

# **COMPLAINTS AGAINST POLICE IN NEW SOUTH WALES**

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## **PREFACE**

This project arose out of concerns within the NSW Police Service about the increase in complaints against police in this State, particularly between 1990 and 1991. The extent of the increase attracted considerable attention from the media throughout 1991, was highlighted by the Ombudsman's Special Report to Parliament and was one of the reasons for the establishment by the Joint Parliamentary Committee on the Office of the Ombudsman of a review of the role of the Office of the Ombudsman in investigating complaints against police.

A State Commander's Task Force on Police Complaints was established within the Police Service in late 1991 with terms of reference which included an obligation to search for explanations for the increase, and to develop strategies to prevent and reduce complaints against police. The research reported here was commissioned by the State Commander to assist the Task Force in its work.

The aim of the research was to assess the nature of complaints against police and to determine whether there were any differences in complaints between 1990 and 1991 which might help to explain the large increase which occurred at that time.

Dr Don Weatherburn  
**Director**

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# 1. INTRODUCTION

## 1.1 THE GROWTH IN COMPLAINTS AGAINST POLICE

Table 1.1 shows the number of complaints against police as reported by the Office of the Ombudsman over the period 1987-88 to 1990-91.

As evident from Table 1.1 there was a 34.4% growth in complaints against police from 1989-90 to 1990-91. The increase in complaints against the police is of a quite different order to the 5.2% increase in other complaints reported to the Office of the Ombudsman in the same period.

**Table 1.1 Complaints reported to the Office of the Ombudsman, 1987-88 to 1990-91**

<i>Year</i>	<i>1987-88</i>	<i>1988-89</i>	<i>1989-90</i>	<i>1990-91</i>
Police complaints	2138	2231	2352	3161
Annual percentage change		4.3%	5.4%	34.4%
Other complaints	2501	2268	2425	2552
Annual percentage change		-9.3%	6.9%	5.2%
Total complaints	4639	4499	4777	5713
Annual percentage change		-3.0%	6.2%	19.6%

*Source: Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 118.*

As can be seen in Table 1.2, data collected by the Internal Affairs Branch of the NSW Police Service also show a large increase in complaints against police between 1990 and 1991.

**Table 1.2 Complaints against police reported by the NSW Police Service, 1988 to 1991<sup>1</sup>**

<i>Year</i>	<i>1988</i>	<i>1989</i>	<i>1990</i>	<i>1991</i>
Complaints	1824	2049	2414	3371
Annual percentage change		12.3%	17.8%	39.6%

## 1.2 POSSIBLE EXPLANATIONS FOR THE GROWTH IN COMPLAINTS AGAINST POLICE

The reasons for the growth in complaints against police in recent years have been the subject of considerable speculation. A range of reports emanating from the Police Service, the Office of the Ombudsman and the Parliamentary Joint Committee on the Office of the Ombudsman have each produced possible explanations for the pattern.<sup>2</sup>

The most comprehensive list is that reproduced in the Report of the Joint Committee on the Office of the Ombudsman. It cites the submission of the NSW Police Service as offering the following factors as possibly having contributed to the increase:

- a) the average age and experience of police officers - at 30 June 1991 38.9% of the officers in the Service had less than five years service and 27.8% of officers were under 25 years of age;
- b) community policing - increased police presence on the streets as a result of community based policing presents greater opportunities for conflict and misunderstanding resulting in the potential for an increased number of complaints against police;
- c) greater publicity about misconduct and corruption means that people no longer accept in silence what is unacceptable to them;
- d) increased public awareness of the rights and entitlements afforded to individuals using the police complaints system;
- e) the 1987 decision of Mr Justice Lee which had the effect of requiring all internal correspondence dealing with actual or possible misconduct by a police officer being viewed as a complaint;
- f) greater employment of female officers now totally [sic] 11% of the Service and a corresponding increase in the reporting of misconduct and sexual harassment;
- g) greater willingness among police officers to address domestic violence situations involving other officers, where previously there was a tendency to hide them;
- h) improved ethical attitudes of police - greater preparedness, due to emphasis on integrity, and legislative protection and requirements, of police officers to report misconduct;
- i) increased reporting mechanisms and intelligence arrangements - shared intelligence between law enforcement and related agencies and increased reporting mechanisms for complainants have widened the avenues for the receipt and investigation of police complaints;
- j) supervisory attitudes - insufficient use of conciliation and informal resolution by supervisors at the local level due to current emphasis on integrity and accountability and the resultant trend among supervisors to report rather than resolve complaints at a local level;
- k) inappropriate use of complaint process for example, vexatious complaints made by offenders against arresting officers.<sup>3</sup>

The submission also argued that although the above factors have contributed to an increase in reported complaints, the increase does not necessarily reflect an actual increase in the incidence of misconduct.<sup>4</sup> It may instead relate to a reduction in the rate of under-reporting of police misconduct.<sup>5</sup>

An additional factor cited in the report as a possible explanation for the rise in complaints is the argument of the Police Association that:

... the more active and successful that police are in fighting crime and unlawful behaviour the more likelihood there is that complaints would be made about them. Thus the operational police officer faces additional obstacles to those who work in support roles.<sup>6</sup>

The reference to the 1987 decision of Mr Justice Lee in the above list is significant and worthy of further elaboration (see Appendix 1 for a fuller account of the decision and its possible implications).

In brief, Mr Justice Lee ruled, in *Ombudsman v Commissioner of Police*<sup>7</sup> that section 5(1) of the *Police Regulation (Allegations of Misconduct) Act* applied equally to police as to others, and that as a result, information about police misconduct which was raised by a police officer should be dealt with under the Act. This has been interpreted to mean that a much broader range of police misconduct, including that raised in in-house supervisory and managerial reports, should be notified to the Ombudsman under the complaints procedures than was the practice prior to the decision.<sup>8</sup>

The recent *Inquiry Upon the Role of the Office of the Ombudsman in Investigating Complaints Against Police* concluded that the Lee decision was one factor which had contributed to the growth in complaints against police. Data provided by the Office of the Ombudsman which indicate an increase in police internal complaints notified to the Ombudsman from 185 in 1989-90 to 564 in 1990-91 (an increase of 205%) is cited as authority for the conclusion that the Lee decision has been a significant factor in the increase in police complaints recorded.<sup>9</sup>

Whilst this increase in internal police complaints is a substantial one, it is not sufficient to account for the full extent of the increase in complaints against police recorded in recent years. It is also impossible to judge from the data provided above what proportion of the police internal complaints were complaints which might not have been considered to be reportable prior to the Lee decision.

The Report also gives considerable weight to the effect of recent publicity concerning the police complaints system:

... the significant increase in the level of police complaints in recent years is due to a number of factors, chief amongst which are the increase in public awareness of the police complaints system arising from a couple of recent highly publicised incidents in the police complaints area and the delayed flow on effect of Mr Justice Lee's decision requiring all internal police complaints to be notified.<sup>10</sup>

The report cites the submission of the Ombudsman as the authority for the significance attributed to the first of these factors:

Anecdotal evidence and statements in letters of complaint suggest that publicity about police conduct has a marked effect on the level of complaints received. Incidents which complainants might otherwise accept become heightened when there is constant public focus on police misconduct. The past two years have seen spectacular and widely publicised episodes where the NSW Police have come under searching scrutiny.<sup>11</sup>

Once again, whilst these factors may be very significant in influencing the decision of aggrieved persons to lodge a complaint formally, the available evidence is not sufficient to

demonstrate with any confidence that the growth in complaints is a function, either in part or in full, of this publicity.

### **1.3 RESEARCH QUESTIONS TO BE ADDRESSED**

The possible explanations suggested for the increase in complaints against police between 1990 and 1991 may have resulted in there being relatively more complaints (in 1991 compared with 1990) of one or more of the following types:

- complaints about young or inexperienced police officers
- complaints from members of the public resulting from the increased exposure to police officers through community policing, the increased publicity about misconduct and corruption or the greater public awareness of an individual's right to complain
- internal police complaints as a result of the Justice Lee decision
- complaints of certain specified types, for example, domestic violence or sexual harassment.

The research study was designed to address these issues. In particular it was designed to compare complaints in 1990 and 1991 on a range of factors, including the nature of the complainant and the victim, the allegations made in the complaint and the context in which the complaint arose, the characteristics of the police officer complained about and the location of the incident which gave rise to the complaint.

## 2. METHOD

Although the NSW Police Service maintains both computerised and manual records relevant to police complaints these records proved inadequate for the purposes of the research. The extent of information recorded on the computer system with respect to the complaint and the complainant was very limited.<sup>12</sup> The design of the system also rendered its use for aggregate data analysis almost impossible, except for a limited set of pre-programmed reports. Given these limitations it was necessary to collect data for the research from a sample of the paper files used by the police to document complaints.

### 2.1 SAMPLE SELECTION

Two random samples of 210 file numbers were drawn from the files listed on the police complaints computer system for each of the years 1990 and 1991. The intention was to select 200 files for each year: 210 file numbers were selected in each of the samples in anticipation of there being some files missing.

The files identified were then located for the purposes of the research. Many of the files were still under active investigation and needed to be recalled from investigative officers located in the four Police Regions or from specialist units. Completed files in the majority of cases were held at one central location (the Avery Building) although files for some categories of complaint of a minor nature were held at regional offices.

### 2.2 INFORMATION CODED

As the purpose of the study was to assess the nature of complaints and to determine whether this had changed between 1990 and 1991, the only information coded related to characteristics of the complaint, the complainant, the victim and the police officer complained about.

Each police file may consist of documents relating to one or more incidents involving one or more complaints, each of which may involve one or more complainants, one or more victims and one or more police officers complained about. For each file selected in the sample, details were coded only for *the first complaint listed on the file*. The total number of complainants on each file was recorded, but detailed information was coded only for *the first complainant mentioned*. Similarly, the number of victims listed on the file was recorded, but details were coded only for *the first 'victim' mentioned*.

The complaint details that were recorded (for the first complaint listed on the file) included the number of police officers who were the subject of the complaint, but officer details were recorded only for *the first police officer complained about*.<sup>13</sup>

No data were collected on the manner in which complaints were processed, nor on the outcome of the complaints, as neither of these issues was identified as being relevant to explaining the increase in complaints. Information was coded for each of the sampled files

regardless of the outcome of the complaint. Hence the data collected do not allow comparison of substantiated complaints with those not substantiated.

A copy of the coding sheet used appears in Appendix 2.

### **2.3 DATA COLLECTION PROBLEMS**

Locating, tracking and receiving files proved to be a very difficult and time consuming exercise. Although the computer system recorded the location of files, it was found that this information was often insufficient to track down a file. The system recorded which Police Region a file had been allocated to for investigation but not the subsequent allocation of the file to a particular officer or office within the Region. It was also found that Regions and Patrols did not always identify complaints files using the same criterion as that used in the Internal Affairs Branch (a 3 part registration number) but in some cases utilised the complainant's name and in other cases the name of the police officer who was the subject of the complaint.

There was also a considerable backlog in the processing of those files which had been returned to the Internal Affairs Branch for final data capture and filing. This meant that researchers would make fruitless efforts to locate files which were marked out to Regions but which had in fact been returned to Internal Affairs but not yet processed. Each of these factors contributed to delays in the research as considerable efforts needed to be made to find the relevant files.

Of the 420 file numbers originally selected, 49 files could not be located. The sampling objective was to obtain 200 files for each of the years 1990 and 1991. In order to realise this objective as closely as possible, data for 29 of the files were coded from photocopies of the letters of complaint, obtained from the Office of the Ombudsman, supplemented by information held on the Police Complaints computer system.

The final sample consisted of 400 cases: 198 cases for 1990 and 202 cases for 1991. Sixteen of the 29 cases which were coded from sources other than the actual files were for 1990 and the remaining 13 were for 1991.

### 3. RESULTS

The results presented in this section compare the 1990 and 1991 samples of complaints on the nature of the complainant and the victim; the allegations made in the complaint and the context in which the complaint arose; various characteristics of the police officer complained about; and the location of the incident which gave rise to the complaint.

The numbers in the tables are counts of the complaints files sampled. However, as details were recorded for only one complaint per complaint file, the numbers in the tables are generally counts of complaints.

Most tables present data for internal police complaints as well as all complaints. Internal police complaints include breaches of rules and discipline, and matters detected through management and supervision of police in the normal course of policing. Since the decision of Justice Lee in 1987 (see Appendix 1), these matters are required to be notified to the complaints system in the same manner as are public complaints or complaints which are otherwise brought to the attention of the Police Service or the Office of the Ombudsman. The separate enumeration of internal police complaints enables an assessment of both the source of complaints and the impact of the Lee decision.

The fact that 29 cases were coded using data derived from different sources from that used for the majority of cases included in the research is of some concern, and may have had some effect on the validity of the data. However, a comparison on key items between the 29 'missing cases' and the other cases revealed no apparent differences between the data derived from the two sources of information.

**Table 3.1 Number of complainants per file**

<i>Number of complainants</i>	<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
1	168	84.8	183	90.6
2	21	10.6	15	7.4
3	2	1.0	2	1.0
4	2	1.0	1	0.5
5 or more	3	1.5	0	0.0
Unknown	2	1.0	1	0.5
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>

#### 3.1 NUMBER OF COMPLAINANTS PER FILE

Table 3.1 shows the number of complainants per file for the sampled files.<sup>14</sup> The vast majority of complaints files listed a single complainant (84.8% in 1990 and 90.6% in 1991).<sup>15</sup>

There were no significant differences between 1990 and 1991 in the number of complainants per file ( $\chi^2 = 3.5$ ,  $df = 2$ ,  $p > 0.05$ ; the categories 3, 4, 5 or more and *Unknown* were pooled for the statistical test).

### 3.2 NATURE OF THE COMPLAINANT

Table 3.2 provides details concerning the nature of the complainant. The person lodging the complaint was deemed to be the complainant, whether they were complaining on their own behalf or on behalf of someone else.

**Table 3.2 Type of complainant**

Type of complainant	1990		1991	
	No.	%	No.	%
Police officer				
- internal complaint	47	23.7	40	19.8
- acting as individual	6	3.0	4	2.0
Solicitor/legal aid	22	11.1	9	4.5
Member of Parliament	7	3.5	10	5.0
Suspect/person in police custody/defendant	20	10.1	30	14.9
Prisoner/juvenile in detention	2	1.0	6	3.0
National Crime Authority	2	1.0	1	0.5
Independent Commission				
Against Corruption	1	0.5	0	0.0
Aboriginal organisation	0	0.0	2	1.0
Court officer	1	0.5	1	0.5
Anonymous	5	2.5	5	2.5
Motorist	36	18.2	38	18.8
Other member of the public	29	14.6	36	17.8
Other	16	8.1	19	9.4
Unknown	4	2.0	1	0.5
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>

The table differentiates police internal complaints from complaints raised by police acting as individuals in a manner which is beyond the requirements of their position, such as in 'whistleblowing'. An example of the difference between the two categories of police generated complaints is that when an officer loses his or her badge it is a requirement that it be reported. This type of complaint was coded as 'police officer - internal complaint'. However, when an individual officer reported the behaviour of a second officer for whom he or she did not have supervisory or other responsibility, the complaint was categorised for the purposes of this research as 'police officer - acting as individual' rather than 'police officer - internal complaint'.



In both 1990 and 1991 the largest category of complainants were internal Police Service complaints (23.7% in 1990 and 19.8% in 1991). There were few complaints arising from individual police officers in either year (3.0% in 1990 and 2.0% in 1991).

Motorists provided the second largest category of complainants in both years (18.2% in 1990 and 18.8% in 1991), with other members of the public being the third largest group of complainants (14.6% in 1990 and 17.8% in 1991). The proportion of anonymous complainants was less than 3% for each year.

There was no statistically significant difference in the relative frequency of different types of complainants in the two years ( $\chi^2 = 10.0$ ,  $df = 8$ ,  $p > 0.05$ ; the categories *Prisoner/juvenile in detention*, *National Crime Authority*, *Independent Commission Against Corruption*, *Aboriginal organisation*, *Court officer* and *Unknown* were pooled with *Other* for the statistical test).

### 3.3 RELATIONSHIP BETWEEN COMPLAINANT AND VICTIM

Table 3.3 addresses the question of whether there has been a change between 1990 and 1991 in the percentage of cases where a complaint is made by the victim or by someone acting on behalf of a victim. The term *victim* is used for want of a better expression for the principal person affected by the conduct which forms the basis of the allegation. The table tabulates police internal complaints as well as all complaints.

**Table 3.3 Relationship between complainant and victim**

Was complainant the victim?	All complaints				Police internal complaints			
	1990		1991		1990		1991	
	No.	%	No.	%	No.	%	No.	%
Yes	86	43.4	116	57.4	0	0.0	0	0.0
No	50	25.3	34	16.8	1	2.1	0	0.0
No victim	62	31.3	49	24.3	46	97.9	39	97.5
Unknown	0	0.0	3	1.5	0	0.0	1	2.5
<b>Total</b>	198	100.0	202	100.0	47	100.0	40	100.0

In many instances there is no victim as such, especially in most cases of internal police complaints. In both years the complainant was most frequently the victim of the alleged incident(s). However, a much higher proportion of complainants were victims in 1991 (57.4%) than in 1990 (43.4%). This difference was statistically significant ( $\chi^2 = 8.3$ ,  $df = 2$ ,  $p < 0.05$ ; the categories *No victim* and *Unknown* were pooled for the statistical test). No differences were evident between the two years for police internal complaints.

**Table 3.4 Number of victims per file**

<i>Number of victims</i>	<b>1990</b>		<b>1991</b>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
0	62	31.3	49	24.3
1	98	49.5	121	59.9
2	19	9.6	18	8.9
3	6	3.0	4	2.0
4	1	0.5	1	0.5
5 or more	4	2.0	2	1.0
Unknown	8	4.0	7	3.5
<b>Total</b>	198	100.0	202	100.0

**3.4 NUMBER OF VICTIMS PER FILE**

Table 3.4 compares the number of victims per complaint file for 1990 and 1991. In both years the majority of complaints files listed at most one victim (80.8% in 1990; 84.2% in 1991). There was no statistically significant difference in the numbers of victims per file between the two years ( $X^2 = 4.9$ ,  $df = 4$ ,  $p > 0.05$ ; the categories 3, 4 and 5 or more were pooled for the statistical test).

**Table 3.5 Type of victim**

<i>Type of victim</i>	<b>1990</b>		<b>1991</b>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Police	5	2.5	3	1.5
Suspect/person in custody/defendant	36	18.2	38	18.8
Prisoner	2	1.0	7	3.5
Motorist	45	22.7	44	21.8
Other member of the public	26	13.1	32	15.8
Aboriginal organisation	0	0.0	1	0.5
Victim not known to complainant	2	1.0	1	0.5
Other	13	6.6	23	11.4
Anonymous	5	2.5	2	1.0
Unknown	2	1.0	2	1.0
No victim	62	31.3	49	24.3
<b>Total</b>	198	100.0	202	100.0

### 3.5 VICTIM CHARACTERISTICS

The types of victim are compared for the two years in Table 3.5. The most frequent category of victim was motorist (22.7% in 1990; 21.8% in 1991), followed by suspect, person in custody or defendant (18.2% in 1990; 18.8% in 1991) and other member of the public (13.1% in 1990; 15.8% in 1991). There were no significant differences in victim categories between 1990 and 1991 ( $X^2 = 4.2$ ,  $df = 5$ ,  $p > 0.05$ ; the categories *Suspect/person in custody/defendant* and *Prisoner* were pooled, and the categories *Victim not known to complainant*, *Aboriginal organisation*, *Anonymous*, *Unknown* and *Other* were also pooled for the statistical test).

As shown in Table 3.6, a large proportion of the files did not provide detail concerning the age of the victim. However, where the victim's age was known most victims were aged between 20 and 39 years. There were two victims known to be juveniles in 1990 and four in 1991.

There was no statistically significant difference in the ages of victims between the two years ( $X^2 = 2.2$ ,  $df = 4$ ,  $p > 0.05$ ; the categories *Under 16*, *16-17* and *18-19* were pooled, and the categories *40-49* and *50 or over* were pooled for the statistical test).

**Table 3.6 Age of victim**

Age of victim	1990		1991	
	No.	%	No.	%
Under 16	1	0.7	2	1.3
16-17	1	0.7	2	1.3
18-19	3	2.2	6	3.9
20-29	11	8.1	14	9.2
30-39	10	7.4	15	9.8
40-49	4	2.9	7	4.6
50 or over	7	5.1	6	3.9
Unknown	99	72.8	101	66.0
<b>Total</b>	<b>136</b>	<b>100.0</b>	<b>153</b>	<b>100.0</b>

*The cases with no victim are excluded from this table (62 cases in 1990 and 49 cases in 1991).*

Table 3.7 shows the gender of the victim. In each year about two-thirds of the victims were male. There was no statistically significant difference in the gender of victims between the two years ( $X^2 = 1.4$ ,  $df = 2$ ,  $p > 0.05$ ; the categories *Organisation* and *Unknown* were pooled for the statistical test).

Data were collected concerning whether the complainant was the subject of police action in the form of summons, charges, a Court Attendance Notice, a Parking or Traffic Infringement Notice. These data are presented in Table 3.8.

**Table 3.7 Gender of victim**

<i>Gender of victim</i>	<b>1990</b>		<b>1991</b>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Female	38	27.9	44	28.8
Male	86	63.2	101	66.0
Organisation	2	1.5	2	1.3
Unknown	10	7.4	6	3.9
<b>Total</b>	<b>136</b>	<b>100.0</b>	<b>153</b>	<b>100.0</b>

*The cases with no victim are excluded from this table (62 cases in 1990 and 49 cases in 1991).*

As evident in Table 3.8 approximately 50% of victims were the subjects of one or more forms of police or court action. This is likely to be an underestimate of the proportion of victims subject to criminal justice proceedings, to the extent that people fail to disclose such information in their complaint.

There was no significant difference between the proportions of victims facing police or court action in the two years ( $X^2 < 0.1$ ,  $df = 1$ ,  $p > 0.05$ ).

**Table 3.8 Victims facing police or court action**

<i>Was the victim facing police or court action?</i>	<b>1990</b>		<b>1991</b>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Yes	71	52.2	79	51.6
No	65	47.8	74	48.4
<b>Total</b>	<b>136</b>	<b>100.0</b>	<b>153</b>	<b>100.0</b>

*The cases with no victim are excluded from this table (62 cases in 1990 and 49 cases in 1991).*

### 3.6 NUMBER OF INCIDENTS PER COMPLAINT

The number of incidents which were mentioned per complaint is tabulated in Table 3.9. Incidents were regarded as distinct if they occurred at discrete places or times. For example, for a case where allegations related to matters surrounding the arrest of an accused on the street, the manner in which the same accused was treated in the police station foyer and the behaviour of police as they placed the alleged offender in the cells, three separate incidents were counted.

**Table 3.9**      **Number of incidents identified per complaint**

<i>Number of incidents per complaint</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
1	120	60.6	114	56.4	37	78.7	35	87.5
2	22	11.1	33	16.3	2	4.3	2	5.0
3-5	18	9.1	13	6.4	1	2.1	0	0.0
6 or more	6	3.0	6	3.0	1	2.1	1	2.5
Unknown	32	16.2	36	17.8	6	12.8	2	5.0
<b>Total</b>	198	100.0	202	100.0	47	100.0	40	100.0

As is evident from the table, the majority of complaints in both years related to a single incident (60.6% in 1990; 56.4% in 1991). There were no statistically significant differences between the two years, either for all complaints ( $X^2 = 3.4$ ,  $df = 4$ ,  $p > 0.05$ ), or for internal police complaints considered separately ( $X^2 = 1.6$ ,  $df = 2$ ,  $p > 0.05$ ; the categories 2, 3-5 and 6 or more were pooled for the statistical test).

### 3.7 ALLEGATIONS

The allegations raised in complaints are compared for 1990 and 1991 in Table 3.10. The table shows the nature of the allegations made both for all complaints in the sample and for police internal complaints. The allegations do not sum to the total number of cases since many files contained multiple allegations. For each file, data were coded for the first complaint on the file and each category of allegation mentioned in that complaint was also coded. However, it is not possible to determine from Table 3.10 the total number of issues raised since, where multiple occurrences were alleged within an allegation category, these multiples were not recorded. Only the presence or absence of an allegation within each category was recorded, not the total number of allegations within the category.

When all complaints are considered, in both years the largest category of allegations related to assault by police (21.2% in 1990; 16.8% in 1991) with the other frequent categories being investigation related conduct (14.6% in 1990; 16.3% in 1991), abuse or incivility by police in the context of traffic matters (15.7% in 1990; 15.3% in 1991) and other forms of abuse or incivility (14.1% in 1990; 9.4% in 1991).

Whilst there are some evident differences in the numbers and percentages of cases across categories in the two years, the overall distribution of allegations is similar. For instance, 1991 had a higher number of allegations of a failure to take appropriate action than 1990, but a lower number of allegations concerning the use of force. However, there is no clear pattern indicating a change in the nature of complaints between the two years.

**Table 3.10 Allegations made in complaints**

<i>Nature of alleged conduct</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Crime:								
Assault	42	21.2	34	16.8	4	8.5	3	7.5
Bribery	5	2.5	4	2.0	0	0.0	0	0.0
Theft	8	4.0	8	4.0	1	2.1	0	0.0
Dangerous/drink driving	10	5.1	10	5.0	3	6.4	2	5.0
Other	20	10.1	20	9.9	5	10.6	6	15.0
Abuse/incivility:								
Racist	2	1.0	7	3.5	0	0.0	0	0.0
Traffic related	31	15.7	31	15.3	0	0.0	0	0.0
Other	28	14.1	19	9.4	0	0.0	0	0.0
Harassment:								
Sexual	1	0.5	3	1.5	0	0.0	0	0.0
Threats	2	1.0	11	5.4	0	0.0	0	0.0
Other	6	3.0	0	0.0	0	0.0	0	0.0
Conduct related to duties:								
Investigation related	29	14.6	33	16.3	1	2.1	1	2.5
Arrest related	21	10.6	17	8.4	0	0.0	0	0.0
Search related	10	5.1	4	2.0	0	0.0	0	0.0
Custody related	4	2.0	6	3.0	1	2.1	2	5.0
Unnecessary use of force	19	9.6	11	5.4	0	0.0	0	0.0
Parking/traffic infringement related	13	6.6	6	3.0	0	0.0	0	0.0
Fail to take appropriate action	9	4.5	19	9.4	2	4.3	2	5.0
Fail to wear ID	5	2.5	4	2.0	0	0.0	0	0.0
Fail to attend court or advise witnesses/defence	5	2.5	6	3.0	4	8.5	5	12.5
Provide false or unauthorised information	4	2.0	5	2.5	1	2.1	0	0.0
Fail to provide information	6	3.0	5	2.5	0	0.0	3	7.5
Other breach of rules	22	11.1	19	9.4	12	25.5	7	17.5
Other misconduct	20	10.1	24	11.9	6	12.8	9	22.5
Other conduct	11	5.6	24	11.9	14	29.8	13	32.5
<b>Total complaints</b>	<b>198</b>		<b>202</b>		<b>47</b>		<b>40</b>	

*In this table the columns do not sum to the total number of complaints as some complaints involved more than one type of allegation.*

Note that it was not possible to conduct a statistical test comparing the two years as the allegation categories were not mutually exclusive, that is, each complaint may have been

counted several times in the table (whenever the complaint involved more than one type of alleged conduct).

### 3.8 CONTEXT IN WHICH COMPLAINT AROSE

The context in which the complaint arose is examined in Table 3.11. There had been speculation that complaints may be particularly likely to arise in confrontational situations between police and accused persons or detainees in the context of incidents related to public order, domestic violence or detention under the Intoxicated Persons Act. There were only 20 complaints in 1990 and 18 in 1991 which were identified as occurring within these contexts. The numbers of internal police complaints were too small to warrant separate enumeration in the table.

**Table 3.11 Context in which complaint arose**

<i>Context</i>	<i>Number of complaints</i>	
	<i>1990</i>	<i>1991</i>
Resist arrest/offensive behaviour/assault police	15	12
Intoxicated Persons Act	2	1
Domestic violence	3	5
<b>Total</b>	<b>20</b>	<b>18</b>

The data presented in Table 3.11 indicate that these three categories do not account for a large number of complaints. It is also clear that there has been no increase in these types of complaints between 1990 and 1991.

### 3.9 ASPECT OF POLICING RAISED IN COMPLAINT

Data concerning the aspect of policing which was raised in the complaints in 1990 and 1991 are compared in Table 3.12. Police internal complaints, as well as all complaints, are shown in the table.

In this table the term *Regionis* is used to describe complaints which made reference to unidentified police belonging to a particular location. The word *incident* is used to categorise complaints which were not about an individual officer or a specific unit of police but about the manner in which police handled a particular incident. In many of these incident related complaints the complainant had observed an incident but not been a party to it, or else had learned about the incident from the media or from someone else. The term *unit* is used to categorise complaints about a functional grouping of police such as the highway patrol.

**Table 3.12 Aspect of policing raised in complaint**

<i>Aspect of policing</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
General policing	6	3.0	3	1.5	0	0.0	0	0.0
Region	2	1.0	6	3.0	0	0.0	0	0.0
Individual officer	187	94.4	197	97.5	46	97.9	40	100.0
Incident	30	15.2	33	16.3	15	31.9	15	37.5
Unit	3	1.5	4	2.0	0	0.0	0	0.0
<b>Total complaints</b>	<b>198</b>		<b>202</b>		<b>47</b>		<b>40</b>	

*In this table the columns do not sum to the total number of complaints as some complaints involved more than one aspect of policing.*

The majority of complaints related to individual police officers. There were very few complaints concerning units or regions in either of the samples. Overall, there was little difference in the relative frequencies of different aspects of policing in the complaints examined for the two years.

Almost all of the police internal complaints related to individual police officers. Approximately a third of police internal complaints in each year were incident related.

**Table 3.13 Number of police officers complained about per complaint**

<i>Number of police officers per complaint</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
1	109	55.1	110	54.5	40	85.1	36	90.0
2	35	17.7	38	18.8	5	10.6	3	7.5
3-5	17	8.6	23	11.4	1	2.1	0	0.0
6-10	6	3.0	4	2.0	0	0.0	0	0.0
More than 10	6	3.0	1	0.5	0	0.0	0	0.0
Unknown	14	7.1	21	10.4	1	2.1	1	2.5
Complaint of general nature	11	5.6	5	2.5	0	0.0	0	0.0
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>	<b>47</b>	<b>100.0</b>	<b>40</b>	<b>100.0</b>



### 3.10 NUMBER OF POLICE OFFICERS COMPLAINED ABOUT PER COMPLAINT

Table 3.13 provides data concerning the number of police officers, per complaint, who were the subjects of complaints for the years 1990 and 1991.

The majority of complaints concerned one police officer. Close to 20% of complaints were about two officers and complaints about three or more officers constituted about 14% of complaints in each year. There were six complaints in 1990 and one in 1991 which involved more than 10 police. Few internal police complaints concerned more than one officer (12.8% in 1990 and 7.5% in 1991). There were no significant differences in the number of officers per complaint between 1990 and 1991, either for all complaints considered together ( $X^2 = 5.1$ ,  $df = 4$ ,  $p > 0.05$ ; the categories 6-10 and *More than 10* were pooled and the category *Complaint of general nature* was omitted for the statistical test) or for police internal complaints ( $X^2 = 0.5$ ,  $df = 1$ ,  $p > 0.05$ ; the categories 2, 3-5, 6-10, *More than 10* and *Unknown* were pooled and the category *Complaint of general nature* was omitted for the statistical test).

### 3.11 AGE OF POLICE OFFICERS WHO WERE THE SUBJECTS OF COMPLAINTS

The age distributions of those police officers who were the subjects of complaints in 1990 and 1991 are presented in Table 3.14.

**Table 3.14 Age of police officers who were the subjects of complaints**

Age of officer	All complaints				Police internal complaints			
	1990		1991		1990		1991	
	No.	%	No.	%	No.	%	No.	%
Under 26	42	21.2	34	16.8	14	29.8	12	30.0
26-30	33	16.7	37	18.3	11	23.4	10	25.0
31-35	24	12.1	27	13.4	3	6.4	7	17.5
36-40	23	11.6	14	6.9	5	10.6	4	10.0
41-45	16	8.1	17	8.4	4	8.5	3	7.5
46-50	9	4.5	7	3.5	4	8.5	2	5.0
Over 50	3	1.5	7	3.5	1	2.1	1	2.5
Unknown	24	12.1	31	15.3	5	10.6	1	2.5
No officer named	24	12.1	28	13.9	0	0.0	0	0.0
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>	<b>47</b>	<b>100.0</b>	<b>40</b>	<b>100.0</b>

Table 3.14 shows that police aged 30 years or less were the subjects of more than one-third of all complaints in both years (37.9% in 1990; 35.1% in 1991). There was no statistically significant difference between the two years ( $X^2 = 4.8$ ,  $df = 7$ ,  $p > 0.05$ ; the categories 46-50

and *Over 50* were pooled for the statistical test).

Table 3.15 compares the age distribution of police who were the subjects of complaints in 1990 and 1991 with that for the NSW Police Service as a whole. In this table, in order to compare the sample and population age distributions, cases where there was no officer named in the complaint, or where the officer's age was unknown, have not been included in the totals (48 cases in 1990 and 59 cases in 1991).

**Table 3.15 Age of police officers who were the subjects of complaints compared with the population of police officers in the NSW Police Service\***

Age of officer	Samples				Population of police officers	
	1990		1991			
	No.	%	No.	%	No.	%
Under 26	42	28.0	34	23.8	3660	27.7
26-30	33	22.0	37	25.9	3003	22.8
31-35	24	16.0	27	18.9	2034	15.4
36-40	23	15.3	14	9.8	1614	12.2
41-45	16	10.7	17	11.9	1353	10.3
46-50	9	6.0	7	4.9	969	7.3
Over 50	3	2.0	7	4.9	562	4.3
<b>Total</b>	<b>150</b>	<b>100.0</b>	<b>143</b>	<b>100.0</b>	<b>13195</b>	<b>100.0</b>

\*Source: NSW Police Service Annual Report 1990-91 Annexure C. Population as at June 1990.

As is evident from the table, there is a striking correspondence between the proportion of police of a particular age group in the complaints samples and the proportion that police of that age group constitute of the NSW Police Service as a whole. There is no evidence to support the proposition that younger police are disproportionately the subject of complaints or that the age profile has changed over the two years studied ( $X^2 = 6.9$ ,  $df = 10$ ,  $p > 0.05$ ; the categories 46-50 and *Over 50* were pooled for the statistical test).

### 3.12 LENGTH OF SERVICE OF POLICE OFFICERS

A comparison of the lengths of service of police officers who were the subjects of complaints in 1990 and 1991 is provided in Table 3.16.

There were no statistically significant differences in the distribution of service length between 1990 and 1991 for all complaints taken together ( $X^2 = 9.7$ ,  $df = 7$ ,  $p > 0.05$ ), or for internal police complaints considered separately ( $X^2 = 4.0$ ,  $df = 2$ ,  $p > 0.05$ ; the categories 11-15 years, 16-20 years, 21-25 years, 26 years or more and *Unknown* were pooled for the statistical test).

**Table 3.16 Length of service of police officers who were the subjects of complaints**

<i>Length of service</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Under 5 years	58	29.3	45	22.3	17	36.2	13	32.5
5-10 years	28	14.1	41	20.3	7	14.9	13	32.5
11-15 years	25	12.6	17	8.4	5	10.6	6	15.0
16-20 years	22	11.1	15	7.4	8	17.0	0	0.0
21-25 years	8	4.0	13	6.4	3	6.4	4	10.0
26 years or more	8	4.0	11	5.4	2	4.3	3	7.5
Unknown	25	12.6	32	15.8	5	10.6	1	2.5
No officer named	24	12.1	28	13.9	0	0.0	0	0.0
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>	<b>47</b>	<b>100.0</b>	<b>40</b>	<b>100.0</b>

Table 3.17 compares the length of service of police officers who were the subjects of complaints in 1990 and 1991 with the distribution of service length for the population of NSW police officers. In this table, in order to compare the sample and population length of service distributions, cases where there was no officer named in the complaint, or where the officer's length of service was unknown, have not been included in the totals (49 cases in 1990 and 60 cases in 1991).

**Table 3.17 Length of service of police officers who were the subjects of complaints compared with the population of police officers in the NSW Police Service\***

<i>Length of service</i>	<i>Samples</i>				<i>Population of police officers</i>	
	<i>1990</i>		<i>1991</i>			
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Under 5 years	58	38.9	45	31.7	5136	38.9
5-10 years	28	18.8	41	28.9	2894	21.9
11-15 years	25	16.8	17	12.0	1477	11.2
16-20 years	22	14.8	15	10.6	1519	11.5
21-25 years	8	5.4	13	9.2	1198	9.1
26 years or more	8	5.4	11	7.7	979	7.4
<b>Total</b>	<b>149</b>	<b>100.0</b>	<b>142</b>	<b>100.0</b>	<b>13203</b>	<b>100.0</b>

\*Source: NSW Police Service Annual Report 1990-91. Population as at June 1991.

The distribution of service length of police officers in the two sample years does not differ markedly from that for the NSW Police Service as a whole. The largest category within each of the two sample years and within the Police Service was less than five years service (38.9% in 1990; 31.7% in 1991; 38.9% in the Police Service). There was no statistically significant difference between these three length of service distributions ( $X^2 = 14.4$ ,  $df = 10$ ,  $p > 0.05$ ).

### 3.13 GENDER OF POLICE OFFICERS

The gender of the police officers who were the subjects of complaints is compared for 1990 and 1991 in Table 3.18.

**Table 3.18 Gender of police officers who were the subjects of complaints**

<i>Gender of officer</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Female	11	5.6	15	7.4	5	10.6	3	7.5
Male	161	81.3	151	74.8	40	85.1	35	87.5
Unknown	2	1.0	8	4.0	2	4.3	2	5.0
No officer named	24	12.1	28	13.9	0	0.0	0	0.0
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>	<b>47</b>	<b>100.0</b>	<b>40</b>	<b>100.0</b>

The vast majority of police who were the subjects of complaints were male. There were no statistically significant differences between 1990 and 1991 in the gender of police officers who were the subjects of complaints, either for all complaints ( $X^2 = 4.5$ ,  $df = 2$ ,  $p > 0.05$ ; the category *No officer named* was omitted for the statistical test), or for internal police complaints considered separately ( $X^2 = 0.3$ ,  $df = 2$ ,  $p > 0.05$ ).

Table 3.19 compares the gender of police officers in the complaints samples with the gender of police officers in the NSW Police Service population. In this table, in order to compare the sample and population gender distributions, cases where there was no officer named in the complaint, or where the officer's gender was unknown, have not been included in the totals (26 cases in 1990 and 36 cases in 1991).

There were no significant differences between these three gender distributions ( $X^2 = 4.4$ ,  $df = 2$ ,  $p > 0.05$ ).

**Table 3.19 Gender of police officers who were the subjects of complaints compared with the population of police officers in the NSW Police Service\***

<i>Gender of officer</i>	<i>Samples</i>				<i>Population of police officers</i>	
	<i>1990</i>		<i>1991</i>		<i>No.</i>	<i>%</i>
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>		
Female	11	6.4	15	9.0	1459	11.1
Male	161	93.6	151	91.0	11744	88.9
<b>Total</b>	<b>172</b>	<b>100.0</b>	<b>166</b>	<b>100.0</b>	<b>13203</b>	<b>100.0</b>

\*Source: NSW Police Service Annual Report 1990-91, p. 7. Population as at June 1991.

### 3.14 RANK OF POLICE OFFICERS

Data comparing the rank of officers who were the subjects of complaints in 1990 and 1991 are presented in Table 3.20. Officers of rank more senior than Senior Sergeant are included in the category *Snr Sergeant and above*.

**Table 3.20 Rank of police officers who were the subjects of complaints**

<i>Rank of officer</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Probationary Constable	7	3.5	2	1.0	3	6.4	1	2.5
Constable	59	29.8	66	32.7	16	34.0	16	40.0
Constable 1st Class	21	10.6	21	10.4	5	10.6	10	25.0
Snr Constable	33	16.7	24	11.9	10	21.3	6	15.0
Sergeant	29	14.6	30	14.9	9	19.1	4	10.0
Snr Sergeant and above	7	3.5	9	4.5	1	2.1	2	5.0
Unknown	18	9.1	22	10.9	3	6.4	1	2.5
No officer named	24	12.1	28	13.9	0	0.0	0	0.0
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>	<b>47</b>	<b>100.0</b>	<b>40</b>	<b>100.0</b>

There were no significant differences between 1990 and 1991 in the ranks of officers who were the subjects of complaints, either for all complaints ( $X^2 = 5.3$ ,  $df = 6$ ,  $p > 0.05$ ; the

category *No officer named* was omitted for the statistical test) or for police internal complaints considered separately ( $X^2 = 6.4$ ,  $df = 6$ ,  $p > 0.05$ ).

The distribution of the ranks of police officers who were the subjects of complaints in 1990 and 1991 is compared to that for the population of police officers in the NSW Police Service in Table 3.21. In this table, in order to compare the sample and population distributions of rank, cases where there was no officer named in the complaint, or where the officer's rank was unknown, have not been included in the totals (42 cases in 1990 and 50 cases in 1991).

**Table 3.21 Rank of police officers who were the subjects of complaints compared with the population of police officers in the NSW Police Service\***

Rank of officer	Samples				Population of police officers	
	1990		1991		No.	%
	No.	%	No.	%		
Probationary Constable	7	4.5	2	1.3	1162	8.8
Constable	59	37.8	66	43.4	3957	30.1
Constable 1st Class	21	13.5	21	13.8	2094	15.9
Snr Constable	33	21.2	24	15.8	2684	20.4
Sergeant	29	18.6	30	19.7	2229	17.0
Snr Sergeant and above	7	4.5	9	5.9	1021	7.8
<b>Total</b>	156	100.0	152	100.0	13147	100.0

\*Source: NSW Police News, Vol. 71, No. 9 Sept 1991. Actual strength as at 31 July 1991.

The proportions of officers of various ranks in the complaints samples were significantly different from those in the population of police officers in the NSW Police Service ( $X^2 = 31.0$ ,  $df = 10$ ,  $p < 0.05$ ). As evident in the table, there were relatively more Constables who were the subjects of complaints than there were Constables in the Police Service (37.8% in 1990; 43.4% in 1991; 30.1% in the Police Service). The table also indicates an under-representation of those at the rank of Probationary Constable in the complaints samples, compared with their representation within the Police Service (4.5% in 1990; 1.3% in 1991; 8.8% in the Police Service).

### 3.15 DUTIES OF POLICE OFFICERS

The duties or functions of the police who were the subjects of complaints in 1990 and 1991 are compared in Table 3.22.

When all complaints are considered, there was no significant difference between 1990 and 1991 in the distribution of the duties and functions of the police who were the subjects of complaints ( $X^2 = 2.4$ ,  $df = 5$ ,  $p > 0.05$ ). The largest category of duties was general duties

(40.4% in 1990; 36.6% in 1991), followed by traffic/highway patrol (17.7% in 1990; 15.3% in 1991) and investigation (15.7% in 1990; 16.8% in 1991). There were few complaints about police performing any other duties or functions of policing.

**Table 3.22 Duties of police officers who were the subjects of complaints**

<i>Duties of officer</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
General duties	80	40.4	74	36.6	29	61.7	22	55.0
Traffic/highway patrol	35	17.7	31	15.3	3	6.4	4	10.0
Investigation	31	15.7	34	16.8	6	12.8	7	17.5
Other	24	12.1	27	13.4	7	14.9	6	15.0
Unknown	4	2.0	8	4.0	2	4.3	1	2.5
No officer named	24	12.1	28	13.9	0	0.0	0	0.0
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>	<b>47</b>	<b>100.0</b>	<b>40</b>	<b>100.0</b>

Table 3.22 also indicates that for both 1990 and 1991 most police internal complaints related to police who were assigned to general duties (61.7% in 1990; 55.0% in 1991). The numbers for all other categories were small in each year. Due to these small cell sizes the data were not subjected to statistical testing.

Table 3.23 provides data concerning whether police were on duty at the time of the alleged incident which gave rise to the complaint, and compares 1990 with 1991 for this variable.

**Table 3.23 Did alleged conduct occur whilst officer was on duty?**

<i>Officer on duty</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
On duty	138	69.7	145	71.8	21	44.7	28	70.0
Off duty	21	10.6	14	6.9	12	25.5	7	17.5
Unknown	15	7.6	15	7.4	14	29.8	5	12.5
No officer named	24	12.1	28	13.9	0	0.0	0	0.0
<b>Total</b>	<b>198</b>	<b>100.0</b>	<b>202</b>	<b>100.0</b>	<b>47</b>	<b>100.0</b>	<b>40</b>	<b>100.0</b>

Amongst the complaints raised concerning off duty police officers were civil actions such as for assault or for the non-payment of debts, domestic violence matters, giving false address details on motor vehicle registration papers, holding a second job without approval and traffic related matters. There were no differences evident between the two years studied in the nature of allegations against off duty police.

In both years the majority of complaints related to the conduct of an officer whilst that officer was on duty. There was no statistically significant difference between the two years for all complaints ( $\chi^2 = 1.6$ ,  $df = 2$ ,  $p > 0.05$ ; the category *No officer named* was omitted for the statistical test).

For police internal complaints there was a significant difference between complaints in 1990 and 1991 ( $\chi^2 = 6.1$ ,  $df = 2$ ,  $p < 0.05$ ). As can be seen in the table, the alleged conduct occurred whilst the officer was on duty for 70.0% of complaints in 1991 but for only 44.7% of complaints in 1990. It should be noted, however, that the number of cases for which it was unknown whether the complaint was related to the conduct of an officer while that officer was on duty was lower in 1991 (12.5%) than in 1990 (29.8%). A decrease in the number of 'Unknowns' is also a feature of the next table, which concerns whether or not the complainant was a supervisor of the officer complained about. The reduction in 'Unknowns' for these two tables is an issue which will be taken up in the next section of the report.

Table 3.24 provides more information for police internal complaints. The table examines the extent to which complaints lodged by police officers related directly to their supervisory responsibilities.

**Table 3.24 Complainants as supervisors in police internal complaints**

<i>Was complainant a supervisor of the officer complained about?</i>	<b>1990</b>		<b>1991</b>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
Yes	23	48.9	29	72.5
No	11	23.4	9	22.5
Unknown	13	27.7	2	5.0
<b>Total</b>	<b>47</b>	<b>100.0</b>	<b>40</b>	<b>100.0</b>

There was a significant difference between 1990 and 1991 in the proportions of complainants who had supervisory responsibility for the officer complained about ( $\chi^2 = 8.5$ ,  $df = 2$ ,  $p < 0.05$ ). From the table it can be seen that police officers lodged complaints concerning an officer for whom they had supervisory responsibility in 48.9% of 1990 cases and 72.5% of 1991 cases.

### 3.16 LOCATION OF POLICE OFFICERS

Table 3.25 shows the Police Region to which the police officer, who was the subject of the complaint, was assigned at the time of the incident which gave rise to the complaint.



**Table 3.25 Region to which police officer assigned**

<i>Police Region</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
North	50	25.3	49	24.3	11	23.4	7	17.5
North West	35	17.7	29	14.4	12	25.5	7	17.5
South	49	24.7	61	30.2	10	21.3	12	30.0
South West	28	14.1	31	15.3	7	14.9	9	22.5
Unknown or officer not attached to a Region	36	18.2	32	15.8	7	14.9	5	12.5
<b>Total</b>	198	100.0	202	100.0	47	100.0	40	100.0

The table shows an uneven distribution of complaints in each year between the four Regions with North and South Regions being responsible for a higher number of complaints than North West or South West Regions when all complaints were considered together. There was no significant difference between 1990 and 1991 in the distribution of locations of officers complained about ( $X^2 = 2.2$ ,  $df = 4$ ,  $p > 0.05$ ). For police internal complaints the pattern of complaints was different with the North West Region having the highest proportion of complaints in 1990 whilst the South Region had the highest proportion of complaints in 1991. Again, however, the differences between years were not significant ( $X^2 = 2.4$ ,  $df = 4$ ,  $p > 0.05$ ).

### 3.17 LOCATION OF INCIDENTS

Table 3.26 shows the Police Region in which the incident which gave rise to the complaint took place. If there was a reference to more than one incident in the complaint, the location information was recorded for the first incident mentioned. The table shows that, within each year, there was an uneven distribution of complaints against officers assigned to each of the four Regions with North and South Regions being responsible for a higher number of complaints than North West or South West Regions when all complaints were considered together.

For police internal complaints the pattern of complaints was different with the North West Region having the highest proportion of complaints in 1990 whilst the North and South West Regions had the highest proportion of complaints in 1991.

The distribution of complaints, evident in Table 3.26, is similar to the distribution shown in Table 3.25, both across the Regions and between the years. It is also the case that, as in the previous table, the differences in the distribution of complaints evident between the two years is not statistically significant when all complaints are considered ( $X^2 = 3.0$ ,  $df = 4$ ,  $p > 0.05$ ), nor is there any statistically significant difference between the distribution of

complaints across Regions when internal police complaints were considered ( $X^2 = 1.4$ ,  $df = 4$ ,  $p > 0.05$ ).

**Table 3.26 Region in which incident occurred**

<i>Police Region</i>	<i>All complaints</i>				<i>Police internal complaints</i>			
	<i>1990</i>		<i>1991</i>		<i>1990</i>		<i>1991</i>	
	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>	<i>No.</i>	<i>%</i>
North	44	22.2	45	22.3	7	14.9	6	15.0
North West	33	16.7	26	12.9	10	21.3	5	12.5
South	42	21.2	54	26.7	5	10.6	4	10.0
South West	23	11.6	27	13.4	5	10.6	6	15.0
Unknown	56	28.3	50	24.8	20	42.6	19	47.5
<b>Total</b>	198	100.0	202	100.0	47	100.0	40	100.0

## 4. DISCUSSION

The principal objective of this research was to provide an assessment of the possible reasons behind the substantial increase in complaints against police. The study involved a comparison of the pattern of complaints for 1991 with that for 1990.

The final section endeavours to draw together the findings from this research and to place the consideration of complaints against police within a broader perspective. In the discussion of the growth in complaints against police in the introduction of this report, a number of possible explanations for that increase were canvassed. Whilst some of those explanations do not readily lend themselves to testing, other explanations can be assessed in a fairly straightforward manner by comparing the characteristics of the samples drawn from 1990 and 1991.

### 4.1 DIFFERENCES BETWEEN THE 1990 AND 1991 SAMPLES

Overall, the pattern of complaints between the years is more remarkable for its similarities than for its differences. Among the broad range of variables examined, there were only three for which the pattern of complaints between 1990 and 1991 could be distinguished. Firstly, there was a growth in the proportion of complaints made by victims rather than by persons or agencies acting on their behalf. Secondly, in 1991 police internal complaints appeared to be more likely to have involved conduct by officers on duty. Thirdly, in 1991 police internal complaints appeared to be more likely to have been made by officers in supervisory positions vis a vis the officer who was the subject of the complaint.

The first finding is open to a number of interpretations. It is consistent with each of the following arguments: that the standard by which the public measure police conduct has changed; that more people are coming to know about the mechanisms for dealing with complaints; that people are beginning to have greater faith in the complaints mechanisms; or that the media focus on complaints against police in recent times has encouraged people to lodge complaints. These factors are not mutually exclusive and each may have some effect. It is not possible from the available data analysed for this research to make a more definitive assessment of any of these interpretations since they each rely on measuring changes in community awareness and attitudes beyond the scope of this project.

It is possible that the growth in internal complaints concerning conduct by officers while on duty reflects a real increase in the incidence of misconduct by police while on duty. If true, this would also explain the growth in the number of officers registering complaints about those they supervise. These two findings, however, may have another common explanation. As noted earlier, the proportion of cases in which it was unknown whether the complaint involved on or off duty conduct was lower in 1991 than it was in 1990. The proportion of cases in which it was unknown whether the complainant was the supervisor of the officer complained about, was also lower in 1991 than it was in 1990. It may be, therefore, that officers are simply becoming more diligent in recording the details of internal complaints. This would be expected in the wake of the Lee decision.

## 4.2 SIMILARITIES BETWEEN THE 1990 AND 1991 SAMPLES

### *Characteristics of complainants and victims*

Most complaints files referred to a single complainant and made allegations concerning a single victim. In about one-quarter of complaints, however, there was no identifiable victim. In the majority of the complaints where there was a victim, the victim lodged the complaint on their own behalf. Few complaints were anonymous.

Victims of alleged police misconduct were predominantly male, tended to be motorists or someone suspected of or charged with an offence, and were typically aged between 20 and 39 years.

Few complaints were lodged by juveniles. This finding should be interpreted carefully, since a number of reports have identified problems with the lack of access by juveniles to formal complaints procedures. Such reports list lack of information about complaints procedures, lack of skills in utilising those procedures and a scepticism by young people about whether such procedures can work in their interests as barriers to the use of complaints mechanisms by juveniles.<sup>16</sup>

Only a small number of complaints could be positively identified as having been made by, or on behalf of, Aboriginal people. This was not surprising as complainants rarely indicate the race of the victim in the letter of complaint. The *Report of the National Inquiry into Racist Violence*<sup>17</sup> has recommended that Ombudsman's Offices and Police Complaints Authorities throughout Australia should introduce a system of classifying complaints in such a way that data concerning race could be systematically gathered and extracted. As with juveniles, there is evidence to suggest that Aborigines are not likely to use, or in many cases have access to, formal mechanisms of police complaints.<sup>18</sup> Relations between Aboriginal people and the police historically have been poor. In many areas Aboriginal people continue to have little or no faith in police complaints mechanisms as a means of addressing their grievances.<sup>19</sup>

In a large proportion of the complaints the complainant (or victim where the complaint was lodged on their behalf by someone else) was facing action by police or courts. Many of these cases related to traffic or parking matters.

### *Characteristics of the police who were the subjects of complaints*

The majority of complaints against police were lodged against individual officers rather than against units, regional groupings of police or against policing more generally.

Most police who were the subject of complaints were male, a finding obviously consistent with the predominance of males within the Police Service.

Over one-third of the complaints were lodged against police who were aged 30 years or less, and approximately 30% of complaints related to police with less than 5 years experience. However, there was no evidence to support the proposition that younger police, or those with less experience in the Police Service were disproportionately represented in complaints against police. Within the complaints samples, the proportions of young police and of police with limited experience were not significantly different from the proportions of police with those characteristics within the Police Service as a whole.

Rank, rather than age or experience, however, does appear to be related to the likelihood of an officer becoming the subject of complaint. Constables were over-represented within the complaints files relative to their number in the Police Service as a whole. This may reflect the higher level of interaction with members of the public by police officers of this rank. At the same time, Probationary Constables were under-represented within the complaints files relative to their number in the Police Service as a whole. More detail about the distribution of duties across ranks is necessary to aid the interpretation of this finding.

Complaints were most common for police assigned to general duties, traffic and highway patrol or investigative duties. However, without further information on the relative proportions of the Police Service who are assigned to those duties, it cannot be determined whether police assigned to those duties were over-represented within the complaints data.

Most complaints related to the on duty conduct of police officers.

Data indicated an uneven distribution of complaints across the four policing Regions of NSW with North Region and South Region having a greater proportion of complaints than the North West or South West Regions. This was true whether assessed on the basis of the location of the alleged incident(s) or on the basis of where an individual officer, who was the subject of the complaint, had been stationed at the time. These data need to be interpreted with caution. Factors which need to be taken into account in assessing the significance of these results include: the number of police assigned to each Region, the number of patrols located in each Region, the population of each Region and the ratio of police to residents within each Region. It is not possible within the limited scope of this research project to make any judgements concerning whether any Region or Regions had more complaints than would be expected given the factors listed above.

### *The nature of the allegations*

Complaints most often involved allegations of assaults by police, traffic related incivility, investigation related conduct and other forms of abuse or incivility. Few of the allegations arose in the context of domestic violence or the use of the Intoxicated Persons Act, and the proportion of allegations arising from offensive behaviour, resist arrest or assault police charges was small. Few of the sampled complaints related to sexual harassment despite claims that the number and seriousness of sex based harassment coming to the notice of the Police Service has been increasing.<sup>20</sup>

### *Police internal complaints*

The majority of internal complaints were lodged by police acting as supervisors of those officers who were the subjects of complaint.

## **4.3 PLACING COMPLAINTS AGAINST POLICE IN A BROADER CONTEXT**

Like official records of crime, statistics on police misconduct derived from complaints against police are likely to be very unreliable indicators of the actual level of that misconduct and of those who are affected by police misconduct. The reasons are similar in both instances. They include factors such as: under-reporting, different interpretations of what

constitutes the offence or misconduct in question, false or malicious reports, undetected behaviour and inaccuracies in record keeping.

There is little systematic research available on the decision to complain, or concerning factors that might deter someone from lodging a complaint. Some factors highlighted by the research evidence, which appear involved in the transition between having a complaint, and taking action to make that complaint known, are: having knowledge about complaints' mechanisms, having faith in the complaints system, fear of recrimination, embarrassment, inconvenience and having the skills to lodge a complaint.<sup>21</sup>

It is not possible to determine whether the characteristics of complainants, victims and complaints examined in this report are in any way representative of those who may have a complaint against the police. The complaints files examined during the research, having been randomly selected, can be said to be representative of the characteristics of those complaints which come to official attention, subject of course to sampling error. They cannot however, tell us about the characteristics of complaints, complainants or victims which, for whatever reason, do not appear in the official records.

In this context it is reasonable to ask how complaints against police should be viewed by police management. What value is there for police managers in having access to systematic analyses of complaints data?

In recent years there has been increased attention, both in public and academic discussions, to issues concerning police accountability and police professionalism. One focus for such attention, in Australia<sup>22</sup> as elsewhere<sup>23</sup>, has been that of complaints against police.

Among the issues debated in the literature concerning complaints against police are the benefits of internal versus external mechanisms for investigating police complaints, the involvement of civilians in reviewing police practices<sup>24</sup>, the management practices to be adopted by police agencies in dealing with disciplinary matters<sup>25</sup>, and the significance of dealing with complaints against police as a means of maintaining the legitimacy of policing as an institution.<sup>26</sup>

It is increasingly being recognised by academics and by police managers that responsive police complaints procedures have a central role to play in the development of community policing strategies and in promoting citizen trust in policing more generally.<sup>27</sup> Whilst there is agreement about the desirability of achieving those ends, there has been, and continues to be, heated debate about the most appropriate means of providing responsive police complaints mechanisms.<sup>28</sup>

Inherent in much of the literature is the notion that complaints are 'pathological' and that 'an ideal system would generate no complaints'. Andrew Goldsmith's analysis provides a useful corrective to such an approach.<sup>29</sup>

He argues that complaints against police are normal in that they are unavoidable. He lists the following factors as contributing to the unavoidable nature of complaints: police discretion, the often confrontational nature of policing, the fact that police actions are open to differential interpretations, the nature of power relations between police and citizens and the tendency by police to use stereotypes to direct their attention towards particular groups.<sup>30</sup>

Goldsmith also promotes the use of complaints as an important management and administrative tool for police:

Given that policing is likely to remain a contentious topic, complaints need to be seen not simply as *threats* to existing policies and procedures or individual officers but more importantly, as *opportunities* for re-examination of organizational policies and practices, particularly in terms of their community-relations dimension, of immense potential benefit to the police as well as to the public. The issue then is not whether or not complaints should be discouraged or tolerated, but whether there are adequate mechanisms and resources to ensure that citizens' complaints are articulated fully and that the information provided by complaints is systematically collected and analysed for the administrative lessons it provides for the future organization and practice of police work. [emphasis in the original]<sup>31</sup>

In a similar manner other commentators have argued for police complaints to be dealt with in a remedial rather than disciplinary or punitive fashion, with a focus on the benefits for policy and management of the information derived through complaints procedures designed to capture and analyse such information systematically.<sup>32</sup>

It is hoped that the data presented in this report assist in understanding the factors which might be related to the recent growth in police complaints, and provide a foundation for the use of systematic data concerning complaints in the future organisation and practice of police work.

## APPENDIX 1

### LEGISLATION AND STRUCTURE FOR DEALING WITH POLICE COMPLAINTS

The legislative framework for dealing with complaints against police is provided in the *Police Regulation (Allegations of Misconduct) Act 1978* and certain of the provisions of the *Ombudsman Act 1974* and of the *Independent Commission Against Corruption Act 1988*.

The *Police Regulation (Allegations of Misconduct) Act* establishes a Police Internal Affairs Branch with primary responsibility for the investigation of police complaints<sup>33</sup> and a Police Tribunal which has the power to hear and determine disciplinary charges and certain other matters on appeal.<sup>34</sup>

All complaints received by the NSW Police Service are required to be reported to the Ombudsman as soon as practicable, except where the complaint is received from the Office of the Ombudsman.

#### *The Police Internal Affairs Branch*

The branch is one of three separate commands within the Office of Professional Responsibility (the other two being the Police Internal Security Branch and the Legal Services Branch).<sup>35</sup> The Branch has a Commander and a Central Investigation Unit, together with four Regional Investigative Units. It liaises closely with the Regional Commanders.

The *Police Regulation (Allegations of Misconduct) Act* sets out the following duties of the Branch:

- to investigate complaints which the Ombudsman determines should be investigated;
- to investigate complaints referred to it by the Commissioner, or otherwise received by the Internal Affairs Branch;
- to identify and report upon practices and procedures which may result in corruption;
- to investigate and report upon whether corruption is occurring within the NSW Police Service;
- to provide reports concerning the work and activities of the branch to the Minister;
- to provide a report including details concerning criminal proceedings or complaints against any officer applying for a position within the Internal Affairs Branch, and any officer being considered for appointment at a rank above that of Constable.

The functions of the Internal Affairs Branch also include the review of serious incidents concerning police, and the review of the actions taken by the local investigating officer(s) in the following circumstances: a death (or attempt) in police custody, death or serious injury following a police pursuit and death or injury following the discharge of a firearm by police.<sup>36</sup> The section also has an education unit.

Whilst officers of the Internal Affairs Branch have the primary responsibility for the investigation of complaints against police, there is an agreement between the Ombudsman



and the Commissioner as to a certain 'class or kind' of complaint which can be investigated by police outside the Internal Affairs Branch. Under this agreement

... conduct *other than* conduct arising from allegations of assault (except those of a minor or technical nature), corruption, dishonesty or other criminal behaviour<sup>37</sup>

could be investigated by officers outside the branch, at the direction of the Commissioner.<sup>38</sup> Complaints against officers of the Internal Affairs Branch, and those against officers senior to those within the Internal Affairs Branch are also investigated by police outside the branch.<sup>39</sup>

The Police Internal Security Branch are also involved in the investigation of complaints and of disciplinary matters, with a particular focus on institutionalised corruption.<sup>40</sup>

Matters of corruption are also required to be notified to the Independent Commission Against Corruption (ICAC). In 1989-90 616 police related matters were referred to the ICAC by the Office of the Ombudsman.<sup>41</sup>

### *The Police Tribunal*

The *Police Regulation (Allegations of Misconduct) Act* establishes a Police Tribunal<sup>42</sup> to be presided over by a member of the Judiciary, with each Judge of the District Court as a member of the Tribunal. The Tribunal has the exclusive jurisdiction to hear disciplinary charges (s. 41(1)) against a member of the Police Service, and in doing so the Tribunal has the powers of a commissioner appointed under the *Royal Commissions Act 1923* (s. 42). There is also a Review Division of the Police Tribunal which has the power to hear appeals against determinations of the Tribunal exercising its original jurisdiction. The Tribunal also has the power to investigate and report upon issues related to discipline, or the exercise of police powers, authorities, duties and functions (s. 45(1)), at the request of the Minister, and to determine issues of dispute between the Ombudsman and the Commissioner as prescribed by the Act.

The Review Division dealt with only one matter in 1990 which was an appeal which was dismissed.<sup>43</sup>

Any penalty imposed by the Commissioner, including on the recommendation of the Police Tribunal may be reviewed on appeal to the Government and Related Employees Appeals Tribunal.<sup>44</sup> In 1990 the Government and Related Employees Appeals Tribunal dealt with 12 appeals against penalty, none of which was successful.<sup>45</sup>

### *The Lee Decision*

The decision of Mr Justice Lee in 1987 in *Ombudsman v Commissioner of Police*<sup>46</sup> had a significant impact upon the interpretation of what constitutes a complaint against police and the manner in which internal disciplinary matters were to be dealt with. The case related to the interpretation of section 5(1) of the *Police Regulation (Allegations of Misconduct) Act*, and in particular whether the word *person* should be interpreted as including a police officer.

Mr Justice Lee ruled that,

... there is nothing in the Act which even vaguely suggests that the Act is limited to complaints by private citizens and that it is not applicable to complaints from members of the police force acting as such ... To disregard the generality of the terms of the Act and confine it merely to complaints by private citizens, would keep from the Ombudsman, the Parliament and the public that source of information as to police misconduct which is likely to be the most reliable source<sup>47</sup>

The decision required the Commissioner to notify all complaints made by members of the Police Service about the conduct of other members.

According to the 1989 Annual Report of the Police Internal Affairs Branch the effect of the Lee decision was:

... that any document which includes an allegation of misconduct against an officer, irrespective of its source or the intention of the writer, must be treated as a 'complaint' for the purpose of the *Police Regulation (Allegations of Misconduct) Act* and dealt with accordingly.<sup>48</sup>

The Police Commissioner is recorded as having been concerned that the effect of the Lee decision was to 'cast the net too wide'. In a submission to the Parliamentary Joint Committee on the Office of the Ombudsman in 1991 he argued that all manner of in-house supervisory and managerial reports would be classified as complaints as a consequence of the decision, which would generate extra paperwork but serve no useful purpose.<sup>49</sup>

The Report of the Parliamentary Committee heard evidence from a range of sources concerning the effect of the Lee decision and finally recommended:

... that the Ombudsman and the Commissioner arrive at a 'class or kind' agreement in relation to those internal complaints that they agree should be treated as management issues and, therefore, a Police responsibility and those types of complaints which should be notified to the Ombudsman and investigated.<sup>50</sup>

### *The procedure*

A written complaint may be made either to the Office of the Ombudsman or to the Police Service. On receipt of a complaint by the Police Service, other than that referred by the Office of the Ombudsman, a copy of the complaint together with the Department's proposal for dealing with the complaint is referred to the Ombudsman.<sup>51</sup> Where the complaint is originally lodged with the Ombudsman, the Ombudsman's Office includes advice regarding the required level of action in correspondence covering the matter.

A decision is taken by the Internal Affairs Branch as to what level of action is proposed concerning the complaint including whether the matter is to be handled by Internal Affairs or by other police. This issue is determined with regard to the 'class or kind' agreement between the Ombudsman and the Commissioner as referred to above.

Complaints may be conciliated, except where they relate to indictable offences. Where a decision is made to conciliate, the Ombudsman or the relevant police officer making that decision must inform the other party and also report the outcome of that process.<sup>52</sup>

Where an investigation takes place, the documentation produced is reviewed by a senior

officer, then by an Investigation Review Officer before being forwarded to the Ombudsman's Office. The report to the Ombudsman includes comments and recommendations as to what action should be taken. The Ombudsman's Office assesses the investigation and if deficient it is returned to the Police Service for further investigation. Where that investigation is not satisfactory, the Ombudsman may make the complaint the subject of an investigation under the *Ombudsman Act 1974*.<sup>53</sup>

The Ombudsman makes the determination as to whether the complaint is 'sustained', 'not sustained' or 'unable to be determined'.<sup>54</sup> Where the Ombudsman is undecided whether or not the complaint has been sustained it is 'deemed not to have been sustained'.

Where a complaint is found to be justified (s. 28), the Ombudsman compiles a report giving reasons for this finding, and may recommend actions to be taken including that 'to rectify, mitigate or change the conduct or its consequences . . . [or] that any law or practice relating to the conduct be changed' (s. 28(2)).

Reports produced under section 28 are provided by the Ombudsman to the Minister and the Commissioner and may be given to the complainant. Following receipt of the report, the Commissioner is required to notify the Ombudsman of the nature of any action to be taken as a consequence of the report (although such notification shall not contain particulars of the quantum of any penalty proposed to be imposed. This is notified to the Ombudsman after the action has been taken).

Where the Ombudsman determines that the action proposed is unreasonable or inadequate, or where certain procedures are not adhered to according to the legislation, the Ombudsman reports to the Commissioner. The Police Tribunal has the power to make a determination where the issues cannot be resolved between the Ombudsman and the Commissioner (s. 29).

## APPENDIX 2

### CODING SHEET FOR POLICE COMPLAINTS STUDY

1. Year of the complaint

 

2. Coding I.D. number

  

3. Police file number

       

4. Complainant

- 01. Police officer
- 02. Police internal complaint
- 03. Solicitor/legal aid
- 04. Member of Parliament
- 05. Suspect/Person in police custody/Defendant
- 06. Prisoner /juvenile in detention/care
- 07. National Crime Authority
- 08. ICAC
- 09. Aboriginal organisation
- 10. Court officer
- 11. Anonymous
- 12. Doctor
- 13. Motorist
- 14. Other member of public
- 15. Other (specify) \_\_\_\_\_

 

5. How many complainants are listed on the file?

 

6. Is the complainant the 'victim' of the alleged incident?

(1. Yes 2. No 3. There is no victim 9. Don't know)

7. Alleged "Victim" (if different from the complainant code using categories 1 to 7, if same person code 9)

- 01. Police officer
- 02. Suspect/Person in police custody/Defendant
- 03. Prisoner/Juvenile in detention/care
- 04. Motorist
- 05. Member of public
- 06. Victim not known to complainant
- 07. Other (specify) \_\_\_\_\_
- 08. No victim
- 09. Same person as complainant
- 10. Don't know

 

8. How many victims are listed on the file ?

(00. No victim, 99. Don't know)

 

### CHARACTERISTICS OF 'VICTIM' OF THE ALLEGATION

9. Age

(98. No victim, 99. Don't know)

10. Sex  
(1. Female 2. Male 3. Institution 8. No victim 9. Don't know) ☐
11. Aboriginal  
(1. Yes 2. No 8. No victim 9. Don't know) ☐
12. Occupation  
(use BCSR codes)
13. Suburb.  
(Use postcode. If the complainant is resident in an institution code as follows: 1000. Prison, 1001. Juvenile institution, 1002 Other institution)

#### TYPE/FUNCTIONAL UNIT OF POLICE COMPLAINED OF

More than one may be mentioned in the file. Answer each of the following questions:

14. Was the complaint about policing as an institution or practice generally  
(1. Yes 2. No 9. Don't know) ☐
15. Was the complaint about a particular region or patrol?  
(1. Yes 2. No 9. Don't know) ☐  
If yes, which (use location code list A).     
If other, please specify
16. Was the complaint about a particular unit or type of policing?  
(1. Yes 2. No 9. Don't know) ☐  
If yes, which (use function/type code list B)    
If other, please specify
17. Was the complaint about a specified individual police officer(s) (whether named or not)  
(1. Yes 2. No 9. Don't know) ☐
18. Was the complaint about a particular incident to which the complainant was not a party and is not formally seeking to represent the victim in this complaint?  
(1. Yes 2. No 9. Don't know) ☐

#### POLICE OFFICER/S SUBJECT OF THE COMPLAINT

19. How many police officers are subject of the complaint?

#### POLICE OFFICER DETAILS

Code details for the first officer mentioned in the complaint (note the details to be coded are as at the date of the alleged incident)

20. Age  
(Years, code 98. if no officer named and 99. if unknown)

- 21. Sex**  
(1. Female 2. Male 8. If no police named 9. Don't know) ☐
- 22. Rank**  
(1. Student police officer 2. Probationary constable 3. Constable 4. Constable 1st class  
5. Senior Constable 6. Sergeant 7. Snr Sgt 8. Inspector 9. Chief Inspector  
10. Superintendent 11. Chief Superintendent 12. Executive Chief Superintendent  
13. Assistant Commissioner 14. Deputy Commissioner 15. Commissioner) ☐
- 23. Length of Service**  
(In years, 98. if no police named, 99. if don't know) ☐
- 24. Station/Location**  
(use location code list A) If other, please specify ☐
- 25. Duties**  
(use function/type code list B) If other, please specify ☐
- 26. Did alleged incident occur whilst the officer was on duty?**  
(1. Yes 2. No 8. No officer identified 9. Don't know) ☐

## DETAILS OF ALLEGATION

Date of alleged incident/s (if on more than one occasion code first date, last date and number of incidents). Note that these are incidents involving the first named police officer.

- 27. First date**  
(If no particular officer, or no particular incident mentioned in complaint code as 88/88/88. If date unknown code as 99/99/99. ☐
- 28. Last date**  
(If no particular officer, or no particular incident mentioned in complaint code as 88/88/88. If date unknown code as 99/99/99. ☐
- 29. Number of incidents**  
(If no specific incident code 88., if unknown code 99.) ☐

## 30. Nature of allegation

Code all allegations raised in the first complaint on the file. Code 1. for any of the following which apply. Code 9 for categories which do not apply.):

### *Criminal conduct by officer*

01. Assault ☐
02. Sexual assault ☐
03. Bribery/extortion ☐
04. Theft ☐
05. Drug offences ☐

06. Dangerous/culpable driving

☐

07. Drink/driving

☐

08. Conspiracy/cover up

☐

09. Other (specify)

☐

**10. Investigation/prosecution misconduct**

☐

**Stop/seizure/search**

11. Improper detention under IP Act

☐

12. Unreasonable use of arrest/detention powers

☐

13. Search/entry

☐

14. Unnecessary use of force/damage/resources

☐

**Abuse/rudeness**

15. Racist

☐

16. Traffic-related

☐

17. Other

☐

**18. Breach of rights**

☐

**Other misconduct**

19. Sexual harassment

☐

20. Drinking on duty

☐

21. Other breach of police rules, instructions

☐

22. Other (specify) \_\_\_\_\_

☐

**23. Administrative wrong conduct**

☐

**24. Inadvertent wrong treatment**

☐

**25. Shooting or weapons related**

☐

**31. Police patrol in which (first) incident occurred.**

(If no specific incident alleged, or location not relevant to allegation code 888., if not known code 999.)

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**32. If police complainant, is it a senior officer reporting someone for whom they have supervisory responsibility?**

(1. Yes 2. No 3. Not police complainant 9. Don't know)

☐

**33. Is there any evidence of victim/complainant having previously lodged complaints?**

(1. Yes 2. No 3. Anonymous 8. No victim/complainant identified  
9. Don't know)

☐

**34. Is there any evidence that the allegation complained of arose in the course of any of the following circumstances :**

1. The arrest of the victim/complainant for any or all of these offences: resist arrest/  
offensive behaviour/assault police ?
2. The detention of the victim/complainant under the I.P.Act?
3. The investigation of a domestic violence incident
4. More than one of the above
5. None of the above
6. Don't know

☐

**35. Is the victim/complainant facing summons/CAN/TIN/charges in any way connected with the complaint?**

(1. Yes 2. No 8. No victim/complainant 9. Don't know)

☐



## OFFICER IDENTIFICATION

**PLEASE NOTE - THIS SHEET IS TO BE KEPT WITH THE RELEVANT CODING SHEET ONLY UNTIL NECESSARY OFFICER DETAILS ARE PROVIDED BY PERSONNEL. ONCE THAT DETAIL IS PROVIDED IT IS TO BE RECORDED ON THE CODING SHEET AND THIS SHEET IS TO BE DETACHED AND MUST BE SHREDDED. THE OFFICER'S NAME AND REGISTERED NUMBER ARE NOT TO BE RECORDED ON THE CODING SHEET.**

1. Year

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2. Coding I.D. Number

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3. Police file number

--	--	--	--	--	--	--	--

4. Name \_\_\_\_\_

5. Registered Number

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6. Date of alleged incident (if more than one date, code first)

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## NOTES

- <sup>1</sup> The disparities in the actual numbers of complaints recorded by the police and by the Ombudsman may be accounted for in several ways: the two sets of data are compiled in slightly different ways; one is based on financial years, the other on calendar years; and there are some differences in the range of issues considered relevant for counting as a complaint.
- <sup>2</sup> Annual Report of the Police Internal Affairs Branch 1990, p. 10; Annual Report of the Police Board of New South Wales 1990-91, p. 69; Annual Report of the Ombudsman of New South Wales 30 June 1990, p. 146; Annual Report of the Ombudsman of New South Wales 30 June 1990, p. 103.
- <sup>3</sup> Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, pp. 120-121.
- <sup>4</sup> Ibid p. 121.
- <sup>5</sup> See also 1990 Annual Report of the Police Internal Affairs Branch, p. 10.
- <sup>6</sup> Ibid p. 21.
- <sup>7</sup> 1987 NSWLR 386.
- <sup>8</sup> Submission by the NSW Police Commissioner, Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 134.
- <sup>9</sup> Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 119.
- <sup>10</sup> Ibid p. xiv.
- <sup>11</sup> Submission of the Ombudsman, cited in the Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 119.
- <sup>12</sup> It has been recommended that 'the Office of the Ombudsman and the Police Service should consult on the most appropriate records system for producing informative data on conciliations and complaints, for example, statistics on the numbers and types of complaint received, percentage of conciliations successfully resolved in each district and trends in complaints within each district'. Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 145. The Police Service is currently reviewing the existing computerised record system for complaints.
- <sup>13</sup> Note that the complaints system also includes complaints about parking police and transit police. These complaints were included in the sample and coded in the same way as those against police officers.
- <sup>14</sup> The use of the term complainant is not consistent with that of the *Police Regulations (Allegations of Misconduct) Act 1978*. For the purposes of this report it simply denotes the person who lodged the complaint recorded on the file. It does not have any broader meaning as to the role of that person in any subsequent investigation which may have followed.
- <sup>15</sup> However, there were some inconsistencies with respect to the manner in which complaints were filed. In some cases multiple complaints about a single incident were joined together in a single file (for instance a number of complaints relating to the policing of a student demonstration constituted a single file), whereas in other instances a number of complaints arising from a single incident were each filed separately.
- <sup>16</sup> *Kids in Justice : A blueprint for the 90s*, Report of the Youth Justice Coalition, 1990; Special Report to Parliament under Section 31 of the *Ombudsman Act 1974*, 2 December 1991; Juvenile Advisory Council Green Paper on Juvenile Justice Policy in NSW (forthcoming); Alder, C. and Sandor, D. *Homeless youth as victims of violence*, Department of Criminology, University of Melbourne, 1989.
- <sup>17</sup> p. 315.

- <sup>18</sup> Annual Report of the Ombudsman of New South Wales, 30 June 1990, p. 30; *Racist violence*, Report of the National Inquiry into Racist Violence in Australia, Human Rights and Equal Opportunity Commission, Australian Government Publishing Service, Canberra, 1991, p. 110.
- <sup>19</sup> *Racist violence*, Report of the National Inquiry into Racist Violence in Australia, Human Rights and Equal Opportunity Commission, Australian Government Publishing Service, Canberra, 1991, pp. 110, 313, 315.
- <sup>20</sup> Statement by Commissioner Lauer, NSW Police Circular, 10 June 1991.
- <sup>21</sup> See Goldsmith, A. (ed.) *Complaints against the police: the trend to external review*, Oxford, Clarendon Press, 1991, p. 20.
- <sup>22</sup> A selection of recent writings in this area includes: the contributions to Goldsmith, A. (ed.) *Complaints against the police: the trend to external review*, Oxford, Clarendon Press, 1991; Masterman, G. "External review: The New South Wales experience" and Selby, H. "Internal investigations: Too little, too late", both in Freckleton, I. and Selby, H. (eds.) *Police in our society*, Sydney, Butterworths, 1988; Freckleton, I. and Selby, H. "Piercing the blue veil: an assessment of internal and external review of police", in Chappell, D. and Wilson, P. (eds.) *Australian Policing*, Sydney, Butterworths, 1989; *Report of a Commission of Inquiry Pursuant to Orders in Council* (The Fitzgerald Report), Brisbane, Queensland Government Printer, 1989.
- <sup>23</sup> Brown, D. *The police complaints procedure: A survey of complainants' views*, Home Office Research Study No. 93, London, HMSO, 1987; Scarman, *The Brixton Disorders 10 - 12 April 1981*, Report of an Inquiry by the Rt. Hon. The Lord Scarman, London, HMSO, 1981; McMahon, M. "Police accountability: the situation of complaints in Toronto" *Contemporary Crises*, 1988, 12, pp. 301-327; Shearing, C. *Organizational police deviance*, Toronto, Butterworths, 1981; *The Report of the Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedures Within the Royal Canadian Mounted Police*, Ottawa, Information Canada, 1976 (hereafter referred to as RCMP Inquiry 1976).
- <sup>24</sup> See above notes 21 and 22.
- <sup>25</sup> Shearing, C. *Reflection on police management practices*, Royal Canadian Mounted Police External Review Committee, Ottawa, Minister for Supply and Services, Canada, 1992.
- <sup>26</sup> McMahon, op. cit., note 23; Goldsmith, A. "External review and self-regulation" in Goldsmith, 1991, op. cit., note 21.
- <sup>27</sup> Bayley, D. "Community policing in Australia: An appraisal" in Chappell and Wilson, op. cit., note 22; Goldsmith, op. cit., note 21, p. 54; Annual Report of the Police Internal Affairs Branch for 1990, pp. 1-2.
- <sup>28</sup> See Bayley's introduction to Goldsmith, and other contributions to that volume, op. cit., note 21.
- <sup>29</sup> Ibid p. 18.
- <sup>30</sup> Ibid p. 17.
- <sup>31</sup> Ibid p. 19.
- <sup>32</sup> RCMP Inquiry 1976, op. cit., note 23, pp. 73-75; Shearing, op. cit., note 25.
- <sup>33</sup> See Part 6.
- <sup>34</sup> See Part 7.
- <sup>35</sup> Annual Report of the Police Internal Affairs Branch for 1989.
- <sup>36</sup> Annual Report of the Police Internal Affairs Branch for 1990, p. 7.
- <sup>37</sup> Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 9.
- <sup>38</sup> Sexual harassment is also considered as of a class or kind to be dealt with only by officers of Internal Affairs. See the Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 121 and p. 150 for a discussion of this practice and recommendations for conciliation of such complaints.

- <sup>39</sup> New South Wales Police Service Internal Investigations Manual, 1991, p. 3.
- <sup>40</sup> Annual Report of the Police Internal Affairs Branch for 1989, p. 6.
- <sup>41</sup> Annual Report of the Ombudsman of New South Wales, 1989-90, p. 237.
- <sup>42</sup> See Part 7.
- <sup>43</sup> Report of the Police Internal Affairs Branch, 1990, p. 11.
- <sup>44</sup> The appeal provisions differ depending on plea, and on whether the complaint falls under Part IV of the Act. Guilty pleas and Part IV complaints where the Commissioner imposes a penalty on the recommendation of the Police Tribunal may be appealed on severity only. Not guilty pleas determined by the Commissioner may be appealed on all grounds or severity, see *Police Regulation (Appeals) Act*.
- <sup>45</sup> Annual Report of the Police Internal Affairs Branch for 1990, p. 11.
- <sup>46</sup> 1987 11 NSWLR 386. See Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 118.
- <sup>47</sup> Ibid p. 133.
- <sup>48</sup> See p. 19.
- <sup>49</sup> See p. 134.
- <sup>50</sup> See p. 152.
- <sup>51</sup> Annual Report of the Police Internal Affairs Branch for 1989, pp. 3-5.
- <sup>52</sup> See the Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 23, and Chapters 4 and 5 concerning the low level of conciliation, and the perceived benefits of a greater use of conciliation.
- <sup>53</sup> Ibid p. 10.
- <sup>54</sup> Report of the Joint Committee on the Office of the Ombudsman, Parliament of New South Wales, April 1992, p. 10.