGN, namely the one adopted on December 30, 2009, "relatif aux attributions et à l'organisation de l'inspection générale de la gendarmerie nationale".

²²⁴ Decree of December 27, 2019, "modifiant l'arrêté du 15 janvier 2019 relatif aux attributions et à l'organisation de l'inspection générale de la gendarmerie nationale".

²²⁵ Decree of July 28, 2023, "modifiant l'arrêté du 15 janvier 2019 relatif aux attributions et à l'organisation de l'inspection générale de la gendarmerie nationale".

²²⁶ Art. 1, part I, of the Decree of January 15, 2019, cit.

²²⁷ Art. 1, part II, of the Decree of January 15, 2019, cited above.

²²⁸ Art. 1, part IV, of the Decree of January 15, 2019, cited above.

²²⁹ <https://mobile.interieur.gouv.fr/Publications/Rapports-de-l-IGGN>

legislature, which, in addition to voting on the law, monitors government action and evaluates public policies, as provided for in the Constitution²³⁰. To this end, each of the two chambers that make up the **Parlement** may create committees of inquiry aimed at gathering useful information²³¹ and investigating specific facts or services²³², subject to the procedure and conditions laid down in the regulations of the two assemblies²³³. On the subject of police forces and the maintenance of law and order, no commission of inquiry is currently operational, but several have been established over the past few years, both by the **Assemblée nationale** - think of the **Commission d'enquête sur les moyens des forces de sécurité**²³⁴, as well as by the **Commission d'enquête relative à l'état des lieux, la déontologie, les pratiques et les doctrines de maintien de l'ordre**²³⁵ - and by the **Sénat** - with the **Commission d'enquête sur l'état des forces de sécurité intérieure**²³⁶ and with the **commission relating to the riots that occurred in July 2023**.²³⁷

Another external oversight entity is the **Défenseur des droits**²³⁸, established by the **Constitutional Revision Act of July 23, 2008**²³⁹ and tasked with overseeing respect for rights and freedoms by administrations, whether state or local, and in general by entities that perform public service missions²⁴⁰. This is the first constitutionally

²³⁰ Art. 24, par. 1, Const.

²³¹ Art. 51-2, par. 1, Const.

²³² Art. 137 of the Rules of Procedure of the Assemblée nationale; Art. 8-ter, par. 2, of the Rules of Procedure of the Sénat.

²³³ For the Assemblée nationale, Articles 137 to 144 of the Rules of Procedure of the Assemblée nationale; for the Sénat, Article 8-ter of the Rules of Procedure of the Sénat.

²³⁴ Report No. 2111 listing the findings of the Commission d'enquête sur les moyens des forces de sécurité was filed on July 3, 2019, https://www.assemblee-nationale.fr/dyn/15/rapports/ceforsec/l15b2111_rapport-enquete

²³⁵ Report No. 3786 listing the findings of the Commission d'enquête relative à l'état des lieux, la déontologie, les pratiques et les doctrines de maintien de l'ordre was filed on January 20, 2021, https://www.assemblee-nationale.fr/dyn/15/rapports/ceordre/l15b3786_rapport-enquete

²³⁶ Report No. 612 prepared by the Commission d'enquête sur l'état des forces de sécurité intérieure consists of two tomes, both filed on June 27, 2018, <https://www.senat.fr/travaux-parlementaires/structures-temporaires/commissions-denquete/commissions-denquete/forces-de-securite-interieure/commission-denquete-sur-letat-des-forces-de-securite-interieure.html>

²³⁷ Information Report No. 521 prepared by the Committee of Inquiry into the June 2023 riots (*Émeutes de juin 2023: comprendre, évaluer, réagir*) was filed on April 9, 2024, <https://www.senat.fr/rap/r23-521/r23-521.html>

²³⁸ Art. L. 142-1 CIS.

²³⁹ Constitutional Law of July 23, 2008, No. 2008-724, "de modernisation des institutions de la Ve République".

²⁴⁰ Art. 71-1, par. 1, Const.

recognized independent administrative authority²⁴¹, the introduction of which meant the demise of other previously existing authorities in the areas of competence in which the Défenseur took over, such as the **Médiateur de la République**, the **Commission nationale de déontologie de la sécurité** (CNDS), the **Haute autorité de lutte contre les discriminations et pour l'égalité** (HALDE) and the **Défenseur des enfants**²⁴². The genesis of the Défenseur, briefly reported here, is reflected in the variety of missions that the authority is called upon to fulfill, having inherited the mandates of the four suppressed authorities mentioned above, as reflected in the attributions indicated within the **organic law of March 29, 2011**²⁴³.

The relevant aspect in terms of police accountability lies in the fact that, among its missions, there is also controlling compliance with deontology on the part of persons exercising security activities on the territory of the Republic²⁴⁴, for the fulfillment of which there is an *ad hoc* board, responsible for deontology in the field of security²⁴⁵. The advantages of this control lie in the independence of the institution that implements it, taking into account that, in the exercise of the functions entrusted to it, the Défenseur neither receives nor solicits instructions of any kind, and its agents cannot be prosecuted, sought, arrested, detained or judged for opinions expressed or acts performed always in the exercise of their functions²⁴⁶. This independence is also reflected in its power to act on its own initiative, provided that the person concerned, duly notified, has not opposed its action²⁴⁷. What has been described, however, is not the only way in which the Défenseur can be activated: to it can first and foremost appeal directly by natural or moral persons who consider their rights to have been violated, as well as their successors in title²⁴⁸, subject to the conditions laid down by the organic law²⁴⁹; its intervention can be requested by parliamentarians and MEPs,

²⁴¹ Zarka, J. (2011). Le " Défenseur des droits ". *Recueil Dalloz*, 15, 1027-1033.

²⁴² *Ibid.*

²⁴³ Organic Law of March 29, 2011, No. 2011-333, "relative au Défenseur des droits".

²⁴⁴ Art. 4 l. no. 2011-333, cit.

²⁴⁵ Art. 13, par. 1, l. No. 2011-333, cit.

²⁴⁶ Art. 2 l. No. 2011-333, cit.

²⁴⁷ Art. 8 l. no. 2011-333, cit. The provision stipulates that the Défenseur des droits may still act on its own initiative in cases where the best interests of the child are at stake or in cases where the person is not identified/their consent could not be obtained.

²⁴⁸ Art. 5 l. No. 2011-333, cit.

²⁴⁹ Art. 6 l. no. 2011-333, cit.

through the transmission to the administrative authority of complaints submitted to them by private individuals, but also by parliamentary standing committees and the European Ombudsman or a foreign counterpart.²⁵⁰

The Défenseur assesses on a case-by-case basis whether the facts brought to its attention justify its intervention and, if it considers this to be the case, it may decide not to take action, while giving reasons for such a decision²⁵¹. Inversely, in the event that it concludes for the necessity of its action, the powers at its disposal are heterogeneous²⁵² and range from making recommendations relating to respect for rights and freedoms to directing the person who brought the case before it to the procedures best suited to the case at hand, via the possibility, recognized to the Défenseur, of addressing the authority holding disciplinary power for the facts. It may also recommend that necessary legislative and regulatory changes be made, as well as be consulted on draft laws or matters within its competence: in which case, at the latest within a month of being requested to do so, the Défenseur draws up an **avis** (opinion) which, in the same way as the recommendations and decisions adopted, it may decide to make public: these documents, together with the annual reports on its activities and the studies conducted, can be found on the body's website.²⁵³

3. Critical thresholds

There are two main issues that return with some frequency in French public debate with reference to the police: racism and violence. The first accusation levelled at the French police is that it is affected by an institutionalized form of racism, which sees it vary its approach according to the ethnicity - real or perceived - of the person with whom it interfaces. This critique is grounded in the features presented by a specific practice of police action, namely identity checks. Officers may require anyone to justify their identity when there is "one or more plausible reason to suspect" that the person has, for example, committed an offense or is about to commit one, or is wanted by the

²⁵⁰ Art. 7 I. no. 2011-333, cit.

²⁵¹ Art. 24 I. no. 2011-333, cit.

²⁵² The powers of the Défenseur des droits are specified in Articles 24 to 36 I. No. 2011-333, cited above.

²⁵³ <https://www.defenseurdesdroits.fr/>

judicial authority²⁵⁴. However, the choice of whom to check cannot be based on their physical appearance or other distinguishing marks²⁵⁵, that is, it must not be discriminatory.

Yet the reality of the facts does not seem to be in line with the normative dictate: policemen mainly check young, male and visible minority people²⁵⁶, in the vast majority of cases perceived to be black or Arab²⁵⁷, so much so that the expression "contrôle au faciès" has been coined, to emphasize precisely how identity checks are targeted on visible minorities²⁵⁸. The French police make massive use of this means, far more than the police in other European countries, dealing with millions and millions of checks a year²⁵⁹, among other things without the possibility of determining the precise number or tracking them, since the recommendation of the Défenseur des droits to include an obligation for officers to hand over a receipt of the check to the person concerned, thus allowing the identity of the officer and the reason for the check to be traced, has never been followed up²⁶⁰. In 2016, the French Court of Cassation estimated that about a few million checks a year exhibit discriminatory traits in the choice of the sample on which to carry them out²⁶¹, while Défenseur points out that these traits can also be found in the way the check²⁶² is carried out, which, in addition to being accompanied by insults, not infrequently degenerates into disproportionate use of force and, in the worst cases, the death of the person being checked²⁶³. The magnitude of the phenomenon now described makes it evident in its problematic nature and causes it to take on a strong symbolic significance: young people of African descent feel themselves to be the targets of controls-often operated by mostly white officers-arbitrary, perceived "as a

²⁵⁴ Art. 78-2, par. 1, of the Code de procédure pénale.

²⁵⁵ Art. R. 434-16, par. 1, CSI.

²⁵⁶ Jobard, F. & Lévy, R. (2009). Les contrôles au faciès à Paris. *Plein droit*, 82(3), 11-14.

²⁵⁷ DDD, *Rapport 2019. L'observatoire du Défenseur des droits*, Défenseur des droits, 2020, p. 46.

²⁵⁸ *Ibid.*, p. 11.

²⁵⁹ Jobard, F. (2022). Police et racisme. *Pouvoirs*, 181(2), 85-96.

²⁶⁰ Défenseur des droits (DDD), *Rapport relatif aux relations police/citoyens et aux contrôles d'identité*, Défenseur des droits, 2012, p. 31.

²⁶¹ Slaouti, O. & Jobard, F. (2020). Police, justice, État: discriminations raciales. In O. Slaouti & Le Cour Grandmaison (Eds.), *Racismes de France* (p. 41-ff.). Paris: La Découverte.

²⁶² *Ibid.*, p. 43.

²⁶³ *Ibid.*, p. 44: "ces contrôles sont à l'origine de près du quart des 578 décès constatés lors d'interventions policières ces quarante dernières années."

symbol of oppression and racism"²⁶⁴, evoking practices in use in colonial France²⁶⁵ and reiterated today in the French *banlieues*, where "police coloniality" (colonialité policière) finds its greatest extrinsicity²⁶⁶.

Contrôles aux faciès, brought to the attention of the European Court of Human Rights in a recent case against France²⁶⁷, are pointed to as one of the many symptoms of institutionalized racism, which can be defined as "a series of decisions and provisions which, because of the conditions of their implementation and because of their cumulative nature, produce differential and unequal treatment according to the real or presumed origins of the persons involved."²⁶⁸ The attitude displayed by the police dealing with the public fosters the emergence in officers of individual racism or, if already present, justifies it²⁶⁹, which is why it is likely that integration into the police services and incorporation into a professional culture so configured will cause officers *to become* racist, as some among them claim.²⁷⁰

The other focus of the debate concerns "police violence" (**violence policière**), or the use of force in violation of the legal framework. The use of coercive instruments constitutes one of the means attributed by the legal system to the police, but it is allowed only as long as it takes place in accordance with the principles of necessity and proportionality²⁷¹ and in the cases defined by law²⁷². Again, the widespread perception among the population is that there is a systematic flaw, which in this case concerns compliance with the rules on the use of force: since the Défenseur des droits has been

²⁶⁴ Jobard, F. & Lévy, R. (2009). Les contrôles au faciès à Paris, cit., p. 11.

²⁶⁵ Jobard, F. (2022). Police et racisme, cit., p. 89-90.

²⁶⁶ *Ibid.*, p. 88.

²⁶⁷ European Court of Human Rights, Fifth Chamber, Appeal No. 35844/17 introduced May 9, 2017 and announced October 6, 2021, Mounir Seydi and others v. France.

²⁶⁸ Slaouti, O. & Jobard, F. (2020). *Police, justice, État*, cit., p. 42.

²⁶⁹ *Ibid.*, p. 46.

²⁷⁰ Jobard, F. (2022). Police et racisme, cit., p. 88.

²⁷¹ Art. R. 434-18, par. 1, CSI.

²⁷² See Article L. 435-1 CIS.

created, violence has been the first²⁷³ or second²⁷⁴ ground for complaint by individuals against law enforcement officers; this finding is also recorded in the annual activity reports published **by the Inspection générale de la Police nationale** - in which the disproportionate and/or unnecessary use of force represents the first reason for reporting by individuals²⁷⁵ - and in the reports of the **Inspection générale de la Gendarmerie nationale**, albeit in a significantly lesser form - violence represents between the fourth and sixth reason for reporting²⁷⁶.

Various are the places and contexts in which officers become perpetrators of violence²⁷⁷, but it would seem that this is most likely to occur in the course of an arrest or in policing and crowd management²⁷⁸. Indeed, interventions in public spaces are increasingly problematic, a critical issue that is confirmed by an increase in "overt and unprecedented" violence²⁷⁹, followed by a consequent growth in the number of people seriously injured²⁸⁰. Adding to this picture is the issue of officers' identification. It often turns out that in the context of policing operations they either don't wear or cover their

²⁷³ DDD, *Rapport annuel d'activité 2013*, Défenseur des droits, 2014, p. 27; DDD, *Bilan annuel d'activité 2014*, Défenseur des droits, 2015, p. 20; DDD, *Rapport annuel d'activité 2015*, Défenseur des droits, 2016, p. 83; DDD, *Rapport annuel d'activité 2016*, Défenseur des droits, 2017, p. 113; DDD, *Rapport annuel d'activité 2017*, Défenseur des droits, 2018, p. 120; DDD, *Rapport annuel d'activité 2018*, Défenseur des droits, 2019, p. 60; DDD, *Rapport annuel d'activité 2019*, Défenseur des droits, 2020, p. 23; DDD, *Rapport annuel d'activité 2020*, Défenseur des droits, 2021, p. 19; DDD, *Rapport annuel d'activité 2021*, Défenseur des droits, 2022, p. 62; DDD, *Rapport annuel d'activité 2022*, Défenseur des droits, 2023, p. 83; DDD, *Rapport annuel d'activité 2023*, Défenseur des droits, 2024, p. 13.

²⁷⁴ DDD, *Rapport annuel 2012*, Défenseur des droits, 2013, p. 32.

²⁷⁵ IGPN, *Rapport annuel de l'IGPN 2017*, IGPN, 2018, p. 17; IGPN, *Rapport annuel de l'IGPN 2018*, IGPN, 2019, p. 14-15; IGPN, *Rapport annuel de l'IGPN 2019*, IGPN, 2020, p. 20; IGPN, *Rapport annuel de l'IGPN 2020*, IGPN, 2021, p. 33-34; IGPN, *Rapport annuel de l'IGPN 2021*, IGPN, 2022, p. 52; IGPN, *Rapport annuel de l'IGPN 2022*, IGPN, 2023, p. 21-22; IGPN, *Rapport annuel de l'IGPN 2023*, IGPN, 2024, p. 118. These reports can be found at: https://mobile.interieur.gouv.fr/Publications/Rapports-de-l-IGPN#111540_children

²⁷⁶ IGGN, *Rapport annuel d'activité de l'IGGN 2019*, IGGN, 2020, p. 9: the percentage of reports involving the unlawful use of force is not specified, but it is indicated that violence constitutes one of the main grounds for complaint in 2019; IGGN, *Rapport annuel d'activité de l'IGGN 2020*, IGGN, 2021, p. 17: violence constitutes the fourth reason for reporting by individuals; IGGN, *Rapport annuel d'activité de l'IGGN 2021*, IGGN, 2022, p. 24: violence constitutes the sixth reason for reporting by individuals; IGGN, *Rapport annuel d'activité de l'IGGN 2022*, IGGN, 2023, p. 10: violence constitutes the fifth reason for reporting by individuals. These reports can be found at: https://mobile.interieur.gouv.fr/Publications/Rapports-de-l-IGGN#123473_children

²⁷⁷ ACAT, *L'ordre et la force. Enquête sur l'usage de la force par les représentants de la loi en France*, ACAT, 2016, p. 17-19.

²⁷⁸ *Ibid.*, p. 17.

²⁷⁹ Roché, S. (2020). Les violences policières en France. *Revue Esprit*, <https://esprit.presse.fr/actualites/sebastian-roche/les-violences-policieres-en-france-42562>

²⁸⁰ *Ibid.*

personal identification code, as stated recently by the **Conseil d'État**²⁸¹. Violent crowd management, then, is accompanied by an increasing number of people seriously injured by officers, whose identities are difficult to establish.

The French police, unlike other European police, do not seem to be able or willing to adapt their policing strategies to recent doctrines of de-escalation (*désescalade*), which favor tools such as dialogue and communication between police and protesters and the use of techniques aimed at reducing conflict between the two sides²⁸². Despite the attempt made in 2021, with the adoption of a national scheme of the maintenance of order²⁸³, some critical issues persist: there continues to be a tendency for officers to engage in violent management of events deemed "likely to generate disorders"²⁸⁴, with significant use of so-called "nonlethal weapons," the use of which has not been banned by the aforementioned national scheme, despite the fact that for years the Défenseur des droits has been urging that the use of these means of intermediate force be reduced as much as possible and, in some cases, prohibited²⁸⁵. These are devices that can cause serious injury²⁸⁶, so much so that the designation of "non-lethal weapon" has been changed to "weapon of reduced lethality"²⁸⁷: certain rubber bullets with which agents are equipped—for example, those of the Lbd40 type—are equivalent, in terms of impact, to a twenty-kilogram concrete block thrown from a meter in the air, while the explosive grenades used to disperse the crowd contain about twenty-five grams of TNT and throw metal fragments and fragments of other materials²⁸⁸. It can now be understood why such weapons are not widespread among European police forces—only the French and Polish ones have them²⁸⁹—but it is not clear why French officers are increasingly resorting to them in the context of policing operations.²⁹⁰

²⁸¹ Conseil d'État, Assemblée, October 11, 2023, No. 467771, Published in the Lebon Collection.

²⁸² Fillieule, O. & Jobard, F. (2016). Un splendide isolement. Les politiques françaises de maintien de l'ordre. *La vie des idées*, <https://laviedesidees.fr/Un-splendide-isolement>

²⁸³ Ministère de l'intérieur, Schéma national du maintien de l'ordre, December 2021, <https://www.interieur.gouv.fr/sites/minint/files/medias/documents/2021-12/schema-national-du-maintien-de-l-ordre-decembre-2021.pdf>

²⁸⁴ DDD, *Désescalade de la violence et gestion des goulées protestataires*, Défenseur des droits, 2021, p. 15.

²⁸⁵ DDD, *Rapport sur trois moyens de force intermédiaire*, Défenseur des droits, 2013, p. 46.

²⁸⁶ DDD, *Le maintien de l'ordre au regard des règles de déontologie*, Défenseur des droits, p. 31.

²⁸⁷ ACAT, *L'ordre et la force*, cit. p. 27.

²⁸⁸ Roché, S. (2019). Le LBD ou le chaos? *Revue Esprit*, *April* (4), 9-14.

²⁸⁹ Roché, S. (2020). Les violences policières en France, cit.

²⁹⁰ *Ibid.*

The use of force outside the legal framework is also recorded in another specific context, the *banlieues* and sensitive neighborhoods, and targets a specific part of the population, young men belonging to visible minorities²⁹¹. In terms of policing, the *banlieues* are seen as areas with specific needs and therefore to be managed with interventions and *ad hoc* police teams, e.g., the anti-crime brigades (**BACs**), according to a logic of conquest and occupation of the territory²⁹² that in part recalls colonial-type dynamics. For decades now, relations between the population of these neighborhoods, especially the younger ones, and officers have been charged with a "borderline explosive" conflict²⁹³, fueled by constant humiliation, such as the aforementioned abusive identity checks, made up of "incessant provocations"²⁹⁴, racism and violence²⁹⁵. The sentiment of the *banlieues* and their youth is that of institutionalized injustice, the expression of which are the *émeutes* (riots) that periodically occur in response to serious events occasioned by the police²⁹⁶ such as, for example, the killing of a boy by officers, as happened in June and July 2023 following the death of Nahel Merzouk, only 17 years old.

4. Local police.

Police functions are not only exercised by state forces, so much so that these are joined by the **Municipal Police** as a local police force, which finds its discipline predominantly in the **Code général des collectivités territoriales** (CGCT), the **Code de la sécurité intérieure**, the **Code de la fonction publique** and the **Code de la procédure pénale**. Its origins can already be found in the *Ancien Régime* and in the evolutions that occurred with the French Revolution²⁹⁷, but it is the **law of April 5, 1884** that is traditionally regarded as the founding text in this matter, giving the mayor

²⁹¹ ACAT, *L'ordre et la force*, cit. p. 15.

²⁹² Roux, G. (2017). Expliquer le rejet de la police en banlieue: discriminations, "ciblage des quartiers" et racialisation. Un état de l'art. *Droit et société*, 97(3), 555-568.

²⁹³ Marlière, É. (2007). Les "jeunes de cité" et la police: de la tension à l'émeute. *Empan*, 67(3), 26-29.

²⁹⁴ *Ibid.*, p. 27

²⁹⁵ See to this effect Fassin, D. (2015). *La force de l'ordre. Une anthropologie de la police des quartiers*. Paris: Éditions du Seuil. Fassin observed the operation of a BAC in sensitive neighborhoods for several months (May 2005-June 2007), noting the effectiveness of many officers' racist behavior and violence.

²⁹⁶ Marlière, É. (2007). Les "jeunes de cité" et la police, cit., p. 29.

²⁹⁷ Descollonges, D. & Yazı-Roman, M. (2023). Les agents de police municipale. Des acteurs en quête de définition. *AJCT*, 9, 463-493.

extensive police powers and placing the commissioner of the police municipale under its direction²⁹⁸, as had already happened following the Revolution²⁹⁹. At the end of a non-linear path, also traversed by tendencies toward centralization and consequent nationalization of local police³⁰⁰, the current configuration was placed by the **law of April 15, 1999**³⁰¹ and sees the mayor charged, as a participant in the policy of prevention of delinquency³⁰², with the direction of the Police municipale, a task it fulfills under the administrative control of the state representative in the department .³⁰³

The Police municipale consists of territorial officers appointed by the mayor, with the approval of the state representative in the department and the prosecutor³⁰⁴, and called upon to perform the tasks entrusted to them "in matters of prevention and surveillance of good order, tranquility, security and public health"³⁰⁵. Alongside the missions of police administrative, there are also those of police judiciaire indicated in Article 21 of the **Code de procédure pénale**, which **policiers municipaux** perform within the municipal territory³⁰⁶. In performing their duties, they may be authorized to carry a weapon³⁰⁷. They are required to comply with the **Code de déontologie de la Police municipale**³⁰⁸, in which it is specified that their activities are placed under the control of the Minister of the Interior in the terms of Article L. 513-1 CSI and the Défenseur des droits.³⁰⁹

The relations between the municipal police and the state police forces are specified within the **Code de la sécurité intérieure**, which places several limits on the former's action³¹⁰: in matters both of police administrative and police judiciaire, the municipal police performs the tasks entrusted by the mayor and falls within the mayor's jurisdiction, thus relating to the territory of the municipality. Moreover, the police

²⁹⁸ Diaz, C. (2018). Le maire et son commissaire. Une histoire des polices municipales sous la Troisième République. *Cahiers de la sécurité et de la justice*, 44, 66-75.

²⁹⁹ Descollonges, D. & Yazı-Roman, M. (2023). Les agents de police municipale, cit., p. 464-467.

³⁰⁰ *Ibid.*

³⁰¹ Law of April 15, 1999, No. 99-291, "relative aux polices municipales".

³⁰² Art. L. 2211-1 CGCT.

³⁰³ Article L. 2212-1 CGCT.

³⁰⁴ Art. L. 511-2, par. 2, CSI.

³⁰⁵ Art. L. 511-1, par. 1, CSI.

³⁰⁶ Art. L. 511-1, par. 5, CSI.

³⁰⁷ See arts. L. 511-5 and L. 511-5-1 CSI, arts. R. 511-11 to R. 511-34 CSI.

³⁰⁸ Arts. R. 515-1 to R. 515-6 CSI.

³⁰⁹ Art. R. 515-21 CIS.

³¹⁰ Art. L. 511-1, par. 1, CSI.

municipale operates "without prejudice to the general jurisdiction of the police nationale and the gendarmerie nationale," a formula that suggests an auxiliary or complementary role of the former with respect to the latter. The fact that the local police do not replace the state police is confirmed by the provision of the convention for the coordination of the interventions of the municipal police and state security forces³¹¹, which can be concluded if the conditions provided by the legislature are met and which is aimed at coordinating the different police forces operating on the same territory, specifying the missions attributed to the policiers municipaux, the nature of these and the places of their performance. Finally, Police municipale is not in charge of maintaining order and security in all French municipalities, since in some of them-for example, the communes-capitals of the departments³¹², but not only³¹³ -only state police forces enforce municipal **arrêts**³¹⁴ and it is up to the state, not the mayor, to suppress threats to public order³¹⁵. Net of the limitations now illustrated, the reality in recent decades is, however, that of an increasingly significant Municipal Police, at least in terms of numbers, with steady and significant growth in recruitment.³¹⁶

³¹¹ Arts. L. 512-4 to L. 512-7 CSI.

³¹² Article R. 2214-1 CGCT.

³¹³ Article R. 2214-2 CGCT.

³¹⁴ Art. L. 2214-3 CGCT.

³¹⁵ Art. L. 2214-4 CGCT.

³¹⁶ Mucchielli, L. (2017). L'évolution des polices municipales en France: une imitation des polices d'État vouée à l'échec? *Déviante et Société*, 41(2), 239-271.