

## Democratic Oversight of the Police <sup>1</sup>

### ABSTRACT

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, aims to provide background information concerning police ethics, accountability, and oversight across the EU. The study shows that existing EU tools and instruments can contribute to enhance police accountability. The study also identifies some gaps and weaknesses. Recommendations are provided in order to remedy the gaps and weaknesses identified.

### BACKGROUND

Across the EU, police are called on to respond to a wide range of challenging social issues. While police deserve recognition for the good service that they provide to their societies, they must also be held fully accountable for what they do. Indeed, in a democratic state, there is the expectation that police enforce the law fairly and protect basic rights. When officers fail to, there must be mechanisms to ensure meaningful accountability and prevent future abuses.

In most European countries, the use of force is rare compared to the total number of police–citizen encounters. However, police brutality and use of lethal force incidents have become an important element in the public discourse in recent years. Well-publicised incidents have shaped public view of the police, especially following George Floyd's death at the knee of Minneapolis police officer Derek Chauvin on 25 May 2020. Long prior to Floyd's death, the EU has witnessed several glaring instances in which police actions have gone beyond what is legally and ethically acceptable. These incidents shaped people's confidence in the police and their understanding of what police is and does. There is extensive research showing that police lose legitimacy in people's eyes if they act in ways that violate basic norms of fairness and procedural justice. Law enforcement agencies across the EU rely heavily on the consensual acceptance and support of the people. Therefore, the failure of police forces to be answerable for their acts and to act responsively upon is detrimental to public trust and therefore police legitimacy. Reducing the likelihood of law enforcement actions being perceived as biased or discriminatory and promoting good policing is a crucial and day-to-day task for every law enforcement agency across the European Union.

Policing, understood as being the enforcement of laws and rules, is more than ever expected to be performed with high degrees of legitimacy, transparency, and accountability. The development of police oversight mechanisms to effectively collect, manage and investigate complaints or, in some cases, to proactively carry out monitoring of police actions derives from a set of international and European requirements and obligations.

<sup>1</sup> Full study in English: [http://www.europarl.europa.eu/RegData/etudes/STUD/2022/703590/IPOL\\_STU\(2022\)703590\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2022/703590/IPOL_STU(2022)703590_EN.pdf)



Police codes of conduct have also been developed both at the international and European levels to clearly identify standards. These standards and codes both contribute to police accountability. They equally provide a sound basis for a proportionate use of force and building trust for the police among citizens.

Accountability pertains to a system of internal and external checks and balances aimed at ensuring that police perform the functions expected of them to a high standard and are held responsible when they fail to do so. Where the police conduct internal investigations of themselves, such investigations are often perceived as biased and spurious. Citizens' satisfaction appears to be correlated not only with independence but also with aspects of communication, timeliness, and perceived fairness. Many studies show that complainants, in general, are neither vindictive nor punitive but want to be treated with fairness, communicate their concerns and improve police behaviour in the future. In an attempt to ensure that citizen complaints against police behaviour are effectively investigated, properly recorded, and proceed towards a fair and equitable outcome, civilian oversight of police complaints is widely recognised as an effective measure. Many administrations across EU countries have created external oversight bodies for police following problems of recurring misconduct and the failure of internal control mechanisms. These non-police oversight bodies are extremely varied in terms of mandate, investigative powers, and resources to conduct their missions. Questions inevitably follow about the effectiveness of these bodies to detect and prevent abuses of power. In order to sustain such a democratic police accountability, non-police oversight bodies should be well resourced, properly funded and with a clear mandate. The long-term legitimacy and efficiency of a civilian oversight process clearly depends on oversight bodies subjecting themselves to similar levels of accountability to that demanded of those they oversee.

The European Commission has stepped up its efforts in tackling structural racism within the police forces. The EU Anti-Racism Action Plan 2020-2025 has emphasised the role of EU agencies, particularly the Agency for Fundamental Rights (FRA) in collecting relevant information and the Agency for Law Enforcement Training (CEPOL) in delivering training activities. The European Parliament has repeatedly called on Member States to address the issue of disproportionate use of force by the police and for taking more significant action in this field, including through the establishment of an EU Code of Police Ethics. FRA has conducted significant research in providing guidance to Member States' authorities through guides and manuals and by mapping practices on police stops highlighting ethnic profiling and discriminatory practices. The Agency should continue collecting information and could potentially follow up with Member States regarding the use and effectiveness of its outputs at national level. Europol, in line with its mandate (which includes racism and xenophobia), could step up its efforts through a dedicated centre and trainings in cooperation with CEPOL. Training activities on fundamental rights offered by CEPOL are streamlined and must run through the entirety of the curriculum on offer. The Agency has the potential to step up its efforts so that its work is in line with the calls by the EU institutions in designing and delivering various high quality activities both on site and online to maximise its audience.

The recent European Commission proposals for an EU police cooperation code are relevant to this study to the extent that the Commission package refers to the creation of a common EU culture through significantly broadening of joint training and professional development relating to cross-border operational police cooperation.

It is against this backdrop that the study recommends the following actions:

## RECOMMENDATIONS

- Promoting public confidence in policing through Data collection opened to citizens' scrutiny.
- Improving Human Rights training.

- Empowering the non-police oversight bodies and strengthening the Independent Police Complaints Authorities' Network.
- Enhanced protection of presspersons.
- Promoting collaboration between researchers and police practitioners.
- Researching new technologies' possible impacts on police accountability and citizen trust.

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