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RUNNING HEADER: COMPLAINING TO THE POLICE

**Abstract**

The NSW Police Force is guided by a Customer Service Charter, which defines police customers as ‘victims of and witnesses to crimes, members of the community and our own internal colleagues and stakeholders.’ Suspects and arrestees do not fall within this definition and are not therefore entitled to customer service. A significant proportion (30%) of 2910 citizen complaints lodged with the NSW Police Force within a 12-month period were from suspects or arrestees. The distinction between customers and non-customers was problematic for both complainants, who often did not understand the difference, and the police, who themselves did not always use the definition consistently. This exclusionary definition of police customers is challenged by procedural justice findings indicating that public confidence in and compliance with the police has been linked to wider public perceptions of trust in police, respectful treatment by police, police neutrality and opportunities provided by police for citizens to voice their concerns. While the Customer Service Charter was a positive development in bringing procedural justice principles to police practice, analysis of the complaints database called into question the decision to exclude suspects and arrestees from consideration as customers.

Internationally, policing has shifted from force-based to consent-based practice to improve cooperation with police, police-citizen relations and public confidence (Tyler, 2001; Tyler & Fagan, 2008). In addition, there is increasing evidence that consent-based or legitimacy-based policing improves policing outcomes, albeit indirectly, through enhancing police capacity to control crime (Mazerolle et al., 2009) providing further support for this shift.

Citizen compliance and cooperation are key aspects to successful policing (Murphy, Hinds, & Fleming, 2008). Levels of cooperation and compliance appear to be mediated by public attitudes towards and perceptions of police, indicating that initiatives to enhance cooperation and compliance will benefit from improved public opinion (Murphy et al., 2008).

A primary framework to enhance citizen trust in and satisfaction with police is the customer service model, which has been widely implemented by the public sector internationally, including police organisations (Andrews, 2010). In addition to advocating the importance of police conduct and active citizen engagement, the customer service model emphasizes the need for a healthy complaints system (Narver & Slater, 1990). Within the business sector, complaints are increasingly recognised not as a static post-hoc sign of customer dissatisfaction or desire to blame, but rather are relationally construed as the result of a complex and dynamic adjustment process both during and following the interaction, where both the customer and service provider “co-create” the product or service (Tronvol, 2007).

Complaints offer insight into public opinion and customer satisfaction and allow an evaluation of practices. Overall, well-run complaints systems ensure public accountability, whereas ‘An ineffective complaints system indicates a society at risk of developing a culture of impunity in which abuses of human rights go unchecked’ (Smith, 2010). Complaints systems in public institutions should be accessible avenues for citizens to question the decisions of those in power, leading to increased citizen confidence and trust, which in turn leads to improved service delivery and commitment on the part of officials (Brewer, 2007). Complaints are also important

records of police-citizen interactions for improved service delivery and improvements in police-citizen relations. Negative police encounters have 4-14 times the impact of positive experiences (Skogan, 2006).

Lodged complaints represent only a small fraction of the total number of dissatisfied customers (Wood, 2006). Encouraging complaints, through customer engagement and by presenting a trustworthy and transparent complaint system, should increase communication from a greater proportion of dissatisfied customers. In turn, this will expand knowledge of customer opinion and inform service development (Bell & Luddington, 2006).

Alienated customers do not complain. Complaints are also an indicator of the quality of a relationship between a customer and service provider and signify a healthy relationship between customer and service providers. Nevertheless, too many complaints may indicate endemic dissatisfaction. Research suggests that both too many and too few complaints are undesirable (Goodman-Delahunty, 2001). The relationship between the volume of complaints and customer satisfaction is therefore best conceived as curvilinear (see Figure 1). That is, customers who have no faith in the complaint system will be deterred from using it, resulting in a low number of complaints that is not necessarily reflective of customer dissatisfaction. Conversely, with a well-trusted complaints system where customer dissatisfaction is high, a larger number of complaints will be lodged as dissatisfied customers will feel that that complaint will be heard. Between these two extremes lies an optimal number of complaints that is reflective of high customer trust and satisfaction. Management should aim for an optimal number of complaints instead of striving only to achieve a low number of complaints.

INSERT FIGURE 1 HERE

Community opinion and levels of customer service are best measured in the attitudes and perceptions of members of vulnerable groups (Wagner, 2001). Citizens who are most alienated

from the marketplace, and who may be ignorant of the avenues of complaint, are typically the least empowered citizens. Monitoring the uptake of complaints channels by various segments of the policing customer base is important in assessing the effectiveness of a complaints system (Sivasubramaniam & Goodman-Delahunty, 2008).

Furthermore, vulnerable populations, such as citizens from a lower socioeconomic status, are often at a higher risk of coming into contact with police and of being arrested. Very few police interactions with citizens result in the threat or use of force (1-2%), but police apply force in 15-20% of arrests of suspects (Smith et al., 2010). Arrestees are at a higher risk of receiving harsher treatment in encounters with police than are other citizens in the general population (Hickman, Piquero & Garner, 2008) and they are the population from whom lower levels of compliance and cooperation can be expected. Consequently, monitoring customer service in engagement with these populations can both increase insight into the opinion of alienated citizens, and influence engagement policies.

A further factor to consider is who initiates police contact. Police-initiated encounters have a higher likelihood of resulting in dissatisfaction by the involved citizen than do voluntary, citizen-initiated encounters (Skogan, 2006). In police-initiated interactions, police behaviour is particularly salient in determining citizen satisfaction compared to citizen-initiated events (Crime and Misconduct Commission, 2011). These findings underscore the importance of police conduct, attitude and presentation when engaging with community members, particularly in police-initiated encounters.

### **NSW Police Force Customer Service Program**

In keeping with recent shifts in policing toward consent-based practice and improved police-community relationships, the New South Wales Police Force (NSWPF) implemented a Customer Service Program (CSP) in 2007 and a Customer Service Charter in 2009. The aims of the CSP were to place a new emphasis on customer service, victims of crime and to improve

service delivery as a whole (Burn, 2010). In addition, the objectives of the CSP were to enhance police-community relations and public perceptions of and satisfaction with the police (Burn, 2010) and to reduce the number of complaints about the NSWPF.

The Charter undertakes a number of commitments to the “customers” to enhance public satisfaction with the police, such as ‘Be accessible; Be professional and helpful; Take appropriate action; Keep customers informed.’ Within the Charter, customers of the police force are defined as victims, witnesses, the community and internal colleagues. Arrested persons and suspects of crimes are **not** viewed as customers as they are dealt with under the Law Enforcement (Powers and Responsibilities) Act 2002 (LEPRA) and other NSWPF policies and procedure. This implies that the commitments in the Charter, and customer service techniques in general, do not apply to suspects.

As part of the customer service initiative, all current staff, both sworn and unsworn, had to complete mandatory Customer Service Excellence Training in the 12 months following August 2009. Training involved one-off workshops in which key aspects of customer service within policing were relayed.

The CSP operates within the Police Act 1990, legislation that governs customer complaints about the NSWPF. Complaints can be made anonymously and lodged directly with the New South Wales Police or the Commissioner or indirectly with multiple other authorities in New South Wales. All written complaints about the NSWPF since 2001 have been recorded in the Customer Assistance Tracking System (c@tsi), the official electronic complaints database.

### **Current Study**

This study examined the impact of the CSP and Charter on the number and content of customer complaints recorded against the police. The following research hypotheses were tested: (a) more complaints will follow police- than citizen-initiated events; (b) suspects will report more high risk police behaviours than will nonsuspects; (c) post-Charter, the number of

complaints by nonsuspects and suspects will increase; and (d) post-Charter complaints involving high exposure to legal risk will decrease.

### **Study Sample**

A total of 3131 complaints were recorded in c@tsi between May 2009 and May 2010. Of the complaints lodged in the 12-month the study period, 2910 contained sufficient complainant and event information to be included in analyses. These complaints had not yet been formally reviewed to determine their sustainability. Therefore, no claim about the ground truth of their content was made. The decision to treat all complaints as equal was supported by findings that only a small proportion of complaints are vexatious (Woods, 2006).

### **Design and Procedure to Examine Complaints**

A descriptive, cross-sectional, mixed-methods design was employed to examine complaints. Two NSWPF Customer Service Training sessions were observed by one of the researchers.

Complaints were manually coded for the following binary categorical variables: complainant gender; suspect status; and voluntariness of police contact (citizen vs. police-initiated). Suspect status was coded at the time of the incident in issue. Complainants were deemed suspects if the subject officer was operating under LEPR. This included complainants who committed an offence that led to official police action (e.g., court attendance notice, infringement notice, arrest or charge) and circumstances in which the complainant was given an order, such as a “move on” direction to control a crowd. Complainants subject to a random breath test were coded as nonsuspects.

Written complaint narratives were rated independently to record the severity of police conduct reported. Severity was determined based on the degree of exposure to legal risk inherent in the conduct. Low risk conduct posed a negligible risk of civil litigation against the police; high risk conduct could conceivably support a cause of action. Low risk behaviours included

incivility and rudeness; minor inaction; action or inaction with some public visibility, and no significant consequences or use of force, e.g., 'Failed to respond to parking complaint call. Complainant had to wait outside in the cold for over five hours despite numerous requests for assistance,' (nonsuspect). High risk conduct resulted in physical or psychological injuries, assault; or detriment to the public image of the police, e.g., 'Constable forced her to the ground and restrained her by placing his knee on the back of her neck. Video taken on a mobile phone shows A being carried to the rear of the caged truck and placed partially in the cage, face-down. A male can be heard on the recording to say 'Get in there or I will spray you.'

### **Interrater Reliability**

To assess the reliability of the coding scheme, a sub-sample of 15% ( $n = 469$ ) randomly selected cases were independently coded by two researchers. Intraclass correlation coefficients (ICC) were employed as a measure of reliability for all variables. ICC takes into account the correlation and consistency between raters. Using commonly accepted standards of strength, (Landis & Koch, 1977), reliability on the risk scale was determined to be good (ICC = .67,  $p < .001$ ; Cronbach's  $\alpha = .81$ ). For all other *variables*, *agreement* between raters was good to excellent (substantial agreement) ( $\kappa = .61-.89$ ,  $p < .001$ ).

Table 1 displays the characteristics of the complainants in the study sample.

INSERT TABLE 1 HERE

### **Community vs Police-Initiated Contact**

Overall, the percentage of complaint narratives in which the complainant had initiated contact with the police (39%) was significantly lower than complaints following events where police-initiated contact with citizens (61%). An examination of this distribution for suspects versus nonsuspects also yielded statistically significant differences. Specifically, nonsuspects



(68%) were significantly more likely to complain following events in which they initiated contact, whereas suspects (82%) were more likely to complain following police-initiated contact than were nonsuspects ( $\chi^2_{(1,2576)} = 538.9, p < .001, ES > 1$ ). See Figure 2.

INSERT FIGURE 2 HERE

### **Frequency of Complaints Pre- vs Post-Charter**

The proportion of complaints received post Charter (51%) was equivalent to that received prior to its introduction (49%). The proportion of complaints filed by suspects declined post-Charter, but not significantly (32% vs. 28%). The proportion of nonsuspect complaints, on the other hand, increased significantly post-charter (68% vs. 72%);  $\chi^2(1,1861) = 10.99, p = .001, ES = .15$ . See Figure 3.

INSERT FIGURE 3 HERE

Contrary to the policy adopted by the Customer Service Charter, observations of police training revealed that some police supported customer service for suspects, stating: ‘If you treat them well they are more likely to comply’ (NSWPF trainee, 2010).

### **Exposure to Legal Risk**

Overall, a significantly greater proportion of the complaints contained reports of police conduct that was high versus low risk (55% vs. 45%);  $\chi^2(1,2270) = 24.95, p < .001, ES = .21$ .

The proportion of complaints containing reference to low (pre: 56%, post: 44%) versus high risk (pre: 58%, post: 42%) conduct did not differ significantly pre- and post-Charter. Suspects (64%) reported significantly more high risk police conduct than did nonsuspects (50%);  $\chi^2(1,2052) = 36.46, p < .001, ES = .27$ . See Figure 4. The distribution of level of risk in police behaviour that was the subject of the complaints reported by suspects versus nonsuspects did not change significantly following the introduction of the Charter.

INSERT FIGURE 4 HERE

**Discussion and Conclusion**

This retrospective analysis of the complainant profile of complaints submitted to the NSWPF and recorded in c@tsi over a 12-month period revealed that while the majority of complaints were filed by nonsuspects, significantly more than were lodged by suspects, suspect nonetheless filed a substantial number of complaints (30%).

In line with the theory that complaints increase when customer satisfaction is enhanced, nonsuspects complained significantly more post-Charter than they did pre-Charter, whereas the proportion of suspects who complained before and after the Charter remained constant. Longitudinal studies to examine the influence of the Customer Service Charter and training on community opinions of police are needed to provide a clearer picture of the influence of Customer Service Training on police responses to suspects versus nonsuspects.

Suspects were significantly more likely to report high risk police conduct and were significantly more likely to have engaged in police-initiated contact. These findings corresponded with past research showing that arrestees are at a higher risk of harsher treatment from police (Hickman, Piquero & Garner, 2008). Also, police-initiated events have a higher likelihood of resulting in a negative experience and in subsequent complaints, suggesting that customer service initiatives with regard to this population may be informative as to how to decrease risks of litigation and reduce dissatisfaction by and within this population, and with that, the number of complaints lodged. However, the complaints analysed in this study had not been reviewed for their veracity. There is a perception that suspects who complain about the police do so in retaliation for their arrest. To deter complaints about the police that are malicious or frivolous, the NSW Police Act specifies that it is an offence to make a false complaint about the conduct of a police officer or to give false information against the police.<sup>1</sup> Nonetheless,

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<sup>1</sup> NSW Police Act (1990), Div 9, Section 167A.

investigations of customer complaints have shown that few are non-meritorious (Porter, Prenzler & Fleming, 2011). Further research should investigate level of risk within substantiated police complaints.

Furthermore, suspects and arrestees, by definition, appeared to show poor compliance with the law. Procedural justice theory (Tyler, 2001), a leading empirically-supported theory of citizen compliance and confidence in policing, purports that levels of community compliance and cooperation are moderated by perceived police legitimacy. Police legitimacy refers to the degree to which the police are viewed as a rightful authority. In communities where police legitimacy is strong, citizens are motivated to cooperate and comply with police and to accept and respect police initiatives (Tyler & Fagan, 2008).

According to this perspective, public opinion of police and citizen compliance do not rely on the performance of the police in crime-reduction and on deterrent and punitive policies, but more on perceived fairness (Tyler & Fagan, 2008). The procedural fairness effect shows citizens care more about the treatment received from authorities such as police than a favourable outcome (Goodman-Delahunty, 2010; Tyler, 2001). A crucial finding of procedural justice and community based policing is that the interpersonal relationship between citizens and the police is important for both the perceived fairness of policing outcomes, and the efficacy of outcomes of police practice (Tyler & Fagan, 2008).

### **The Group Value Relational Model in Policing**

The Group Value Relational Model (GVRM) underpins procedural justice theory, positing that a sense of belonging and status in a social group affects perceived fairness (Goodman-Delahunty, 2010; Tyler, 2001). The GVRM consists of four principles: trustworthiness, respectful treatment, neutrality and voice. Trustworthiness refers to the public perception of police openness, sincerity and motivation to serve the best interests of the community. Respectful treatment refers to the treatment of citizens with professionalism and

respect. Neutrality refers to the perceived absence of biased treatment. Voice refers to citizens' sense of being heard and having their input valued (Goodman-Delahunty, 2010; Tyler & Huo, 2002).

Citizen experiences of these elements in their encounters with police convey relational information that indicates whether the citizen is valued and respected by the police who are part of the social group. This, subsequently, will influence perceived fairness of treatment, which, in turn, affects confidence and trust in police and perceived police legitimacy (Goodman-Delahunty, 2010; Tyler, 2001). Procedural justice judgements influence both perceived police legitimacy and cooperation with police (Huq, Tyler, & Schulhofer, 2011).

Circumstances in which the police and public interact are opportunities to build a relationship of trust. Most complaints against the NSWPF followed contact initiated by police. This contact provides opportunities for police to enhance trust and improve community-police relations with suspects.

Exclusion of suspects from the customer group was problematic for police and complainants who are often unaware of the Charter's exclusion or their suspect status for less prototypical crimes, e.g., speeding, as shown in this complaint example: "The complainant alleges that the officer was aggressive and unprofessional when speaking to her and her two passengers, when issuing an infringement for driving through red traffic lights" (complaint by suspect, 2009). This narrative from a complainant who was not entitled to be treated as a customer under the NSWPF Customer Service Charter revealed that she expected procedurally fair treatment and was dissatisfied by the quality of the interpersonal interaction with the police officer. Her complaint was not about the fact that she was issued an infringement notice.

The label "suspect" might suggest involvement in prototypical criminal activity. However, examination of the reasons for police-initiated contact by 1529 survey respondents in Queensland showed that the majority of encounters (65%) were for reasons other than suspicion

of prototypical crime: random breath-test (32%), issuing a traffic ticket (15%), attending a traffic accident (6%), noise investigation (5%), witness to accident or crime (7%). A recent meta-analysis reported extensive variability in definitions of “suspect encounter” and behaviours comprising “arrest” in studies of police use of force (Hickman, Piquero & Garner, 2008), demonstrating the heterogeneity of identities and behaviours in suspect-police interactions.

Results of recent empirical studies by social psychologists reconfirmed support among the wider community for police to apply procedurally just behaviours to all community members (Huq, Tyler, & Schulhofer, 2011). In their 2002 survey, New Yorkers lent equal support to procedurally fair policing conduct in interactions with suspected terrorists, non-suspects, Muslims and non-Muslims. This indicated that even in a particularly fear-laden context, citizens endorsed procedurally just treatment for all. These findings further support the extension of customer service to both suspects and non-suspects in policing encounters.

In summary, the exclusion of particular groups from receipt of customer service controverts principles of procedural justice and limits the opportunity for community engagement and relationship building. Future research should assess whether the frequency of complaints about more severe police mistreatment or misconduct that expose the police to increased risk can be reduced by adhering to principles of procedural justice. In the absence of those data, treating all persons in New South Wales, including suspects, as customers is a recommended risk averse policy and best practice.

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