

Should Citizens Action Offences Committed by Police and Other State Institution Personnel, the Same as do Police Against Citizens?

A Public Discussion Paper

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Introduction

Modern democratic societies are built upon a simple constitutional premise: No person is above the law.

That principle is frequently repeated by governments, police forces, regulators and courts. It is presented as a foundational safeguard against tyranny and arbitrary power.

An uncomfortable question arises however, when one examines the practical operation of modern institutional systems:

What occurs when the institutions ordinarily responsible for enforcing the law are themselves alleged to have committed wrongdoing?

More specifically:

If ordinary citizens may be investigated, arrested, charged and prosecuted by the State, should citizens themselves possess lawful and structured mechanisms through which serious alleged wrongdoing by police officers, regulators, prosecutors, public officials and other State actors can be directly actioned?

This paper does not advocate disorder, vigilantism or hostility toward policing or government institutions. Quite the opposite.

Its purpose is to explore whether modern constitutional systems have become excessively dependent upon institutions policing themselves and whether democratic equilibrium requires a more direct and structured citizen role in the lawful initiation of accountability processes.

The Existing Imbalance

At present, the relationship between citizen and State is fundamentally asymmetrical.

A police officer may:

- receive an allegation;
- record it;
- investigate it;

- seize evidence;
- interview suspects;
- refer matters for prosecution;
- and invoke the coercive powers of the State.

The citizen, however, possesses no equivalent practical capability when allegations concern the police themselves or broader institutional structures.

Instead, the citizen is generally directed toward:

- complaints systems;
- internal professional standards departments;
- ombudsman structures;
- regulators;
- judicial review mechanisms;
- or public inquiries.

On paper, to some, these mechanisms may appear substantial. In practice, however, many citizens perceive them as:

- procedurally inaccessible;
- prohibitively expensive;
- excessively delayed;
- institutionally defensive;
- or structurally incapable of investigating systemic misconduct involving multiple connected public bodies.

This creates a constitutional tension of growing importance.

If the State alone controls the mechanisms through which allegations against the State are examined, can accountability ever truly be regarded as independent?

The Historical Principle

Historically, English and Scottish legal traditions did not entirely monopolise prosecution and enforcement within the State itself.

Private prosecutions once formed a significant component of criminal justice.

Citizens could initiate proceedings.

Magistrates could be approached directly.

Constables themselves emerged historically not as rulers over the public, but as servants of communal order.

The modern concentration of investigative authority within centralised institutions is comparatively recent in historical terms and this raises an important question:

Has modern governance drifted too far toward institutional self-protection?

The Problem of Institutional Self-Investigation

Public confidence becomes strained whenever institutions investigate themselves.

The concern is not merely corruption. Often, the issue is more subtle.

Institutional systems naturally tend toward:

- reputational preservation;
- procedural defensiveness;
- risk management;
- liability minimisation;
- and maintenance of public confidence.

Those priorities can unconsciously conflict with transparent truth-seeking.

This becomes particularly serious where allegations concern:

- national operational policies;
- coordinated decision-making;
- command structures;
- disclosure failures;
- or conduct involving multiple State bodies simultaneously.

Under such conditions, the distinction between independent oversight and managed internal review can become blurred.

Even where individuals act in good faith, the institutional gravity of self-preservation may shape outcomes.

The Democratic Deficit

A further issue arises concerning democratic legitimacy.

Citizens are repeatedly told:

- to trust institutions;
- to defer to official mechanisms;
- and to avoid drawing conclusions independently.

But modern citizens are:

- more educated;
- more connected;
- more evidentially capable;
- and more technologically equipped than at any point in history.

Open-source intelligence, disclosure laws, digital archiving and public documentation now permit ordinary individuals to undertake highly sophisticated evidential analysis.

In many fields, citizens already identify institutional failings before institutions themselves acknowledge them.

This reality creates a democratic paradox:

The public is expected to fund, obey and legitimise institutions, whilst simultaneously being discouraged from independently scrutinising them.

The Risk of Vigilantism

Any discussion of citizen-led accountability must confront an obvious danger.

Unstructured public enforcement potentially risks descending into:

- mob behaviour;
- harassment;
- politically motivated targeting;
- conspiracy culture;
- or destabilisation of lawful governance.

(That is not to say the same cannot be said of structured policing and other State enforcement authority approaches, it is important to add)

This danger is real.

Indeed, one of the primary supposed functions of policing is precisely to prevent private retaliation and disorder.

Accordingly, any expanded citizen role must remain:

evidence-led;

- legally grounded;

- procedurally accountable;
- transparent;
- and subject to judicial oversight.

The objective cannot be mob justice. Integrity of process must be of the highest order.

It must be maintain constitutional balance and be observable in doing so.

A Possible Alternative Model

One possible future model may involve structured citizen accountability pathways operating independently from direct State control.

Such mechanisms could potentially include:

- Independent Citizen Evidential Panels
- Panels composed not of political activists, but of:
 - retired investigators;
 - legal professionals;
 - forensic specialists;
 - technologists;
 - and randomly selected citizens.

Mandatory Evidence Recording Duties

Where allegations against State institutions are submitted, authorities could be legally required to:

- formally record the allegations;
- preserve evidence;
- provide tracking references;
- and issue transparent disposition decisions.

Citizen-Initiated Judicial Review Thresholds

A streamlined process through which sufficiently evidenced allegations automatically trigger judicial scrutiny.

Evidential Preservation Duties

Automatic legal preservation obligations triggered once credible allegations concerning institutional conduct are received.

Public Evidential Repositories

Secure public-interest archives enabling evidence to remain visible, reviewable and historically preserved.

The Constitutional Question

Ultimately, this issue is not merely about policing.

It concerns sovereignty itself.

In practical terms:

Who guards the guardians?

If every meaningful accountability mechanism remains structurally connected to the institutions under examination, democratic systems risk evolving into closed loops of managed legitimacy.

That is a dangerous trajectory for any free society.

Conversely, societies which entirely abandon institutional order in favour of uncontrolled public action descend toward instability.

The obvious challenge, therefore, is balance.

- Not anti-State governance.
- Not mob rule.

but constitutional equilibrium between institutional authority and public sovereignty.

Conclusion

The modern State possesses extraordinary power.

It can:

- surveil;
- prosecute;
- regulate;

- censor;
- investigate;
- detain;
- and shape public narratives at immense scale.

Such power may sometimes be necessary, but history demonstrates repeatedly, that concentrated power without meaningful external accountability becomes extremely dangerous over time.

Accordingly, the question posed by this paper is neither extremist nor anti-police.

It is fundamentally democratic:

Should citizens possess stronger lawful mechanisms through which serious alleged wrongdoing by police and State institutions can themselves be independently actioned and constitutionally examined?

If the answer is no, then society must confront a further and more uncomfortable question:

What meaningful remedy remains when institutions decline to investigate themselves?