



Police accountability to reduce the inappropriate treatment of First Peoples

Issued April 2022

Korey Penny, aged 32, is a Menang man from the Noongar nation in south-west Western Australia and a father of two children. On Thursday, 3 September 2020, at around 5:15 am, he was riding to work on the Melbourne Metro tunnel when a police officer knocked him off his bicycle on St Kilda Road. He was left hospitalised and without feeling in his arm.

Victoria Police say that he was riding on the footpath without a bike light and refused to stop.

Mr Penny alleged that he was cycling along St Kilda Road when he passed a police officer on foot who told him to "f—king walk your bike". Mr Penny responded that he was on his way to work and kept cycling. However, he was riding around another four police officers, and one of them knocked him off his bike. The police officer allegedly put his knees on Mr Penny's legs before grasping his clothing and shaking him. The police officer's actions caused Mr Penny's head to hit the ground repeatedly.

He alleged one of the police officers called him a "black c—t".

The police officers did not have their body cameras turned on to record the incident.

The Victoria Police stated that they had conducted an internal assessment of the incident and were "satisfied with the use of force in relation to this incident."

Mr Penny was not charged with any offences. In March 2021, Mr Penny filed a writ in the Victorian Supreme Court seeking damages over the alleged use of violence by police.

Police have a difficult job. However, where police misbehave or misuse their powers, there is a need to hold the officers in question to account. First Peoples communities in Victoria too often experience cases of alleged police misconduct or excessive use of force directed at innocent members of their community.

There are systematic issues within Victoria Police that need to be urgently addressed, otherwise, we will keep seeing the same types of incidents over and over again. Both historic and contemporary relationships between police and Aboriginal communities have been fraught, and a commitment to addressing systemic racism and ending impunity is crucial for moving towards a just, equal and safe future for everyone, in which Black lives truly matter.

Nerita Waight, CEO of the Victorian Aboriginal Legal Service

All too often, incidents involving police misuse of their powers are referred to the police's [Professional Standards Command](#) for investigation. Unfortunately, that means police officers end up investigating the actions of other police officers. Currently, around 90 per cent of complaints about Victorian police officers are referred back to the area or part of the police force the officer comes from. Such referrals increase the likelihood the police officer investigating the complaint will know the officer being investigated, impacting the investigation's independence.

Following the scandal of Victoria Police's handling of lawyer Nicola Gobbo as an informant, the Victorian Government is now consulting on reforms to the way complaints against police are dealt with. So, there is an opportunity for you to express the kind of accountability system you would like to see used to hold police officers to the standards the community would expect of them.

The Northern Ireland Model

The [Police Ombudsman for Northern Ireland](#) (PONI) sets the best practice model of a successful, fully independent, properly resourced and client-centred police complaints body.



Some of the positive features of PONI are:

- The Ombudsman is appointed for a fixed seven-year term and is accountable to Parliament through the Minister of Justice.
- Deaths in custody, or where a police officer may be implicated, must be immediately referred to the Ombudsman. Police officers can take no substantive role in the investigation.
- The staff are independent of the police force they are tasked with investigating. Only 25% of the investigating staff are former police officers, and none of these officers previously worked in Northern Ireland.
- The model is staffed with specialist investigators who have the power to secure incident scenes and seize documents and property. Police are obliged by law to provide the information required in connection with an investigation.
- Following an investigation, the Ombudsman can recommend the public prosecutor that an officer be prosecuted or to the Chief Constable that an officer be disciplined.
- The Ombudsman may refer a complaint to the police to handle, but only if it is 'less serious', and the complainant consents. The Ombudsman's office will check how the police have dealt with the complaint.
- The Ombudsman generally deals with cases no more than 12 months old. However, there is no time limitation on 'grave and exceptional' matters.
- The Ombudsman is committed to public accountability and making information easily accessible to the public.
- The Ombudsman is subject to Freedom of Information laws.

PONI notably gets regularly positive feedback from police officers in its annual survey. Most police officers wish to see misconduct by colleagues properly dealt with.

Uniting Church Position

The Synod of Victoria and Tasmania has committed itself to:

Following Christ, walking together as First and Second Peoples, seeking community, compassion and justice for all creation.

The commitment means that where possible, the Synod will seek to act in solidarity with Australia's First Peoples in their struggle for justice.

What you can do

Write polite and respectful letters to:

The Hon Daniel Andrews

The Premier of Victoria
Level 1, 1 Treasury Place,
East Melbourne VIC 3002

The Hon Lisa Neville

Minister for Police
Level 17, 8 Nicholson Street
East Melbourne, VIC 3002

Salutation: Dear Premier

Salutation: Dear Minister

Points to make in your letters:

- Express concerns that the current Victorian system of dealing with complaints against police misconduct or excessive use of force too often involves police officers investigating other police officers.
- Ask that the Victorian Government establish an independent investigative body to handle complaints against Victorian police officers. Such a body is necessary so the Victorian community can have confidence police officers will be held to the expected standards.
- The new body to deal with complaints against police officers should be modelled on the Police Ombudsman for Northern Ireland (PONI). PONI sets the best practice model of a successful, fully independent, properly resourced and client-centred police complaints body.
- Subject to reasonable limitations, complainants must be adequately informed about the receipt, handling, progress, and complaint outcome.