

# Police oversight in the United Kingdom: The balance of independence and collaboration

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## Abstract

A key feature of modern policing is external oversight of alleged police misconduct. The present paper focuses on the three UK oversight agencies: the Independent Police Complaints Commission (IPCC), the Police Complaints Commissioner for Scotland (PCCS); and the Police Ombudsman for Northern Ireland (PONI). Document analysis and interviews were utilized to highlight the different models of oversight with regard to the balance of responsibility for complaint investigations. The PONI exemplifies a model of regulatory independence that provides a strong challenge to the very limited PCCS model and intermediate IPCC model. An emerging trend was identified of co-operation between external and internal agency personnel working towards police reform and areas in which oversight agencies can contribute to reform are presented.

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## 1. Background

External (or ‘civilian’) oversight of police is a growing phenomenon internationally that has seen the creation of numerous review and/or investigative bodies and the expansion of their powers and resources (Finn, 2001). To date, the most notable developments have been in English-speaking countries (Smith, 2009a), although oversight is increasingly part of any agenda for improved police accountability and governance world-wide. For example, in 2009 the Council of Europe’s Commissioner for Human Rights described effective independent

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police complaints systems as ‘of fundamental importance for the operation of a democratic and accountable police service’ (2009: 3). The demand for oversight has grown out of repeated scandals over police misconduct and the findings from numerous inquiries showing police were unable to effectively investigate complaints against their own members or prevent corruption and other abuses of power (e.g., Christopher, 1991; McDonald, 1981; Mollen, 1994; Oppal, 1994; United States Commission on Civil Rights, 1981, 2000; Wood, 1997). External oversight traditionally aims to provide independence to investigations of police conduct in order to increase police accountability and public confidence in police.

The agencies put in place to ensure accountability have frequently been overly constrained by limited powers and resources — such as the inability to directly investigate complaints or make disciplinary decisions (Prenzler, 2009). Ongoing problems of police misconduct and secrecy have stimulated consideration of further reform. A 2010 Canadian study, for example, found that the question of who should investigate police misconduct issues had “reached a critical juncture in Canada and many other Western countries”. The report concluded that there was an urgent need to implement more effective internal and external regulatory strategies “that might better satisfy the demands of public accountability and procedural justice” (Commission for Public Complaints against the RCMP, 2010, pp. 1–2).

The powers and functions of oversight agencies vary substantially. In the United States there has been a preference for review boards, while Britain, Canada and Australia have preferred ombudsman- or commission-style agencies. Agencies can be categorized in quite different ways but one approach is to create a form of continuum between two polar types: a ‘minimal review model’ and a ‘civilian control model’ (Prenzler and Ronken, 2001; Seneviratne, 2004). Under a minimal review model, external agencies are usually restricted to auditing police internal investigations and recommending modifications to police disciplinary decisions. They may also respond to appeals from dissatisfied complainants and recommend alternative findings. The model is primarily one of self-regulation with limited oversight. In contrast, under a civilian control model, external agencies conduct independent investigations of police, making use of significant powers in areas such as compulsory hearings and covert surveillance.

While the powers of an agency reflect its strength and independence, Prenzler (2000) discussed that independence can become weakened through regulatory capture where “the group being regulated subverts the impartiality and zealotry of the regulator” (p. 662). While such capture can be conscious, Prenzler notes that it can also be facilitated through staff exchange or frequent contact “sometimes with the best of intentions” (Prenzler, 2000, p. 662). Prenzler cites further risk factors, identified by Grabosky and Braithwaite (1986), including tasks that draw resources away from the core task of regulation and tasks that “facilitated inappropriate links between the regulator and regulatee” (Prenzler, 2000, p. 663).

Aspects of these oversight models can be seen playing out across the evolution of police oversight in the United Kingdom. Seneviratne (2004) reviewed the oversight arrangements in the three UK jurisdictions at a time when England and Wales had introduced a new agency, the Independent Police Complaints Commission (IPCC), and Scotland was considering proposals for change. Seneviratne provides the history of oversight in the UK that will, therefore, only be summarized in the present paper.

In England and Wales, the 1962 Royal Commission on the Police found there was no formal system for dealing with complaints, and the *Police Act of 1964* introduced procedural rules, including involvement of the public prosecutor in some matters and a requirement that investigations be conducted by an officer outside the subject officer’s division. Despite the subsequent introduction of a Police Complaints Board, a study in the mid-1970s (Russell, 1976)

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