



Improving the management of complaints

Police complaints and repeat offenders

A special report to Parliament under s 31
of the *Ombudsman Act 1974*

September 2002



NSW Ombudsman

Level 24 580 George Street
Sydney NSW 2000
Phone 02 9286 1000
Fax 02 9283 2911
Tollfree 1800 451 524
TTY 02 9264 8050
Web www.ombo.nsw.gov.au

September 2002

The Hon Meredith Burgmann MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon John Murray MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Madam President and Mr Speaker,

I submit a report pursuant to s 31 of the *Ombudsman Act 1974*. In accordance with the Act, I have provided the Minister for Police with a copy of this report.

I draw your attention to the provisions of s 31AA of the *Ombudsman Act 1974* in relation to the tabling of this report and request that you make it public forthwith.

Yours faithfully,

Bruce Barbour
Ombudsman

NSW Ombudsman

Level 24, 580 George Street
Sydney NSW 2000

Phone 02 9286 1000

Tollfree 1800 451 524

Fax 02 9283 2911

TTY 02 9264 8050

Email nswombo@ombo.nsw.gov.au

Web www.ombo.nsw.gov.au

NSW Government publication

ISBN 07 313 1280 5

© NSW Ombudsman, September 2002

Contents

Foreword	7
Background — suspect targeting	9
Ombudsman’s review	9
Findings	10
Recommendations.....	14
Appendix	15

Foreword

Earlier this year, I foreshadowed that I would report to Parliament on key issues in managing complaints against police. I was concerned to place these matters on the public record, to encourage improvements to policing practices, and to recognise the positive work of many police.

In my first report, *Identifying and managing officers with complaint histories of significance*, I highlighted the need for local commanders to better manage police officers with disturbing complaint records. I recommended closer consideration of records by commanders, while urging that any use of complaint histories be fair to police officers.

The second report, *Assessing police performance in complaint management*, placed on the record how police deal with complaints in key areas — timeliness, the quality of complaint investigations, and complaint outcomes. I encouraged police to consult with the community in developing performance measures for complaint management, and to report to the community against these measures.

NSW Police has accepted the recommendations of both reports — a positive first step — and I am closely monitoring the implementation and evaluation of new initiatives.

This report, *Police complaints and repeat offenders*, the final in this series, challenges the assertion that criminals abuse the complaints system to stop officers effectively policing crime.

I am aware of genuinely held fears that police officers who actively target criminals are the subject of complaints. I have heard on any number of occasions — from frontline police, police commanders, community members and in the media — that criminals use complaints to frustrate police. Those same people have said that police will not do their job because of a fear of complaints.

However, no detailed police research had been undertaken to explore whether repeat offenders are tying up policing resources through making complaints. Knowing the facts about this issue, rather than accepting without question perceptions and anecdotes, will ensure appropriate policing and policy responses. To find out the facts about police complaints and repeat offenders, my staff have examined in detail complaints from 15 local commands across New South Wales over a period of six months.

The results demonstrate that there is no widespread misuse of the complaints system by serious or repeat offenders.

Serious or repeat offenders actively targeted by police officers rarely complain about police

Only 7 of the 423 complaints made about police, or less than 3 per cent, concerned serious or repeat offenders targeted by police. Of the 251 offenders actively targeted during the six-month review period, only two made a complaint. Three complaints were made, not by the targeted offender, but by a relative or associate. Another two complaints were internal inquiries initiated by police officers. In nine commands, no complaints involved serious or repeat offenders. A check of our complaints records since 1989 found that, of the 251 targeted offenders, only 32 (or about 13 per cent) had ever complained about police.

Other known offenders are also not the primary source of complaints against police

In total, only 20 per cent of all the complaints examined were made by serious or repeat offenders or other people with two or more criminal convictions in the past five years.

Most complaints are made by first-time complainants, not repeat complainants

Eighty four per cent of complainants — 357 of 423 complaints examined — had not made a complaint about police in the previous five years.

Many police are concerned that criminals make many false complaints. In one local command, a group of officers estimated that 80 per cent of complaints are made by targeted offenders — many times our research findings.

These findings demonstrate that frontline officers who actively police serious or repeat offenders should not be deterred from doing their job because suspects might make false allegations — these people rarely make complaints against police. The small number of complaints from serious or repeat offenders means investigators and commanders can ensure that complaints are treated on their merits.

It is important for senior commanders to tell frontline police officers the facts about repeat offenders and complaints. Knowing the facts should remove or reduce the fear of officers who actively police serious or repeat offenders. The facts will contribute to a rational debate about how to effectively police serious or repeat offenders.

I have recommended that NSW Police make this report widely available to officers. In addition, I encourage senior managers and commanders to set the record straight about police complaints and repeat offenders. This will contribute in no small measure to police dealing appropriately, and where needed firmly, with serious or repeat offenders.

Background — suspect targeting

In February 2000, NSW Police began implementing a strategy to encourage local commands to target serious or repeat offenders across NSW. The initiative, known as the *Suspect Targeting Management Plan* (STMP), was seen as an important factor in police attempts to reduce crime by targeting the criminal activity of repeat offenders.

The targeting approach is based on a belief that 'a small number of offenders are responsible for a large proportion of crime and ... that the targeting of recidivist behaviour is possibly the most efficient method of reducing crime'.¹ Although there was targeting of recidivist offending before this initiative, the development of a coordinated state-wide strategy was expected to promote more effective, more consistent and fairer policing interventions in relation to repeat offending.²

Another important aspect of this approach was to make the organisation, rather than individual officers, responsible for decisions as to who should be targeted. In August 2000 police responsible for reviewing the STMP advised us:

The Suspect Targeting Management Plan is designed to protect officers from allegations ... while maintaining individual responsibility for appropriate action. Through the plan, the Service is giving notice to offenders that they are targets of the Service and not individual officers.

Ombudsman's review

In March 2002, we initiated a review to establish whether the people who were targeted were making allegations about the conduct of police officers implementing the STMP, what issues were raised, and whether NSW Police was managing these complaints appropriately.³

Our analysis involved examining the lists of suspected serious or repeat offenders actively targeted in 15 local area commands across NSW between 1 September 2001 and 28 February 2002. Our review compared the 251 names provided by police with our own complaint records to ascertain the extent to which suspects actively targeted by police in that six-month period made complaints about their treatment. We then checked records dating back to 1989 to see how many had ever complained.

We also reviewed records relating to all complaints about police in the 15 local commands in the six-month review period. We analysed 423 complaints about police in those 15 commands to assess the extent to which other known offenders complained about police and how these complaints were managed. We also

¹ *Police Service Weekly*, 24 January 2000, p 4.

² References in this report to people targeted under the STMP include all people listed by the 15 local area commands analysed, whether under the STMP or some other local strategy for dealing with repeat offending. The STMP classifies the status of people listed in accordance with STMP procedures as:

- High risk offender (HRO) — A criminal who persistently commits crime — involved in serious crime, including violence and sex crimes, or who is known to be involved in the organisation or management of crime;
- Medium risk offender (MRO) — A criminal who, because of the level of activity should be monitored or considered for development. Further intelligence is needed prior to enforcement action;
- Sleepers — Where considerable criminal intelligence exists on a person, however they are not known to be currently active, have not reached the level of activity required for continued focus, are in jail, interstate or overseas.

Suspect Targeting Management Plan, NSW Police Service, Version 1 — 1999'

In addition, a number of local commands employ their own terminology to report on the status of people targeted. Many are either variations of the above, or simply refer to those listed as 'current' or 'suspended'.

³ This report does not consider the operational effectiveness of policing strategies to target serious or repeat offenders. Decisions on operational priorities and the allocation of resources are, appropriately, a matter for NSW Police management. Rather, the purpose of this review is to examine issues relating to the police management of complaints arising from the targeting of suspected repeat offenders.

checked for repeat complainants and for complaints arising from arrest and other custody situations and charges because of the potential for these situations to expose officers to allegations of improper conduct.

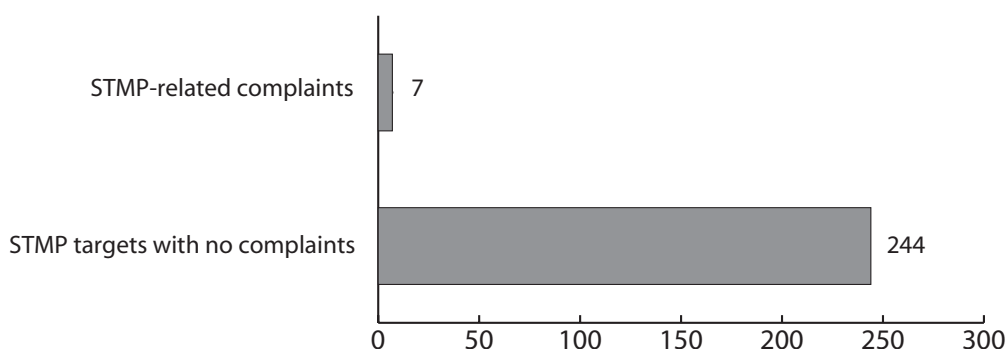
It is important to note that NSW Police provided significant support for our research, including prompt access to relevant police information, which has considerably enhanced the quality of our review.

Findings ⁴

Suspects actively targeted for their frequent or serious offending rarely complain about police

In order to identify a sample of alleged offenders who had comparatively high contact with police, we asked 15 local commands to list those serious or repeat offenders who were being actively targeted in those commands in the six months from 1 September 2001 to 28 February 2002. Police provided details of 251 people they were targeting across those commands at that time. A review of the total 423 complaints received in those commands found complaints relating to just seven of the people targeted. There were no complaints from the remaining 244 people targeted.

STMP-related complaints in 15 local area commands from 1 September 2001 to 28 February 2002



It is also important to note that two of the seven STMP-related complaints during the review period were internal inquiries initiated by police management. One of these police internal matters was a routine inquiry into the circumstances surrounding a vehicle pursuit involving a medium risk offender, in which the offender's vehicle rolled and occupants were injured. The other related to an investigation initiated by police following a comment made by the father of an STMP target during a police search of the family home. As police were counting and recording a significant amount of cash found during the search, the father alleged that unnamed police failed to record \$1500 taken during a previous search. He refused to provide further details. Police initiated a brief check of relevant records and established that no previous search warrants had been executed on the premises.

⁴ Summary data and details of the methodology used are set out in the appendix to this report.

Although the numbers were small, there was a variety of issues raised and outcomes achieved. For instance, the following STMP-related case found no misconduct on the part of the officers involved, but led to a positive outcome:

A solicitor alleged that her client, a targeted offender, had been unlawfully arrested for breach of bail. An inquiry established that police records about bail had not been updated after a recent court hearing. The man was released after 12 hours when the error was discovered. There were no adverse findings against the involved officers and the solicitor agreed they had acted in good faith. NSW Police initiated steps to remedy the cause of the problem.

Another inquiry quickly established a reasonable explanation for the concerns raised:

A young high risk offender told a youth worker he had been injured during an arrest the previous day. Police explained that he had failed to comply with directions to lie down during his arrest and was subsequently forced to the ground and handcuffed. The inquiry provided evidence indicating that the force used was reasonable and necessary. The complainant withdrew his complaint.

Of the remaining three STMP-related complaints:

- one involved a substantial inquiry which led to recommendations about how best to manage police interactions with a difficult family
- another involved a range of issues — police appropriately declined to investigate several issues but problems relating to the offender's treatment in custody were considered and addressed
- the third related to a mother concerned that police were harassing her two sons, both high risk offenders.

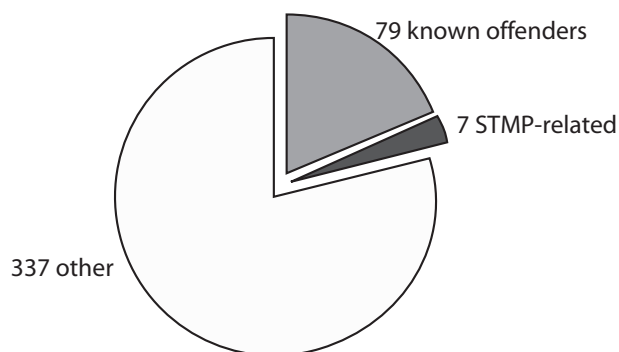
In short, there was no way to consistently characterise the small number of complaints related to targeted offenders. Our assessment relating to complaints by targeted offenders was that local commands handled most complaints appropriately, with a fair response to serious concerns and a quick examination of minor issues. While some complaints might have been ill-founded, there was certainly no evidence of widespread or frequent and deliberate misuse of the complaints system by repeat offenders.

In addition, we checked the complaints histories of the 251 targeted offenders against complaint records dating back to 1989. This check indicated that only 32 had ever complained and most (25 of the 32) complained only once.

Other known offenders were not the primary source of complaints against police

Although STMP-related complaints are a key indicator of the propensity of actively targeted offenders to complain about police, it was also important to consider the prevalence of complaints by repeat offenders generally, irrespective of police targeting strategies. In seeking to distinguish repeat offenders or known offenders from other complainants, we used Ombudsman and police records to identify all complainants with two or more criminal convictions from separate incidents since 1997, or where police made unequivocal comments about the complainant's offending history. Of the 423 complaints about police across the 15 local commands analysed, 79 concerned other known offenders.

Known offender complaints from 1 September 2001 to 28 February 2002



Even after combining the known offender data with the STMP-related complaints, there were still only 86 such matters in all — just 20 per cent of the total 423 complaints received at the 15 local commands.

Each local command received, on average, only one complaint each month concerning arrest and other custody situations

The conflict and force inherent in arrests and other custody situations routinely exposes officers to allegations of assault and other abuses of authority, particularly if the arrest leads to the offender being charged. For this reason we assessed all files arising from arrest and other custody situations (excluding representations about the issuing of traffic infringement notices).

These situations accounted for 88 of the 423 complaints about police. This means that, on average, each local command only received one arrest or custody complaint per month. The rates varied from command to command; the lowest was 10 per cent (3 of a total 31 complaints) and the highest was 43 per cent (9 of 21).

Although some targeted and known offenders repeatedly threaten that they will lodge a complaint, they rarely carry through with the threat

There were a number of first-time complainants whose police records included warnings about their propensity to complain of police harassment. One police-initiated inquiry related to the arrest of a street sex worker for breaching bail conditions that no longer applied. Police records on the sex worker included a police intelligence report created in 1999 warning police of her propensity to ‘make false allegations in an attempt to intimidate police’. Although she might have threatened to complain many times, especially as she has had frequent contact with police for prostitution, public order and other offences, the first genuine complaint about her was not until 2001. Even then the complaint was actually initiated by police because she declined to formally write a complaint about the error made by police.

On the other hand, some offenders do carry through with threats to complain. An incident involving the arrest of four members of one family led police to create an intelligence report headed 'Vexatious complaints against police'. The attached narrative stated, in part:

During the arrest and charging procedures all of the mentioned people [four members of the family] made comments to police that they would complain of police harassment, assault by police etc. They also stated that they intended to lay counter complaints against police and sue them.

This report formed part of the record of the incident when a complaint was subsequently made by the legal representative of one of those arrested.

It is important to note that most people do not complain even if they are dissatisfied with their interaction with police. A survey of defendants appearing at magistrate courts in Queensland in 1999 found that 'most respondents who were unhappy with the way they had been treated by police said they had not made a formal complaint.'⁵ Of the 456 defendants who said they were unhappy with their treatment, 84 (18 per cent) said they had made a formal complaint about the incident, and another 10 (2 per cent) stated they intended to make a complaint.

Most complaints were made by first-time complainants. However, there were a small number of difficult complainants who made numerous complaints and inquiries.

Our review found that 357 of the 423 complaints were one-off complaints — that is, they were made by complainants who had not made another complaint about police in the past five years. However, most of the 15 commands analysed had a small number of difficult or challenging complainants who made numerous complaints and/or inquiries. Only some commands appeared to have effective strategies to deal with these complainants.

Most repeat complainants came into frequent contact with police for reasons other than their offending behaviour. Common factors associated with repeat complaints included:

- ongoing neighbourhood disputes
- apparent mental health issues;
- ongoing or unresolved conflicts with police and/or
- dissatisfaction with police customer service, particularly in relation to domestic violence incidents.

Some of the local commands appeared to have difficulty in dealing with repeat complainants in matters of this type.

Of the 66 repeat complaints, only two were made in respect of serious or repeat offenders. Another 24 concerned other known offenders.

⁵ *Defendants' Perceptions of Police Treatment — Findings from the 1999 Queensland Defendants Survey*, Queensland Criminal Justice Commission, March 2000, p 1.

Difficult complainants pose a challenge to those responsible for managing complaints. However, this is not unique to the business of policing. Health, community services, education and other government services and agencies deal with difficult clients on a daily basis. NSW Police is no different in this respect.

NSW Police has advised that work has commenced on a policy to guide commanders and investigators in dealing with difficult complainants. Because our primary focus is dealing with complaints, we have substantial expertise in managing complainants. We have offered to share our expertise with NSW Police to ensure complaints from difficult complainants are dealt with in a fair and consistent manner.

It is also of note that a small number of police officers in the 15 commands examined were the subject of a disproportionate number of complaints. For example, a senior constable in one local command, with a complaint history of in excess of 40 separate matters, was the subject of three serious complaints, including allegations of off-duty assaults and other criminal conduct, in the six month audit period. The review reinforces the concerns demonstrated and recommendations made in the report, *Identifying and managing officers with complaint histories of significance*.

Recommendations

This report provides strong evidence that serious or repeat offenders who are actively targeted by police are not tying up police resources through abuse of the complaints system.

The report also demonstrates that, contrary to commonly held beliefs, repeat offenders are not the primary source of complaints. Across 15 commands, over a six month period, only one in five complaints was made by or on behalf of known offenders.

Finally, this research shows that most complaints are one-off, and not the latest in a series of complaints by the usual suspects. That said, there are a small number of repeat complainants, and commanders need to manage these people in a consistent, fair and effective manner.

Senior police and local commanders have the responsibility to set the record straight, so that frontline officers can deal with concerns by reference to the facts and not based only on anecdote. In light of the findings of this report, I recommend that:

- NSW Police develop a strategy, in consultation with my office and the NSW Police Association, to minimise the concerns of frontline police officers about the complaints system — this should include advising officers of the findings of this report.
- NSW Police take account of the findings in this report in the current development of its policy on dealing with difficult complainants.
- NSW Police provide a report to my office within three months which details its progress in addressing these recommendations.

Appendix

Summary of STMP target and complaints analysis

	LAC A	LAC B	LAC C	LAC D	LAC E	LAC F	LAC G	LAC H	LAC I	LAC J	LAC K	LAC M	LAC N	LAC O	LAC P	TOTAL
STMP targets	3	29	15	14	17	49	6	7	12	5	26	27	18	15	8	251
Complaints received	28	34	23	24	30	19	12	42	35	33	41	31	26	24	21	423
1 STMP-related complaints																
a) by STMP targets	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	2
b) by relative/associate of target	0	0	1	0	1	0	1	0	0	0	0	0	0	0	0	3
c) Internal police complaint	0	1	0	0	0	0	0	0	1	0	0	0	0	0	0	2
Total STMP complaints	0	1	1	0	1	1	2	0	1	0	0	0	0	0	0	7
2 Other known offenders																
a) by other known offenders	2	9	4	4	2	2	1	4	7	5	7	5	3	1	6	62
b) by relative/associate	0	1	3	0	3	0	2	0	0	0	1	0	0	3	0	13
c) Internal police complaint	1	1	0	0	0	0	0	1	0	0	2	0	0	1	0	6
Other known offender total	2	11	7	4	4	2	3	5	7	5	10	5	3	5	6	79
3 Repeat complaints																
Repeat STMP complaints	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	2
Repeat complaints (oko*)	0	4	2	1	1	0	1	0	2	0	7	1	1	2	2	24
Other repeat complaints**	3	0	3	5	6	3	2	3	4	5	1	0	4	0	1	40
Total repeat complaints	3	4	5	6	8	3	4	3	6	5	8	1	5	2	3	66
Total repeat complainants	3	3	3	5	5	1	4	2	6	5	6	1	5	3	2	54
4 Complaints arising from arrest situations																
Total	5	10	3	6	4	4	4	5	6	6	6	3	10	7	9	88
Complaints records relating to STMP targets since 1989																
STMP people with complaints history	1	4	1	2	4	6	1	0	3	0	1	3	2	1	3	32
Total complaints by STMP targets since 1989	1	4	1	2	4	10	1	0	4	0	1	3	8	1	4	44

*oko = **Other known offenders** — people who have proven offences from 2 or more separate incidents since 1 January 1997 — or reference as known offender in final police report

** **Repeat complaints** — complaints concerning people about whom other complaints have also been made since 1 January 1997.

Methodology

NSW Police provided summary information relating to the targeting of serious and repeat offenders in 15 local area commands in the six months from 1 September 2001 to 28 February 2002. Those commands identified 251 people targeted under STMP or similar initiatives during the review period, their STMP status and the date each person was listed for targeting. We initially searched for complaints by any of the 251 people listed during the six-month review period. We also checked records dating back to 1989 for any other complaints by these people.

The second part of the review involved the analysis of all complaints about police in those 15 commands in the six-month review period. We sought to identify all complaints from people known to police for their previous or current offending, not just those listed as targeted offenders. There were 423 complaints about police in those 15 commands received between 1 September 2001 and 28 February 2002. All were reviewed to determine whether complaints were lodged:

- in relation to people targeted under the STMP or similar initiatives
- in relation to people known to police but not targeted under the STMP, and
- by complainants who had made one or more previous complaints since 1 January 1997.

These were further distinguished according to who initiated the complaint:

- a) the targeted or known offenders themselves
- b) a related person or associate (such as a family member or legal representative) on the person's behalf, or
- c) whether the complaint was initiated by way of an internal police report.

Files were also reviewed to identify complaints arising from arrest or custody situations, particularly incidents leading to the initiation of a charge or similar legal process, because of the potential for these situations to give rise to complaints. Representations from complainants issued with traffic infringement notices were generally excluded from this sample unless the situation also included an arrest and charge for a criminal offence.

Further checks of additional police sources were used to confirm whether complainants met the known offender criteria of two or more criminal convictions since 1 January 1997. Reports were then prepared on each of the 15 commands. As the main part of the analysis took more than two months to complete, there was a final check of relevant files and police data in mid-July 2002 for any new information received.