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Independent mechanisms for police oversight

A comparative analysis
and several proposals
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Authors: Anja Bienert, Neil Corney, Jorge del Cura Antón, GEBehatokia, Matthew McEvoy, Josep Noales Tintoré, Pierre-Arnaud Perrouty, Irene Urango Montilla, Joaquín Urías Martínez and Patrick G. Watson.

With the collaboration and advisory support of: Anja Bienert, Jorge del Cura Antón, Anaïs Franquesa Griso, Iñaki Lasagabaster Herrarte, Eduard Martínez Guaita, Youssef M. Ouled and Laura Pego.

Coordinated by: Irene Urango Montilla.

Edited by: Judith Gracia Castells.

Translated by: Ariadna Vila.

Cover design, layout, and infographics: Ariadna Bertran Font.

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Why is this report necessary?

This document concludes a series of three (3) publications dedicated to enhancing transparency and accountability mechanisms for police forces in Spain, jointly promoted by Iridia and Novact. After preparing an initial diagnostic report with the same title (*Transparency and Accountability of Police Forces in Spain*, 2022), and a subsequent public policy roadmap to raise national standards to meet international criteria (*Action Plan for the Improvement and Modernisation of Transparency and Accountability Mechanisms of Police Forces in Spain*, 2024), the report in this volume, *Independent Police Monitoring Mechanisms* (2025), offers a **comparative analysis of various independent bodies responsible for police investigations. These include models established in countries** such as the United Kingdom, Belgium, and Canada, as well as within the Basque Autonomous Community. Its purpose is to identify **lessons learned and formulate a concrete proposal for the creation of such an institution across all of Spain.**

In its commitment to advancing human rights, this report reflects a coordinated effort by civil society organisations to provide tools for informed debate and to contribute decisively to **implementing the United Nations 2030 Agenda for Sustainable Development.** This framework calls on States to strengthen public institutions, ensuring they are more robust, transparent and respectful of human rights, and to guarantee

effective access to justice for all individuals (Sustainable Development Goal 16). The report further aims to support the promotion of victims' rights to truth, justice, full reparation and guarantees of non-repetition.

Transparency and accountability in police conduct are essential for the proper exercise of policing functions. **When human rights violations occur and are neither thoroughly investigated nor adequately sanctioned, the result is impunity.** This not only leaves victims without protection but also increases public distrust in police institutions, who should be the first to seek to eradicate such practices, and in judicial bodies, which should investigate and punish violations to prevent them from happening again.

The aim is to identify the gaps and limitations that persist within the current accountability system, which includes internal affairs divisions, ombuds institutions and, crucially, the judicial system; to recognise them; and to incorporate the necessary improvements to strengthen guarantees of reparation and non-repetition. **The establishment and development of an external and independent mechanism is therefore conceived as a complementary component of this broader system,** designed to provide specialised technical analysis independent of police forces, in recognition that the latter are a party to such processes (critically, the party under investigation). It is therefore logical that society demands impartiality and independence in the assessment and presentation of evidence, which forms the foundation of any judicial proceeding.

As civil society organisations with extensive experience in investigating and litigating cases of torture, we analyse the existing challenges and propose changes aimed at improving institutions that are critical for the rule of law and democracy.

The objective of this publication is therefore to offer practical tools and public policy guidelines to support political, institutional and public debate on the need to create an external and independent body to investigate police conduct. This proposal is grounded in the study of existing models and in the contributions of expert voices who, from their respective fields, provide specialised technical knowledge. Their participation and commitment have been indispensable to this work.



What does the report contain?

The research is grounded in a clear premise: the creation of an external and independent body for investigating police actions is neither a new nor an unrealistic concept. It is backed by extensive international experience and by the voices and analyses of human rights organisations and affected individuals who, for decades, have reported that the current system of police accountability is ineffective and insufficient to end impunity and ensure full and comprehensive protection of rights.

In this context, the establishment of an independent body to investigate police conduct is not the definitive solution to impunity, but it does constitute an internationally endorsed tool that can contribute meaningfully to that objective. For this to occur, a firm political will to implement such a mandate is indispensable. As noted by Anja Bienert, an expert in Policing and Human Rights, in the prologue to this publication, inadequate funding, political or police interference, insufficient human resources, denial of access to files or facilities, or a lack of public trust are among the factors that may undermine the mechanism's effectiveness.

Within this framework, the present study examines international experience through a comparative analysis of how these mechanisms function in other jurisdictions—Ontario (Canada), Belgium and the United Kingdom—identifying the

persistent challenges in each. To that end, well-established human rights organisations and experts from the various territories have led this analysis, using a common set of criteria.

Regarding the **Independent Office for Police Conduct (IOPC) in England and Wales**, the Omega Research Foundation highlights the difficulties arising from police non-cooperation, lengthy investigations, and progressive defunding, even as caseloads increase. Conversely, in terms of personnel, less than one-third of staff have previously worked in policing, and its Director General must never have done so. Serving police officers are not recruited, and operationally, the IOPC is independent from both government and police. While it independently investigates only the most serious incidents (Articles 2 and 3 ECHR), it has other channels through which to process other cases. Beyond individual complaints, the IOPC also addresses systemic issues through work on specific topics, identifying patterns—such as racism or discrimination—requiring deeper investigation. These inquiries can result in recommendations for policy or legislative change, or additional training for police officers, with the aim of improving policing practice and accountability.

Across the wider **United Kingdom**, the **Scientific Advisory Committee on the Medical Implications of Less-Lethal Weapons (SACMILL)** publishes independent reports on the medical consequences of less-lethal weapons. This is considered a good practice, albeit hampered by limited public access to such reports. Moreover, UK police forces are not legally required to assess new weapons. While a general requirement for weapons assessment covering firearms and a range of less-lethal systems does exist within a code of practice, it does not encompass all equipment and devices. SACMILL also maintains a memorandum of understanding with

the IOPC to facilitate continuous assessment of weapon use and incidents of concern, enabling the exchange of relevant information regarding impacts and consequences.

With respect to the **Special Investigations Unit (SIU) in Ontario, Canada**, University of Toronto researcher Patrick G. Watson emphasises its establishment through stand-alone legislation and outlines several key lessons learned: **(i)** the need for a clearly defined mandate, beginning with the definition of “serious injury”; **(ii)** ensuring an adequate budget allocation; and **(iii)** safeguarding political autonomy to prevent interference—an essential component of public confidence, which in Ontario has faced crises due to public statements by political actors openly endorsing police forces. As for staff selection, the SIU Director must never have served as a police officer, and personnel may not be active officers. Watson also stresses the importance of clarifying investigative jurisdiction concerning off-duty officers and of establishing effective public communication channels to explain decisions and conclusions.

The Director of the Ligue des Droits Humains in **Belgium**, Pierre-Arnaud Perrouy, places particular emphasis on public confusion regarding the **Standing Police Monitoring Committee (Committee P)**, due to the multiplicity of public bodies and lack of clarity around their respective roles. The complexity of actors, mechanisms, and procedures—combined with the difficulty of proving police abuse—creates widespread belief that filing a complaint is futile, which reinforces a perception of impunity and a vicious cycle of lack of confidence. Perrouy also notes that the investigative department is largely composed of former police officers or officers who will return to their posts after a five-year secondment. Despite its statutory investigative powers, Committee P refers most complaints to internal police oversight bodies.

Consequently, it predominantly produces general reports on broad topics and only initiates investigations *ex officio* when there are indications of structural failings. In parallel, institutions such as UNIA (responsible for combating discrimination and racism) also hold competence to investigate policing practices.

Regarding Spain, certain lessons can be drawn from the experience of the **Police Transparency and Oversight Commission of the Basque Country** (chapter 2), a region marked



by political and armed conflict that has shaped both policing and public perception. The Commission faces persistent challenges, including its limited ability to act *ex officio* (restricted to cases involving death or serious injury) and its inability to process individual complaints. In other

cases, activation is left to the discretion of the Regional Minister of the Interior, based on subjective criteria such as “rights violations” or concerns over “public confidence.” According to the Basque Country Human Rights Observatory (Behatokia), this undermines independence, which is further compromised by the presence of two police representatives among its members. While the Commission can issue corrective or preventive recommendations, the same recommendations often appear across resolutions, with no evaluation of their implementation. Victim participation and reparations are also absent.

Civil society efforts to articulate a proposal for a state-wide mechanism have intensified in recent years. The proposal—detailed in section 3.1—draws on international resolutions urging the creation of an independent body to investigate alleged abuse by police. It emphasises the need for targeted legislation and a fully independent administrative structure, free from police and governmental influence, with a clear mandate to investigate the most serious cases and to document and analyse other alleged misconduct to identify trends and areas for improvement. It must also be adequately funded and include technical capacity for assessing weapons in relation to their impact on health and fundamental rights. As a specialised body, it should issue recommendations, track their implementation, and produce expert forensic reports within criminal proceedings.

The comparative study demonstrates that, while key discussions remain, **the legal and judicial incorporation of such mechanisms is entirely feasible.** The Basque example—despite its limitations—shows that implementation is possible within Spain. As outlined by former clerk to the Spanish Constitutional Court Joaquín Urías (section 3.2), remaining challenges include the need to define which police forces (local, regional, national) fall under the mechanism’s mandate, requiring regulatory adjustments to avoid overlap and to respect territorial competencies. Urías also highlights the need for a dedicated internal regulatory statute defining procedures in detail, and amendments to disciplinary regulations of law-enforcement agencies.

Concerning judicial integration, investigating judge Josep Noales, a member of *Ágora Judicial*, argues in section 3.3 that the mechanism would not violate the *non bis in idem* principle, as it would serve to examine and provide technical

analysis of police conduct already under judicial review (section 3.3.). In his view, its function would be to supply indirect, technical, expert evidence for evaluation by courts. He points out that judges already request internal reports from police when investigating excessive force, but these can never achieve the independence of an external specialist body. He stresses that the complexity of the phenomenon requires a specialised mechanism, which ombuds institutions—holding broad, non-specialised mandates—cannot fulfil. Beyond investigation, Noales highlights the mechanism’s academic role in producing research, recommendations, and training.

While the conceptual and regulatory contributions contained in this publication are crucial, **further work remains, notably on the matter of reparations for persons affected by police violations.** The SIU example in Ontario reveals persistent challenges, as access to victim-support services depends on judicial determination of a crime. Without a crime, there is no victim—and therefore no reparation. Given existing investigative difficulties, there would be value in examining whether such a mechanism could help establish institutional liability for harm, independent criminal outcomes. Restorative justice should also be explored as a complementary avenue.

Finally, human rights organisations emphasise that **public engagement remains essential.** A new mechanism cannot replace society’s critical, constructive oversight. However, institutions must now assume responsibility for acknowledging, addressing, and responding to these cases. Each actor, from its own domain, must continue working so that the rights to truth, justice, reparation, and guarantees of non-repetition become a reality throughout Spain.

Final reflections

Countless experts, human rights activists, civil society organisations, international bodies and national police reform commissions have attempted to establish systems that ensure police are accountable for their actions and conduct in many countries around the world. While several have made significant progress—or at least achieved partial success—it is fair to say that most external oversight mechanisms still face considerable challenges. There is a wide range of issues hindering the effectiveness of these mechanisms in holding police forces to account, and they vary considerably from country to country. According to police and human rights expert Anja Bienert, the main challenges include:

1. **Weak or insufficient mandate and lack of investigative powers:** unclear legal frameworks, dependence on the goodwill of institutions to cooperate, lack of the ability to act *ex officio*, and related limitations.
2. **Lack of independence and exposure to political interference:** often through politicised appointment processes, sharing the same executive line as the police, or depending on police collaboration to conduct investigations, as well as relying on resources too closely linked to the police (e.g. former officers or officers expected to return to police service).

3. **Insufficient funding and human resources** in comparison to the size of a country and the scale of the issues. Over time, budgetary decisions are often used politically to limit the mechanism's practical ability to carry out its work.
4. **Lack of transparency:** including unclear investigative procedures, poorly defined divisions of responsibility between institutions or state bodies, and insufficient communication with victims and the public regarding outcomes.
5. **Limited influence and credibility** regarding conclusions and recommendations directed at the police or other relevant authorities or institutions.
6. **Deliberate obstruction by police forces.**
7. **Lack of public trust** due to limited responsiveness, a low number of successful cases, or insufficient transparency.

The various articles in this publication highlight many of these issues. Critically, however, there are two underlying causes that explain most of them. Firstly, **the police generally resist external oversight**. Secondly, **governments often lack the political will to establish an adequate system**, sometimes due to an inappropriate sense of loyalty towards the police and at other times because they improperly use the police for their own political purposes. In any case, it is crucial to understand that these attitudes do not properly serve society or the police institutions themselves.

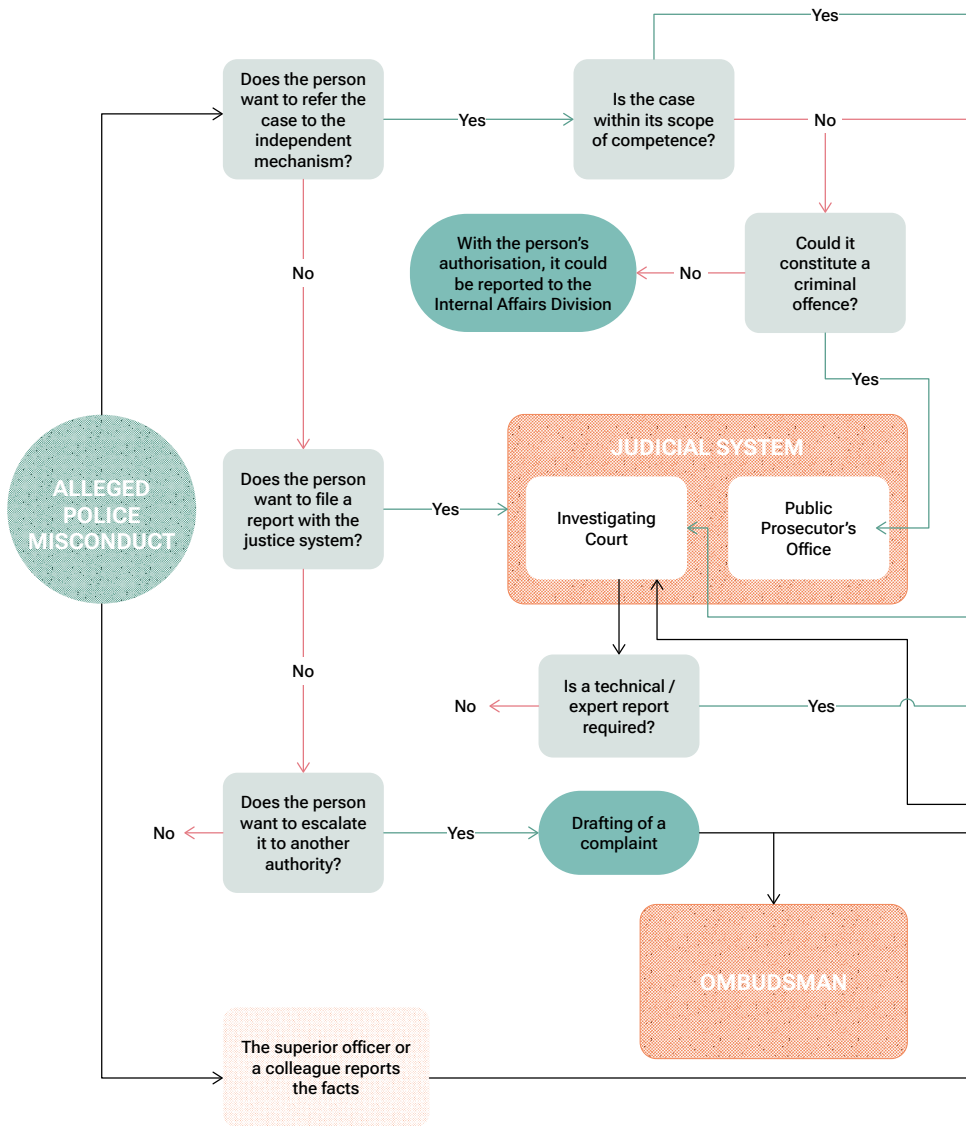
The police can only operate effectively and safely if they enjoy the trust of the entire population. Trust requires, first and foremost, that the police operate in full compliance with the law and with human rights, without any form of discrimination or arbitrariness. When police officers act outside the law, behave arbitrarily, or discriminate against certain segments of the population, this profoundly affects the trust that citizens—or at least certain groups—place in the police. To some extent, this can be mitigated by a robust oversight system that compels any officer to answer for such conduct. However, if such a system fails or simply does not exist, the damage to public trust is even greater and virtually impossible to repair.

A law enforcement body that rejects the need for external scrutiny ultimately acts against its own interests. **It deprives the police of essential external perspectives necessary for any policing institution to continually improve the service it is meant to provide to the public.** It also reinforces an internal perception that its members will be shielded from negative consequences in cases of misconduct.

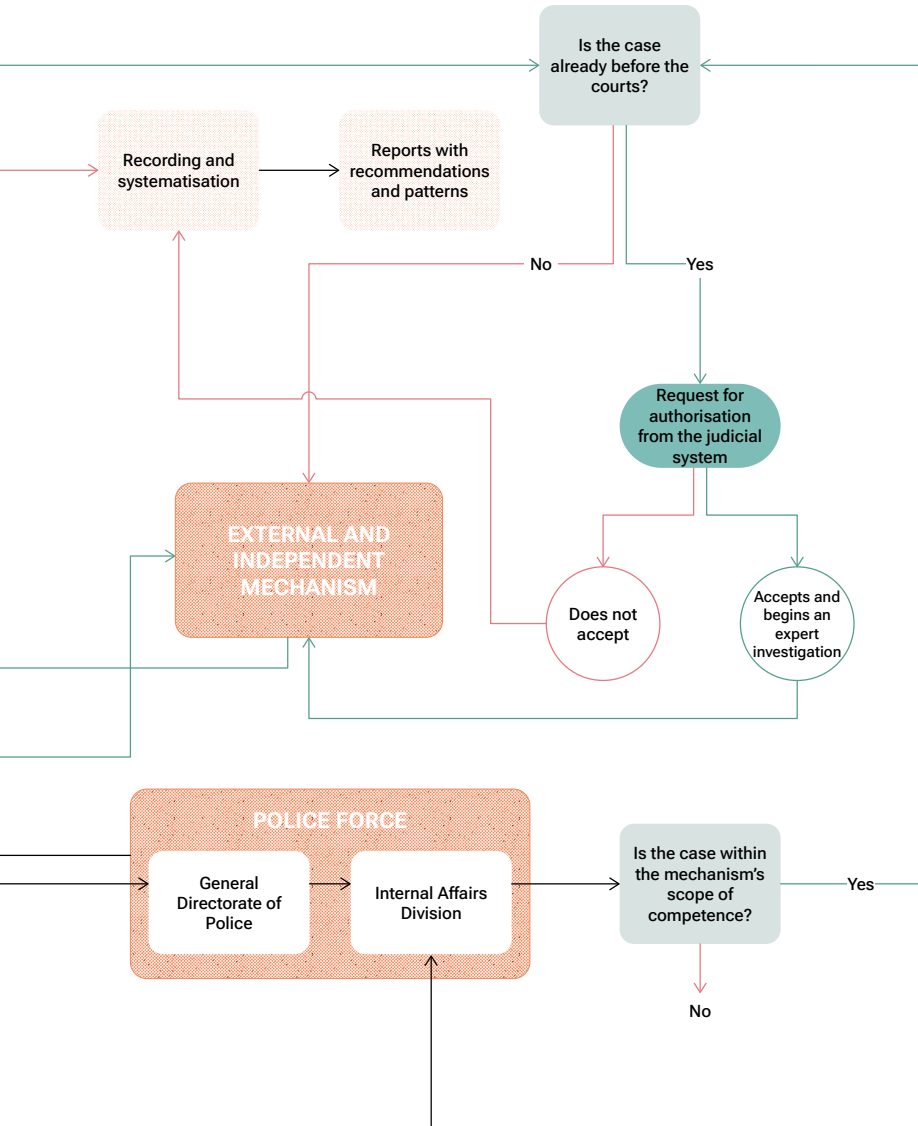
Finally, even if the list of shortcomings mentioned above were resolved, **a police oversight mechanism is only one—albeit a highly important one—of many elements that must form part of a comprehensive system of supervision, oversight, accountability, and institutional learning.** This includes a functional and independent prosecution service and courts system, internal affairs divisions that understand the need to maintain a disciplined and law-abiding institution willing to learn from its mistakes and identify areas for improvement, as well as effective leadership and accountability among senior ranks, through **a zero-tolerance approach to police misconduct** and effective monitoring, rigorous oversight, and close cooperation with external accountability mechanisms.



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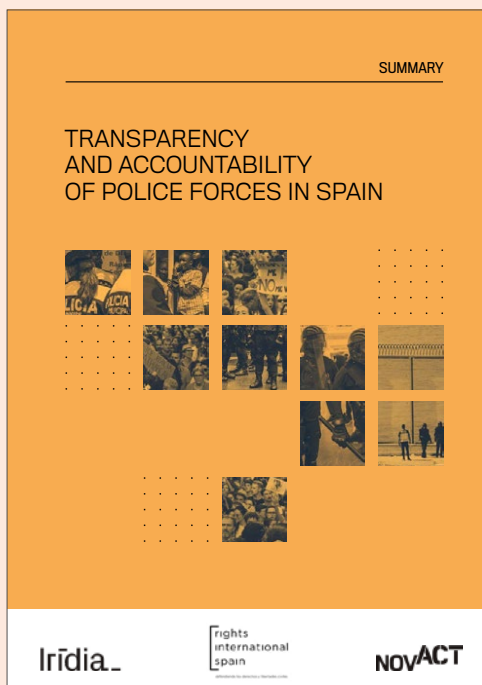


Proposal for the integration of an independent mechanism into Spain's comprehensive police accountability system



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