Dear Sir/Madam,

I would like to make a submission into the Inquiry.

I am not in a position to comment in detail with any expertise on the current situation in Victoria. However, I would tend to assume from survey data and Media reports of various scandals that there is room for improvement in the domain of prevention. My work in this area in regard to Victoria has mainly been in relation to the Police. However, many of the lessons from the heavily researched area of police misconduct prevention appear to have application to varying degrees across the public sector.

With that in mind, I have attached a book chapter: Prenzler, T., & Porter, L. E. (2016). Improving police behaviour and police-community relations through innovative responses to complaints. In S. Lister & M. Rowe (Eds.), Accountability in policing: Contemporary debates (pp. 49-68). Abingdon: Routledge. It briefly sets out a number of ways to improve the prevention of police misconduct and, as noted above, I’m sure that the findings and recommendations have relevance to the whole public sector.

I apologise the copy is not high quality. I hope it is of some use to the Inquiry.


Thank you very much for the opportunity to make this submission.

Regards

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Grey corruption issues in the public sector

Tim Prenzler

Abstract
Purpose – This paper aims to identify key learnings around the concept of “grey corruption” by systematically reviewing the extant literature. The concept is addressed in terms of areas of alleged misconduct often considered “minor” or “borderline” in relation to “black corruption”. Common examples include favourable treatment of friends and relatives by public officials, receipt of gifts, excessive expenditures and pork barrelling, influence peddling through donations and lies and false promises. The focus of this study is on definitions, extent, public perspectives, explanations and evidence of promising prevention strategies.

Design/methodology/approach – Relevant sources were sought using systematic keyword searches of major criminological and political databases, a media database and relevant government and non-government websites, up to the end of December 2019.

Findings – The main findings were that there is no single accepted definition of grey corruption but that the concept remains useful, practice is often extensive, it is generally at odds with public opinion, opportunity is a key factor in its incidence and prevention requires the enactment and enforcement of clear principles.

Research limitations/implications – Media reported cases were too numerous to analyse in detail for the present study.

Practical implications – Efforts to improve integrity in government need to take account of the concept. Rules require clarification and communication. Enforcement needs improvement. More experiments are needed in prevention.

Social implications – This paper captures a range of integrity issues of importance to the public but often downgraded or dismissed by politicians.

Originality/value – This paper is unique in reporting the results of a systematic search of the international literature on the topic.

Keywords Corruption, Corruption prevention, False election promises, Gratuities, Grey corruption, Influence peddling, Political donations, Pork barrelling

Paper type Research paper

Introduction
Corruption represents a major threat to democracy, the rule of law and general prosperity. The United Nations (2018) estimated the cost of corruption worldwide in terms of bribes paid and financial losses at US$3.6tn or 5% of gross domestic product per annum. In 2018, the G20 leaders called for a new campaign against corruption as part of a larger sustainable development agenda, including a focus on conflicts of interest in government (G20, 2018). At the same time, countries with high scores in integrity ratings have seen scandals involving grey corruption issues, and some countries with high scores have seen reductions in public trust in government on Transparency International’s Corruption Perceptions Index. For example, between 2012 and 2019, there were significant drops in scores for Australia, from 85/100 to 77, and Canada, from 84 to 77 (Transparency International, 2020a), while declines have also been apparent in the USA, New Zealand, Denmark and Sweden. These declines have been associated in part with scandals involving undue influence and misuse of public resources (Moreira, 2019). The often “minor” and/or legally uncertain nature of such incidents as opposed to clearly illegal “grand”...
corruption types such as embezzlement and bribery has prompted researchers to call for a more comprehensive definition of corruption in this “heretofore grey area” (Barret and Zirker, 2017, p. 1; Beetham, 2015). Part of that process entails a greater explication of the issue of grey corruption and how to reduce its incidence.

**Method**

The present study was prompted by the issues outlined above. A preliminary perusal of media reports and scholarly articles generated five main research questions:

- **RQ1.** What constitutes grey corruption?
- **RQ2.** What is the extent of grey corruption?
- **RQ3.** What are public opinions about grey corruption?
- **RQ4.** What are the main explanations for its existence and persistence?
- **RQ5.** What strategies have been effective in preventing or reducing the problem?

The first four questions serve as a prelude to the main focus of this study: applied prevention case studies.

To address the research questions, keyword searches were conducted in the academic databases: Criminal Justice Abstracts and Political Science to 30 December 2019. Search terms included “grey/gray corruption”, “petty”, “minor”, “pork barrelling”, “gratuities”, “improper influence” and “prevent”. Additional searches were conducted in the media database Factiva.com and in the websites of government anti-corruption agencies and non-government research and policy agencies in the integrity field. The latter were identified on a snowball basis from citations in sources. The academic database search generated 1,840 publications, most of which lacked direct relevance to the five questions set out above. Media reports were in the thousands, and only a very small sample of reports of grey corruption cases could be included. Overall, there were very few case studies of demonstrable improvements from interventions. Publications on prevention were mainly advisory, with measures inferred from studies of reform using broad forms of evidence of improvements. The following sections provide a limited selection of the more representative material and promising exemplars. Specifically, 11 studies addressing definitional issues are included in this paper, along with 15 on the extent of the problem, 13 stakeholder perception studies and 10 studies on explanations. The final section on prevention makes use of 32 studies, including 8 intervention studies.

**Findings**

**Definitions**

The issue of what constitutes “corruption” has been beset by disagreements and a lack of precision (Gardiner, 1970; Heidenheimer, 2004), while “grey corruption” is a nebulous and contentious concept almost by definition. In an early version of the black/grey distinction including a “white” category Heidenheimer (1970) saw these terms as value judgements about what should be prohibited or tolerated, which varied according to different social standards and political systems. Nonetheless, he considered that ideas about black corruption frequently attracted consensus opposition (e.g. outright bribery of a senior public official), grey corruption related to conduct often condemned by elites but widely tolerated or considered “ambiguous” (e.g. gifts to a junior public official to help expedite a request), while white corruption often attracted consensus support (e.g. gifts to a public official perceived as promoting community goodwill) (Heidenheimer, 1970, p. 152).

The literature on corruption and grey corruption includes a variety of schemas, which reflect the inherent complexity of the subject. Nonetheless, the idea of grey corruption has retained
currency as a lower-order area of alleged harms. Common descriptors include “small”, “minor” and “petty”, in terms of the nature of the benefits or influence obtained (Ko et al., 2012; Prenzler et al., 2018). Inevitably, there is no single accepted definition. A common approach references a cluster of types of alleged unethical conduct. For example, Kratcoski (2018) refers to grey corruption in terms of “borderline acts committed by public officials such as acceptance of small gifts or tickets to a sporting event, padding an expense account, influence peddling, or receiving a discount from restaurants” (p. 3). Other common examples include nepotism and cronyism, dishonesty, pork barrel (government spending designed to win votes rather than meet needs on public interest criteria) and conflicts of interest (Prenzler et al., 2018). Issues of legal ambiguity also play into common usage. For example, Heidenheimer cites undue influence peddling through party political donations in different jurisdictions as variously “legal”, “potentially illegal” or challenging “key thresholds like legality” (2014, p. 103). References to grey corruption also often relate to conduct prohibited or discouraged in organisational rules and codes of conduct such as receipt of gifts but which are not prohibited in criminal law. When breaches of codes are identified, a protagonist might be subject to a range of “light” sanctions, such as an admonishment, warning, reimbursement order or demotion while keeping their core employment position (Prenzler et al, 2018).

The idea of grey corruption is also contained in Transparency International’s (2020b) three-part typology of corruption. It is consistent with the definition of “petty corruption” as “everyday abuse of entrusted power by public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services”, as well as overlapping with the concept of political corruption as “manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth”. In contrast, grand corruption is defined as “the abuse of high-level power that benefits the few at the expense of the many, and causes serious and widespread harm to individuals and society”.

Forms of alleged grey corruption, such as undue influence and favouritism, can become so pervasive in a political system that they constitute “legal corruption” and/or “institutional corruption” without any clear cases of criminal corruption such as bribery coming before the courts (Kaufmann and Vicente, 2011; Thompson, 2018). At the same time, a key implication of the concept of grey corruption is that many of the nominated behaviours should be subject to clarification as misconduct, sanctioned administratively or even defined as crimes in some cases (Gardiner, 1970; Thompson, 2018). The movement to broaden definitions of corruption (Beetham, 2015) has generated formulations that usefully include grey topics consistent with a universalist idea of “betrayal of the public trust”, as set out in the United Nations’ Convention against Corruption (2004, p. iii). An example relates to legal, unsanctioned or uncontrolled conduct that “redirects the powers and resources of public agencies into instruments of partial, particular or private benefit”, extending to democratic “exclusion [...] based on duplicity” (Warren, 2015, pp. 44-45).

Extent

Grey corruption cases have received repeated adverse media coverage throughout the world, with far too many cases internationally to document. Most recently, nepotism and cronyism have been prominent in the administration of US President Donald Trump, particularly after Trump appointed his daughter to the position of presidential advisor and son-in-law as senior advisor. A Department of Justice decision cleared the way by overturning previous opinion on an anti-nepotism law (Gerstein, 2017). Controversy forced the pair to forego their salaries, but they retained highly privileged positions with significant potential influence. A case study of nepotism by Milbank (2018) highlighted how Trump ignored competitive merit-based selection principles by appointing a parade of friends and associates to key posts. The Trump Case has also drawn attention to the issue of deceit in
political discourse. Trump’s repeated lying prompted the creation of “fact checking” websites that document this dishonesty (e.g. https://www.factcheck.org/person/donald-trump/; Leonhardt et al., 2017).

The UK Parliamentary Expenses Scandal, a decade before the Trump Presidency, presents as another high-profile case of grey corruption. In total, 52% of 752 members of parliament were involved in £1.3m of erroneous payments (Legg, 2010). Information about abuses was initially revealed by a leak of documents, followed by an official release forced by a high court decision under Freedom of Information law. Politicians had engaged in widespread misuse of entitlements over many years. Abuses were concentrated in overclaiming for the cost of accommodation in London, including the ownership of second homes. Public outrage was fanned by cases involving payments for cleaning a moat, repairs to a clock tower and installation of a floating house for pet ducks. A small number or criminal convictions and resignations ensued, but most offenders were simply required to repay monies.

Grey corruption cases were also highlighted in the Australian media during the period of the Abbott government from 2013 to 2016. Prenzler et al. (2018) analysed media accounts in this period and highlighted several particularly egregious cases symptomatic of a more widespread malaise that included state and local governments. In the federal “Choppergate” case, the Speaker of the Lower House hired a helicopter at taxpayers’ expense to attend a political party fundraising event for a trip that would normally involve 2 h by car. Universal outrage forced her eventual resignation. The Abbott government had campaigned on a promise of reversing Australia’s growing deficit. However, Treasurer Joe Hockey increased the deficit and, in the eyes of critics, was persuaded to move aside with an offer of an “attractive sinecure” in the form of the US ambassadorship (Matthewson, 2015, p. 1). Hockey had claimed his government would put an end to “the age of entitlement”, but as Ambassador he accepted a salary of AU$360,000 per annum on top of an AU$90,000 parliamentary pension and free accommodation. In another example, government MP Don Randall flew 3,444 km at taxpayers’ expense for a meeting with a colleague but was unable to explain why the meeting could not have taken place by phone. In the destination city, he bought an investment property. Despite a major review of the expenditure problem and supposed reforms, in the “Sports Rorts” scandal of early-2020, a former Sports Minister was forced to resign after it was revealed that she had overridden independent advice and directed grants to sporting clubs in seats targeted by the government during the 2019 election (Murphy, 2020).

A variety of sources, including public perception surveys, indicate that the incidence of grey corruption varies between countries. In some locations, grey and grand corrupt practices are often seen as endemic and pervasive, including, for example, “fees for public services […] gratuities given to public officials who simply perform their job; ‘string-pulling’ or using connections to access administrative services […] using the resources or time of one’s paid employment to work inside jobs” (Konold, 2007, p. 2). But while pervasive grey corruption is often associated with autocratic and developing countries, it can also be commonplace in established democracies (Burke, 2011; Konold, 2007).

Integrity perception and experience surveys often mix grand and grey issues. The following example from Australia illustrates this, but with the inclusion of some clearly grey topics. The Australian version of the 2018 Transparency International Global Corruption Barometer found that 86% of respondents thought corruption in government was a problem, while 42% considered “undue influence” associated with “bribery, donations and lobbying” as the main problem. In addition, 40% considered “self-interest by officials” as the main problem, including in areas such as “expenses, fraud, nepotism and cronyism”; and 17% identified “political deceit, dishonesty and lack of transparency or accountability” as the main problem (Brown et al., 2020, addendum). In total, 62% agreed that in the past 12 months, they had “personally witnessed, or suspected, a government official or politician using their position to benefit themselves or their family”. 
The police gratuities literature includes instructive research on the incidence and effects of gifts and benefits. Police receipt of gratuities can become highly routinised and pervasive, with officers aggressively pursuing benefits (Knapp, 1972; Wood, 1997). In a case study report subtitled “The Real Cost of Police Gratuities”, Ruiz and Bono (2004) analysed the dollar value and frequency of free and discounted food and goods given to police in one section of New Orleans in one year. The total, in an environment where police accessed a wide range of gratuities, equalled one-third of an officer’s salary. The authors concluded that, “viewed in this light, it is difficult to understand how the acceptance of gratuities by police can be classed as a minor and inconsequential infraction of rules best left unenforced or ignored” (p. 52). Another US study showed that a visible police presence was distorted in favour of locations that provided gratuities (DeLeon-Granados and Wells, 1998).

Perspectives

Surveys that include grey corruption topics have shown mixed results but tending towards strong opposition. A survey of state senators in the USA in the 1970s found a mixture of views, but some decisively opposed to grey corruption (Peters and Welch, 1978). For example, 91.9% considered a politician voting in support of a large campaign donor as “corrupt”, as did 95.2% in relation to a public official paying for personal travel with taxpayer money. These scores were only marginally below that of 95.9% for a scenario involving black corruption: a case of “the driveway of the mayor’s home being paved by the city crew”. At the same time, however, only 31.6% thought it was corrupt for a politician to use their influence to obtain a weapons contract for a company in their electorate (p. 981). Disparate results were also found in a focus group study amongst public officials in Hungary, with the following levels of agreement about what behaviours should be considered “corrupt” related to grey scenarios (United Nations, 2000, p. 51):

- 100%: “Public official is acting for gratuity money”;
- 93%: “Using personal networks in securing supplied contracts”;
- 80%: “Official favours relatives”; and
- 48%: “Official accepts gifts”.

A series of public opinion polls in South Korea showed high levels of “tolerance of grey corruption”. Ko et al. (2012) reported responses to scenarios across a scale from 1 equalling “no corruption” to 5 equalling “serious corruption”. Selected examples, averaged over four surveys, were as follows (pp. 14-15):

- 2.43/5 “A public official receives gifts worth 100 dollars from his/her subcontractor”.
- 1.91/5: “A local assemblyman gives his son a job at City Hall”.
- 1.97/5: “A local assemblyman gives a job at City Hall to his/her supporter”.

The survey identified less tolerant attitudes by public officials. The differences were in part attributed to internal government drives on ethical standards vis-a-vis strong community traditions of gift giving and personal connections in employment.

In contrast, a public opinion survey in Nepal found high levels of opposition to a wide range of grey corruption scenarios. Sample responses on a scale of 1-5, with 5 as “very unacceptable”, were as follows (Truex, 2010, p. 1136):

- 4.38/5: “A politician gives a job to a family member even though other applicants are more qualified”.
- 4.44/5: “A government employee gives a job to a family member even though other applicants are more qualified”.

JOURNAL OF CRIMINOLOGICAL RESEARCH, POLICY AND PRACTICE
4.28/5: “A construction contractor gives a government employee a large gift in hopes of receiving a government construction contract”.

4.35/5: “A police officer does not give a taxi-driver a traffic ticket because he is a friend”.

These results were similar to those for scenarios involving “grand” corruption, such as a score of 4.48 for a situation in which “a businessman offers a senior customs official a large amount of money to import goods without paying taxes”. Similarly, a public opinion survey in Senegal found high levels of support for the view that two types of behaviours by public officials, which could be categorised as grey corruption, were “wrong and punishable” (Konold, 2007, p. 10):

1. 85.0%: “to give a job to a family member”;
2. 73.1%: “to locate a development project in home region”.

These responses contrasted only moderately with opposition to a grand corruption scenario: 90.5% thought it was “wrong and punishable” for “a government official to demand payment for a service that is part of his job”.

The Eurobarometer includes periodic questions about corruption, including a question on tolerance to corruption. In the 2013 survey, in what could be considered a black category, 84% of respondents stated it was “never acceptable” to “give money […] to get something from the public administration”. In two grey categories, for the same scenario, 80% agreed it was never acceptable to “give a gift” and 73% to “do a favour” (Eurobarometer, 2013, Tables QB4.1-3; see also Eurobarometer, 2017, Tables QB4.1-3).

The 2018 Transparency International Corruption Perceptions Survey for Australia asked about how acceptable a set of grey-related behaviours was to respondents. The rates for “unacceptable” were as follows (Brown, et al., 2020, addendum):

- 82%: “a citizen using their personal or political connections to get better service from a government department”;
- 88%: “a politician or councilor giving special help to someone who donated money to their election campaign”; and
- 82%: “a public servant helping a friend or family to get a job in their department, without it being advertised”.

The police gratuities literature also provides insights into public reasoning about grey corruption issues. Surveys from three countries show consistent support for police only accepting gifts of a nominal value on an incidental basis. Majorities in the order 56%-76% were opposed to gifts which are routine, of more than very low value, and that occur in a commercial setting such as cafes or gratuities that could be seen to influence police impartiality in any way (CMC, 2011, p. 30; IBAC, 2018, p. 8; IPCC, 2012, pp. 15-17; Jones, 1997; Prenzler and Mackay, 1995; Sigler and Dees, 1988). Typical reasons for opposing gratuities include the view that they create an expectation of a return favour, such as leniency in law enforcement and that providers receive better policing services.

4. Explanations

Greed and political influence are recurring themes in the study of motivations in grey corruption cases, as with grand corruption, with participation subject to rational perceptions about the risks of exposure and punishment vs the expected benefits (Truex, 2010). Barret and Zirker (2017) analysis of lies and secret commissions in New Zealand politics found that the cases point to a deeply concerning tendency within government to achieve economic ends without regard for prevailing cultural norms, for due process, or even for basic ethical
standards” (p. 15). Public opinion also points to under-enforcement of both grand and grey corruption as a common theme. For example, a survey by the Victorian Independent Broad-based Anti-corruption Commission (IBAC) in Australia found that approximately 62% of respondents believed that “corruption happens in Victoria” and 42% believed “corruption is a problem in Victoria” (IBAC, 2018, p. 5). However, on the topic of enforcement, only 25% agreed with the statement “If I reported corruption, meaningful action would be taken” (p. 12).

The appropriateness of an opportunity-based rational choice perspective is also supported by studies showing how privacy and secrecy in government protect offenders and reduce the capacity of citizens to act against corruption (Djankov et al., 2010; Stephensen, 2015). Rational choice theory in criminology is focussed on would-be offenders’ calculations about rewards and risks and is supported by interviews with offenders and successful intervention studies in which the risks of detection are increased (Clarke, 1997). Vague rules reinforce perceived and real impunity. The UK parliamentary expenses scandal is a case study in point. The inquiry found that (Legg, 2010, p. 5):

> The (Additional Costs Allowance) system was deeply flawed. In particular, the rules were vague, and MPs were themselves self certifying as to the propriety of their use of the allowance. Taken with the prevailing lack of transparency and the “culture of deference”, this meant that the Fees Office’s decisions lacked legitimacy.

Even where rules appear to be clear, as is sometimes the case with police gratuities, research shows that perceived non-enforcement emboldens offenders and facilitates widespread practice. For example, an official UK investigation into inappropriate relationships between police and members of the media associated with the News of the World phone hacking scandal found that there was little-to-no enforcement of rules around hospitality and gifts (HMIC, 2011). Other studies have identified major gaps in integrity systems which facilitate grand and grey corruption. For example, surveys of public sector personnel for the Victorian IBAC identified gaps in communication about standards, monitoring, compulsory reporting of misconduct and complaint investigation and resolution procedures (IBAC, 2014, 2015).

5. Prevention

Corruption prevention generally appears as an under-developed science, with very few success stories and even fewer scientifically grounded studies involving pre- and post-intervention measures and comparison sites (Heywood, 2018; Jackson and Salgado Moreno, 2016). The situation appears even more impoverished in relation to grey corruption. However, despite this bleak scenario, there is a range of source material about what appears to work or might work which should be considered in any efforts to address the problem.

One common approach to understanding corruption prevention is to compare the characteristics of countries with high integrity scores against those with low scores. There is a large literature in this area showing associations between lower levels of perceived corruption and the quality of democracy (Stephenson, 2015). In some cases, the measures of democracy include grey corruption-related areas such as efficiency and fairness in public administration, equality of access to government and transparency (Melgar et al., 2010; Paulus and Kristoufek, 2015; Truex, 2010). Nonetheless, top-scoring countries in integrity ratings including Denmark, New Zealand, Finland, Singapore, Sweden and Switzerland have all seen corruption scandals and controversies, some of which involved grey corruption issues in the public sector. These include misleading government communication, facilitation payments for trade deals, negligent regulation allowing money laundering and secrecy in campaign finance (Barret and Zirker, 2017; European Commission, 2014; Transparency International, 2019; Webb, 2016). There is no simple direct relationship between “democracy” and “integrity”, and different forms and stages of
democracy appear to reduce or generate different types of corruption (Cain, 2014). For example, new democracies can experience increased corruption resulting from party political competition, while “partial democracies” typically suffer from inadequate accountability mechanisms (Stephensen, 2015, p. 101, 107).

The literature is also giving increasing attention to the value of a situational crime prevention framework as the best supported approach to crime prevention for implementing successful corruption prevention based on opportunity reduction (Prenzler, et al., 2018; Tunley, et al., 2018). The process aspect of situational prevention involves diagnosing the nature and extent of the problem and designing, testing and modifying interventions (Clarke, 1997, p. 15). The matrix of 25 techniques provides possible interventions, grouped under five strategic categories: “increase the effort”, “increase the risks”, “reduce the rewards”, “reduce provocations” and “remove excuses”.

Examples of situational techniques related to corruption include “rule setting”, “posting instructions” and “alerting conscience” (for example, by clarifying and communicating laws and penalties), “reducing rewards” (for example, through recovery of misappropriated funds) and “assisting compliance” (for example, with forms and advice that reduce frustration and temptations to cheat) (Graycar and Prenzler, 2013, chapter 5; Tunley et al., 2018). “Extending guardianship” and “strengthening formal surveillance” have also been applied to corruption control through the work of independent anticorruption commissions. These agencies have not been present in some jurisdictions with high integrity ratings, and they appear to be unsuccessful in many contexts, but they have been shown to be crucial to reducing corruption indicators and shutting down corrupt activities in a range of locations, including Australia, Hong Kong, New York and Singapore (Gill Hearn, 2011; Graycar and Prenzler, 2013; OSCE, 2015; Quah, 2010; Scott, 2011; Yu, 2015; see also Zúñiga and Heywood, 2015 on the work of the Transparency Unit in La Paz). Some specialist police integrity commissions have been particularly effective in contributing to reductions in a wide range of grey conduct problems, including excessive force (as opposed to “assaults”), discourtesy and discrimination (Porter, 2016). However, most anticorruption agencies are limited to “serious” and/or “criminal” corruption matters so that addressing grey corruption will require a deeper, more “vertical”, jurisdiction (Graycar and Prenzler, 2013).

“Rule setting” has emerged as an essential first step to combat grey corruption to ensure enforcement efforts are adequately focussed and not undermined by legal uncertainties. A more encompassing definition of corruption put forward by the Australia Institute describes corruption as “any conduct of any person that adversely affects or could adversely affect, directly or indirectly, the honest or impartial exercise of public administration” (Aulby, 2018, p. 5). Articulation of such principles in laws and rules should be straightforward and uncontroversial in many cases. Others involve inevitable dilemmas about free speech and political activity. For example, it would appear to be easy to set legislation requiring all non-elected public sector positions, beyond temporary appointments of a few months, be advertised as part of a competitive selection process, with job-specific criteria, to ensure appointment by merit. The law would need to include all political advisory positions and judicial and ambassadorial appointments. Control of undue influence, on the other hand, can come up against principles of free participation in politics. Nonetheless, some jurisdictions have achieved reasonable compromises, including, for example, real time disclosures of political donations on publicly accessible websites and bans on donations from high-risk actors such as property developers and foreign sources (International IDEA, 2012; Wood and Griffiths, 2018). Disclosures of assets, investments and income guard against inappropriate influence, in part by forcing officials to recuse themselves from decisions involving conflicts of interest. As a case study in point, Djankov et al. (2010) analysed political disclosure rules in 175 countries and found that locations with strong public disclosure rules had higher ratings on quality of government and reduced corruption.
This an area where controls need to be matched to risk. For example, a ban on all corporate donations might be necessary where undue corporate influence has been a significant problem (International IDEA, 2012). Innovations have also included publicly accessible registers of meetings between lobbyists, politicians and public servants (Wood and Griffiths, 2018). Pork-barrelling can be addressed, at least in part, by a requirement that government spending and party election promises are subject to publicly reported independent cost-benefit assessments (Terrill, et al., 2016).

Gifts and benefits policies provide another simple area of “rule setting”, including in the high-risk area of procurement, and there are numerous model code of conduct positions available. These generally recognise that complete prohibition can create difficulties for public officials in some situations. For example, The UK Association of Chief Police Officers Guidelines on Gifts, Gratuities and Hospitality restricts allowable gratuities to occasional minor benefits, especially in situations where refusal could cause offence, but there is an explicit prohibition on “regular free or discounted food or refreshments” (ACPO, 2012, p. 6). Meals from companies tendering for business are excluded, and most gifts must be registered. This approach has been described as “near-zero” (Prenzler et al., 2013, p. 295). It permits very minor gifts in social situations where public officials would be expected to accept some hospitality or a token gift but without creating a conflict of interest or appearance of exploiting authority. However, while examples of such policy solutions are available, the present research was only able to identify failed attempts at enforcement owing to management disengagement (HMIC, 2011; Lamboo, et al., 2008; Prenzler, et al., 2013).

Independent auditing of government financial transactions can also guard against grand and grey corruption. For example, a study by Avis et al. (2016) of anti-corruption reforms in Brazil found that municipalities audited by a new office of comptroller-general had an estimated 6% lower rate of financial irregularities compared to those not audited. In another Brazilian case study, Ferraz and Finan (2008) showed that disclosures of financial irregularities by independent auditors reduced the re-election chances of incumbent politicians by 17% in affected electorates, suggesting that better financial accounting influenced voters’ choices against corruption. In the UK, the Independent Parliamentary Standards Authority, established in 2009 in response to the expenses scandal (above), appears to serve as a case study showing at least partial success in clarifying permissible expenditures, improving transparency and curbing abuses (Conde et al., 2016, p. 127ff). Enforcement mechanisms include denial of payments, recoveries and fines for non-criminal non-compliance cases.

Discussion and conclusion

This paper examined a range of evidence related to five questions regarding grey corruption in the public sector. The findings can be summarised as follows. The term “grey corruption” appears to have utility in political discourse in describing areas of minor corruption and/or unethical but legally ambiguous practice such as gift giving, favouritism and undue influence, conflicts of interest, excessive expenditures and deceit in political discourse. Available studies indicate extensive diverse forms of practice globally. The available research also shows that public opinion is generally against grey corruption practices on grounds of unfairness and breach of trust challenging the view that grey corruption is widely tolerated. Grey corruption undermines democracy and the effective management of public resources in the public interest, but it occurs largely as a result of opportunities related to inadequate definitions of offences and/or inadequate detection of breaches and enforcement of rules.

The grey corruption literature includes a number of promising strategies for reducing the problem, related closely to techniques of situational crime prevention, including through the guardianship role of independent agencies. Preventive strategies which are likely to be
effective when managed properly include clarification of prohibited behaviours through improved rule setting, improved communication of rules, greater transparency and auditing of expenditures, independent cost-benefit assessments of public expenditures, higher thresholds for decision-makers to recuse themselves when facing conflicts of interests; problem solving diagnostics and greater enforcement through mechanisms such as denial of benefits or claims, recoveries of inappropriate payments and the imposition of penalties such as fines.

Overall, this research showed that much more needs to be done to identify effective mechanisms to combat grey corruption in different settings. Here, it would be good to see innovations managed as scientific experiments, with control groups and multiple pre- and post-intervention measures to build a larger scientific literature about “what works” in grey corruption prevention.

References


Further reading


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Improving police behaviour and police-community relations through innovative responses to complaints

Tim Prenzler and Louise Porter

This chapter explores ways of addressing police accountability issues through enhanced management of complaints systems. Complaints systems provide accountability for police actions by providing (1) scrutiny of police action; (2) a voice to those who experience police action; and (3) consequences for inappropriate police action and poor performance. Complaints provide a rich and frequently underutilised source of information about conflict between officers and citizens. Formal investigations of complaints generally have very low substantiation rates in terms of conventional legal standards of proof. Nonetheless, studies indicate that problematic patterns of behaviour by police often lie behind complaints. Formal investigatory processes usually fail to address the genuine concerns of complainants and other stakeholders, including the general public and police officers themselves. In a democratic context, complaints need to be taken seriously to address possible injustices and patterns of undesirable behaviour, acting as both a deterrent and a system for learning and improvement.

The chapter begins by analysing the nature of complaints against police, inadequacies in traditional legalistic responses, and innovations in responding to complaints - including the creation of independent agencies to review or process complaints, informal resolution options and early intervention systems. This is followed by a review of perception and experience surveys of three key stakeholder groups in the police complaints and discipline process - the general public, complainants and police - indicating strong overall support for independent processing and for mediation options. The focus then shifts to emerging good practice. This section shows that accountability can be improved through a greater role for independent investigations, and by supplementing investigative and disciplinary approaches with more restorative responses, including informal resolution and mediation. Complaints can also be used as a key learning tool to inform improved policing practices by modifying training and procedures in response to patterns of allegations in the context of a problem-solving and complaints reduction programme. The chapter includes a number of successful case studies from a range of jurisdictions.
The meaning of complaints against police

In many places, policing is characterised by large volumes of complaints, often at consistently high or increasingly high rates (Prenzler 2009). For example, in England and Wales, with approximately 132,000 police in 2011/12, there were 30,143 complaints made by 30,624 individuals, including 57,714 separate allegations (Home Office 2012; IPCC 2012b). These complaints involved 35,382 police employees, of whom 31,771 were police officers. There were also 6,339 appeals against police decisions on complaints, representing a 3 per cent increase on the previous year. Complaints fell by 9 per cent from the previous year, but the number almost doubled from 2002/03 to 2009/10. In Scotland, with approximately 17,400 police in 2011/12, there were 4,379 complaints, representing an increase of 4 per cent on the previous year (HMICS 2012: 17; PCCS 2012). The number of allegations rose by 13 per cent to 7,933.

Complaints against police represent a dilemma for policymakers and administrators. The purposes of complaints and discipline systems vary across a spectrum between redressing individual alleged wrongs and changing patterns of behaviour (Smith 2004). Finding the right focus is particularly difficult when complaints are variable and occur in large volumes, and when responses are likely to be resource-intensive. Within complaint figures, specific allegation types tend to be highly diverse, including assault and excessive force, financial and legal process corruption, wrongful arrest and detention, discrimination, intimidation, oppressive behaviour, inaction and rudeness. Complaints and allegations require an official response, but investigations generally fail to meet legal standards of proof – whether the criminal standard of ‘beyond reasonable doubt’ or the civil standard of ‘the balance of probability’. Formal investigations, whether conducted internally or externally, typically only achieve substantiation rates of between 10 and 20 per cent (Smith 2004; Prenzler 2009). This might indicate that most complaints are vexatious or, at best, ill-informed. It could also be argued that complaints against police ‘come with the territory’, that the exercise of state-sanctioned police powers, especially in restraining and arresting offenders, inevitably entails conflict and alienation (Bittner 1990). However, it is also likely that low substantiation rates for complaints are, at least in part, a function of the absence of independent witnesses or other evidence sources. Surveys of complainants indicate most are genuine in their belief that they suffered an injustice, and in wanting an apology or wanting to stop the same thing happening to other people (CJC 1994; Maguire and Corbett 1991; Schäible et al. 2012). Formal complaints are also indicative of a deeper problem of conflict between citizens and police. For example, surveys have shown that up to 90 per cent of people aggrieved by police actions do not make a complaint (e.g. Grace and Bucke 2009: 7).

Effective complaint reduction programmes add to the view that complaints can be indicative of problematic behaviours by officers. Large reductions in complaints have been achieved with interventions based on diagnoses of complaints – in areas such as modified procedures and training (Davis et al. 2005; Porter et al. 2012). Complaints analysis has also shown that a disproportionate number of officers attract multiple complaints. Closer examination usually shows these officers were engaging in patterns of abusive behaviour (Christopher 1991; Kolts 1992). Complaints are also often concentrated in particular units, such as public order response units involved in high-level applications of force. But controlling for different functions can also show concentrations of complaints that are best explained in terms of inappropriate tactics and poor management (Ede et al. 2002a). The issue of objective evidence in complaints is being addressed in some jurisdictions with police body-worn video. One recent evaluation found large reductions in the use of force and in citizen complaints as a result of the introduction of cameras, suggesting that police change their behaviour when placed under surveillance (Ariel 2013). Overall, then, it appears that complaints provide a very useful indicative measure of misconduct, which suggests they are also useful as a performance measure for testing interventions aimed at improving police conduct.

Tradition and innovation in responding to complaints

For much of their history, police forces around the world have had primary control over complaints. In the main, the response involved token investigations and inaction or outright intimidation of complainants (McLaughlin and Johansen 2002). Judicial inquiries and government reviews around the world have repeatedly found internal investigations functioned to protect corrupt officers and limit damage to the organisation (Prenzler and Ronken 2001). Misconduct scandals were invariably linked back to failures to take complaints seriously, including complaints or disclosures from police. From the 1990s, as indicated, there was also a growing awareness that ‘problem officers’ attracted large numbers of complaints, and engaged in excessive force, with management knowledge but no action (e.g. Christopher 1991; Kolts 1992). Complaints systems failed to function as a proper corrective to deviance, further compounding public distrust and alienation from police (Hayes 1997).

Police oversight agencies were one major innovation introduced in response to the problem of large volumes of complaints and failed internal processes. Many democracies now have some form of institutional oversight of police, including oversight of complaints (Porter and Prenzler 2012a). Oversight agencies range across a wide spectrum. The majority tend to be limited to review or audit roles in relation to police investigations and disciplinary decisions. Even those that conduct independent investigations often have their work undermined by the absence of an adjudicative function. While oversight agencies are widely seen as advancing police accountability, they frequently struggle to demonstrate effectiveness, either in making individual officers and managers accountable for specific wrongs or in contributing to improvements in police conduct. These dual internal/external systems are often characterised by high rates of complaints, a revolving door of complainants, large volumes of legal paperwork, and ongoing
disputation between police and the oversight agency (Landau 1994; Maguire and Corbett 1991; Prenzler 2009).

There have been a number of other innovations in the management of police complaints, both in terms of addressing grievances and remediating misconduct. One major innovation involved the importation into policing of alternative dispute resolution practices (McLaughlin and Johansen 2002). ‘Conciliation’, ‘informal resolution’ and ‘local resolution’ were intended to address lower-level complaints, often related to customer service issues. On the whole, in comparison to adversarial and investigative processes, these approaches were found to be much faster, much cheaper and more satisfying for all parties (Ede and Barnes 2002). This was also consistent with a trend towards a two-tiered approach to police accountability, involving an early determination between more serious matters, largely of a criminal nature, that warranted an independent investigative and disciplinary process, and types of ‘unprofessional behaviour’ that warranted a more corrective managerial approach (Smith 2004: 21). In addition, the ‘discovery’ of the phenomenon of multiple complaints against individual officers led to the development of early intervention systems (Walker et al. 2001).

Computer-based systems flagged officers (and work units) who registered complaints above a threshold. Interventions in the form of warnings, counselling or retraining triggered behavioural changes that often led to dramatic reductions in complaints (Macintyre et al. 2008; Porter et al. 2012). More complex systems now pull in numerous data about officers that can be used in early intervention to address a range of human resource management issues. More recently again, a number of oversight agencies have focused on specific ‘lessons learnt’ from complaints or significant adverse events. This includes reporting on changes in police procedures that have resulted from specific cases in which the oversight agencies worked with police to address systemic problems (Porter 2013).

Stakeholder perspectives

The following section develops the idea of accountability to stakeholders by summarising the findings of a recent review of surveys of three key groups regarding the police complaints and discipline process: the public, complainants and police (Prenzler et al. 2013a). Survey topics included who should process complaints (focusing on the internal/external issue), experiences with different systems, and views on informal resolution and mediation. For the surveys of complainants and police, complaints systems were categorised as ‘policedominated’, ‘mixed’ (generally involving limited review of internal processes) and ‘independent’. A total of 94 surveys of the three stakeholder groups were included in the review, based on keyword searches of criminological databases, the Internet and police oversight agency websites up to August 2012. The large majority of surveys were from the United States, the British Isles, Canada and Australia, with one each from South Korea, Israel and the Philippines. A number of surveys were conducted in-house but a large number were conducted by independent survey firms.

Public opinion

The researchers located 12 public opinion surveys with questions about complaints against police (Prenzler et al. 2013: 157–9). Very low or no support was expressed for purely internal systems, with the large majority of respondents supporting the principle of independent investigations. This included 89 per cent across six surveys in Queensland, Australia, and 91 per cent for ‘serious complaints’ across three surveys in Britain. High levels of support were also expressed for external ‘oversight’ and ‘review’. A set of questions in five of the Queensland surveys included three types of complaints – with respondents supporting police management of lower-level complaints of rudeness, and majority support for an external body dealing with assault and bribery allegations. Reasons for these views were usually not asked in the surveys, but the general inference was that responses related to lack of trust in police to deal fairly and effectively with misconduct, and a belief that independent investigations or oversight would assist accountability.

Complainants

The review included 26 surveys of complainants in police-dominated systems (Prenzler et al. 2013: 159–63). In all but one case, the large majority of complainants – averaging 70 per cent – were dissatisfied. The results were similar in nine complainant surveys involving mixed systems. In several surveys, lack of satisfaction appeared to be related to the fact that complaints were not substantiated, although respondents with substantiated complaints also tended to be dissatisfied. Lack of communication and slowness were key factors. Overall, however, the main factor appeared to be lack of trust in police investigating police. Nine of the surveys asked about the best agency to investigate complaints. The large majority of complainants – averaging 77 per cent – expressed a preference for independent investigations. Ten surveys of complainants in one independent system – the Police Ombudsman for Northern Ireland – showed overall satisfaction levels averaging 59 per cent. The majority satisfaction score for the Ombudsman was correlated with high scores on communication, timeliness, staff attitudes, and perceived fairness and impartiality. (More information on the NI Ombudsman is provided below.)

Five surveys of complainants who experienced some form of police-led informal resolution produced divided results. Satisfaction with the process reached 70 per cent in one survey and dissatisfaction reached 72 per cent in another. Reasons for dissatisfaction concerned lack of information, lack of an apology, lack of seriousness on the part of the target police officers, and lack of opportunity for a face-to-face meeting. Three surveys of complainants concerned experiences with mediation. In a police-led system in England and Wales, 61 per cent of complainants who experienced mediation were satisfied, compared to 33 per cent experiencing informal resolution. Two surveys of complainants who experienced independent mediation in US cities found satisfaction rates around
80 per cent on process. In four surveys of complainants, there was strong support for external management of informal resolution or mediation.

Police

The review found much greater variation when it came to police experiences of complaints systems (Prenzler et al. 2013: 163–5). Seven surveys of officers with experience of police-dominated systems found most respondents were divided in their opinions, with less than a majority satisfied or dissatisfied. There was also wide variance in six surveys related to mixed systems. For example, the mixed system in the Philippines produced very high levels of officer satisfaction (80 per cent); whereas the Israeli system, which employed ex-police as investigators, produced very high levels of dissatisfaction (90 per cent). One survey in Denver showed an improvement in officer satisfaction when a police-dominated system was replaced with a mixed system (12 per cent to 37 per cent). In regard to independent processing of complaints in Northern Ireland, there were six surveys available, which showed overall satisfaction for police at 71 per cent.

Six surveys also showed wide variation in officers’ general views on internal and external investigations. Support for internal systems tended towards just over 50 per cent, between 20 per cent and 70 per cent for mixed systems, and just under 50 per cent for external systems. Four surveys of police experiences of informal resolution of complaints showed wide variation, with satisfaction between 25 per cent and 85 per cent, but generally much more positive about informal resolution compared to formal investigations. Three surveys regarding experiences of mediation were very positive – registering between 73 per cent and 85 per cent satisfaction.

Emerging good practice: complaint reduction and improving conduct

As stated earlier, policing typically attracts high numbers of complaints, and complaint numbers are increasingly used as a performance indicator for law enforcement agencies. Traditionally, high numbers of complaints have been taken to indicate problems within police agencies and tensions between police and the public. Conversely, low numbers of complaints can also represent problems: for example, inappropriate complaint handling (ignoring, misclassifying or covering up complaints) or lack of public confidence in a complaints system that deters potential complainants. Indeed, while there are documented cases of police complaint reduction, some police forces have set targets of increased numbers of complaints through increasing the accessibility of the complaints system to under-represented groups (Porter and Prenzler 2012a). In theory, one would expect that reform of a complaints system is likely to cause an initial increase in complaints, as the public gain confidence in the system, followed by a decline as police conduct and police–public relations improve.

Where complaints against police have reduced substantially, this has typically been the outcome of a targeted effort that has included a particular reduction objective and strategy (Davis et al. 2005; Walker et al. 2000). Strategies to reduce complaints can focus on both the system and the stakeholders. For example, systemic changes to the complaints management system may include increasing accessibility and transparency of the system, streamlining processes of complaint assessment and resolution, reducing time frames for resolving complaints, and increasing public reporting of complaint findings. Strategies focusing on improving stakeholder experiences can include improving communication to complainants and subject officers, improving the procedural fairness of the system, and seeking feedback from stakeholders on their expectations and experiences of the system (examples of which are outlined above). It is also necessary to focus on police behaviour associated with complaints, with systems to train officers, monitor and rectify poor performance, or punish or remove officers who display persistent or serious behavioural problems. Ultimately, though, the combination of strategies employed must be targeted towards a cultural shift to accepting responsibility for problems, and embracing learning at both the individual and organisational levels.

Responses to complaints: targeting problems

Increasingly, police integrity systems are becoming more advanced and also more diverse, as a variety of potential integrity ‘strategies’ gain popularity. Integrity systems often evolve over time in a piecemeal approach that responds to emerging trends in the field, but with little systematic evaluative evidence about ‘what works’ (Porter and Prenzler 2012a). Further, due to the variety of forms of misconduct and opportunities for misconduct – not to mention cultural, economic and geographic differentiation between policing environments – a ‘one size fits all’ integrity system is unlikely to be effective.

One way to target a reduction in complaints is to first understand the nature of the complaints received. Understanding the underlying patterns of complaints across the organisation can help to inform where prevention or response efforts need to be targeted, as well as what might be most effective at identifying and removing the causes of complaints. For example, Ede et al. (2002a) used ‘hot spot’ analysis to examine the concentration and prevalence of police complaints across different units in the Queensland Police Service, Australia. By coding units according to duty type (‘General Station’, ‘Criminal Investigation Branch’, ‘Traffic’ and ‘Other Duties’), they found areas of high concentration and prevalence of complaints, suggesting that prevention techniques should be tailored to address these ‘hotspots’. Other variables shown to differentiate among ‘types’ of complaints include officer rank (Porter and Warrender 2009) indicating that, potentially, officer age and experience may also structure certain ‘hotspots’ of inappropriate conduct.

Complaints analysis can also highlight a particular type of problem, such as excessive force, which can be targeted for reduction. To illustrate, Prenzler et al.
(2013b) reviewed seven case studies of successful force reduction that involved identifying force-related problems (complaints, injuries, deaths) within police departments. They found a number of consistent reduction strategies across the case studies, including setting a specific complaint reduction agenda. Other strategies targeted individual officers (through profiling multiple complaints and remedial training) as well as organisational systems, such as policies and procedures, incident reporting systems, and analysis of cases to learn lessons. For example, in Australia, the Tasmania Police reduced assault complaints after patterns of multiple assault-related complaints were identified and provided to the districts involved, so they could target subject officers under their command (Porter et al. 2012). Recently in the UK, disproportionate complaints of racist conduct and excessive force by the Metropolitan Police Service's Tactical Support Group led to an intervention programme associated with large reductions in allegations. Interventions included better screening of applicants (including through complaints histories), specialist supervisor workshops, creation of a ‘Professional Standards Team’ within the group, and training development options for officers with multiple complaints (IPCC 2012a).

While the subject of complaints is typically categorised within police recording systems, such as ‘assault’ or ‘criminal matter’, a number of more sophisticated ‘typologies’ of misconduct have been explored in the literature to describe subtypes of misconduct. Such typologies could be used to identify particular misconduct problems, as evidenced through complaints, for targeted prevention. Early typologies, such as that offered by Roebuck and Barker (1974), outlined a number of categories of misconduct based upon the activity involved (for example, ‘opportunistic theft’, ‘corruption of authority’, ‘kickbacks’ and ‘shake-downs’). Such a typology is often used by police oversight agencies to categorise matters received and investigated. In Australia, Ede et al. (2002b) examined police complaints data from the police oversight agency of that time in Queensland (the Criminal Justice Commission) and identified Roebuck and Barker’s categories within the allegations. Examination of the allegations within categories, such as ‘opportunistic thefts’, led them to suggest particular prevention strategies that could be tailored to the patterns of activity involved. However, while typologies of this nature provide an idea of the variation of activity that can be regarded as misconduct, the specific categories reflect the trends of the time and, as opportunities evolve (for example, with new technology), such a typology could require an increasing number of categories that may be unwieldy for the purpose of identifying avenues for response and prevention.

More recent typologies have attempted to simplify misconduct activity to the underlying nature of the infracton. For example, Punch (2000) simply distinguishes between ‘corruption’, ‘misconduct’ and ‘crime’. As noted above, Smith (2004) supported the differentiation between more serious matters, requiring formal investigation, and professional conduct matters amenable to more informal restorative responses. He also usefully proposed a third tier concerned with police policy matters. A number of recent efforts concerned with multidimensional typologies have built on Punch’s work. Dean et al. (2010) and Dean and Gottschalk (2011) offered a typology incorporating both the type of behaviour and the level of seriousness. Specifically they drew distinctions between misconduct, corruption and ‘predatory policing’ on one dimension, whether the behaviour is at the individual, group or organisational level on a second dimension. Further, Porter and Warrender (2009) explored misconduct cases for the existence of patterns between features describing ‘who’ and ‘what’ subtypes of cases, which were similar to Punch’s (2000) typology, but which provide detail on the nature of those incidents and who was involved. Much like the earlier work of Ede et al. (2002b), Porter and Warrender (2009) argue that identifying ‘types’, and the common features of cases within these types, provides a useful framework for tailoring prevention efforts. Indeed, given the variation in misconduct cases, but the existence of some broad level similarities on certain features, prevention efforts might best be targeted towards themes of misconduct. Thus, prevention both avoids the one-size-fits-all model, and provides potential cost-benefit improvements over an individualistic case-by-case response model. Resources can, therefore, be targeted at multiple incidents, but specific features, to ensure the greatest impact.

Responses to complaints: targeting ‘problem officers’

Similar to targeting particular problem areas, strategies have also emerged for targeting ‘problem officers’; that is, officers who are subject to above average numbers of complaints. Early Warning Systems, or Early Intervention Systems, are designed to monitor complaints, or indeed other behavioural indicators, to focus attention on recurring problems that need addressing. While an EIS can operate on monitoring work units, the primary focus is typically on individual officers, with a system set up to create an alert when an individual meets a certain threshold (e.g., of complaints in a given period). This is similar to the ideas in the section above regarding profiling complaints across organisations, but with ‘hotspots’ of complaints being at the individual level.

Early Warning Systems were initially criticised for labelling officers as ‘bad apples’ and, in turn, fostering resentment and further misconduct (Walker et al. 2000). Indeed, organisational justice research informs us that feelings of unfair treatment can negatively affect job performance and rule adherence (Tyler et al. 2007). In contrast, perceptions of organisational justice have been positively linked to police officers’ ‘attitudes toward serving the public’ (Myhill and Bradford 2013: 339) as well as a reduced likelihood of police officers supporting the code of silence or noble cause corruption (Wolfe and Figuerro 2011). Similar to principles of organisational justice (Greenberg 1990), operant leadership (Komaki 1998) draws on the principles of operant conditioning to promote the effectiveness of providing antecedents for behaviour (clear guidance on expectations), monitoring of behaviour, and consistent performance-related feedback. Feedback, or consequences of behaviour, must be seen to be fair to be effective. Specifically, it is important that consequences are consistent, both within and
between individuals (similar performance receives similar consequences), thus avoiding feelings of favouritism or discrimination as well as seeing value in performing well (receiving reward and avoiding punishment).

Recent developments in policing show several initiatives that can promote concepts such as leader visibility and fairness, and timeliness, consistency and proportionality of responses to performance throughout the organisation. For example, values statements, codes of conduct and ethics training can provide clear expectations of behaviour (antecedents). Management intervention models, devolution of complaints handling to local managers and Early Intervention Systems provide mechanisms for monitoring individual officer performance and providing responses to performance issues.

Modern Early Intervention Systems are increasingly designed with remedial measures in mind, serving to identify and correct behaviour before it leads to serious problems (Porter and Prenzler 2012a). From this perspective, the systems can be sold as a means of saving officers from career-damaging incidents and investigations (Porter et al. 2012; PERF 2011). Early Intervention Systems can provide an objective tool for highlighting potential 'problem' officers for supervisors to investigate. Adopting a process of procedural fairness in management also supports the process; for example, providing officers with the opportunity to discuss and explain performance issues. Further, disciplinary systems are increasingly incorporating initiatives for ensuring consistent responses that are commensurate with the severity of the infraction. For example, the Queensland Police Service introduced a recording system for disciplinary action that enables supervisors to view past responses to similar infractions within the organisation when making disciplinary decisions (Porter and Prenzler 2012a). Further, Shane (2012) proposes a disciplinary matrix that takes into account the level of seriousness, among other factors, and prescribes the appropriate discipline level to provide further objectivity to the decision. A combination of these initiatives, through incorporation of the leadership qualities mentioned above, can offer a complementary model for improving leadership, management and, ultimately, integrity (Porter and Prenzler 2012a).

Emerging good practice: improving police–complainant relations

Independent investigations

Public confidence in police, and positive police–community relations, are also likely to be enhanced by a more direct role for oversight agencies in the management of complaints – certainly for more serious complaints or as an option in a negotiated process with complainants. The evidence is overwhelming that police internal investigations compound the cynicism and distrust already felt by complainants. Oversight agencies that merely audit or review police investigations also aggravate the alienation felt by complainants. When oversight agencies refer matters back to police there is an added sense of betrayal on top of the sense of distrust (Landau 1994). Independent investigations free police from the stigma of bias and the hopeless task of convincing complainants they are impartial. This is a point conceded by police to some extent. Several surveys in Prenzler et al.'s review found police support for this proposition at about one-third (2013: 164). However, one survey in the UK put police agreement at 85 per cent. In Northern Ireland, 70 per cent of police who experienced the independent system supported the view that it 'makes police more accountable' (Table 3.1).

What constitutes 'independence' is, however, far from a simple proposition (Savage 2013; McLaughlin and Johansen 2002). 'Civilian' investigators (and mediators) may be compromised by their relationships with police, and oversight agencies which are institutionally separate from police normally employ some former police officers. Consequently, organisational culture and public perceptions are important in judging the independence of police integrity agencies (Savage 2013; McLaughlin and Johansen 2002).

In addition, substantive independence on its own is not a panacea for stakeholder dissatisfaction (Savage 2013). External agencies will still need to pay close attention to process issues of communication and fair treatment; and seek to address the root causes of complaints, in part through working with police. The Office of the Police Ombudsman for Northern Ireland, established in 2000, presents as the best test case for independence (Savage 2013). The Police (Northern Ireland) Act 1998 requires the Ombudsman to determine how complaints against police will be handled. This includes discretion to refer matters to police for investigation, but it appears that all, or almost all, formal investigations are conducted by the Office (Savage 2013; Seneviratne 2004). The Office makes disciplinary recommendations to the Chief Constable, but also has an authority to direct disciplinary proceedings. A 2011 review found that some investigations into legacy cases may have lacked adequate independence (Criminal Justice Inspection Northern Ireland 2011). However, the review supported the Ombudsman's independence in processing contemporary complaints. The review noted that 'there is a substantial proportion of investigative staff (around 41%) from a former police background' (ibid.: 32), and there was an implication that this was above an appropriate threshold for public confidence. Nonetheless, when selection standards and 'operational protocols' were considered, the review found that, 'in the main, the necessary safeguards are in place to protect the operational independence of the Police Ombudsman' (ibid.).

As outlined above, the Ombudsman's Office has attracted relatively high levels of satisfaction from both complainants and police officers who were the subject of complaints. More detailed and updated figures for the last five years are provided in Table 3.1. The high satisfaction rates for police show clearly that officer concerns about bias can be alleviated by an independent system that is professional and responsive. If anything, comparatively lower satisfaction rates for complainants might suggest bias favouring police. However, this is more likely the effect of the evidence problem in complaints, given the high scores from complainants for impartiality, seriousness and fairness. It is also clear from
Table 3.1: Percent compliant and police satisfaction levels, Police Ombudsman for Northern Ireland

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Note: Police Ombudsman for Northern Ireland 2013: 43-46.
pursuits, handcuffing, and police responses to hate crimes and child abuse (PONI 2010). Two areas of cooperation that appear to have been particularly fruitful involved measures to address incivility allegations and duty failure allegations related to investigations (PONI 2010, 2013).

Alternative dispute resolution
The review of stakeholder surveys by Prenzler et al. (2013) also found evidence that the interests of complainants and police can be more effectively addressed through carefully managed forms of informal resolution and, especially, mediation. Some systems of informal resolution operated by police received very high participant satisfaction scores. Complainants appreciated the personal communication, being able to have their say and receive an apology. Dissatisfaction related to lack of communication, non-receipt of an apology, and police managers being biased or not taking the process seriously. However, complainants who experienced informal resolution tended not to have a better view of police, and they had little faith that informal resolution would change police behaviour or improve accountability (e.g. CJC 1994; PONI 2005).

Informal resolution can function as a convenient 'bureaucratic suppression of a dispute' and complainants are alive to this possibility (Young et al. 2005: 300). Systems need to guard against misuse of alternative dispute resolution options as a quick and easy means of dispensing with complaints. One way to take the interests of complainants (and police) more seriously is to enhance the restorative capacity of the complaints system through mediation. This is a resource-intensive option, but one that attracts the highest rates of participant satisfaction. Both sides are allowed to have their say face-to-face in a managed environment with a skilled mediator who works towards a mutual agreement or understanding. However, despite high satisfaction rates, where data are available, they indicate that complainants are not likely to be convinced that mediation will lead to the kinds of changes in police behaviour that they expect (e.g. Young et al. 2005). It is likely that greater faith in the system will require evidence that the mediation process feeds into a larger system for improving police conduct (McLaughlin and Johansen 2002).

Cooperation of police and oversight agencies: a problem-oriented policing approach
As outlined above, external oversight agencies were originally introduced to increase the accountability of police agencies in dealing with complaints, as well as to provide an independent investigative function to overcome problems, or perceptions, of police bias in internal investigations. However, this 'watchdog' role of oversight agencies is increasingly broadening to encompass functions that support internal reform and build capacity within police agencies. Many oversight agencies (with the exception of the PONI mentioned above) do not have the resources to investigate all complaints against police, but need to work with police agencies in managing the internal investigation process. The investigative function has always been a source of tensions between oversight agencies and police, as well as public concern regarding perceptions of independence and accountability. As noted, there is typically a strong preference among members of the public for independent investigations over internal or mixed models. However, the broader functions of oversight agencies, such as the prevention of misconduct/complaints, may benefit from closer inter-agency partnerships – subject to a watching brief against police capture of the process and the undermining of independence (Seneviratne 2004). In that regard, reducing complaints against police and reducing police-community conflict is likely to benefit from the 'Problem-Oriented Policing' framework that has successfully guided police efforts to reduce crime-related problems (Goldstein 2003).

Case studies
Porter (2013) argued that the problem-oriented approach usefully describes ways in which oversight agencies can work with police to achieve internal reform, and reported on two case studies to illustrate this process. In the United States, in Portland, Oregon, beginning in 2006, a problem with excessive force by police was addressed by a task force consisting of the Portland Police Bureau, Portland's Independent Police Review Division and a Citizen Review Committee. The task force analysed a number of sources of information, including use of force data held by the police, and produced a report with 16 recommendations. The Police Chief agreed to an implementation programme, and the task force closely monitored the process and suggested refinements. Over a two-year period, the programme produced significant reductions in reported use of force, citizen complaints of excessive force, and injuries to both officers and citizens.

Second, in Queensland, Australia, the Queensland Police Service (QPS) and its oversight body the Crime and Misconduct Commission jointly undertook a review of the police Taser policy, following a number of adverse Taser incidents. The review team analysed the international scientific literature and QPS data on Taser deployments. The 2009 report made 27 recommendations, emphasising the importance of ongoing collaboration between the two agencies in monitoring implementation and improving policy. A 2011 evaluation found that implementation of the recommendations led to major improvements in the use of Taser, with less reliance on the weapons for control of suspects, and reductions in multiple and prolonged applications.

Applying the SARA problem-solving model
The case studies illustrated the productive adoption of a problem-oriented prevention framework (Porter 2013). The key elements of the framework are that a problem is the basic unit of interest, rather than an individual complaint or case of misconduct, and that addressing problems means dealing with the causal conditions, rather than just reactively responding to the misconduct behaviour.
and learning is not lost. Indeed, oversight agencies increasingly offer support services and capacity building to police agencies through provision of both informal advice and formal education/training, as well as promotion of values and lessons learned from their experience of investigations and analysis of complaints (Porter and Prenzler 2012a, 2012b).

Conclusion

In traditional police complaints systems, large numbers of allegations are made by dissatisfied citizens and processed by police in an adversarial system ostensibly concerned with fact-finding and due process. Very few complaints are substantiated and there is a wide-ranging view that the system is biased against complainants and fails to provide proper democratic accountability for the exercise of police powers. Nothing much changes. The complaints continue at high volumes, and there is a failure to address questionable police behaviours that lie behind complaints. In response to this problem, innovation has occurred in a number of areas, including informal complaints resolution and civilian oversight. Some improvements are evidenced from these developments. However, informal resolution is generally too superficial to adequately address the aspirations of complainants or improve police behaviour. Civilian oversight is also often limited to a review role that fails to deliver appropriate levels of independence, input into disciplinary decisions and improvements in conduct.

This ongoing state of chronic failure is not inevitable. Support is slowly growing for an effective research-based approach to reform. The first step involves viewing complaints as providing a window on police conduct problems. Analysis of the factors behind complaints can then provide a guide to modifications in procedures and training that produce real changes in police behaviour, which in turn translate into large reductions in complaints. This process is likely to be significantly enhanced through a cooperative working relationship between police departments and oversight agencies aimed at problem-solving, using a standard POP methodology. At the same time, the enlargement of independent investigation and adjudication of complaints – properly managed – is likely to produce significant improvements in the experiences of both complainants and police; as well as satisfying the public interest around perceived impartiality in the management of complaints. These positive outcomes are likely to be further enhanced through opportunities for independent mediation. However, even the best managed system of independent investigations and mediation is unlikely to improve accountability and police–community relations unless it is combined with an explicit complaints reduction and problem-solving programme.

References


Kelts, J. (1992) Los Angeles County Sheriff’s Department: Report by Special Counsel, Los Angeles (s.n.).


4 Getting behind the blue curtain
Managing police integrity

Michael Rowe, Louise Westmarland and Courtney Hougham

This chapter explores emerging strategies designed to reduce police officer corruption and malfeasance. Codes of ethical conduct, disciplinary measures, cultural programmes, training and professionalisation of policing have developed in response to various challenges to police integrity. The chapter explores each of these – drawing on international examples – and considers how they operate in relation to dominant police subcultural values of loyalty and camaraderie that have often amounted to a ‘blue curtain’ that prevents officers reporting concerns about the misconduct of their colleagues. It is concluded that although responses to misconduct by police have developed in useful ways, significant challenges remain. In terms of a future pluralised policing environment, the cultural and institutional contexts in which misconduct and corruption develop remain largely overlooked by policymakers, politicians, sections of the media and academic researchers.

How did we get into this mess? The recent British experience of police malpractice

The police not only have to be accountable to their publics, but also have to be seen to be accountable. Open and transparent processes of accountability need to be maintained right across the range of police ranks and duties in order to be effective. In effect, one ‘bad apple’ may not really taint the barrel but in the eyes of the public, a chief constable who is sucked for corruption indicates an inability to maintain integrity across the force. Just as minor crimes might send powerful signals to communities, relatively minor (in legal or material terms) incidents of malfeasance can also have significant repercussions for police legitimacy (Murphy et al. 2008). Several recent high-profile scandals have made the police seem little better than a real-life version of the fictional television programme Life on Mars. The documentary The Secret Policeman, as McLaughlin argues (2007), showed them in an even worse light. In addition, numerous public reports into policing in the UK have unearthed a catalogue of inappropriate – and in some cases illegal – behaviour (see for example Ellison’s report into the impact of corruption on the investigation of the murder of Stephen Lawrence, Home Office 2014). In the light of all of this, what place accountability for the
Accountability of Policing

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Contents

List of illustrations xi
List of contributors xii
Acknowledgements xvi

1 Accountability of policing
STUART LISTER AND MICHAEL ROWE

2 The rise and fall of ‘stop and account’: lessons for police accountability
RICHARD YOUNG 18

3 Improving police behaviour and police–community relations through innovative responses to complaints
TIM PRENZLER AND LOUISE PORTER 49

4 Getting behind the blue curtain: managing police integrity
MICHAEL ROWE, LOUISE WESTMARLAND AND COURTNEY HOUGHAM 69

5 Integrity, accountability and public trust: issues raised by the unauthorised use of confidential police information
CINDY DAVIDS AND GORDON BOYCE 86

6 Electocracy with accountabilities? The novel governance model of Police and Crime Commissioners
JOHN W. RAINNE 111

7 Power to the people? A social democratic critique of the Coalition Government’s police reforms
ROBERT REINER 132