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# **Characteristics of complaints about misconduct by off duty NSW police officers**

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## Summary

The aim of this study was to provide information about the characteristics of complaints regarding misconduct that occurs when police officers are off duty. Complaints made about police officers regarding alleged incidents of misconduct that occurred between 1 May 2009 and 31 July 2009 were considered in this study. In total, 973 complaints were considered and 125, or one in eight (and possibly up to 169, or one in six), described an incident that occurred when a police officer was off duty.

The 125 complaints regarding incidents that occurred when police officers were off duty described various types of alleged misconduct. The most common types of alleged misconduct were related to secondary employment, offences punishable by conviction, improper associations and harassment. More than a third of all issues about alleged misconduct within the complaints led to disciplinary action (referred to as management action by the New South Wales Police Force), hence evidence was found that misconduct had occurred in these cases. Some of the complaints about off duty misconduct also described incidents where police officers were alleged to be affected by alcohol and/or were violent or the perpetrators of domestic violence.

The characteristics of police officers who were alleged to have engaged in misconduct while off duty were also examined. In total, 136 police officers who were the subjects of complaints in this study were alleged to have engaged in misconduct while off duty. These 136 police officers were of varying ages and ranks. Of these 136 officers, those aged between 21 and 25 and those who were probationary constables attracted a larger percentage of complaints about alleged off duty misconduct than the percentages of 21 to 25 year olds and probationary constables in the NSW Police Force, respectively. In addition, a very large percentage of the officers aged 21 to 25 who were the subjects of complaints about alleged off duty misconduct and a very large percentage of probationary constables who were the subjects of complaints about alleged off duty misconduct were the subjects of management action. Officers who were the subjects of complaints about alleged off duty misconduct and who were aged 46 or more attracted a smaller percentage of complaints compared to the percentage of



officers aged 46 or more in the NSW Police Force. A very small percentage of these officers were the subjects of management action.

The results also showed that more males than females were the subjects of complaints about alleged off duty misconduct, although this was in proportion to the distribution of males and females in the NSW Police Force. The results also showed that for the complaints considered in this study, three-quarters of all alleged off duty misconduct occurred within the same Local Area Command in which an officer was employed.

## Introduction

In many police forces, including the New South Wales (NSW) Police Force, officers are required to uphold a high level of integrity whether on or off duty. They are expected to maintain their authority and act responsibly 24 hours a day. In NSW, the behaviour expected of police officers is outlined in a number of the NSW Police Force's documents, policies and procedures; the most important being the *Code of Conduct and Ethics*. This code is comprised of ten points, all of which relate to the conduct of police officers while on duty. Four of the points also relate to off duty conduct:

*An employee of NSW Police must:*

*1. behave honestly and in a way that upholds the values and the good reputation of NSW Police whether on or off duty;*

*...*

*6. comply with the law whether on or off duty;*

*7. take reasonable steps to avoid conflicts of interest, report those that can not be avoided and co-operate in their management;*

*...*

*9. not make improper use of their position or NSW Police information or resources.*

While points 1 and 6 of the *Code of Conduct and Ethics* make specific reference to off duty conduct, points 7 and 9 also relate to off duty conduct because conflicts of interest can occur when police officers are on or off duty, and police officers can make improper use of their position or the information or resources of the NSW Police Force whether they are on or off duty.



The NSW Police Force also clearly state in a number of other documents that police officers must be mindful of their conduct, whether on or off duty.<sup>1</sup> Further, these documents state that inappropriate or unlawful behaviour will not be tolerated and that failure to comply with the *Code of Conduct and Ethics*, along with other NSW Police Force policies and documents, may result in management action.

Management action is the term used by the NSW Police Force to denote when any action is taken against police officers following the investigation of a complaint in which they are alleged to have engaged in misconduct. The type of management action taken against officers can vary greatly, depending on the type and seriousness of the misconduct that occurred. It can include counselling, coaching, warnings, reprimands, a reduction in pay, a reduction in rank or dismissal from the NSW Police Force.

Inappropriate or unlawful behaviour by police officers and the management action that may follow can adversely affect the police officers implicated in the behaviour. Such behaviour, or misconduct, can reflect on the integrity of a police officer and on their ability to act ethically. It can also put their career at risk because, as described above, management action can range from informal counselling to a decrease in rank to dismissal from the police force.

Inappropriate or unlawful behaviour of police officers can also bring the police force into disrepute and adversely affect the public's attitudes towards the police force. This can lead to a decline in public confidence in the police and a decline in citizen satisfaction with the police.<sup>2</sup> Public attitudes towards police forces can be formed from a range of factors such as incidents reported in the media, personal experiences and demographic or socio-economic factors, such as age and the type of neighbourhood in which people live.<sup>3</sup> Such attitudes can therefore be shaped by the conduct of police officers when they are on duty as well as when they are off duty.

In NSW, little is known about the inappropriate behaviour of police officers while they are off duty. From time to time, the off duty behaviour of police officers is highlighted in the media. For example, an article published in February 2009 reported that an off duty police officer was involved in street racing and had his car

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<sup>1</sup> e.g. *NSW Police Force Conflicts of Interest Policy and Guidelines* which states that the "policy applies to all employees, their role, position and behaviour (whether on or off duty) and incorporates corporate expectations regarding political affiliations which are considered high risk types of conflicts of interest" and the *NSW Police Force Drug and Alcohol Policy* which states that "the use of prohibited drugs and or non prescribed anabolic steroids is not permitted at any time on or off duty."

<sup>2</sup> Weitzer, R. 2002. Incidents of police misconduct and public opinion. *Journal of Criminal Justice*, 30:397-408.

<sup>3</sup> *Ibid.*



confiscated.<sup>4</sup> In March 2009, a media article reported that a NSW police officer was charged after assaulting a boy while off duty.<sup>5</sup> In June 2009, an article was published reporting that a NSW off duty police officer was arrested for drink driving.<sup>6</sup>

While information from the media highlights the existence of allegations of misconduct by police officers who are off duty, such information is specific only to the instances published and does not provide information about the characteristics of inappropriate off duty behaviour in general. Complaints about police officers can provide a better source of information about misconduct and inappropriate behaviour of police officers than reliance on media reports. Complaints can be made about the personal experiences of members of the public and other police officers as well as from information gathered by oversight agencies.<sup>7</sup> They can be made about police officers who are on or off duty. There are, however, some limitations about the conclusions that can be drawn from an analysis of complaints. Firstly, not all instances of inappropriate behaviour or misconduct by police officers will result in a complaint being lodged. In some cases, the misconduct will be unknown to persons other than those involved and in other cases, there may be a reluctance by individuals to make a complaint.<sup>8</sup> Also, the lodging of a complaint does not necessarily indicate that misconduct has occurred. Some complaints are the result of misunderstandings between complainants and police officers or misunderstandings by the complainant about events that occurred. Some complaints may be fabricated.

Despite these issues, complaints can still provide a basis from which to begin to understand the patterns and characteristics of misconduct, including misconduct that occurs when police officers are off duty.

The objective of this study was to provide information on the frequency and characteristics of complaints about off duty misconduct by NSW police officers. This study is therefore a first step to understanding this type of misconduct. Examining the frequency and characteristics of complaints of inappropriate behaviour by off duty police officers can be used to determine whether complaints regarding off duty misconduct are common and whether certain aspects of off duty misconduct are particularly problematic or prevalent. Such information can then be

<sup>4</sup> 'Off-duty police officer's car confiscated for alleged street racing', *The Australian*, 28 February 2009, accessed 18 September 2009, <<http://www.theaustralian.news.com.au/story/0,25197,25118705-26103,00.html>>.

<sup>5</sup> 'Off duty Sydney police officer accused of assaulting boy at Kirrawee', *Herald Sun*, 17 March 2009, accessed 18 September 2009, <<http://www.news.com.au/heraldsun/story/0,21985,25198677-5005961,00.html>>.

<sup>6</sup> 'Off duty policeman arrested for drunk driving', *Daily Telegraph*, 20 June 2009, accessed 18 September 2009, <<http://www.dailytelegraph.com.au/news/breaking-news/off-duty-policeman-arrested-for-drunk-driving/story-e6freuyi-1225738325291>>.

<sup>7</sup> In NSW, these agencies are the NSW Ombudsman and the Police Integrity Commission.

<sup>8</sup> Criminal Justice Commission, 1997. *Reducing police-civilian conflict: An analysis of assault complaints against Queensland Police*, Brisbane.



used to target potential problem areas and strengthen the systems used to manage and prevent this type of misconduct. This study was conducted in accordance with one of the principal functions of the Police Integrity Commission (PIC): to prevent police misconduct.

## Methods

### Complaints about NSW police officers

Complaints about police officers are stored in the NSW Police Force's electronic complaints management system, which files all information and documents associated with a complaint and its investigation<sup>9</sup>, including a unique identity number, letters received from complainants describing alleged incidents of misconduct, names of police officers allegedly involved in the misconduct, documents used in the investigation of the complaint, an investigator's report on the complaint, a description of management action (if any) taken against police officers implicated in the complaint and any other relevant documents.

Each complaint is given a brief title to describe the subject of the complaint and a brief description. A complaint can include a number of 'issues', each describing a separate type of misconduct. For example, a complainant may allege that a police officer used unreasonable force and used verbally threatening language and disclosed confidential information during an arrest. These three different types of misconduct would be recorded as three separate issues within the same complaint. A complaint can also include a number of different types of misconduct that occurred at different times. For example, within the same complaint, a complainant can allege that a police officer was rude to him/her on one day and provided poor customer service the next day. These two types of misconduct would then be recorded as separate issues within the same complaint. Each issue within a complaint is classified by the NSW Police Force into a 'major' and 'minor' category, which describe the type of misconduct alleged to have occurred (see Table 2 for examples). A complainant can also implicate more than one police officer in an alleged incident of misconduct.

If a complaint is investigated and there is evidence that the alleged misconduct described in a complaint occurred, then the issues related to that conduct are referred to as 'sustained'. Otherwise, they are 'not sustained'. Sustained issues generally result in management action against the officer(s) who is the subject of the

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<sup>9</sup> It is possible that when a complaint is made, it is not investigated because details are not provided; the event described in the complaint was too long ago to hold a useful investigation; or the complaint is deemed false or vexatious (*Police Act 1990*). These complaints result in no management action against the police officer(s) who are the subject(s) of the complaint.



complaint.<sup>10</sup> Management action can be taken for any or all of the issues within a complaint, subject to the seriousness of the complaint and the type of misconduct that occurred.

## Using information from complaints

Data for this study were derived from complaints about NSW police officers that described incidents of misconduct that occurred between 1 May 2009 and 31 July 2009. The complaints were retrieved from the NSW Police Force's electronic complaints management system.<sup>11</sup>

For this study, a police officer was considered to be the subject of a complaint about off duty misconduct if the incident described in the complaint occurred when the police officer was not rostered on duty (i.e. when the police officer was not expected to be working according to the police roster for the local area command (LAC) or specialist command<sup>12</sup> at which the officer was employed). The electronic record of each complaint includes a field that indicates whether or not a police officer was on duty or off duty at the time of the incident described in the complaint. This field is not, however, used consistently by persons entering the complaints data and could not be used for this study.

In order to determine whether complaints were about police officers who were off duty, complaint files were read and searched for information to indicate whether an officer was on duty or off duty during the incident described in the complaint. Each complaint was categorised to indicate whether an officer was on duty, off duty, or whether their duty status was unknown (it was not always possible to determine from the information within the complaint file whether or not the officer was on or off duty at the time of the incident described in the complaint). Although all possible efforts were made to ensure that complaints were classified correctly, this method of manually searching complaints may not identify every complaint regarding off duty misconduct. It is possible that some complaints about alleged misconduct that occurred while a police officer was off duty were not identified.

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<sup>10</sup> It is possible for issues within complaints that are not sustained to result in management action and it is possible for complaints that are sustained to result in no management action, but these cases are uncommon. Issues that are not investigated are neither sustained nor not sustained and do not result in management action against the officer alleged to have engaged in misconduct.

<sup>11</sup> Updated as at 18 September 2009. Note that in some instances, the date of the incident in which the alleged misconduct occurred was missing. In these cases, the incident date was replaced by the date in which the complaint investigation was initiated, which represents a date after the incident date. It is therefore possible that some complaints in the sample described an incident that occurred before May 1 2009.

<sup>12</sup> A LAC is an operational unit within the NSW Police Force that is defined by a geographical boundary and encompasses one or more police stations. A specialist command is an operational unit which has specialist expertise regarding a particular type of criminal activity (e.g. fraud squad, drug squad, robbery and serious crime squad). Specialist commands complement the service provided by LACs and can operate within the entire state of NSW.



For each complaint regarding a police officer who was off duty, the following information was also obtained by manually examining the complaint files:

- the type of complainant (anonymous person, member of the public, other police officer or the PIC<sup>13</sup>);
- whether the officer was under the influence of alcohol at the time of the alleged misconduct;
- whether the officer was physically violent at the time of the alleged misconduct; and
- whether the officer was the perpetrator of domestic violence at the time of the alleged misconduct.

In addition, for each complaint (and the issues within each complaint) regarding a police officer who was off duty, the following information was obtained directly from the electronic records of the NSW Police Force:

- the major and minor categories used by the NSW Police Force to categorise each issue within each complaint;
- whether management action was taken against the police officer alleged to have engaged in off duty misconduct;
- the type of management action taken, if any;
- the age of the officer as at the time the information was downloaded from the NSW Police Force's electronic records (18 September 2009);
- the rank of the officer at the time the information was downloaded from the NSW Police Force's electronic records;
- the LAC at which the alleged incident of misconduct occurred; and
- the LAC at which the officer alleged to have engaged in misconduct was employed at the time of the incident.

For the purposes of this study, management action was defined as any type of action taken against an employee following the investigation of a complaint in which they were alleged to have engaged in misconduct. The management actions arising from complaints about off duty misconduct considered in this study commonly included counselling, coaching, remedial performance programs, warnings and reprimands. Officers whose cases were being considered by an Internal Review Panel<sup>14</sup> were also considered to have received management action. Management action can also include dismissal from the NSW Police Force, however, none of the

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<sup>13</sup> The PIC is recorded as a complainant when it refers information regarding misconduct or corruption to the NSW Police Force. The PIC is therefore not necessarily the direct complainant, but the channel through which information is passed onto the NSW Police Force.

<sup>14</sup> An Internal Review Panel is a committee of high ranking employees of the NSW Police Force. This panel makes recommendations regarding appropriate management action (limited to actions within s173 of the *Police Act 1990*) which should be taken against employees who are the subject of complaints of a relatively serious nature.



police officers in the sample of complaints included in this study who were alleged to have engaged in misconduct while off duty were being considered for dismissal.

Issues within complaints that resulted in management action were considered in this study because management action is indicative of misconduct having actually occurred. As mentioned previously, a complaint and the issues within it are allegations of misconduct. If evidence exists that misconduct occurred, then any issues within a complaint that relate to that misconduct are sustained. Management action is generally taken when issues within complaints are sustained. Therefore, management action is indicative of misconduct having occurred.<sup>15</sup> In other words, by considering any of the issues within complaints, one can measure allegations of misconduct (irrespective of whether or not misconduct actually occurred) and by considering only those issues that resulted in management action, one can measure only those instances where misconduct was shown to occur. Note also that management action can only be taken for issues that are finalised (i.e. after the investigation of the complaint is complete). Comparisons between numbers of issues that did or did not result in management action are therefore only sensible for complaints that have been finalised.

Information regarding the LAC at which an officer was employed and the LAC at which an incident occurred was used to determine whether police officers were accused of engaging in misconduct within the same LACs at which they were employed. Complaints about police officers working in specialist commands or police officers who were accused of engaging in misconduct at a specialist command while off duty were not included in the comparisons between LACs because these commands generally cover the whole of NSW and do not necessarily cover a specific geographical area as do LACs. Police officers from specialist commands were, however, included in all other analyses.

Three complaints from the sample used in this study could not be included because, for operational reasons, information about them was not available.

In addition to the data described above, data regarding the age, gender and rank of all sworn NSW police officers employed as at July 31 2009 was downloaded from the NSW Police Force's electronic records<sup>16</sup>. These data were compared with that of the age, gender and rank of police officers in the study sample who were the subject of complaints regarding off duty misconduct.

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<sup>15</sup> Data regarding whether or not a complaint was sustained was not available.

<sup>16</sup> Updated as at 11 December 2009. Data for the age, gender and rank of some NSW Police officers was missing. These officers were not included in the data. Also, the percentages of police officers within age groups (see Table 4), within each gender and within each rank may differ from those provided by the NSW Police Force because of the date in which they were calculated and because calculations for this study included only sworn police officers and not administrative staff.



## Results

The results of this study are presented in two parts. The first part describes the *characteristics of complaints* about off duty police officers. The results are therefore based on the number of complaints and issues within complaints that were made about misconduct by police officers while they were off duty. The second part describes the *characteristics of the police officers* who were alleged to have engaged in off duty misconduct. These results are based on the number of police officers who were alleged to have engaged in misconduct while they were off duty.

### Characteristics of complaints about misconduct by off duty police officers

In total, 973 complaints were considered in this study. Of these, 125 (12.8%) complaints described an incident that occurred while a police officer was off duty. A further 44 (4.5%) complaints described an incident where the duty status of the officer was not specified (and was categorised as not known). Many of the complaints where the duty status of the involved officer was not specified described allegations of improper associations and/or protecting drug dealers, hence it is likely that many of these allegations relate to the off duty conduct of police officers. Taking these together with the 125 complaints that clearly described off duty misconduct, it is possible that up to 169 of the 973 (17.4%) complaints considered in this study described an incident that occurred while a police officer was off duty. Because this figure cannot be confirmed, the results presented in this section will focus only on the 125 complaints that specifically described an officer being involved in misconduct while off duty.

Complaints about off duty police officers were most commonly made by other police officers (58.4%), followed by members of the public (26.4%) and persons who wished to remain anonymous (12.8%). Smaller numbers of complaints were referred to the NSW Police Force by the PIC (2.4%) when off duty misconduct of police officers was discovered during other investigations. Table 1 shows the number of and percentages of complaints made by each of these types of complainants.

The 125 complaints that included one or more allegations of off duty misconduct contained 250 issues describing different types of misconduct. Twenty-two of these 250 issues described misconduct that was alleged to have occurred while a police officer was on duty and for one issue the duty status of the officer was not known. The 250 issues therefore included 227 issues regarding allegations of off duty misconduct by police officers.



**Table 1. The number (and percentage) of complaints made by the four types of complainants.**

Type of complainant	Complaints	
	n	%
Anonymous	16	12.8
Member of the public	33	26.4
PIC	3	2.4
Police officer	73	58.4
<b>Total</b>	<b>125</b>	<b>100.0</b>

Table 2 outlines the types of misconduct described in the 227 issues regarding allegations of off duty misconduct by police officers, as categorised in major and minor categories by the NSW Police Force by whether or not management action was taken against the officer(s) implicated in the issue. The types of misconduct are summarised in the major categories. The minor categories provide some more specific details.

As seen in Table 2, the most common issues, or types of misconduct, that were alleged to have occurred while an officer was off duty were classified under the major category of *local management issues* (61 issues or 26.9% of all issues). These were relatively minor issues that were dealt with at the command at which the subject officer was employed. The minor category entitled *breach of code of conduct (not elsewhere listed)* contained 34 of the 61 issues within this major category and described a wide range of issues, the most common being instances of drunken or inappropriate behaviour (eight issues), posting inappropriate comments on social networking sites (three issues), rorting sick leave (two issues), being in possession of counterfeit DVD's (two issues) and releasing confidential information (two issues). Other common minor categories within this major category included: *unprofessional or unreasonable conduct* (seven issues); *unauthorised secondary employment (not in a high risk category)* (five issues); and *loss, inadequate security of, or damage to NSW Police property* (five issues). The minor category of *loss, inadequate security of, or damage to NSW Police property* includes some incidental occurrences, such as police officer's badges or uniforms being lost or stolen from their private vehicles (this category constitutes a loss of property that must be reported to the NSW Police Force, but not necessarily misconduct by a police officer).



**Table 2. Number of issues (or types of misconduct) as recorded in major and minor categories and, for finalised issues only, whether or not management action (mgt action) was taken against the police officer(s) implicated in the issue.**

Issue (type of misconduct)		Finalised issues only		All issues <sup>17</sup>
Major Category	Minor Category	Mgt action taken	Mgt Action Not taken	
Local management issues <sup>18</sup>	e.g. Breach of Code of Conduct (not elsewhere listed); Inadequate customer service; Unprofessional or unreasonable conduct; Not anti-discrimination related harassment; Unauthorised secondary employment that is not in a high risk category; loss, inadequate security of, or damage to NSW Police property; Administration issue	31	20	61
Service delivery	Breach of Code of Conduct (not specified elsewhere); Disobey reasonable direction; Incivility/rudeness/verbal abuse; Failure to comply with operational procedures; Threats/intimidation	10	13	33
Other criminal act or omission (not specified elsewhere)	Child sexual abuse or paedophilia; Sexual assault; Offences punishable by conviction; Other summary offences	4	12	27
Corruption/ misuse of office	e.g. Bribery; Improper association; Misuse authority for benefit; Protection of person involved in drugs	1	17	22
Misconduct	e.g. Officer perpetrator of domestic violence /apprehended violence order; Unauthorised secondary employment	7	7	17
Use of service resources	e.g. Loss of/damage to official vehicle; Misuse of official vehicle; Misuse of other facilities/equipment	9	3	13
Misuse of information and information systems	e.g. Misuse email/internet; Unauthorised/improper disclosure of information	1	6	11
Harassment and discrimination	Harassment; Sexual harassment; Vilification	4	4	8
Traffic offences	Culpable/negligent/dangerous driving; Drink driving offences; Failure to report traffic incident	1	4	7
Drugs (other than searches or evidence matters)	Illicit drug use; Dealing or supply	0	6	6
Unreasonable use of force (including assault)	Pushed to ground/slammed against a wall; Punched/kicked; Pushed/shoved/jostled/grabbed/manhandled etc.	3	2	5
Untruthfulness/ lying/ dishonesty	Falsifying official records; Lying to investigator/supervisor conducting inquiries	2	2	4
Investigations	Improper interference in an investigation by another police officer	1	3	4
Evidence	Pervert the course of justice; Lying in during proceedings/in statement/in affidavit	0	0	3
Prosecution	Inappropriate prosecution/misuse of prosecution power; Mislead the court	0	2	2
Arrest	Unnecessary or improper use of arrest	0	1	1
Failure to observe Service standards	Inadequate security of weapon	0	1	1
False complaint	Make false complaint	0	1	1
Theft/ misappropriation	Theft/misappropriation of official property	0	1	1
<b>Total</b>		<b>74</b>	<b>105</b>	<b>227</b>

<sup>17</sup> All issues include the issues that were finalised as well as the issues that were not yet finalised. Forty eight issues were not finalised.

<sup>18</sup> Local management issues are generally classed as less serious and are dealt with at the command at which the officer who is the subject of the complaint is employed.



Issues classified within the major category of *service delivery* were also common (33 of 227 issues, 14.5%). The most common minor category within this major category was entitled *breach of code of conduct (not specified elsewhere)*. This described 17 instances of alleged misconduct of a nature similar to those described in the minor category entitled *breach of code of conduct (not elsewhere listed)* and the most common instances included inappropriate behaviour (five issues) and inappropriate use of/falsely claiming leave (two instances). Other common minor categories within the major category *service delivery* included *threats and intimidation* (five issues), and six issues classified under *disobey reasonable direction* (i.e. failing to comply with orders given by a superior officer<sup>19</sup>).

The category entitled *other criminal act or omission* accounted for 27 of the 227 issues (11.9%). The allegations of criminal acts or omissions were commonly those categorised under the minor categories of *offence punishable by conviction* (13 issues) and *summary offences* (12 issues). These described incidents of entering premises without permission, fraud, assault, indecent assault and sexual assault.

Issues classified under the major categories of *corruption/misuse of office* or *misconduct* were also relatively common (22 issues or 9.7% of all issues and 17 issues or 7.5% of all issues, respectively). For *corruption/misuse of office*, the issues included allegations of improper associations (11 issues), bribery (two issues), protection of persons involved in drugs (two issues), giving favours to persons who are suspected to be involved in criminal activity (two issues) and conflicts of interest (two issues). For the major category of *misconduct*, issues commonly included allegations of *unauthorised secondary employment* (10 issues) and police officers being the subjects of apprehended violence orders (five issues).

As Table 2 shows, the minor categories of *harassment* and *unauthorised secondary employment* are present within two major categories, depending on the seriousness of the misconduct (with less serious incidents classified under *local management issues*). In total, there were 15 issues about unauthorised secondary employment. There were ten issues concerned with harassment.

In summary, there were many types of alleged misconduct described in complaints about off duty police officers; the most common types of misconduct related to secondary employment (15 issues), offences punishable by conviction (13 issues), improper associations (11 issues) and harassment (10 issues).

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<sup>19</sup> Although the major category is entitled *service delivery*, the minor categories are applicable to off duty behaviour. It is possible that police officers made threats and were rude while off duty. It is also possible for a superior officer to give orders not to associate with a particular person or not to frequent particular premises whether on or off duty.



Table 2 also shows that management action was taken against officers for 74 of the 227 issues, which represent 41.3% of the 179 issues where the investigation and processing of the complaint was finalised. In other words, of the complaints that were finalised, there was evidence that misconduct occurred in 41.3% per cent of allegations regarding off duty misconduct by police officers. Note that management action cannot be taken where a police officer is not named. Hence, complaints (and issues within those complaints) about unidentified officers always result in no management action. This study sample contained 13 issues where the officer alleged to have engaged in misconduct whilst off duty was not named. These issues included three from the major category of *corruption/misuse of office*, three from *local management issues*, two from *misuse of information and information systems*, two from *service delivery* and one each from *misconduct, other criminal act or omission* and *use of service resources*.

About half of the management actions arising from the issues regarding off duty misconduct consisted of counselling (36 of 74, 48.6%). For fifteen issues (20.3%), the alleged misconduct was considered relatively serious and decisions about management actions were in the process of being made by internal review panels (14 issues) or were awaiting legal advice (one issue). For eight issues (10.8%), management actions were classified by the NSW Police Force as actions that were decided by the commander of the subject officer. Other management actions taken against police officers included being given a warning (6 of 74, 8.1%), coaching (6 of 74, 8.1%) and being reprimanded (1 of 74, 1.4%). In two cases, the management actions were recorded as adverse finding and other. For each of these two cases, the officer was spoken to regarding the off duty misconduct and agreed that the conduct was not acceptable.

Management action was most commonly taken against officers who were alleged to have engaged in types of misconduct classified under the major category of *local management issues*, where 31 of the 51 (60.8%) issues from finalised complaints resulted in management action against the officer who was the subject of the complaint. Management action was also commonly taken against officers who were alleged to have engaged in misconduct under the major categories of *misconduct* (where 7 of 14 (50.0%) issues from finalised complaints resulted in management action) and *service delivery* (where ten out of 23 (43.5%) issues from finalised complaints resulted in management action). Management action was less commonly taken for issues classified under the major category of *other criminal acts or omissions*, (4 of 16, 25.0%). Despite the relatively large number of issues that were classified under the major category of *corruption/misuse of office*, very few of the issues from finalised complaints resulted in management action (1 of 18, 5.6%). Comparisons between issues where management action was and was not taken



are not appropriate for the other types of misconduct due to the small numbers in each category.

Table 3 shows the number of complaints and issues within complaints where the police officer allegedly involved in off duty misconduct was under the influence of alcohol, physically violent and/or the perpetrator of domestic violence at the time of the alleged misconduct. Table 3 also shows whether or not management action was taken against the officer alleged to have engaged in off duty misconduct (shown only for issues within finalised complaints).

**Table 3. The number of complaints and issues within complaints where the police officer allegedly involved in off duty misconduct was under the influence of alcohol, physically violent and/or the perpetrator of domestic violence at the time of the alleged misconduct. Note these categories are not mutually exclusive.**

	Complaints	Finalised issues only		All issues <sup>20</sup>
		Mgt action taken	Mgt action not taken	
Officer affected by alcohol	20	16	14	42
Officer physically violent (excluding domestic violence)	10	9	7	25
Officer perpetrator of domestic violence	6	5	2	10
Officer affected by alcohol and physically violent (excluding domestic violence)	7	6	6	20
Officer affected by alcohol and perpetrator of domestic violence	0	0	0	0

\*Note: Total number of complaints about off duty misconduct = 125. Total number of issues about off duty misconduct = 227

As seen in Table 3, 20 of the 125 (16.0%) complaints about off duty misconduct included information to indicate that the police officer(s) who was the subject of the complaint was affected by alcohol at the time of the alleged misconduct. Smaller numbers of complaints (10, 8.0%) included information to indicate that the police officer(s) who was the subject of the complaint was physically violent (excluding domestic violence), was the perpetrator of domestic violence (6, 4.8%) or was affected by alcohol and the perpetrator of domestic violence (7, 5.6%). None of the complaints considered in this study described an incident where an off duty police officer was affected by alcohol and was the perpetrator of domestic violence.

<sup>20</sup> All issues include the issues that were finalised as well as the issues that were not yet finalised.



Table 3 also shows that management action was more commonly taken for issues regarding allegations of domestic violence; five of the seven finalised issues regarding domestic violence resulted in management action, while a much smaller percentage (approximately 50.0%) of all finalised issues regarding alcohol and/or physical violence resulted in management action.

### Characteristics of police officers alleged to have engaged in misconduct while off duty

The 973 complaints considered in this study included the names of 1057 NSW police officers who were alleged to have engaged in misconduct. In addition to these police officers, up to 156 officers<sup>21</sup> were also alleged to have engaged in misconduct, but were not identified either by the complainant or during the investigation of the complaint. Therefore, the complaints considered in this study alleged that up to 1213 police officers had engaged in misconduct.

Of the 1057 police officers who were identified, 136 (12.9%) were alleged to have engaged in misconduct while off duty. Each of these officers was the subject of one complaint, except one officer, who was the subject of two complaints. Of the 156<sup>22</sup> police officers who were not identified, up to 14<sup>23</sup> officers were alleged to have engaged in misconduct while off duty. Also, it was not possible to determine the duty status of 29 police officers who had allegedly engaged in misconduct. It is possible that these 29 officers may also have engaged in misconduct while off duty. Therefore, up to 179 police officers of the 1213 police officers who were the subject of a complaint (14.8%) could have engaged in misconduct while off duty. Because this figure cannot be confirmed, the results presented in this section will focus only on the 136 police officers who were identified and were specifically alleged to have engaged in misconduct while off duty.

Table 4 shows the age of police officers who were alleged to have engaged in misconduct while off duty by whether or not their complaint was finalised and management action was taken against them for any of the issues within the complaint. Note also that management action can only be taken against an officer once a complaint has been finalised.

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<sup>21</sup> It is possible that this number is smaller because some of these 156 unknown police officers may be the same police officer.

<sup>22</sup> Ibid.

<sup>23</sup> It is possible that this number is smaller because some of these 14 unknown police officers may be the same police officer.



As shown in Table 4, police officers in the age groups 31 to 35 and 36 to 40 were more commonly alleged to have engaged in off duty misconduct than any other group. This was followed by police officers aged 26 to 30 and 41 to 45. Fewer police officers aged 21 to 25 were alleged to have engaged in misconduct, while the smallest number of allegations were about police officers aged 46 or more. Except for officers aged 21 to 25 and officers aged 46 or more, the percentages of police officers in each age group who received complaints about off duty misconduct (i.e. police officers in this study) were similar to the distribution of age groups of police officers within the whole of the NSW Police Force. For officers aged 21 to 25, the percentage of officers in this study who were the subject of a complaint about off duty misconduct (12.5%) was approximately twice that of police officers in the whole of the NSW Police Force who were aged 21 to 25 (6.6%). For officers aged 46 or more, the percentage of officers in this study who were the subject of a complaint about off duty misconduct (8.8%) was approximately half that (17.6%) of police officers in the whole of the NSW Police Force of this age group.

**Table 4. Age of police officers by whether or not their complaint was finalised and management action (mgt action) was taken against them compared with age of all police officers in NSW.**

Age	Finalised Complaints		Non-finalised complaints	Number of all police officers in study	% of all police officers in study n=136	% of all police officers in NSW n=15797
	Mgt action taken against officer	Mgt action not taken against officer				
21-25	13	3	1	17	12.5	6.6
26-30	12	12	1	25	18.4	16.3
31-35	11	13	4	28	20.6	19.8
36-40	14	15	2	31	22.8	22.6
41-45	7	12	4	23	16.9	17.0
46+	3	8	1	12	8.8	17.6
<b>Total</b>	<b>60</b>	<b>63</b>	<b>13</b>	<b>136</b>	<b>100.0</b>	<b>100.0</b>



When examining police officers who were the subject of finalised complaints by each age group, the percentage of police officers who received management action was greater for officers in the younger age groups compared to those in the older age groups. Of the 16 police officers aged 21 to 25 whose complaints had been finalised, 13 or 81.3 per cent received management action. In comparison to the youngest age group, the percentage of police officers with finalised complaints who received management action was smaller for police officers aged between 26 and 45 (50% of the 26 to 30 age group; 45.8% of the 31 to 35 age group; 48.3% of the 36 to 40 age group; 36.8% of the 41 to 45 age group) and smallest for police officers aged 46 or more (27.3%).

The gender of police officers who were alleged to have engaged in misconduct while off duty by whether or not their complaint was finalised and management action was taken against them for any of the issues within the complaint is shown in Table 5.

As outlined in Table 5, 104 of the 136 (76.5%) police officers who were alleged to have engaged in misconduct while off duty were male and 32 of the 136 (23.5%) were female. These percentages are similar to the distribution of male and female officers in the entire NSW Police Force. Of the officers whose complaints had been finalised, similar percentages of male (45 of 94, 47.9%) and female (15 of 31, 48.4%) officers received management action.

**Table 5. Gender of police officers by whether or not their complaint was finalised and management action was taken against them compared with gender of all police officers in NSW.**

Gender	Finalised Complaints		Non-finalised complaints	Number of all police officers in study	% of all police officers in study n=136	% of all police officers in NSW n=16121
	Mgt action taken against officer	Mgt action not taken against officer				
Male	45	49	45	104	76.5	73.5
Female	15	14	15	32	23.5	26.5
<b>Total</b>	<b>60</b>	<b>63</b>	<b>60</b>	<b>136</b>	<b>100.0</b>	<b>100.0</b>



Table 6 shows the rank of police officers who were alleged to have engaged in misconduct while off duty by whether or not their complaint was finalised and management action was taken against them for any of the issues within the complaint.

**Table 6. Rank of police officers by whether or not their complaint was finalised and management action was taken against them compared with ranks for all police officers in NSW.**

Rank	Finalised Complaints		Non-finalised complaints	Number of all police officers in study	% of all police officers in study n=136	% of all police officers in NSW n=15747
	Mgt action taken against officer	Mgt action not taken against officer				
Probationary constable	13	3	0	16	11.8	7.0
Constable	13	15	2	30	22.1	19.3
Senior constable	28	31	9	68	50.0	50.5
Sergeant	4	9	1	14	10.3	16.0
Senior sergeant	1	0	0	1	0.7	2.0
Inspector	1	4	1	6	4.4	4.4
Superintendent	0	1	0	1	0.7	0.8
<b>Total</b>	<b>60</b>	<b>63</b>	<b>13</b>	<b>136</b>	<b>100.0</b>	<b>100.0</b>

Senior constables (68 of 136, 50%) were more commonly alleged to have engaged in off duty misconduct than police officers of any other rank. Constables (30 of 136, 22%) were the next largest group. Smaller numbers of sergeants (14 of 136, 10.3%) and probationary constables (16 of 136, 11.8%) were alleged to have engaged in misconduct while off duty. Very few senior sergeants, inspectors or superintendents were alleged to have engaged in misconduct while off duty. Except for probationary constables and sergeants, the percentages of police officers of each rank who received complaints about off duty misconduct (i.e. police officers in this study) reflect the distribution of ranks of police officers within the whole of the NSW Police Force. For probationary constables, the percentage of officers in this study who were the subject of a complaint about off duty misconduct (11.8%) was a little greater than the percentage of probationary constables in the whole of the NSW Police Force (7.0%). For sergeants, the percentage of officers in this study who were the subject of a complaint about off duty misconduct (10.3%) was a little



smaller than the percentage of sergeants in the whole of the NSW Police Force who were aged 46 or more (16.0%).

When examining police officers who had finalised complaints separately by rank, the percentage of police officers who received management action was greater for lower ranking officers than higher ranking officers. The percentage of probationary constables with finalised complaints who received management action was 81.3% (13 of 16). The figure was approximately 50 per cent for constables (13 of 28, 46.4%) and senior constables (28 of 59, 47.5%) and 30.8 per cent (4 of 13) for sergeants. This comparison is not suitable for the remaining ranks because of the small numbers in each group.

When the LAC at which a police officer worked was compared to the LAC at which the alleged incident of misconduct occurred, 80 of 107<sup>24</sup> officers (74.8%) had the same incident LAC as the LAC where they worked. Of these 80 officers, 49 were from commands in the Sydney metropolitan area and 31 were from rural commands. Management action was taken for 43 of these 80 officers.

## Summary of Results

- Of the complaints made about police officers regarding incidents that occurred during the three-month period May to July 2009, 12.8 per cent (or approximately one in eight) described an incident that occurred while a police officer was off duty. A further 4.5 per cent of complaints described an incident where the duty status of the officer was not known, hence the incident may have occurred when a police officer was off duty. It is therefore possible that up to 17.4 per cent<sup>25</sup> (or approximately one in six) of the complaints included in this study described an incident that occurred while a police officer was off duty.
- More than half of the complaints (58.4%) about the behaviour of off duty police officers were made by other police officers.
- There were many types of alleged misconduct described in complaints about off duty police officers. In general, the most common types of misconduct related to secondary employment (15 issues), offences punishable by conviction (13 issues), improper associations (11 issues) and harassment (10 issues).

<sup>24</sup> Of the 136 police officers who were identified, 29 were at specialist commands, unknown commands or the complaints were registered to have happened at specialist or unknown commands. These officers were removed from the data, leaving 107 police officers. Of these, 106 officers had only one complaint against them, and all issues within the complaint were registered as occurring within the same LAC. One officer was the subject of two complaints, both of which were recorded as occurring in the same LAC.

<sup>25</sup> Note that percentages of police officers who were clearly off duty and those who may have been off duty do not add to 17.4% because of rounding.



- When the classifications used by the NSW Police Force to describe types of complaints were examined, the most common types of misconduct described in complaints about off duty police officers were classified as *local management issues* (26.9% of all issues) or *service delivery* (14.5% of all issues). These included allegations of drunken or inappropriate behaviour, unprofessional or unreasonable conduct, unauthorised secondary employment and loss, inadequate security of, or damage to NSW Police property. They also included allegations of rorting leave, posting inappropriate comments on social networking sites, being in possession of counterfeit DVD's and releasing confidential information.
- Allegations classified by the NSW Police Force as *other criminal acts or omission, corruption/misuse of office* and *misconduct* were also relatively common (11.9% and 9.7%, 7.5% of all issues, respectively). These included allegations of entering premises without permission, fraud, assault, indecent assault, sexual assault, bribery, improper associations, protection of persons involved in drugs, giving favours to persons who are suspected to be involved in criminal activity, conflicts of interest, unauthorised secondary employment, failure to comply with statutory obligations and police officers being the subjects of apprehended violence orders.
- Management action was taken against police officers in 41.3 per cent of all finalised issues within complaints. Therefore, evidence was found that misconduct occurred in 41.3 per cent of allegations of misconduct. Management action commonly (48.6%) consisted of counselling. For 6.6 per cent of all issues, the misconduct was considered relatively serious and decisions about management action were being made by an Internal Review Panel. Less common management actions included warnings, coaching, reprimands and any other actions as decided by the commander of the subject officer.
- One in six (16%) complaints about off duty misconduct included information to indicate that the police officer(s) who was the subject of the complaint was affected by alcohol at the time of the alleged misconduct.
- One in 12 (8.0%) complaints about off duty misconduct included information to indicate that the police officer(s) who was the subject of the complaint was physically violent (excluding domestic violence).
- One in 20 (4.8%) complaints about off duty misconduct included information to indicate that the police officer(s) who was the subject of the complaint was the perpetrator of domestic violence.



- One in 18 (5.6%) complaints about off duty misconduct included information to indicate that the police officer(s) who was the subject of the complaint was affected by alcohol at the time of the alleged misconduct and was physically violent.
- Of the police officers considered in this study, 12.9 per cent were alleged to have engaged in misconduct while off duty. A further 1.9 per cent of police officers may have allegedly engaged in misconduct while off duty. Therefore it is possible that up to 14.8 per cent of police officers nominated in complaints about incidents that occurred between May and July 2009 allegedly engaged in misconduct while off duty.
- When police officers allegedly involved in misconduct while off duty were categorised by age group, the percentage of police officers in each age group who received complaints about off duty misconduct reflect the distribution of age groups of police officers within the whole of the NSW Police Force, except for officers aged 21 to 25 and officers aged 46 or more. Police officers aged 21 to 25 make up 6.6% of the NSW Police Force, but they accounted for 12.5% of complaints regarding off duty misconduct. Police officers aged 46 or more make up 17.6% of the NSW Police Force, but they accounted for 8.8% of complaints regarding off duty misconduct.
- Management action was taken against 81.3 per cent of the police officers aged 21 to 25 who had a finalised complaint regarding off duty misconduct. This percentage decreased dramatically with increasing age.
- Of the police officers who allegedly engaged in misconduct while off duty, 76.5 per cent were male and 23.5 per cent were female. This is similar to the distribution of male and female officers in the NSW Police Force.
- Similar percentages of male (47.9%) and female (48.4%) police officers who were the subject of a finalised complaint regarding off duty misconduct received management action.
- Except for probationary constables and sergeants, the percentages of police officers of each rank who received complaints about off duty misconduct reflect the distribution of ranks of police officers within the whole of the NSW Police Force. Probationary constables make up 7.0% of the NSW Police Force, but they accounted for 11.8% of complaints regarding off duty misconduct. Sergeants make up 16.0% of the NSW Police Force, but they accounted for 10.3% of complaints regarding off duty misconduct.



- Management action was taken against 81.3 per cent of the probationary constables who had a finalised complaint regarding off duty misconduct. This percentage decreased dramatically with increasing rank.
- About three-quarters (74.8 %) of police officers worked at the same LAC in which the alleged incident of misconduct occurred.

## Discussion

This study has explored data derived from complaints about NSW police officers to provide information about misconduct that occurs when police officers are off duty. It has provided the first examination of information of this type of misconduct in NSW.

The results have shown that complaints describing incidents of misconduct that occur while police officers are off duty are relatively common, with one in eight (and possibly up to one in six) complaints of this nature made between 1 May 2009 and 31 July 2009.

The complaints described a range of different types of alleged misconduct and included incidents where police officers were affected by alcohol and/or were violent or the perpetrators of domestic violence. Complaints were made about alleged misconduct by officers of all ages, both genders and all ranks. In addition, the results also showed that three-quarters of all off duty misconduct occurred within the same LAC in which an officer was employed. The characteristics of misconduct by police officers while they were off duty were therefore diverse and covered a wide-range of scenarios.

As mentioned previously, off duty misconduct can have consequences for the officers involved and it can tarnish the reputation of the NSW Police Force, which can lead to a decline in public confidence in the police force. Because this study showed that complaints about off duty police officers are relatively common, preventing off duty misconduct is a sensible way of reducing the risk to the reputations of individual officers as well as to the NSW Police Force as a whole. Such prevention is, however, a challenging task. It is particularly difficult because even though employees of the NSW Police Force are bound by the *Code of Conduct and Ethics* and other policies while off duty, they are not at their workplace and hence are not in a controlled operational environment. They are not necessarily accountable for all of their actions while off duty and they have no supervision or peer support. In addition, while employees are off duty they are faced with different problems, scenarios and issues than they face at work.



One method of preventing off duty misconduct is that of raising awareness of the issue by ensuring that police officers understand that off duty misconduct is detrimental to the individual as well as the organisation. Emphasising the negative effects of such complaints and the management actions that are taken against police officers for off duty behaviour may provide additional deterrence. Training that includes examples and scenarios of inappropriate behaviour while off duty and the management actions that were taken against police officers can also help to convey the message. Such action may help to prevent off duty misconduct and reduce the number of complaints, particularly regarding incidents that can be avoided, such as posting inappropriate comments or confidential information on social networking sites. This action may also help to make police officers more aware of their behaviour when consuming alcohol while off duty or when spending time in the LAC in which they work while off duty.

The NSW Police Force recognises the risk posed by off duty misconduct and therefore has implemented organisational-wide training, policies and procedures, such as those described above, to manage the risk and raise awareness of the issue.<sup>26</sup> Previous work done by the PIC<sup>27</sup> showed that the Commanders of some commands (LACs and specialist commands) within the NSW Police Force also recognised the risk posed by the off duty conduct of police officers. The Commanders further raised awareness of the issue and managed the risks associated with off duty conduct in various ways, including providing officers with an induction package that included information about off duty conduct, issuing reminders to their officers about their conduct while off duty and providing officers with advice to avoid complaints about off duty misconduct.

Despite the efforts currently being made by the NSW Police Force and its commands, this study has shown that complaints about alleged off duty misconduct by police officers remain relatively common. Further, younger police officers and probationary constables receive a disproportionate amount of complaints about alleged off duty misconduct and these complaints regularly lead to management action against the officers involved (indicating that evidence was found that misconduct occurred). Younger officers and probationary constables are therefore likely to be at a higher risk of receiving a complaint about off duty misconduct than other police officers. They are also likely to be at a higher risk of being found to have actually engaged in off duty misconduct (and receiving management action) than other police officers.

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<sup>26</sup> e.g. *NSW Police Force Code of Conduct and Ethics, NSW Police Force Conflicts of Interest Policy and Guidelines, NSW Police Force Drug and Alcohol Policy.*

<sup>27</sup> Police Integrity Commission (2009) *Project Manta, Report 1. Identification and Communication of Command Misconduct Risks*. Police Integrity Commission, Sydney, NSW. November 2009.



The statistics and patterns described in the results of this study can be used as part of training and awareness strategies to inform police officers about off duty misconduct and the consequences of engaging in it. The results also suggest that awareness and training programs should be targeted to young officers and probationary constables who may be at a higher risk of engaging in off duty misconduct than other police officers.

In summary, the information gathered in this study has provided a snapshot of the characteristics of off duty misconduct as described in complaints about NSW police officers regarding incidents that occurred between 1 May 2009 and 31 July 2009. Further work including long-term and detailed studies regarding off duty misconduct would, however, need to be done to determine some more specific and long-term patterns regarding off duty misconduct and the reasons why such patterns exist.

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