

Victoria Police handling of complaints made by Aboriginal people

IBAC has examined how Victoria Police handles complaints made by Aboriginal people and identified concerning patterns in current processes and opportunities for improvement.

IBAC acknowledges the Traditional Owners of Country throughout Victoria and pays respect to and recognises the contribution from their Elders past and present.

Police misconduct and the investigation of complaints against police are issues that concern all Victorians. However, they have particular significance for Aboriginal¹ people, who come into contact with police at a much higher rate than non-Aboriginal people.

Despite this, Aboriginal people make very few complaints about police. Aboriginal community organisations have highlighted a lack of confidence in the police complaints system, driven by concerns about inherent bias in the investigation process, lack of adequate evidence gathering, poor communication with complainants and low substantiation rates.

In response to these concerns, IBAC examined how Victoria Police handled 41 complaints made by Aboriginal people and its oversight of 13 serious incidents involving an Aboriginal person. Ensuring such complaints and serious incidents are investigated thoroughly and fairly is one way to help build Aboriginal people's confidence and trust in Victoria Police.

This is a summary of IBAC's audit report *Victoria Police handling of complaints made by Aboriginal people*.

The report outlines concerning patterns in Victoria Police's handling of complaints made by Aboriginal people and makes 10 recommendations to Victoria Police to improve these practices.

The findings from the audit will also be used by IBAC to guide improvements in the way it handles complaints made by Aboriginal people and to provide better support to Aboriginal people during the complaints process. These actions will form part of IBAC's Focus Communities Strategy, which aims to improve how IBAC interacts with Victorians who are vulnerable or marginalised and may face particular risks around corruption and police misconduct.

To read the full report, visit the [IBAC website](#).

Key findings



Aboriginal people most frequently complained about police use of force



Very few complaints were substantiated



A substantial number of complaints and serious incidents involved children



Human rights were not sufficiently understood or analysed in investigations



Aboriginal status was poorly recorded



Victoria Police failed to keep complainants updated on the progress of their complaints



Dedicated Victoria Police resources were rarely used



A substantial proportion of files contained indications of bias or a lack of impartiality



Conflicts of interest were often poorly identified and managed



Key concerns from previous IBAC audits remain

¹ This report uses the term 'Aboriginal' to refer to Aboriginal and Torres Strait Islander people living in Victoria. The terms 'Koori' and 'Indigenous' are retained when referring to organisation names or publication titles, and in quotations.



Key findings



Aboriginal people most frequently complained about police use of force

Almost half (46 per cent) of the complaints audited related to the use of force or assaults by police, often during an arrest. Twenty-one per cent of allegations concerned human rights breaches, 11 per cent concerned duty failures and 10 per cent concerned improper language or harassment.



Very few complaints were substantiated

Of the 41 complaints examined by IBAC, 27 were classified by Victoria Police in a way that a determination of 'substantiated' might be found. Of these, Victoria Police determined that only three (11 per cent) were substantiated. Two of these substantiated complaints concerned inappropriate language and the third concerned duty failure. No complaint alleging assault was found to be substantiated, despite this being the most common allegation examined in this audit.



A substantial number of complaints and serious incidents involved children

Forty-one per cent of the files examined by IBAC involved Aboriginal children and young people aged 17 years or younger. Many of these files involved incidents occurring during arrest. Several also raised issues about the treatment of, and care provided to, Aboriginal young people in custody.



Human rights were not sufficiently understood or analysed in investigations

IBAC found that Victoria Police investigators frequently failed to specify the rights under the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* (the Charter) that were engaged, limited or breached in the context of the complaint allegations and serious incidents under examination.

IBAC has highlighted this issue in previous complaints audits.



Aboriginal status was poorly recorded

In 57 per cent of the files audited, there were inconsistencies in how Aboriginal status was recorded in Victoria Police's systems. It is crucial that police officers accurately record Aboriginal status so that complaints from Aboriginal people can be identified so dedicated resources can be considered.



Victoria Police failed to keep complainants updated on the progress of their complaints

In 73 per cent of files where there was a contactable complainant, there was no indication that Victoria Police had updated the complainant on the progress of the investigation.



Dedicated Victoria Police resources were rarely used

Victoria Police has established a number of resources to improve relationships and communication between police and Aboriginal communities. Such resources include Victoria Police's Priority Communities Division, Aboriginal Community Liaison Officers and Police Aboriginal Liaison Officers.

IBAC's audit found little evidence of investigators using these dedicated resources to assist with the complaints and serious incidents they were investigating.



A substantial proportion of files contained indications of bias or a lack of impartiality

IBAC found that 22 per cent of files contained concerning indications of bias or a lack of impartiality on the part of the officers involved in an incident. These included dismissing the complainant's concerns, implying that the complainant was not truthful, and commenting on previous irrelevant interactions with a complainant. Forty-one per cent of files contained indicators of bias on the part of investigators, including minimising the seriousness of allegations, downplaying officers' conduct, making inappropriate comments about civilian witnesses, and scrutinising the complainant's background or criminal history.



Conflicts of interest were often poorly identified and managed

Despite conflict of interest forms being attached in 84 per cent of files, IBAC found deficiencies in how Victoria Police identified and managed investigators' conflicts of interest in 42 per cent of these files. Issues included:

- investigators working at the same station or in the same police service area as the officers they were investigating
- conflicts being declared, but no action being taken to remove or manage the conflict
- officers not declaring a conflict, despite other material on the file suggesting a conflict existed.



Key concerns from previous IBAC audits remain

IBAC's audit identified several other ongoing issues that were the subject of key findings and recommendations in IBAC's previous audits of complaint handling by Victoria Police including:

- under-classification of complaints
- failure to consider officers' complaint histories
- failure to collect or consider relevant evidence
- inadequate determinations framework.

Recommendations

Following IBAC's audit of how Victoria Police handles complaints made by Aboriginal people, IBAC recommends that Victoria Police:

1. Urgently implement systemic reform of its approach to complaint handling to simplify the system of file classifications, determinations and recommendations to help ensure clarity for complainants, investigators and subject officers, and to ensure that complaints made by Aboriginal people receive a classification that reflects the seriousness of the alleged misconduct.
2. Develop and implement specific training for Victoria Police employees on the Charter of Human Rights and Responsibilities and its application to Aboriginal people who come into contact with police, to ensure genuine understanding of and engagement with human rights in operational policing, complaint investigations and serious incident oversights. This training should include the historical context and legacy of Aboriginal people's experiences with police, the findings and recommendations of the Royal Commission into Aboriginal Deaths in Custody, and the impact of cultural stereotypes and unconscious bias on police decision-making.
3. Address concerns identified in this report regarding how police engage with Aboriginal children and young people in the context of arrest, interviews and management in police custody, to ensure that fundamental protections are upheld and the requirements of the Victoria Police Manual and local standard operating procedures are met.
4. Take action to address serious and ongoing issues with behaviours that might conceal misconduct within Victoria Police, including by reviewing and strengthening training and guidance for complaint investigators in relation to:
 - a) managing conflicts of interest
 - b) considering subject officer complaint histories
 - c) gathering evidence
 - d) complying with record keeping requirements.
5. Establish a dedicated process for handling complaints made by Aboriginal people to enable timely and culturally appropriate complaint handling, including the creation of a specialised role to advise on classification and investigation of complaints from Aboriginal people, and to link Aboriginal complainants with available services to support them during the complaints process.
6. Ensure that officers investigating complaints or overseeing serious incidents involving Aboriginal people seek advice from the new specialised role (see recommendation 5) at the commencement of the investigation or oversight, and document that advice on the file.
7. Strengthen its complaint handling processes and training to ensure that investigators keep complainants regularly updated on the progress of an investigation, and provide detailed, accurate, clear and consistent outcome information to complainants and their nominated representatives.
8. Improve the quality of supervision provided by Ethics and Professional Standards Officers, and other senior officers, to ensure that complaint investigations and serious incident oversights are thorough, fair, impartial and completed in a timely manner, and that the requirements of the Victoria Police Manual are met.
9. Ensure that patterns of complaints against police officers involving allegations of misconduct against Aboriginal people are considered in ethical health assessments undertaken on officers, and in any actions taken in response to those assessments.
10. Take urgent action to ensure that the Aboriginal status of complainants and people involved in serious incidents is accurately and consistently recorded in the Victoria Police complaints database and other Victoria Police systems. This should include amending the complaints database to ensure that Aboriginal status is recorded as a response to the Standard Indigenous Question rather than as an observation of 'ethnic appearance', updating inconsistent records where necessary, and establishing processes for regular monitoring of data quality.

IBAC has requested that by 1 August 2022, Victoria Police publishes an implementation plan identifying whether it accepts the recommendations and specifying a time frame for implementation of each recommendation.

Level 1, North Tower
459 Collins Street,
Melbourne VIC 3000
GPO Box 24234,
Melbourne, VIC 3001
T 1300 735 135
E info@ibac.vic.gov.au
May 2022

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