

Allegations of excessive use of force by police

This summary highlights IBAC's review of two Victoria Police investigations into allegations of assault or excessive use of force by police officers against members of the public.

What is an IBAC Review?

IBAC's independent oversight of Victoria Police focuses on ensuring police act fairly and in accordance with the law. Part of this important role is to review selected internal police investigations to assess whether they are thorough and fair, findings are evidence-based, and outcomes are reasonable and in accordance with public expectations.

In April 2021, IBAC established a dedicated reviews team. In 2021, this team completed reviews of 143 police investigations – a significant increase on previous years. IBAC aims to complete between 150 and 180 reviews of police investigations in 2022.

Following an IBAC review, we work with Victoria Police to drive improvements and provide input into the development of police policies to reduce misconduct, strengthen investigation processes and increase accountability. Ultimately, our reviews result in actions to improve outcomes for victims and complainants.

Background

IBAC's independent oversight of Victoria Police is critical because of the significant powers exercised by police officers, including powers to detain, search and arrest. One of IBAC's strategic focus areas is the unlawful use of force by police officers against vulnerable or marginalised members of the community.

When a member of the public alleges that a police officer has used excessive force during an arrest or other interaction with police, IBAC makes an assessment and decides whether to investigate the allegation, or to refer it to Victoria Police for investigation. In 2020/21, approximately 10 per cent of allegations against Victoria Police assessed by IBAC concerned the use of force.

By law, IBAC must prioritise investigations into serious or systemic corruption and misconduct. For this reason, IBAC investigates only the most serious allegations of assault or excessive use of force (see for example IBAC's [Operation Durack](#), [Operation Henty](#), [Operation Wingan](#) and [Operation Yalgar](#)). We refer the remaining allegations to Victoria Police for investigation.

IBAC reviews a proportion of Victoria Police's investigations as part of our police oversight role. In selecting investigations for review, IBAC considers several factors. These include the seriousness of the allegation, the vulnerability of the complainant or affected person, the seniority and any complaint history of the officers involved, and whether the allegations fall within one of IBAC's strategic focus areas or operational priorities. Two reviews of police investigations into allegations of excessive use of force are highlighted below.

Investigation 1

In December 2018, police officers were patrolling in Melbourne's south-east in an unmarked police vehicle as part of an operation targeting unruly behaviour in the vicinity of licensed premises. Officers attempted to intercept a vehicle whose driver they identified as previously having come into contact with Victoria Police. When police approached the vehicle, the driver became physically aggressive. Police officers attempted to arrest the driver, who resisted. Police eventually subdued the driver on the ground and handcuffed him. Police searched the vehicle and seized a weapon. The driver was charged with assaulting a police officer and possession of a controlled weapon.

The driver alleged that one of the police officers (the subject officer) repeatedly punched him in the face. Victoria Police investigated the allegation. This included interviewing a member of the public who witnessed the incident. The investigation concluded that the allegation was unfounded.

IBAC reviewed the investigation and found that it was thorough and impartial. In particular, the investigator identified that he had previously worked in the same police complex as the subject officer. The investigator discussed this potential conflict of interest with the officer in charge, who determined that there was no personal association between the investigator and the subject officer, and that the investigator's professionalism, character and ability made him an appropriate person to carry out the investigation.

In addition, the investigator:

- critically analysed the lawfulness of the subject officer's actions in seeking to arrest the driver without a warrant
- examined all relevant evidence, including use of force forms, statements from police officers and the civilian witness
- gave thorough consideration to the limitation of the complainant's rights under the *Charter of Human Rights and Responsibilities*.

Investigation 2

In January 2019, a member of the public made a complaint alleging that police and protective services officers used unreasonable force against him during a protest in Melbourne, by placing him in a headlock and pushing his head into a pillar. According to Victoria Police policy, any grip where pressure is applied directly to the front of the throat is dangerous and should be avoided where possible.

Victoria Police investigated the allegation and concluded that it was not substantiated.

IBAC reviewed the investigation and found that it was not impartial or thorough, and that its findings were not evidence-based. This is because:

- the investigator failed to obtain a statement from the complainant and a key witness, instead relying on information in the complaint
- the investigation did not consider all available evidence and lacked detailed analysis of whether police responded appropriately and proportionately to the complainant during the protest
- the investigator did not address inconsistencies in contradictory accounts given by attending officers.

IBAC had previously reviewed a 2018 investigation undertaken by this investigator and found it to be inadequate.

Outcomes and recommendations

As IBAC identified no concerns in relation to investigation 1, no further action was required.

In relation to investigation 2, IBAC wrote to Victoria Police to explain the deficiencies in the investigation. Given IBAC's earlier review involving the same police investigator, IBAC advised Victoria Police to address this directly with the investigator. In response, Victoria Police discussed the feedback identified by IBAC with the investigator concerned and will continue to consider feedback from IBAC reviews to inform organisational learnings.

IBAC continues to engage with Victoria Police on its implementation of our findings and recommendations following IBAC reviews as part of our independent police oversight role.

Useful resources

What is police misconduct?

www.ibac.vic.gov.au/reporting-corruption/what-can-you-complain-about/what-is-police-misconduct

IBAC's police oversight role

www.ibac.vic.gov.au/publications-and-resources/article/special-report-concerning-police-oversight

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IBAC is Victoria's anti-corruption agency responsible for preventing and exposing public sector corruption and police misconduct. We do this by:

- investigating serious corruption and police misconduct
- informing the public sector, police and the community about the risks and impacts of corruption and police misconduct, and ways in which it can be prevented.

To report corruption and misconduct now, visit www.ibac.vic.gov.au or call **1300 735 135**.

If you need help with translation, call the Translating and Interpreting Service on **13 14 50** or visit www.ibac.vic.gov.au/mylanguage

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