

BACKGROUND

The Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police (“Police Commission”) was set up by the Yang di-Pertuan Agong on 4 February 2004. The establishment of the Police Commission was seen as Prime Minister YAB Abdullah Ahmad Badawi’s positive response to public concerns over reports of human rights violations, abuse of power, corruption and ineffective or unresponsive work practices that have affected the image of PDRM. In announcing the formation of the Police Commission, the Prime Minister said:

“ ... the Royal Malaysia Police, as a team that engages with the public, has to be knowledgeable about human rights in the discharge of duties and in dealing with the public. Issues such as police violence, unsatisfactory service, corruption and other negative issues must be eradicated.”

After a thorough and intensive study over 15 months, the Police Commission made 125 recommendations dealing with issues ranging from the conduct of police to their welfare and terms of service, as well as on human rights, crime and corruption.



One of these recommendations is the formation of an Independent Police Complaints and Misconduct Commission (IPCCM).

This pamphlet aims to explain the concept of the IPCCM, and why the setting up of the IPCCM is an **essential** part of the much-needed police reform this country needs.

1. At present, what happens when there is an allegation of police misconduct?

- ♦ At present, when a police officer abuses his authority, the only recourse that a person has is to make a police report or lodge a complaint with the Police Disciplinary Board (Bahagian

Tatatertib). In both scenarios, the police are relied upon to investigate themselves!

- ♦ In many instances, no one gets back to the complainant, there is little follow up, and the public is made to believe that no action is taken
- ♦ The present situation is highly unsatisfactory

2. What is IPCCM?

- ♦ The IPCCM is an **independent, external oversight body**, whose principal function is to receive and investigate complaints about PDRM and its personnel
- ♦ The IPCCM will drastically change the present situation. It will make PDRM much more accountable, and will help restore and sustain public confidence in PDRM

3. Who will sit on the IPCCM?

- ♦ The IPCCM will be made up of 7 Commissioners appointed by the Yang di-Pertuan Agong, on the advice of the Prime Minister, for a 3-year term
- ♦ The IPCCM is expected to (generally) conduct public hearings. It will be accountable to Parliament.

4. What kind of issues can the IPCCM address?

- ♦ The IPCCM will be empowered to investigate police corruption, commission of criminal offences by the police, and other misconduct
- ♦ The IPCCM can investigate the actions of a police officer even if he is not on duty or outside the country

5. When will the IPCCM begin an investigation, and will the investigation be affected by proceedings in court?

- ♦ The IPCCM can commence an investigation based on a complaint, or on its own initiative
- ♦ Unlike SUHAKAM, the IPCCM can commence or continue an investigation even if there is a proceeding going on in court



6. What kind of action can the IPCCM take?

- ♦ The IPCCM can recommend that a police officer found guilty of misconduct be reprimanded, deprived of one or more good conduct badges, demoted, fined, denied an increment, transferred or dismissed.
- ♦ The IPCCM may also refer its findings to its Chief Legal Counsel, to take legal

proceedings in Court against the errant police officer.

7. Will the IPCCM have power to ensure police cooperation in its investigations?

- ♦ The IPCCM will have broad powers to obtain documents, issue search warrants, and summon witnesses
- ♦ Any person who fails to attend when summoned, or gives evidence which is false, or willfully destroys evidence, or threatens a witness, or prevents a witness from attending an inquiry, commits an offence and can upon conviction be fined up to RM10,000 and/or imprisoned for up to two years

Reform is what we need and what we must have, if our nation does not wish to see the situation further deteriorate

8. Will the IPCCM weaken the police force?

- ♦ No. On the contrary, it will strengthen the force. Having an independent and external mechanism that allows greater scrutiny of police conduct can only result in members of PDRM developing a better standard of conduct and greater regard for the rights of persons under their control
- ♦ The IPCCM will not weaken PDRM, but would make the police force more responsible, professional, and accountable to the public for their action, and will ensure that police personnel abide by the law

9. We already have PDRM's Disciplinary Board, the ACA, the Public Complaints Bureau and SUHAKAM. Do we need another body to monitor the police?

- ◆ The Disciplinary Board of PDRM does investigate and discipline members of the force. But it remains an internal mechanism, whose functioning is not transparent or open to public scrutiny. This internal mechanism has failed to meet public expectations over the years. Self-policing has proved ineffective all over the world, and Malaysia is no exception.
- ◆ The role of the ACA is restricted to instances involving corruption, while the Public Complaints Bureau only deals with bureaucratic matters. There is a large area of misconduct that falls outside the ambit of these bodies.
- ◆ Suhakam is not given any enforcement capability. It can only make recommendations. Moreover, most of its recommendations have not been adopted
- ◆ None of these mechanisms comes anywhere near to having the power and jurisdiction of the IPCMC. Reform cannot be achieved by insisting on the old ways that have obviously failed to prevent the problems that we are currently facing.

"People realise that the police are an institution with very strong powers, which can deprive us of our freedom, and use force against the people. But such strong powers should be controlled strongly as well"
- Cees Hindriks, Amnesty International (AI) Police Network representative and former Senior Police Officer of 30 years' experience.

10. Will the formation of IPCMC mean that we have no appreciation for the valuable services performed by the Police?

- ◆ Far from it. We appreciate the important role played by the police in society. If such appreciation has waned over the years, it is precisely because of incidents of police misconduct that have gone unchecked in the past. Having the IPCMC will result in a more

transparent and much better police force, which will in turn receive much greater appreciation from the public than at present.

11. What about having an Ombudsman to deal with not just the police but all other government agencies as well?

- ◆ The idea of eventually having an ombudsman (or several different ombudsmen) to address and investigate complaints against all enforcement agencies and other government departments is most welcomed. However, bringing forth an idea worth considering (and which requires time for consideration) does not and must not become an excuse to abandon or delay another excellent proposal that has already been carefully studied and crafted. Details of the IPCMC have already been thought-out and proposed in a draft Bill prepared by the Police Commission, and submitted many months ago. The draft Bill only needs a little fine-tuning, which can be quickly done and implemented

"... the worst thing of all is to have an irresponsible police force, and the next worst is to have one that is responsible only to the executive ..." - Lord Devlin

12. What can I do as a citizen?

- ◆ Show your support for the IPCMC, by signing the petition prepared by the Bar Council. You may obtain copies of the petition from the Secretariat (see details below, and contact Rajen or Elizabeth). You can help collect signatures in support of the IPCMC, from your family members, friends and organisations
- ◆ Obtain copies of this pamphlet from the Secretariat, and help disseminate information about the IPCMC
- ◆ Speak or write to your members of parliament to ask them to support the IPCMC. Take part in forums and discussions on the IPCMC
- ◆ As a citizen, your voice counts. Make your voice heard, so that a mechanism that is essential to police reform will be put in place

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IPCCMC:

An Indispensable Part of Police Reform

" It (IPCCMC) will mark a quantum step forward in enhancing accountability and help restore and sustain the confidence of the people and the private sector in PDRM"

- Police Commission's Report