External Governmental Mechanisms of Police Accountability: Three Investigative Structures

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An effective and accountable system of policing is essential to a democracy. It is also extremely difficult to establish. In most new democracies, such as South Africa, the police historically have been agents of government-sponsored oppression. It is easy to understand why many South Africans do not believe that the police can be "a source of protection, empowerment and liberty."[1] Even mature democracies such as the United States struggle to meet the fundamental challenge of policing: to develop a system that preserves law and order while respecting the rule of law.

Unfortunately, this challenge is frequently framed in "either/or" terms: The police must either preserve law and order or respect the rule of law. This dichotomy is not only false but dangerous; democracies need not choose between safety and human rights.

To establish an effective and accountable system of policing, democracies need multiple mechanisms of control—both internal and external, governmental and nongovernmental. This paper focuses on external governmental mechanisms. Although run by the government, they are independent of the police force. They have varying degrees of oversight authority. For example, public integrity units of prosecutors offices—local, state, and federal—investigate and prosecute police misconduct cases. Ombudsman offices serve as a clearinghouse for complaints against law enforcement and attempt to resolve them. They generally lack the authority to prosecute alleged wrongdoing. Inspectors general have a broad mandate to investigate and root out waste, fraud, corruption, and brutality by preparing reports that make wide-ranging recommendations for structural change. They also lack the power of prosecution. Whatever their authority, external governmental mechanisms have four basic objectives: enforcing laws that proscribe police misconduct, promoting public confidence in the government, deterring police misconduct, and encouraging systemic reform.

This paper compares three investigative structures—the federal grand jury system in the United States, the recently established Independent Complaints Directorate (ICD) in South Africa, and the National Human Rights Commission in India. It analyzes the extent to which they meet the four goals, identifies ways to improve them, and determines whether lessons from one are transferable to the others.

The Federal Grand Jury System in the United States

Overview

The United States Department of Justice plays an important role in curbing police misconduct by all law enforcement officials—local, state, and federal. It is a federal crime for any official "acting under color of law" to "willfully deprive" any person of a right guaranteed by the Constitution or laws of the United States.[2] The rights include the right to be free from the use of unreasonable force and the right to not have false evidence knowingly presented by a law enforcement officer. Acting "under color of law" simply means using authority given by the government.

The Civil Rights Division of the Justice Department—working in tandem with United States Attorneys' offices throughout the nation and the Federal Bureau of Investigation (FBI)— reviews, investigates, and prosecutes complaints of misconduct against police officers and prison officials. In 1997, the Civil Rights Division reviewed approximately 8,000 complaints of police misconduct.[3] The vast majority of complaints were lodged against local police officers (as opposed to corrections officers or federal officers).

Once a case has been opened, the Federal Bureau of Investigation, which has field offices throughout the country, conducts a preliminary investigation and submits a report to the Civil Rights Division and the United States Attorney's office. A prosecutor reviews the report and either closes the case by declining prosecution, requests additional investigation by the FBI before making a final decision, or determines that there is sufficient evidence to warrant presentation to a federal grand jury.

The vast majority, 98 percent, of cases reviewed by the federal government are not presented to a grand jury.[4] Federal authorities most commonly decline cases because the officer's actions do not constitute a federal criminal violation or because the evidence does not corroborate the allegations. In limited circumstances, they decline prosecution because the local police department, or the local district attorney's office, has already taken appropriate action against the officer.

Operation of the Federal Grand Jury In Police Misconduct Cases

Although used only in a small percentage of police misconduct cases, the federal grand jury is a vital weapon against police misconduct. In fact, it would be exceedingly difficult, if not impossible, to investigate police misconduct effectively without a federal grand jury.

The immediate goal of a federal grand jury in police misconduct cases is to determine whether there is sufficient evidence (probable cause) that the officer committed a crime. The two ancillary objectives of a federal grand jury are to maintain public confidence in government, the rule of law, and the police department and to deter

police misconduct. As I will show, it is not clear whether the federal grand jury can achieve its ancillary goals.

The grand jury consists of 23 people roughly representing a cross-section of the community, empanelled by a federal judge.[5] Grand jury service is frequently more onerous than service on a trial jury, because a grand jury meets a certain number of times each week or month for a period of often more than a year. For example, a grand juror might be required to appear once a week for 18 months. The role of the grand jury is to hear evidence presented by a prosecutor to determine whether there is probable cause. If at least 12 grand jurors find probable cause, then an indictment is returned charging a defendant with a crime. If fewer than 12 grand jurors find probable cause, then no charges are returned.

Secrecy is the lynchpin of the federal grand jury system. All proceedings are conducted in secret. The only people at a grand jury session are the jurors, the prosecutor, the witness, and a court reporter. If a witness is represented by counsel, the attorney is not permitted to be at the proceedings. Everybody is sworn to secrecy, except the witness. A witness's testimony will not be disclosed unless there is a trial. If a trial takes place, a prosecutor is not required to turn over the testimony until immediately after the witness has testified.

The purpose of the secrecy provisions is twofold. First, they protect the target of the investigation by ensuring that allegations, which may or may not have merit, are investigated privately. Disclosure of the investigation could unfairly besmirch the reputation of the target. Second, as discussed in more detail below, they provide assurances to witnesses.

Subpoena authority is the second critical feature of the federal grand jury system. The grand jury can issue subpoenas compelling the appearance of witnesses and the production of evidence, such as personnel files, radio transmissions, police reports, and duty rosters. Subpoena authority benefits not only the prosecutor and the grand jury, but also police departments and officers themselves. A documents subpoena protects the integrity of departments by taking the question of whether to turn over documents largely out of the their hands. A federal grand jury that could not compel departments to turn over documents would put them in an untenable position. If a department chose to cooperate, it would damage morale; some officers would conclude that the department had prejudged the officer. On the other hand, if the department refused to comply, it would undermine public confidence. Similarly, officers are understandably reluctant to provide inculpatory evidence against a fellow officer. A subpoena leaves them little choice but to testify.

Federal grand jury investigations in police misconduct cases are much different than those in virtually all other types of cases. For example, a grand jury presentation in a

federal drug case is typically succinct. The case agent handling the investigation will make a summary presentation of facts to the grand jury. No other witnesses are called, and an indictment is then presented for the grand jury's consideration. By contrast, federal prosecutors in police misconduct cases make full and frequent use of the secrecy and subpoena features of the grand jury. In the typical police brutality investigation, many police officers who have critical, often inculpatory information, are exceedingly reluctant to testify. The so-called "code of silence" or "blue code" is frequently difficult to penetrate. Subpoena authority enables prosecutors to compel their testimony. Because the proceeding takes place in secret, without an attorney for the target to cross-examine the witness, it offers police officers and other witnesses a safe haven to tell the truth.

At the same time, the grand jury provides an opportunity for a prosecutor to neutralize potentially adverse witnesses. In police misconduct investigations, there are frequently a number of potential witnesses who are loyal to the subject officer and therefore hostile to the case. It is important to question these individuals in the grand jury. Such questioning ensures that the grand jury hears from all potential witnesses, not simply a few handpicked ones who offer only one side of the event. If the witnesses offer exculpatory evidence, this will inform the grand jury's search for the truth. Often, the witness's testimony is inconclusive in that it does not help the grand jury determine whether there is probable cause. However, it is important to lock in such testimony to ensure that there are no surprises if the case proceeds to trial.

Case Study: *United States v. Bryant and Ackison*

The federal prosecution of William Ackison and David Bryant illustrates the importance of the federal grand jury system in combating police misconduct. Ironton is a small, rural town in the southeast corner of Ohio. As in many such towns, the chief of police wields considerable power, and there are no external mechanisms of control, such as civilian review boards. The federal government is effectively the only mechanism of control. When the federal investigation began in 1990, William Ackison was chief of police. His department consisted of approximately 20 officers, one of whom was David Bryant, Ackison's son-in-law.

The FBI received complaints from two residents of Ironton alleging that Officer Bryant used unreasonable force against them. In both incidents, the victims sustained multiple lacerations to the head when Officer Bryant struck them with his nightstick. After a brief investigation, an FBI agent discovered that civilian and police witnesses were reluctant to cooperate because they were afraid of Chief Ackison. The situation worsened when Chief Ackison circulated a carefully drafted memorandum informing all employees that they were not required to talk to the FBI agent. Most employees interpreted this memorandum to mean that they were not *permitted* to talk. Moreover,

Ackison explicitly told one officer that if he testified, he would be fired.

In this climate of fear, the agent had enormous difficulty conducting a full investigation. As a result, a federal grand jury investigation was initiated. The assurance of grand jury secrecy was critical in giving comfort to both police and civilian witnesses who had seen Officer Bryant use excessive force.

Using its subpoena authority, the grand jury obtained Officer Bryant's personnel file and police reports. This information, along with interviews of police personnel, enabled investigators to identify at least eight other unreported incidents of potential brutality involving Officer Bryant. The officers who were loyal to Bryant and Ackison were also subpoenaed to testify. At the conclusion of the grand jury investigation, Bryant was charged with five violations of federal law in connection with five separate incidents of alleged brutality, and Ackison was charged with two counts of obstruction of justice. Bryant and Ackison were convicted and sentenced to 63 and 46 months of incarceration, respectively.

The prosecution was successful precisely because of the grand jury investigation. The grand jury was a safe haven for many witnesses who offered critical inculpatory evidence. Officers who remained loyal to Bryant and Ackison were ineffective trial witnesses because they had already testified before the grand jury and were easily impeached when they attempted to change their testimony. The documents subpoena enabled investigators to identify additional incidents of brutality involving Bryant. The case was effectively over before the trial began.

The prosecution also served the ancillary purposes of a grand jury investigation. In many respects, Ironton had become Chief Ackison's fiefdom. Feeling above the law, he intimidated officers into silence. The investigation and prosecution began to restore the community's belief in the rule of law and respect for their government. The prosecution sent a clear message to the officers that the federal government will vigorously investigate police misconduct. Years later, officers vividly recalled the prosecution and expressed a strong desire to avoid a repeat.

Problems with the Grand Jury Structure

Although the federal grand jury structure worked well in the Ironton case, it is subject to criticism on at least four levels:

Too Much Power for the Prosecutor. Under this system, prosecutors wield tremendous power, which they exercise secretly. Some critics contend that the system vests too much power in prosecutors. Prosecutors respond that the high conviction rates are proof of their discretion. Nonetheless, it is undeniable that potential for abuse exists. The grand jury and the courts are designed to serve as a check on the power of prosecutors. Unless

these systems are vigilant and fully operational, the potential for abuse increases.

Secrecy as a Double-Edged Sword. Secrecy is essential to the immediate purpose of the grand jury system, which is to determine whether there is probable cause. As the Ironton case illustrates, secrecy is especially important in police misconduct investigations. But the secrecy provisions are often at odds with the ancillary purposes of the grand jury—to promote public confidence and to deter police misconduct. In fact, the grand jury structure is not designed with the ancillary purposes in mind.[6] A substantial number of grand jury investigations of police misconduct do not produce an indictment. The secrecy provisions substantially limit a prosecutor's ability to explain decisions and forbid jurors from doing so. As a result, especially in highly charged incidents that have attracted widespread attention, a substantial portion of the community is unwilling to accept the decision. Similarly, police officers, forced to speculate about grand jury proceedings, may come to distrust and resent the system. The best way for a prosecutor to cope with this problem is to earn the trust and confidence of the public and the law enforcement community, so that there will be greater acceptance of decisions.

Limited Scope of the Grand Jury Inquiry. The grand jury inquiry is limited to one question: Is there enough evidence that the officer committed a federal criminal offense to warrant formal charges? There is no room to address other questions that may be equally if not more important. For example, are there institutional deficiencies in the police department that foster misconduct? Often, by the conclusion of an inquiry, the grand jury has developed an intricate knowledge of the police department and has many constructive ideas for change. Unfortunately, there is no provision in federal law for tapping into this knowledge.

Labor-Intensive Nature of Grand Jury Inquiry. Because of limited resources and because federal grand jury investigations into police misconduct are labor-intensive, prosecutors take on a relatively small number of cases. Critics question whether many incidents of misconduct go unpunished and whether enough cases are investigated and prosecuted to deter abuse.

Conclusions

The federal grand jury structure reflects enormous public trust in the professionalism of prosecutors. Prosecutors rely on police officers to solve criminal cases and understand that their job is exceedingly difficult. But it is a job that becomes more difficult when officers abuse their authority. Fortunately, the overwhelmingly percentage of law enforcement officers in the United States are conscientious and law-abiding. They stand

to benefit the most from a federal grand jury system that vindicates innocent officers and facilitates the prosecution of those who threaten to undermine public confidence in law enforcement.

The Independent Complaints Directorate (ICD) in South Africa

Introduction

In recent years, South Africa has undergone a remarkable transformation to democracy. Jeremy Sarkin points out that there are three types of transitions to democracy: overthrow, reform, and compromise.[7] The nature of the transition has a profound impact on the type and quality of internal and external oversight mechanisms that can be put in place. South Africa's transition to democracy has been one of compromise. While it is certainly remarkable, laudable, and preferable that the country avoided full-fledged armed conflict, the power-sharing arrangement between the African National Congress and the apartheid regime makes reform more difficult. The government cannot abolish the historically oppressive South African Police Service (SAPS); to a large extent, reform must occur within the existing structure.

Two additional forces further complicate the reform effort. First, the Truth and Reconciliation Commission (TRC) has exposed the atrocities of the apartheid regime in gripping detail. Bishop Desmond Tutu is correct when he asserts that the transformation to democracy cannot occur without a public accounting of the horrors of apartheid. "A police institution that has regularly killed, injured, and tortured so many South Africans—sometimes within the legal rules and sometimes without—requires denunciation if it is to be transcended."[8] Although the TRC has increased South Africans' desire for police reform, it has also intensified their already-deep distrust of the police. The SAPS will thus have even more trouble presenting itself as an organization worthy of respect.

Second, South Africa's crime rate is astronomical. The homicide rate of 50 per 100,000 is more than five times that of the United States and 50 times that of the Netherlands and England.[9] Rampant crime breeds tolerance for an ends-justifies-the-means method of policing and weakens the public demand for strong systems of police accountability.[10] Appreciating this backdrop is critical to understanding the structure of the Independent Complaints Directorate (ICD).

Basic Structure of the Independent Complaints Directorate

Section 222 of the Interim Constitution, adopted in 1993, provided for the establishment of "an independent mechanism under civilian control, with the object of ensuring that complaints in respect of offenses and misconduct allegedly committed by members of

the Service are investigated in an effective and efficient manner."[11] The challenges that the ICD confronts can be traced in part to this language from the Interim Constitution. While calling for an independent mechanism under civilian control to *investigate* alleged police misconduct, the constitution does not refer to the establishment of a mechanism to *prosecute* police misconduct. The ICD lacks authority to take action against the officers whom it investigates.

Statutory Framework. The ICD was formally established in 1995 by chapter 10 of the South African Police Service Act. Chapter 10 states that the ICD's "principal function" is to achieve the objective set forth in Section 222 of the Interim Constitution.[12] Under the terms of the statute, the ICD *must* "investigate any death in police custody or as a result of police action."[13] In addition, the ICD *may* investigate any misconduct allegedly committed by a member of the SAPS and *may* investigate any matter referred by the Minister for Safety and Security or a member of the Executive Council. The ICD may refer any nondeath investigation to a police commissioner for investigation, and the ICD can dictate and oversee the terms of the investigation.[14]

The executive director of the ICD is nominated by the Minister for Safety and Security, who is also responsible for the SAPS. The executive director is required to consult with the Minister in making hiring decisions, and the Minister sets the terms of employment. It appears that the Minister has veto power over hiring decisions. The Executive Director must also consult with the Minister in engaging the services of experts. Especially in the investigation of death cases, the ICD's primary mission, it is frequently necessary to enlist experts.

The executive director may submit the results of an investigation to the attorney general, who may take action. The executive director may also make recommendations to the relevant commissioner. The recommendations can be broad. The executive director may, for example, propose specific action against a particular officer or systemic reform. However, as noted earlier, the ICD lacks the authority to initiate criminal charges or disciplinary action against officers.

Initial Period of Operation. The ICD officially opened its doors on April 1, 1997 under the leadership of a respected, experienced attorney, Neville Melville.[15] The ICD identified seven overlapping operational goals:

- independence of ICD
- effective civilian control over the ICD
- effective investigation of complaints against SAPS
- assurance that police misconduct does not go undetected

- public confidence in both the SAPS and the ICD
- deterrence of police misconduct
- transformation of SAPS into a body that deserves and receives public respect
- support in preventing and combating crime[16]

The ICD established a four-tiered triage system for handling complaints.[17] A Class I complaint alleges that a death occurred while a person was in police custody or as a result of police action. These complaints are investigated by ICD staff. A Class II complaint is one that is referred to the ICD by the Minister or a Provincial Executive. Depending on the circumstances, these complaints are classified as a Class I, Class III, or Class IV.

A Class III complaint alleges that an officer committed a serious criminal offense (rape, torture, arson, theft, fraud, corruption) or that serious bodily injury occurred while a person was in police custody or as a result of police action.[18] Class II and III offenses may be investigated by the ICD; alternatively, the Executive Director can refer the case to the SAPS and can set the conditions and guidelines of the SAPS investigation. A Class IV complaint alleges offenses not covered by Class III and those that did not result in either death or serious bodily injury.

Due to a shortage of investigators, the ICD initially referred all complaints to the SAPS for investigation. The intention was to create a structure that enabled ICD to investigate all death cases as of July 1, 1997. Based on information provided by the SAPS, the ICD projected that it would investigate approximately 225 Class I complaints and a total of 20,000 complaints a year. However, in the first three months of operation, 191 people died in police custody or as a result of police action. This figure extrapolates to almost 800 Class I cases per year—about the same number as in 1985, when the country was engulfed in violence.[19] The volume of cases has made it impossible for ICD to achieve its initial goal.

Challenges Confronting the ICD

It is much too early to make a definitive judgment about the ICD. However, there are a number of serious problems that must be addressed in order for the ICD to perform effectively.

Lack of Enforcement Power. The ICD's lack of enforcement power is perhaps its most serious flaw. Unable to initiate criminal or administrative charges, it makes recommendations to the attorney general, the commissioner of the SAPS, and the Minister of Safety and Security.[20] Police officials and prosecutors are free to disregard the reports and recommendations of the ICD. The lack of enforcement authority would be less significant if the SAPS had adequate internal mechanisms. However, the SAPS is

woefully weak at policing itself. The ICD has wisely called on the government to enact legislation that would permit the ICD to initiate criminal prosecutions in certain circumstances and enforce recommendations of disciplinary action.[21]

The ICD's lack of enforcement authority illustrates the aforementioned problems created by the way the new government emerged. When the legislation establishing the ICD was being considered, numerous nongovernmental organizations made strong pleas to the National Assembly to give enforcement powers to the ICD.[22] Unfortunately, the National Assembly Portfolio Committee on Safety and Security made no substantive amendments to the ICD enabling legislation.

The ICD is reminiscent of the Goldstone Commission, formally the Commission of Enquiry Regarding the Prevention of Public Violence and Intimidation. Chaired by Justice Goldstone, a respected jurist, the Commission was one of the first Peace Accord structures in South Africa. It was empowered to investigate allegations of state-sponsored violence. The Goldstone Commission could make recommendations but had no power to ensure that they were implemented. This prompted Justice Goldstone to remark, "The Commission by no means expects that recommendations made by it should necessarily be accepted or implemented. It does expect, however, that they will not be ignored."[23]

Lack of Resources. The ICD lacks financial resources, and many of the additional problems described herein flow from this basic deficiency. The SAPS has 140,000 members and no credible internal structure to investigate wrongdoing. It is impossible to expect a staff of approximately 30 to conduct 800 investigations into suspicious deaths, let alone torture, rape, and corruption. The chance of bringing an offending officer to justice is infinitesimal. It is a cruel hoax to set up an elaborate oversight operation, which raises public expectations, only to undermine it through underfunding.

Lack of Authority to Resolve Cases Through Conciliation or Mediation. Considering the ICD's lack of resources, it is important to find alternative ways to resolve cases. For example, rather than expending substantial resources on investigations that may not be conclusive, the ICD could in some cases mediate mutually acceptable resolutions. Such efforts would enable the ICD to involve complainants in a more meaningful way. Developing a mediation process that brings complainants and police officials to the table, with the ICD as a referee, would promote public confidence in both the ICD and the SAPS. Currently, the ICD lacks such authority, although in its annual report, the executive director recommends an amendment to existing legislation that would allow the ICD to employ alternative dispute resolution methods in certain situations. Of course, mediation would be effective only if ICD also had enforcement authority. Otherwise, police officers, knowing that the ICD lacks the authority to prosecute them,

would have little incentive to work out a resolution.

Lack of Trained Investigators. In many respects, any police oversight organization is only as effective as its investigators. Unfortunately, there is a chronic shortage of trained, professional investigators who are sufficiently independent from the SAPS. Skilled investigators are hard to come by. Police misconduct cases are among the most difficult to investigate effectively. Officers are frequently reluctant to testify against fellow officers; citizens are reluctant to come forward; and the victims often have a checkered history. Even in South Africa, investigating police misconduct is frequently an unpopular cause, because there exists a "climate of public outrage against crime" that leads people to tolerate police abuse.[24] It takes a unique breed of investigator to perform this function effectively. Regrettably, because there is no tradition of democratic policing in South Africa, the pool of investigators is quite small.

As noted earlier, the ICD's original plan was to borrow 70 investigators from the SAPS. The plan unraveled at the eleventh hour in a dispute over who would pay for the investigators. It is probably for the better. The distrust of the SAPS is so deep that the ICD may have faced an immediate crisis of credibility had it enlisted SAPS employees. Fortunately, the ICD has recognized that it must develop its own investigators.

Poorly Defined Investigative Powers. Even trained investigators have difficulty conducting effective investigations without the proper tools. The investigation and prosecution of David Bryant and William Ackison, described earlier, illustrates the importance of unfettered access to information in a police department. The ICD statutory tools are not clearly defined. For instance, the executive director "may request and obtain information from any Commissioner or police official as may be necessary for conducting any investigation, [and may] request and obtain the cooperation of any member as may be necessary to achieve the object of the Directorate."[25] It would appear that the ICD has broad powers—the ability to subpoena, compel testimony, and obtain evidence. In practice, however, this authority is much less clear, and it is too easy for the police to stonewall. In the ICD annual report, the executive director articulates the need for legislation ensuring "unrestricted access to police dockets and other information held by SAPS."[26]

Inadequate Protection for Witnesses. In most instances, cases cannot be proven without public cooperation. The legislation creating the Goldstone Commission included provisions permitting evidence to be given in secret. But some witnesses who gave information to the Commission were murdered. It is difficult to overstate public fear of cooperating in police misconduct investigations. The Act gives the Minister (as opposed

to the executive director) the authority to establish witness protection programs and programs that preserve the integrity and confidentiality of the complaint process. Entrusting the Minister, instead of the ICD, to establish procedures to protect witnesses is akin to having the fox guard the hen house.

Flawed Triage System. The triage system, while understandable in light of limited resources, presents serious problems. Required by law to investigate all death cases, the ICD makes them its first priority. However, because of resource constraints, the ICD focuses almost exclusively on death cases. The narrow focus presents at least two problems. First, death cases are the most difficult to prove. A critical witness, the victim, is dead, and shootings frequently occur quite fast, making it difficult to determine the officer's intent. Second, the ICD does not give priority to investigating officers who have been the subject of many complaints or who have allegedly committed brutal acts short of murder, such as torture—even though they are the officers most likely to eventually commit murder. The ICD must in effect wait for officers to kill before it takes action.

Until the ICD has the resources to investigate the full range of misconduct, it should be permitted to establish its own priorities. It could choose, for example, to focus on a case involving an officer who has been the subject of a dozen complaints instead of an alleged suicide at a jail. If rooting out corrupt, brutal officers is a goal, it does not follow that death cases—though of course important— should invariably be the first priority. As allegations of torture or other outrageous conduct go uninvestigated and officers commit abuse with impunity, the public and the police will see that the ICD lacks teeth.

Flawed Intake System. It is essential to gauge the magnitude of the problem. Developing a workable intake system will help the ICD accomplish this goal. The enabling legislation provides that the executive director, in consultation with the Minister of Safety and Security, shall establish procedures regarding the "lodging, receiving and processing of complaints." Currently, many victims of police misconduct fail to report the event. Perhaps they think that nothing will be done. Or they may fear retaliation. Or they may not know how to lodge a complaint. There is also concern that SAPS fails to document numerous complaints it receives.

Without a proper intake structure, under-reporting will persist. Unfortunately, the ICD was given little statutory guidance. The ICD must work at a number of levels to improve intake. First, establishing a physical presence throughout the country is critical. At present, the ICD has a national office in Pretoria and regional offices only in Gauteng, KwaZulu-Natal, and Western Cape. The ICD plans to expand to a number of additional locales. Second, the ICD must implement a stricter oversight structure that ensures that the SAPS complies with its obligation to report complaints to the ICD. Third, the ICD

must inform complainants of relevant developments in the investigations. When the legislation establishing the ICD was being considered, many nongovernmental organizations expressed valid concerns about the lack of provisions requiring the ICD to keep the victim informed.[27] It is important to develop mechanisms (such as victim/witness coordinators) to ensure that people who are victimized by the police are not victimized a second time by the complaint process.

Future Prospects

Given the legacy of police oppression in South Africa, the establishment of the Independent Complaints Directorate is historic and long overdue. It is much too early to pass judgment on its prospects for success. There is a strong public mandate to reform police institutions, and the ICD is staffed by well-respected, committed professionals, starting at the top. Regrettably, the ICD has not yet been given the statutory tools and financial resources to fulfill its vital mission. The question remains: Has the system been set up to fail? Only time will tell.

The National Human Rights Commission in India

Historical Perspective

Since its independence, the government of India has expressed a strong desire to protect its residents from police abuse. Throughout Indian law, there are provisions enumerating the right to be free from police abuse. For instance, Article 21 of the Constitution provides that "no person shall be deprived of his life or personal liberty except according to procedure established by law." Other provisions forbid coerced confession and the use of unreasonable force by police officers. The National Police Commission established a code of behavior for police in 1977, and the government of India promulgated twelve principles for police conduct in 1995, which include respect for the Constitution.[28]

Regrettably, the laws stands in sharp contrast to the reality of police misconduct. In a survey of police officers, more than 50 percent said that they had used torture against civilians accused of crimes. Eighty-seven percent said that they had threatened people during an interrogation.[29] In a survey of civilians, 62 percent said that they strongly believed that the use of torture and other third degree methods have become standard operating procedure for police.[30] Deaths in police custody or as a result of police action are unacceptably common. India has the largest population of street children in the world, estimated at 18 million. These children are especially vulnerable to police abuse. According to a 1996 Human Rights Watch Report, "Indian street children are routinely detained illegally, beaten and tortured and sometimes killed by police."[31] There have been

numerous complaints of human rights abuses by Indian security forces in various states, most notably Kashmir, Jammu, and Punjab.

Equally troubling is public opinion. In a public opinion survey, 84 percent of people agreed that accused criminals deserved harsh treatment from the police.[32] Thus, despite the rights enshrined throughout Indian law, it appears that many officers and civilians believe that Indian society cannot be policed without violating human rights.[33] It is against this backdrop of skepticism that the National Human Rights Commission was created in 1993.

Overview of National Human Rights Commission

Purposes and Powers of the National Human Rights Commission. In 1993, India was under considerable attack from the international community for alleged human rights abuses by security forces in violence-torn Kashmir, India's only Moslem majority state. Largely in response, the Indian government passed the Protection of Human Rights Act of 1993 (PHRA).

The main purpose of the PHRA is to ensure better protection of human rights, which are those defined as those "relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India."[34] To that end, the Act created the five-member National Human Rights Commission (NHRC), headed by a chairperson required to be a former chief justice of the Supreme Court. Previously, it was difficult to file a complaint against the police. For example, individuals seeking to file complaints of police brutality against suspects who were in custody had to file a lawsuit or request that the government investigate the matter. The government had the authority to decide whether the complaint should be investigated by the police, a separate department, or by a judicial commission. The system undoubtedly deterred victims from filing complaints, and thereby exacerbated the problems of police abuse. The NHRC was formed to field complaints and to investigate allegations of "violation of human rights or abetment thereof; [and] negligence in the prevention of such violation, by a public servant."[35] It was also given statutory authority to:

- intervene in court cases alleging human rights violations (only with the approval of the court)
- review human rights laws and safeguards currently in place
- identify factors that inhibit enjoyment of human rights (e.g., acts of terrorism) and recommend remedial measures
- make recommendations to ensure that international human rights declarations are implemented

- undertake and promote research in human rights
- promote public awareness of human rights laws
- assist nongovernmental organizations working on human rights issues

The NHRC's powers are broad. They are not limited to investigating individual complaints of police abuse and recommending action. The NHRC also has the authority to investigate the underlying factors that gave rise to the incident, recommend structural improvements that may assist in preventing future misconduct, and recommend that the victim receive monetary compensation from the offender. It can also educate the public.

The PHRA provides the NHRC with an array of tools to carry out its investigative functions, including the power to subpoena witnesses and examine them under oath (subject to certain privileges that a witness may assert); obtain discovery and production of documents; and enter a building or place where it suspects that it may find relevant evidence to conduct a search and seize documents (subject to certain rules of criminal procedure). Statements made before the NHRC cannot be used against people in any civil or criminal proceeding except in a prosecution for perjury.

In addition to creating the NHRC, the PHRA authorized the creation of state human rights commissions. In a country as large and populous as India, it is impossible for one central authority to investigate all allegations of police abuse. The state commissions perform important investigative functions on behalf of the NHRC. The Act makes clear that the NHRC is the preeminent investigating agency; for example, state commissions are forbidden from investigating any matter that the NHRC is investigating. The NHRC also retains the authority to oversee investigations by state commissions. State commissions help to ensure that residents of India can file a complaint with minimal difficulty. Unfortunately, many states have been slow in establishing these commissions.

Structural Limitations. There are two glaring limitations on the NHRC's purview. First, like the IDC in South Africa, it has no enforcement powers. It conducts fact-finding missions and makes recommendations that can be accepted or rejected by the government. Once it sends its report and recommendations to the relevant governmental body, that authority has one month to determine what action, if any, will be taken. The NHRC is required to publish its report and recommendation, the response of the relevant authority, and the action taken or proposed. The Commission can use the media as well as non-governmental organizations in an attempt to place pressure on the police or other government entity to take action. Many people who are victimized by the police undoubtedly do no come forward because they think the effort is futile. Given the absence of effective prosecutorial mechanisms, it is understandable that some critics refer to the NHRC as toothless.

The NHRC's lack of enforcement authority would not be as problematic if other external oversight mechanisms were in place. However, complaints rarely lead to prosecution or conviction of police officers. For instance, the Andhra Pradesh Civil Liberties Committee documented 162 incidents of custodial deaths in Andhra Pradesh between 1986 and 1995. No officers were prosecuted for any of the deaths.[36]

Because of the dearth of prosecutions, the Supreme Court of India as well as the Law Commission of India have suggested that it may be appropriate in cases of custodial violence to shift the burden of proof to the police. Under this proposal, endorsed by the NHRC in its 1996 annual report, officers would be required to rebut the presumption that they are responsible.[37] Although the proposal has not been implemented, the mere fact that respected bodies have advocated it is evidence of the difficulty of prosecuting police abuse cases.

Second, the NHRC lacks the authority to conduct independent investigations of complaints against the military, such as the Border Security Force in Kashmir. In these cases, the NHRC operates under a circumscribed set of rules. It can only request a report from the government and, on that basis, make recommendations. This limitation has prompted many observers to conclude that the NHRC cannot curb human rights abuses by the military. One official from a human rights group said, "If the Commission does not have the right to question paramilitary forces and the army's role in Kashmir and Punjab, what is the use of such a commission?"[38]

Given the instability of the government, it is unrealistic to expect that these structural problems will be addressed. The government, struggling to maintain credibility, is unlikely to give the NHRC more power to uncover government abuse.

The Commission could, however, address one of its weaknesses—its inability to protect witnesses, many of whom are reluctant to cooperate for fear of retaliation by the police. There are no provisions in the PHRA establishing protections for witnesses and no mechanisms akin to a grand jury, where witnesses can be questioned under oath in secret. The Commission needs to develop its own procedures to protect witnesses.

Assessing the Efficacy of the National Human Rights Commission

Has the NHRC been a catalyst for positive reform or an ineffectual body designed only to stem international criticism? This question has been the subject of considerable debate since the passage of the PHRA in 1993. Unlike the recently formed IRC, the NHRC has a track record of more than four years to analyze. Despite its limitations, it has made some important contributions.

Documenting the Problem. It has always been difficult to ascertain the extent of police abuse in India. Although under-reporting of complaints against the police still exists, the

NHRC has taken aggressive steps to document the number and type of complaints. For example, from April 1994 through March 1995, the number of people reported to have died while in police or prison custody nearly tripled from the previous year. It is unclear whether the increase reflects more accurate reporting or an actual increase in the number of incidents. The NHRC subscribes to the former explanation, while nongovernmental organizations such as Human Rights Watch support the latter. There is probably some truth to both. More important, the Commission appears to be getting a more accurate picture of the problem. By gathering better statistics, the Commission is helping to debunk the myth that police misconduct is not a significant problem.

Providing a Strong Voice for Democratic Reforms. The Commission's broad statutory mandate has enabled it to have a strong influence on the government's decisions on human rights issues. For example, in 1985, the government passed the Terrorist and Disruptive Activities Act (TADA), which permitted the police to keep people in jail for up to a year without charging them. Authorities used the law to arrest more than 65,000 people. Only a small fraction of the detained were charged with a crime, and not even one in 100 of those charged were convicted.[39] Critics contended that the Indian government was using the law to throw thousands of innocent people, primarily Moslems, in jail.

The head of the NHRC called the law "draconian" and urged the government to remove it from the books. The government decided not to renew it in 1995. Although the NHRC was hardly the only voice calling for repeal, it certainly played a constructive role. The NHRC also urged the government to permit nongovernmental organizations to enter Kashmir to investigate allegations of human rights abuses by the security forces. Under pressure from the NHRC and other countries, the government eventually permitted Amnesty International and other watchdog organizations to visit Kashmir.[40]

The NHRC has also taken aggressive steps to highlight the enormous problem of child abuse and exploitation. The roughly 18 million children who live or work on the streets of India are vulnerable to oppressive labor and prostitution. Rather than combating the problem, the police frequently contribute to it by abusing the children.[41] The NHRC has helped to expose the horrific problem child labor, including child prostitution. For example, in 1996 it requested that two states, Goa and Tamil Nadu, issue reports on child prostitution. Remarkably, both states replied that there were no reported cases in their states. It is important for the NHRC to raise public awareness of the problem, which includes police abuse. In so doing, it can serve as a counterweight to those states that continue to deny the problem.

By forcefully criticizing the government, the NHRC has not only fostered important changes and raised public awareness, but also shown independence. Building public

trust in the NHRC is a Herculean task; people are understandably wary of a government-run watchdog agency. The NHRC has won a measure of the public respect by opposing the government on a number of vital issues.

Playing a Constructive Role in Individual Cases of Police Misconduct. The NHRC has helped secure a measure of justice for police abuse victims and their families. In one case, the NHRC recommended that the government in the southern state of Kerala pay compensation to the family of a man who committed suicide in a local jail after he had been severely beaten by the police, and the state agreed.[42] In another case, a fifteen-year-old boy named Raja Murugan apparently hanged himself after having been in police custody for approximately two days.[43] He had been arrested for the alleged theft of approximately 21 dollars of items. Police officials moved the body to a remote area, doused it with gasoline, and cremated it. The NHRC helped to ensure the prosecution of the officers. In addition, the NHRC recommended that Murugan's family receive compensation from the state, which agreed to pay. Unfortunately, the cases in which the Commission has played an important role barely amount to the proverbial tip of the iceberg.

Offering Concrete Suggestions for Systemic Change. The NHRC has also attempted to help craft solutions to the problems that give rise to police misconduct. In fact, it has advocated the complete overhaul of the police. In its 1994-95 annual report, the NHRC noted that:

> It is essential to revitalize the role of the civilian administration if the rule of law is to be effectively revived....[I]n almost all parts of the country, there is a clear and increasing need to reform the police itself, to retrain and reorganize it and to restore to it the skills and the integrity that country so desperately needs if the function of preserving law and order is to be improved.[44]

Toward that end, the Commission has strongly urged the government to heed the recommendations of the National Police Commission (NPC). The NPC was formed in 1979 to study police abuse and to make recommendations to the central government. It studied more than 76,000 complaints and reported that the failure to investigate allegations of police abuse adequately had created a climate of impunity. The NPC made a series of concrete recommendations for establishing workable systems of accountability, such as a mechanism within police departments for investigating alleged misconduct and a body composed of both police and civilians to oversee the internal

review boards. The NPC also recommended mandatory judicial inquiry into the most serious allegations—those involving death, rape, or "grievous injury."

The NHRC has argued that the NPC proposals should stop gathering dust. It has also noted that police abuse will persist as long as police officers remain unskilled at investigating crime, and resort to "shortcuts" such as coercing confessions and planting evidence. Although neither the national government nor any state government has responded to the call for institutional reform, the NHRC is playing a critical role by advocating fundamental change.

Moving Beyond Consciousness Raising

Many have praised the NHRC for raising public consciousness about police abuse and the need for an accountable law enforcement structure. In its 1998 annual State Department report on human rights, the United States "acknowledge[d] the effective work" of the NHRC in raising awareness of human rights issues.[45]

But, as the State Department report points out, human rights abuses persist at alarming levels, within both police departments and security forces. In February 1997, a head constable and eight constables in the western state of Gujarat blinded seven prisoners suspected of gambling in an attempt to extract confessions. A short time later, a police constable in the West Bengal town of Burdwan was accused of trying to pull out the thumbnails of two female detainees accused of shoplifting.[46] In August 1997, the NHRC announced that it would investigate charges of mass murder by the police in Punjab during the height of the Sikh rebellion. Human rights groups have long accused the Punjab police of quelling the Sikh rebellion by randomly killing civilians.

When the NHRC was created, Madhukar Gupta, a senior government official, stated its goal was "to plug loopholes in the system and create conditions under which law enforcers will realize that they cannot misuse their powers."[47] Regrettably, the evidence suggests that the NHRC has not changed the climate of impunity.

This is not to suggest that the NHRC has been a failure. Rather, the forces that give rise to misconduct are so multifaceted and deep that simultaneous interventions at many different levels are needed. For instance, the caste system that continues to exist across much of India leads some law enforcement officials to believe that some people are subhuman. It is hardly surprising that the majority of complaints received by the NHRC come from poor people. The NHRC was the fourth body established by the Indian government to address vexing social problems. The other three bodies—the National Commission for Minorities, the National Commission for Scheduled Castes and Scheduled Tribes, and the National Commission for Women—have had mixed results at best in addressing the oppression and degradation of millions in India. It is unrealistic and unfair to expect the NHRC to reverse the cycle of police abuse overnight.

At the same time, it is senseless to set up a structure such as the NHRC and then deny it essential tools. Moral authority is not enough to persuade police officers to change their behavior. Without the power to enforce its recommendations, and with limited power to investigate alleged abuses by the security forces, the NHRC will invariably have limited ability to transform the police and security forces into effective and accountable structures worthy of public respect.

Comparisons and Conclusions

The Paradox of Accountability and the Need for Public Education

In the countries in which the federal grand jury, the Independent Complaints Directorate and the National Human Rights Commission function—and presumably in every country—there exists what I call "the paradox of accountability." That is, most law enforcement officials and most of the public welcome the implementation of systems of police accountability. At the same time, however, they tolerate varying degrees of misconduct, making it more difficult to implement reforms.

In the United States, misconduct persists in many cities in part because the police and the public abide it. In South Africa, although the interim constitution contained a provision calling for the establishment of a system to investigate police misconduct, the final constitution dropped the provision. In India, as noted earlier, a survey found that 84 percent of people agreed that criminal suspects deserve harsh treatment from the police.

The paradox is probably attributable to the dual mission of the police: To combat crime and to respect the rule of law and individual rights. These equally compelling needs are frequently framed in "either/or" terms. Many people subscribe to the erroneous belief that they must tolerate some degree of police misconduct in order to maintain law and order.

Proponents of reform must reveal the speciousness of this dichotomy. In building professional and accountable police forces, governments focus on altering attitudes and behavior of officers through training and systems of review. The ICD and the NHRC should also make an effort to explain to officers and the public that their countries can have—indeed, they must have—police forces that both control crime and respect individual rights.[48] For instance, the NHRC should attempt to persuade the Indian public to demand more from the police. If a large percentage of people continue to accept misconduct, the government will never have the will to implement the sweeping changes needed to transform the police.

The Paradox of Secrecy

It is also important to note what I call the "paradox of secrecy." Secrecy is a critical

feature of the American grand jury system. It provides a venue conducive to learning the truth and protects the accused by ensuring that allegations that may be unfounded are first aired privately. In India and South Africa, however, secrecy historically has been associated with government-sponsored oppression, rather than democratic rule. For instance, *secret* police and *secret* security forces have engaged in widespread violations of human rights. It would be difficult for the South African or Indian public to approve of a government-run structure of police accountability that relies on secrecy. South Africa and India, as well as other emerging democracies, need to develop mechanisms of police accountability that involve the public. While secrecy is an important characteristic of oversight in the United States, it should not be viewed as an indispensable feature.

Limits of External Mechanisms of Police Accountability

David Bayley states correctly that truly democratic police forces "are accountable to multiple audiences through multiple mechanisms."[49] Other experts stress the importance of reforming the internal workings of police departments. Elizabeth Watson, former chief of police in Houston and Austin, Texas, says that many incidents of police misconduct can be traced to management failures within the middle and upper layers of police departments. According to Watson, correcting these management failings should be one of the highest priorities of all forces. The federal grand jury system, the ICD, and the NHRC are important external mechanisms of accountability. However, in the absence of additional mechanisms of accountability, they are of limited utility.

The ICD, the NHRC, and the Department of Justice recognize the need for a multifaceted approach to fighting police abuse. For instance, the ICD in its annual report stated that "the control of [police] misconduct is primarily a management function of the SAPS."[50] Similarly, Sankar Sen, director general of investigation for the NHRC, has written that "external systems to enforce police accountability and penalize police aberrations are necessary in a democratic society but meaningful and lasting changes in the organization can only come from within."[51] The Department of Justice does not have nearly enough resources to investigate all allegations of police abuse in the United States. As a result, the Department trains law enforcement agencies to prevent abuse.

An effective system of accountability is a seamless web. Viable external mechanisms of police oversight are needed to help deter police abuse. Without them, officers will correctly perceive that they can act with impunity. However, unless the governments of South Africa and India develop effective law enforcement bodies with their own mechanisms of accountability, the ICD and the NHRC will be treating only the symptoms of police misconduct, while the underlying illness goes unchecked.

Conclusion

A benchmark of a democratic police force is openness to outside supervision. The federal grand jury system in the United States subjects police officers to the prospect of criminal prosecution. An investigation is certainly unpleasant for an officer. Yet, virtually all officers accept the system. They know that it is part of a process of checks and balances that embodies democratic policing, makes them better officers, and helps them gain the public's respect.

The Independent Complaints Directorate and the National Human Rights Commission are proof that South Africa and India recognize the need for outside supervision. Regrettably, political dynamics in both countries have led to unfortunate and even dangerous limitations on their powers. The ICD and the NHRC have become adept at operating with one hand tied behind their back. It remains to be seen what they could accomplish with both hands free.

* The views presented in this paper are those of the author and do not reflect the views of the U.S. Department of Justice.

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[1] Mike Brogden and Clifford Shearing, *Policing for a New South Africa*, 1993, 3.

[2] United States Code, Title 18, Section 242. This is the primary federal statute used to prosecute police misconduct. It was originally passed during the Reconstruction era following the Civil War, when police abuse was rampant in certain parts of the United States.

[3] 1997 Statistics Provided by Criminal Section of Civil Rights Division of U.S. Department of Justice Relating to Official Misconduct Allegations.

[4] Some critics of the Justice Department cite the high closure rate to argue that the federal government is not sufficiently vigilant in prosecuting police misconduct. It is important to understand that there are no requirements that must be met to file a complaint with the FBI. That is, the FBI will investigate, and the Civil Rights Division review, any and all complaints of police misconduct. The absence of any gatekeeper system reflects a conscious policy decision by the Justice Department that it should be as simple as possible for people who feel they have been victims of police misconduct to file a complaint.

[5] A quorum consists of at least 16 grand jurors. Cases cannot be presented unless a quorum is present.

[6] That the ancillary goals of restoring public confidence and deterring police misconduct were arguably realized in the Ironton prosecution is perhaps a fortuity, rather than an inevitable result of the investigation.

[7] Jeremey Sarkin, "The Trials and Tribulations of South Africa's Truth and Reconciliation Commission," *South Africa Journal on Human Rights*, 1996, 12: 617.

[8] Brogden and Shearing, 7.

[9] Gavin Cawthra, "Policing South Africa: The South African Police and the Transition from Apartheid," 1993, 3-4.

[10] The 34% unemployment rate certainly does not assist in stemming the crime problem.

[11] Curiously, the final Constitution adopted in 1996 does not contain this provision.

[12] South African Police Service Act, no. 68, in Chapter 10, Section 53(1)(a), 1995.

[13] South African Police Service Act, no. 68, in Chapter 10, Section 53(2)(b).

[14] South African Police Service Act, no. 68, in Chapter 10, Section 53(2)(a) and (c).

[15] Events in the months leading up to the opening of the ICD illustrate a number of the structural problems of the ICD. The SAPS administered the ICD's budget and the ICD was heavily dependent upon the SAPS during this formative stage. The ICD encountered difficulty obtaining SAPS approval to purchase basic office equipment, and encountered a series of additional difficulties dealing with SAPS. See *First Annual Report on the Activities of the Independent Complaints Directorate For the Financial Year Ending March 31, 1997,* 4-10. Most importantly, the SAPS reneged on a commitment to temporarily lend 70 investigators to the ICD. Due to budget constraints, the ICD began its operation with a chronic shortage of investigators. As the annual report notes, "the ICD commenced operations on its deadline date in spite of, rather than because of, the assistance of the SAPS."

[16] ICD, *First Annual Report on the Activities of the Independent Complaints Directorate For the Financial Year Ending March 31, 1997,* 2.

[17] ICD, 11.

[18] For a complete list of serious criminal offenses, see annual report, appendix C.

[19] This structure is roughly akin to the inspector general model in place in the United States. All federal agencies have an inspector general, whose responsibility is to investigate certain allegations of misconduct, and root out waste, fraud, and abuse. An inspector general has broad investigative powers, but no enforcement authority. Rather, the inspector general will issue reports containing detailed findings and recommendations. The lack of enforcement authority is not problematic, because there are other external and internal mechanisms of control, including grand jury systems or internal affairs offices, to ensure that misconduct and malfeasance is prosecuted vigorously. The problem with South Africa is that the internal or external mechanisms of control and oversight are inadequate.

[20] In all likelihood, the three-month figures regarding deaths do not reflect a sudden increase in such incidents. Rather, these figures reflect the fact that the SAPS grossly underreported the incidents of alleged abuse. The ICD, then, serves a vitally important function of providing a more accurate barometer of the magnitude of the police abuse problem.

[21] ICD, 18.

[22] Bronwen Manby, "The Independent Complaints Directorate: An Opportunity Wasted," *South African Journal on Human Rights,* 1996, 12: 422.

[23] Cawthra, "The Police in a New South Africa," 173.

[24] "Some 190 Suspects Reportedly Killed By Police in Three Months," British Broadcasting Corporation, July 5, 1997.

[25] South African Police Service Act, no. 68, in Chapter 10, Section 53(6)(b) and (d).

[26] ICD, 18.

[27] Manby, 424.

[28] James Vadackumchery, *Human Rights and the Police in India,* 1996, 84-86.

[29] Vadackumchery, 26.

[30] Vadackumchery, 120.

[31] "Police Abuse and Killings of Street Children in India," Human Rights Watch: 1996, 2.

[32] "Human Rights and the Police in India," 119.

[33] This belief is not unique to people in India.

[34] PHRA, chapter I, 2(d). "International covenants" refer to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the United Nations in 1966.

[35] PHRA, chapter III, 12(a).

[36] Ganesan, 84.

[37] Ganesan, 84.

[38] "Indian Parliament To Take Up Rights Bill," *Reuter News Service,* April 8, 1993.

[39] "India Lets Anti-Terrorist Law Die Natural Death," *Reuter News Service,* May 17, 1995.

[40] *The Hindu,* March 21, 1997, 10.

[41] For a detailed discussion of the role of the police in the abuse of street children, see "Police Abuse and

Killings of Street Children in India," Human Rights Watch: 1996.
[42] *Agence France Presse,* October 6, 1996.
[43] Ganesan, 78-80.
[44] National Human Rights Commission, *Annual Report 1994-95,* 12, as quoted in Ganesan, 81.
[45] *Reuters News Service* (AAP Newsfeed), January 31, 1998.
[46] *Agence France Presse,* March 11, 1997.
[47] *Reuters News Service,* April 8, 1993.
[48] Given the structure of the United States grand jury system, it would be difficult and perhaps inappropriate for federal prosecutors to perform a public education function. However, the investigations themselves are frequently useful in demonstrating the federal government's commitment to preserving the rule of law.
[49] David Bayley, "The Contemporary Practices of Policing: A Comparative View," 1997, 6.
[50] ICD, 23.
[51] Sankar Sen, "Police Brutality: Genesis In Hurry To Get Results," *The Statesman,* July 24, 1997.