

LC Paper No. CB(2)1713/01-02(05)

## INFORMATION NOTE

### Mechanism of Handling Complaints Against Police

**Table 1 — Civilian Oversight Bodies Responsible for Handling Complaints Against Police**

Jurisdictions	Civilian Oversight Bodies	Statutory Status
<b>Hong Kong</b>	The Independent Police Complaints Council <sup>1</sup>	See footnote 1
<b>New York City, United States of America</b>	New York City Civilian Complaint Review Board	Yes
<b>England and Wales, United Kingdom</b>	(a) Police Complaints Authority	Yes
	(b) A proposed Independent Police Complaints Commission <sup>2</sup>	Yes
<b>Queensland, Australia</b>	The Crime and Misconduct Commission	Yes
<b>New South Wales, Australia</b>	(a) The New South Wales Ombudsman <sup>3</sup>	Yes
	(b) The Police Integrity Commission <sup>3</sup>	Yes
<b>Toronto, Canada</b>	Ontario Civilian Commission on Police Service	Yes

<sup>1</sup> The Hong Kong Special Administrative Region Government published a consultation paper on the proposed Independent Police Complaints Council Bill in March 2002. The bill would propose to provide a statutory status for the Independent Police Complaints Council and to enhance the credibility and transparency of the existing police complaints system.

<sup>2</sup> Subject to the passage of the Police Reform Bill, the present Police Complaints Authority will be replaced by a new Independent Police Complaints Commission whose power will be greatly enhanced. The bill has just passed by the House of Lords.

<sup>3</sup> In general terms, the principal focus of the New South Wales Ombudsman is oversight. While the Ombudsman retains power to investigate in selected cases, its main task is to ensure the integrity and fairness of the police service's handling of complaints. The Police Integrity Commission is a specialist agency established primarily to detect, investigate and prevent serious police misconduct and corruption, and it monitors police investigations as well. Their roles are complimentary. The two bodies liaise regularly to avoid inappropriate and unnecessary duplication.

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<b>Singapore</b>	Not applicable <sup>4</sup>	Not applicable
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<sup>4</sup> Singapore has no civilian body to oversee the handling of complaints against police officers.

**Table 2 — Composition of Civilian Oversight Bodies**

<b>Jurisdictions / Civilian Oversight Bodies</b>		<b>Composition</b>
<b>Hong Kong</b> The proposed Independent Police Complaints Council		<ul style="list-style-type: none"> <li>The Chairman, 3 Vice-Chairmen and not fewer than 8 other members will be appointed by the Chief Executive of Hong Kong. The Ombudsman or his representative will be an ex officio member.</li> </ul>
<b>New York City, United States of America</b> New York City Civilian Complaint Review Board		<ul style="list-style-type: none"> <li>13 members are appointed by the Mayor of New York (5 are nominated by the Mayor; 5 are designated by the City Council; and 3 are designated by the Police Commissioner.)</li> <li>The Chair is appointed by the Mayor.</li> </ul>
<b>England and Wales, United Kingdom</b>	(a) Police Complaints Authority	<ul style="list-style-type: none"> <li>17 members are appointed by the Home Secretary.</li> <li>The Chairman is appointed by the Queen.</li> </ul>
	(b) The proposed Independent Police Complaints Commission	<ul style="list-style-type: none"> <li>Not fewer than 10 members will be appointed by the Home Secretary.</li> <li>The Chairman will be appointed by the Queen.</li> </ul>
<b>Queensland, Australia</b> The Crime and Misconduct Commission		<ul style="list-style-type: none"> <li>The Chairperson, 4 Commissioners and 2 Assistant Commissioners are nominated by the Minister and appointed by the Governor-in-Council.</li> </ul>
<b>New South Wales, Australia</b>	(a) The New South Wales Ombudsman	<ul style="list-style-type: none"> <li>The state Cabinet recommends a preferred candidate and the state Governor makes an appointment. Parliamentary Joint Committee can veto the recommendation.</li> </ul>
	(b) The Police Integrity Commission	<ul style="list-style-type: none"> <li>The Commissioner is appointed by the state Governor.</li> </ul>
<b>Toronto, Canada</b> Ontario Civilian Commission on Police Service		<ul style="list-style-type: none"> <li>Members are appointed by the Lieutenant Governor-in-Council.</li> </ul>
<b>Singapore</b>		<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>

## **1. Receipt of Complaints Against Police by Civilian Oversight Bodies**

1.1 All civilian oversight bodies listed in Table 3 have the power to receive complaints directly from the public. Among them, the New York City Civilian Complaint Review Board also receives complaints referred by the New York Police Department.

1.2 The proposed Independent Police Complaints Commission in England and Wales will have the power to call in any case as to either investigate or supervise and deal with cases even when no complaint is made.

1.3 The New South Wales Police and the New South Wales Ombudsman must notify the Police Integrity Commission (PIC) of all complaints about serious police misconduct, and PIC will assess how these complaints should be dealt with. A serious police misconduct refers to a conduct which attracts a penalty of imprisonment for five or more years.

1.4 For complaints of less serious nature, the New South Wales Police and the New South Wales Ombudsman are required to notify PIC only where the subject of the complaint is ranked superintendent or above. PIC is usually not expected to comment on how complaints of this kind are to be handled.

**Table 3 — Scope of Complaints Against Police Handled by Civilian Oversight Bodies**

<b>Jurisdictions / Civilian Oversight Bodies</b>		<b>Scope of Complaints</b>
<b>Hong Kong</b> The proposed Independent Police Complaints Council		<ul style="list-style-type: none"> <li>Police misconduct and any practice or procedure adopted by the police.</li> </ul>
<b>New York City, United States of America</b> New York City Civilian Complaint Review Board		<ul style="list-style-type: none"> <li>Police misconduct involving the use of excessive force, abuse of authority, discourtesy and offensive language.</li> </ul>
<b>England and Wales, United Kingdom</b>	(a) Police Complaints Authority	<ul style="list-style-type: none"> <li>Allegations of a police officer who has behaved incorrectly or unfairly, used excessive force, abused the rights of a complainant or arrested a complainant unlawfully.</li> </ul>
	(b) The proposed Independent Police Complaints Commission	<ul style="list-style-type: none"> <li>Any conduct of a police officer or an employee of police which has an adverse effect on a member of the public, or the conduct is sufficiently serious to bring the police into disrepute.</li> </ul>
<b>Queensland, Australia</b> The Crime and Misconduct Commission		<ul style="list-style-type: none"> <li>Corruption and police misconduct that is disgraceful, improper or shows unfitness to continue as an officer, or does not meet the standard of conduct the community reasonably expects of a police officer.</li> </ul>
<b>New South Wales, Australia</b>	(a) The New South Wales Ombudsman	<ul style="list-style-type: none"> <li>Conduct which may be illegal, unreasonable, unjust, oppressive, discriminatory, or based on improper motives.</li> </ul>
	(b) Police Integrity Commission	<ul style="list-style-type: none"> <li>Police corruption or serious police misconduct.</li> </ul>
<b>Toronto, Canada</b> Ontario Civilian Commission on Police Service		<ul style="list-style-type: none"> <li>Policies of or services provided by the police force.</li> <li>Conduct and performance of an on-duty police officer and conduct of an off-duty officer, provided that it is related to the occupational requirements or the reputation of the police.</li> </ul>
<b>Singapore</b>		<ul style="list-style-type: none"> <li>Not applicable. (Police misconduct is investigated by the Singapore Police Force.)</li> </ul>

**Table 4 — Investigative Power of Civilian Oversight Bodies**

Jurisdictions / Civilian Oversight Bodies		Power of Investigation			
		<b>Conducts independent investigation</b>	<b>Maintains the power to investigate, but in most cases, audits results of police investigation</b>	<b>No power to investigate, but is authorized to review police investigation</b>	<b>No civilian body to investigate complaints or review police investigation</b>
<b>Hong Kong</b> The proposed Independent Police Complaints Council				Yes	
<b>New York City, United States of America</b> New York City Civilian Complaint Review Board		Yes			
<b>England and Wales, United Kingdom</b>	(a) Police Complaints Authority			Yes	
	(b) The proposed Independent Police Complaints Commission		Yes		
<b>Queensland, Australia</b> The Crime and Misconduct Commission			Yes		
<b>New South Wales, Australia</b>	(a) The New South Wales Ombudsman		Yes		
	(b) The Police Integrity Commission		Yes		
<b>Toronto, Canada</b> Ontario Civilian Commission on Police Service			Yes		
<b>Singapore</b>					Yes

**Table 5 — Investigation of Complaints Against Police**

<b>Jurisdictions / Civilian Oversight Bodies</b>		<b>Investigation of Complaints</b>
<b>Hong Kong</b> The proposed Independent Police Complaints Council		<ul style="list-style-type: none"> <li>The Complaints Against Police Office of the Hong Kong Police Force investigates all the complaints.</li> </ul>
<b>New York City, United States of America</b> New York City Civilian Complaint Review Board (CCRB)		<ul style="list-style-type: none"> <li>CCRB investigates all the complaints except those outside its scope.</li> <li>CCRB has 169 civilian employees and the authorized headcount is 187 (129 investigators and 58 administrative staff).<sup>5</sup></li> </ul>
<b>England and Wales, United Kingdom</b>	(a) Police Complaints Authority (PCA)	<ul style="list-style-type: none"> <li>The police investigates all the cases.</li> <li>The police must refer a case to PCA for supervision of investigation when the alleged misconduct has resulted in death or serious injury to some other person, or the allegation involves assault occasioning actual bodily harm, corruption or any serious arrestable offence.</li> <li>The police can also voluntarily refer any matter to PCA for supervised investigation.</li> </ul>
	(b) The proposed Independent Police Complaints Commission (Commission)	<ul style="list-style-type: none"> <li>The police investigates the majority of the cases.</li> <li>The proposed Commission will have its own powers of investigation and a mixed team of seconded police investigators and civilian investigators.</li> <li>The proposed Commission will decide whether it will conduct a full independent investigation on a particular case.</li> </ul>
<b>Queensland, Australia</b> The Crime and Misconduct Commission (CMC)		<ul style="list-style-type: none"> <li>The Queensland Police Service investigates the majority of the cases.</li> <li>CMC has its power of investigation and a mixed team of seconded police investigators and civilian investigators. However, it will only investigate complaints of a more serious nature.</li> </ul>

<sup>5</sup> New York City Civilian Complaint Review Board, *Semiannual Report*, January - June, 2001.

**Table 5 — Investigation of Complaints Against Police (cont'd)**

<b>Jurisdictions / Civilian Oversight Bodies</b>	<b>Investigation of Complaints</b>
<p><b>New South Wales, Australia</b></p> <p>(a) The New South Wales Ombudsman (Ombudsman)</p> <p>(b) The Police Integrity Commission (PIC)</p>	<ul style="list-style-type: none"> <li>• The New South Wales Police investigates the majority of the cases.</li> <li>• The Ombudsman will conduct its own investigation if the police investigation is grossly inadequate or an issue of significant public interest needs to be addressed.</li> <li>• PIC only conducts direct investigations into complaints of a very serious nature. It can hold investigative hearings in private or in public.</li> <li>• The police and the Ombudsman are required to notify PIC of complaints about serious police misconduct, and PIC may decide to refer the complaints back to the police for investigation. The investigation can then be monitored by either PIC or the Ombudsman. PIC may also conduct its own investigation in concurrent with the police investigation or take over the investigation.<sup>6</sup></li> </ul>
<p><b>Toronto, Canada</b></p> <p>Ontario Civilian Commission on Police Service (OCCPS)</p>	<ul style="list-style-type: none"> <li>• The Toronto Police Service investigates the majority of the cases.</li> <li>• OCCPS only conducts direct investigations on allegations against police chief, deputy chiefs or Toronto Police Services Board members.</li> </ul>
<p><b>Singapore</b></p>	<ul style="list-style-type: none"> <li>• The Singapore Police Force (SPF) investigates all the cases. If it is a non-serious complaint, it will be investigated by the Police Divisional Headquarters with a view to resolving it through consensus resolution with the parties involved.</li> <li>• If it is a serious allegation of misconduct, the complaint will be forwarded to the Internal Investigation Department of the SPF for investigation.</li> </ul>

<sup>6</sup> The New South Wales Ombudsman, *Revolving Complaints About Police - A Guide to Who Does What*, February, 2001.



**Table 6 — Oversight of the Investigations of Complaints Against Police**

<b>Jurisdictions / Civilian Oversight Bodies</b>		<b>Oversight of the Investigations of Complaints Against Police</b>
<b>Hong Kong</b> The proposed Independent Police Complaints Council (Council)		<ul style="list-style-type: none"> <li>It will review the manner in which complaints are handled by the Complaints Against Police Office (CAPO) of the Hong Kong Police Force and review all the findings of CAPO's investigations.</li> <li>It is proposed to give the Council power to require the police to investigate any complaint. If the proposed Council is not satisfied with an investigation, it can ask CAPO to re-investigate, or make a report to the Chief Executive.</li> </ul>
<b>New York City, United States of America</b> New York City Civilian Complaint Review Board (CCRB)		<ul style="list-style-type: none"> <li>CCRB will form a 3-member panel to make a final decision on findings of an independent investigation carried out by itself.</li> <li>To assure objectivity, the above panel will comprise representatives from each of the three designating authorities: the Mayor, City Council, Police Commissioner.</li> </ul>
<b>England and Wales, United Kingdom</b>	(a) Police Complaints Authority	<ul style="list-style-type: none"> <li>It supervises police investigations of the most serious misconduct allegations and incidents of public concern by keeping a careful watch on the investigation from beginning to end.</li> <li>It also reviews results of police investigations of complaints.</li> </ul>
	(b) The proposed Independent Police Complaints Commission (Commission)	<ul style="list-style-type: none"> <li>Subject to the passage of the Police Reform Bill, the proposed Commission will have the power to call in any case to supervise police investigation.</li> <li>It will also review results of police investigation.</li> </ul>
<b>Queensland, Australia</b> The Crime and Misconduct Commission		<ul style="list-style-type: none"> <li>It has power to request a report from the Queensland Police Service regarding the result of an investigation.</li> </ul>
<b>New South Wales, Australia</b>	(a) The New South Wales Ombudsman (Ombudsman)	<ul style="list-style-type: none"> <li>If the investigation involves matters of a serious nature, a report of investigation has to be sent to the Ombudsman.</li> <li>The Ombudsman can ask the police to further investigate the complaint.</li> </ul>
	(b) Police Integrity Commission	<ul style="list-style-type: none"> <li>It requests and reviews reports of police investigations in serious cases, and then publishes reports to Parliament.</li> </ul>
<b>Toronto, Canada</b> Ontario Civilian Commission on Police Service		<ul style="list-style-type: none"> <li>It only reviews police decisions at the complainant's request.</li> <li>It can refer the complaint back to the police for further investigation, or assign it to another police service.</li> </ul>
<b>Singapore</b>		<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>

**Table 7 — Disciplinary Power of Civilian Oversight Bodies**

<b>Jurisdictions / Civilian Oversight Bodies</b>		<b>Disciplinary Power of Civilian Oversight Bodies</b>
<b>Hong Kong</b> The proposed Independent Police Complaint Council (Council)		<ul style="list-style-type: none"> <li>The proposed Council can comment on suggested disciplinary actions but the police retains the ultimate authority to impose discipline.</li> </ul>
<b>New York City, United States of America</b> New York City Civilian Complaint Review Board (CCRB)		<ul style="list-style-type: none"> <li>CCRB can recommend proposed disciplinary actions but the Police Commissioner retains the ultimate authority to impose discipline.</li> </ul>
<b>England and Wales, United Kingdom</b>	(a) Police Complaints Authority (PCA)	<ul style="list-style-type: none"> <li>The police recommends disciplinary actions and then PCA makes the final decision.</li> </ul>
	(b) The proposed Independent Police Complaints Commission (Commission)	<ul style="list-style-type: none"> <li>The police recommends disciplinary actions and then the proposed Commission makes the final decision.</li> </ul>
<b>Queensland, Australia</b> The Crime and Misconduct Commission (CMC)		<ul style="list-style-type: none"> <li>CMC determines whether a case of serious misconduct (i.e. misconduct which might be a criminal offence or lead to termination of service) should be handled by the Misconduct Tribunal or be referred to the Director of Public Prosecution.</li> <li>For other less serious misconduct matters, the Commission may make recommendations but the police retains the ultimate authority to impose discipline.</li> </ul>

**Table 7 — Disciplinary Power of Civilian Oversight Bodies (cont'd)**

<b>Jurisdictions / Civilian Oversight Bodies</b>		<b>Disciplinary Power of Civilian Oversight Bodies</b>
<b>New South Wales, Australia</b>	(a) The New South Wales Ombudsman (Ombudsman)	<ul style="list-style-type: none"> <li>• The Ombudsman can make recommendations to the police but the police retains the ultimate authority to impose discipline.</li> <li>• If the Ombudsman believes the police's refusal to take action is unreasonable, or the action taken is inadequate, a report can be made to the Police Commissioner, the Minister of Police, and ultimately, to Parliament.</li> </ul>
	(b) The Police Integrity Commission (PIC)	<ul style="list-style-type: none"> <li>• PIC can make recommendations to the police but the police retains the ultimate authority to impose discipline.</li> <li>• If the police does not follow PIC's recommendations, PIC will publish these incidents in its reports to Parliament.</li> </ul>
<b>Toronto, Canada</b> Ontario Civilian Commission on Police Service (OCCPS)		<ul style="list-style-type: none"> <li>• If a complainant or an accused officer is not satisfied with a decision made at a disciplinary hearing, either party may appeal to OCCPS.</li> <li>• OCCPS may hold a second and final hearing, and may direct action to be taken with respect to the police officer.</li> </ul>
<b>Singapore</b>		<ul style="list-style-type: none"> <li>• Not applicable. (The Deputy Commissioner of Police makes decision on disciplinary matters. There is no civilian body to oversee disciplinary matters.)</li> </ul>

**Table 8 — Channel of Appeal After Review of Complaints Against Police**

Jurisdictions / Civilian Oversight Bodies		Channel of Appeal after Review
<b>Hong Kong</b> The proposed Independent Police Complaint Council (Council)		<ul style="list-style-type: none"> <li>When a complainant is notified of the results of the police investigation endorsed by the proposed Council, he or she can request a review of the complaint within 30 days. The proposed Council will review the second report of the police investigation and that is final.</li> </ul>
<b>New York City, United States of America</b> New York City Civilian Complaint Review Board		<ul style="list-style-type: none"> <li>Its decision is final.</li> </ul>
<b>England And Wales, United Kingdom</b>	(a) Police Complaints Authority	<ul style="list-style-type: none"> <li>Its decision is final.</li> </ul>
	(b) The Proposed Independent Police Complaints Commission	<ul style="list-style-type: none"> <li>Its decision is final.</li> </ul>
<b>Queensland, Australia</b> The Crime and Misconduct Commission (CMC)		<ul style="list-style-type: none"> <li>If a complainant is not satisfied with a decision of CMC, he or she can apply for an internal review or appeal to the Parliamentary Crime and Misconduct Committee.</li> </ul>
<b>New South Wales, Australia</b>	(a) The New South Wales Ombudsman (Ombudsman)	<ul style="list-style-type: none"> <li>If a complainant is not satisfied with the handling of his or her complaint, he or she can ask the Ombudsman to conduct a review which will be final.</li> </ul>
	(b) The Police Integrity Commission (PIC)	<ul style="list-style-type: none"> <li>If a complainant is not satisfied with a decision of PIC, he or she can apply for a review. Whether or not this occurs is at the discretion of the Commissioner.</li> </ul>
<b>Toronto, Canada</b> Ontario Civilian Commission on Police Service (OCCPS)		<ul style="list-style-type: none"> <li>The decision of OCCPS could be appealed to the Divisional Court but rarely is it overturned.</li> </ul>
<b>Singapore</b>		<ul style="list-style-type: none"> <li>Not applicable. (If a complainant is not satisfied with the results of the police investigation, he or she can make an appeal to the Deputy Commissioner of Police through the Public Affairs Department.)</li> </ul>

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