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The Perennial Problem of Police Gratuities: Public Concerns, Political Optics, and An Accountability Ethos

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ABSTRACT
Despite the perennial nature of the problem of gratuities in considerations of police ethics, many prior analyses of this issue have rested on anecdotal, piecemeal or hypothetical considerations. This paper draws on a unique sample of actual complaint cases involving gratuities, providing evidence of a range of public concerns about the problem. Gratuities are analysed and contextualised by reference to the concept of conflict of interest, which draws attention to the potential for the performance of public duty to be tainted in fact or appearance. In either case, public trust in the integrity of the police is damaged, giving rise to “political optics” as a key problem with gratuities. The paper argues that an accountability ethos must be developed to promote active responsibility and a preparedness to prioritise the public interest in policing.

Introduction

The receipt of gratuities has long been identified as a problematic area for police ethics, discipline and management, but there remains disagreement as to how gratuities should be viewed and treated. On the one hand are arguments that gratuities may result in biased policing, with the potential to result in an uneven, undemocratic, and unaccountable distribution of police resources and services. From this perspective, gratuities may generate a type of undue influence that results in favouritism or bias in law enforcement and other unfair uses of police discretion.
The acceptance of gratuities may also be regarded as unprofessional and demeaning, implicitly treating policing as something more akin to waiting and personal service occupations. At the extreme, the result may be a corruption of individual officers or of the policing function itself (see Feldberg, 1985; Macintyre and Prenzler, 1999; Sigler and Dees, 1988). These conclusions are often deemed to rest principally on a variant of the “slippery slope” argument which suggests that minor acts which create a sense of obligation outside or beyond official police duties may have the potential to lead to other more corrupt forms of behaviour. Acceptance of gratuities, then, may be the first step in a “moral career” from lesser to greater forms of corruption (Sherman, 1985).

On the other hand these conclusions have been contested to varying degrees, often in the form of an argument that gratuities symbolise an expression of gratitude to police officers, with neither an explicit expectation of a return favour nor the intention to influence the performance of an officer’s duty (see Kleinig, 1996, pp 171–181; Prenzler 1994). Kania (1988) goes much further, adopting a position that holds that police officers should be encouraged to accept minor gratuities, invariably described as “customary”, “modest”, “usual”, or “incidental”, as their acceptance assists the formation of appropriate “building blocks of social relationships” between the public and the police. He argues that this ultimately assists the performance of the policing function.

Although most analyses argue at least on some level against the general practice of accepting gratuities, not all argue for universal prohibition. For example, on the basis of an assumption that many small gratuities are neither offered nor accepted with nefarious motives, Feldberg (1985) argues that universal condemnation and prohibition thereof may be unreasonable and counterproductive. This leaves an open question about where to draw the line between acceptable and unacceptable gratuities and, further, who is to draw the line (the individual police officer on the job, police managers, or detailed regulations that prescribe the line).

The relationship between gratuities and corruption is ambiguous due to uncertainty about the intent of the giver and the impact on the behaviour of the recipient (Feldberg, 1985, pp. 267–368). Cohen and Feldberg suggest that “What makes a gift a gratuity is the reason it is given; what makes it corruption is the reason it is taken” (quoted in Feldberg, 1985, pp. 267–368). Unfortunately, this approach does not clarify ethical and management issues, in part, because both sides of the Cohen and Feldberg construction rest on interpretations of states of mind. Judgement in such circumstances relies on assurances from either giver or receiver as to their intentions, such as “I had no intention to influence ...” or “I did not allow myself to be influenced ...” but these are subjective defences that cannot be evidentially or objectively supported or rebutted. Because one cannot see into the mind of either giver or receiver in order to determine subjective intention or effect, effective regulation and management needs to focus on situations that can be objectively judged as problematic or not.

An important issue in dealing with police gratuities is the possible interaction between this issue and the level of public trust in policing as an accountable social institution. Employment in any area of public service involves a public trust which
requires the performance of official functions to be in the public interest and not tainted by attempts to further private, personal or sectional interests. Trust in public institutions is not automatic and cannot be assumed to spontaneously arise—it needs to be actively generated through beliefs and perceptions about the integrity of both the institutions and the individuals who inhabit them. In policing, the public interest includes the disinterested application of police powers and the unbiased performance of police duty.

Although gratuities do not in all cases and at all times clearly constitute conflicts of interest (see Davids, 2008), analysis and management of the problem may usefully be situated within the broader rubric of conflict of interest in policing. This concept draws attention to the potential for the performance of public duty to be tainted in fact or appearance. Despite the perennial nature of the problem of gratuities in considerations of police ethics, many analyses of this issue have rested on anecdotal, piecemeal or one-dimensional considerations. This paper sets out to build on prior research to expand understanding of the issues. The paper draws on a unique sample of actual complaint cases regarding conflict of interest to analyse the dimensions of the problem, which is then placed in a public interest context by considering the "political optics" of gratuities. It is shown that concerns about gratuities extend beyond the possible offence to society's "democratic ethos" (Feldberg, 1985; cf del Pozo, 2005) and that the key question is one of public trust in the integrity of policing and of police officers. The paper argues for the adoption of an accountability ethos encompassing active responsibility and a preparedness to prioritise the public interest.

A general decline in perceived standards of conduct in public office has been noted in many countries, and the prevalence of conflict of interest is recognised as an important contributing factor. Dealing with this situation may require more effective regulatory and disciplinary rules and procedures but there is also a need for considerable action at the collective and cultural levels within policing (Davids, 2008). Questions of accountability and the importance it assumes in relationships inside police organisations, and between police and members of the public, are essential in making these processes to some degree controllable. The way police officers are rendered accountable to themselves and to others, and to the broader public interest, is central to a sustainable resolution to the question of police gratuities.

The problem of gratuities

Put simply, gratuities are gifts and benefits in the form of items or services of value given by outside parties to public employees in the course and context of official duties. A range of gifts and benefits are relevant, ranging from small items with little or no financial value through to items of considerable commercial value. Whatever the value, many potential problems associated with the receipt of gratuities are recognised in departments, organisations and agencies across the entire public sector, and at all levels.
THE PUBLIC SECTOR IN GENERAL

In the private sector, gratuities may sometimes be used to “oil the wheels” of business networks, build relationships and facilitate business or commercial activity. However, in the public sector “behind the scenes” networks are cause for concern because they may be invoked in relationships of corruption. Although the relatively small financial value of most gratuities is generally regarded as one of the factors that distinguishes them from bribery (see Stark, 2000; Kleinig, 1996; Prenzler, 1994), if the acceptance of any private benefit is specifically associated with the performance of a particular function, it may be regarded as constituting bribery.

Gratuities may also give rise to concern that private relationships and interests have prevailed or may prevail over the “strict and inescapable duty” on all public officials to act in the public interest (The Ombudsman, 2008, p. 9), this being the “fundamental mission of governments and public institutions” (Organisation for Economic Co-Operation and Development, 2003, p. 1). If any reasonable observer could believe that a gratuity was intended or had the tendency to influence an official in any way, this perception itself damages the reputation of both the individual and the organisation (The Ombudsman, 2008, p. 48). Therefore, public concerns about the elevation of particular private interests will tend to taint official actions and diminish citizen confidence in the public sector overall.

Although gratuities may serve business purposes in the private sector, accountability within the public sector requires a much more critical approach. Indeed, if the provider of a gratuity is a private business, the situation should be viewed in a business context: “gifts are rarely offered to an individual for purely charitable or hospitable reasons ... Feelings of obligation can arise [and] a public official can be compromised. If the giver later requests favourable treatment, it can be difficult to refuse” (Independent Commission Against Corruption, 1999, p. 6). In a variation on the slippery slope thesis, the Independent Commission Against Corruption (ibid) suggests that “Individuals attempting to corrupt public officials often start with small inducements that appear to have no improper motive behind them”. Even seemingly innocent gifts of a nominal value may tend to influence the actions of a public official or may work to create a sense of obligation that unintentionally leads to compromise.

POLICING

In the domain of policing, gratuities may be defined as “any goods or services which are given to law enforcement officers because they are law enforcement officers, which are not part of their regular remuneration” (Cohen, in Feldberg, 1985, original emphasis). Police gratuities come in many forms, including the quintessential “free cup of coffee” through free or discounted meals, alcohol or other goods and services, entertainment, tickets to cultural and sporting events, free entrance to nightclubs and similar venues, paid vacations, free travel and better quality goods or services. The offer, solicitation, and/or receipt of gratuities generates an ambiguous situation...
because the intent of the giver and the impact on the recipient are not self-evident (Kleinig, 1996, p. 171).

Gratuities are always of concern in policing because the daily performance of a police officer’s normal duty may, as a consequence of that performance, effectively confer private benefits on members of the public (such as lowered risk of becoming a victim of crime, or return of stolen property). The ethical concern is that if a private beneficiary of policing “services” seeks to reward the police officer in some way, the individual police officer’s capacity to undertake their police duties impartially in relation to the giver is brought into question. Many businesspeople seem to be quite comfortable offering gratuities to police officers—sometimes for reasons of gratitude, but sometimes because they expect something in return (Sigler and Dees, 1988; Prenzler and Mackay, 1995). There may also be an effect of influencing the officer in the future performance of duty whether or not such an intention was implicit in the gratuity. Ex ante, the anticipation of receiving a private benefit may also influence a police officer in the performance of duty. A gratuity may signify a pre-existing quid-pro-quo relationship or that the recipient may become beholden to the provider. There is a possibility that the giver may call on the police officer in the future to advance his or her interests or those of some other third party (see Stark, 2000, p. 72).

Another aspect of the problem is an implied advantageous or preferential treatment that a gratuity may represent, presenting a potential problem for democratic policing (Feldberg, 1985). Feldberg argues that the result may be the “disproportionate” distribution of the benefits of policing to some taxpayers and not others (the “some” being the coffee shops and other premises frequented by police officers who receive gratuities at those premises). Feldberg suggests that there is a resultant undesirable “skewing” of the distribution of police services, but he further argues that the effect is small. Nevertheless, research suggests that this effect is real—the offer of gratuities and police officer eagerness to receive them does have an effect on the way police carry out their work, including the premises and locations they choose to patrol (Deleon-Granados and Wells, 1998).

**Method and data: public complaints about gratuities**

**DATA SET: COMPLAINT CASES**

The key data for this paper are drawn from a 10-year (1988–1998) study of conflict of interest in Victoria Police (see Davids, 2005, 2006, 2008). The full data set consists of 377 internal investigation complaint case files involving 539 police officers (case discussions in this paper use reference numbers ranging from 1 to 377, taken from the original data set). Approximately 8 per cent of the full data set (29 cases) involved gratuities as a principal focus of concern.

Case files were made available by the Victoria Police Ethical Standards Department (formerly the Internal Investigations Department). They were viewed in their original state, including investigation notes and comments from the Ombudsman, who had a statutory responsibility under the Police Regulation Act 1958 to oversee the
investigation of all public complaints against police (this function is now performed by the Office of Police Integrity, which also has considerable independent investigatory powers). The 377 cases, representing around 3.5 per cent of complaints against police for all matters during the 10-year period, were identified by the Ombudsman’s office as all cases for the period where conflict of interest was believed to be the main allegation. Although this sample was extensive, not all conflict of interest complaint cases for the 10-year period were included in the data set, principally due to the multidimensional nature of many complaints. Where a given case contained several aspects including, but not limited to, conflict of interest, it may have been officially categorised as a different complaint type and therefore not included in this dataset (see Davids, 2005 for a full discussion of the extent and limits of the sample).

The data provide an important indication of the nature and dimensions of this problem in the public mind (as reflected in the complaints themselves) and the view of police management and the Victorian Ombudsman (in processing and oversight of cases, respectively). The case files are a particularly valuable source of qualitative material because the data were not constructed for the purposes of the research, were not developed as part of the research, and were not changed by the process of the research. Scenarios in the case files are not fictitious and the data are not based on statements about what various players claim they think or would do, but what they actually said and did when confronted by real situations. This research deals with real-life complaints about real (or perceived) police behaviours and is thus a study of policing in action, not one based on paper-based questionnaires, constructed scenarios, or individualised memoir-style accounts (cf Macintyre and Prenzler, 1999; Prenzler, 1994; Prenzler and Mackay, 1995; Kania, 1988, 2005; Ruiz and Bono, 2005; Kutnjak Ivković, 2005).

Public complaints procedures have become a crucial part of contemporary systems of public accountability in policing, but complaint systems are also a key element in internal management and disciplinary procedures that attempt to ensure consistency in practice and effective workplace management (Lewis, 1999, 2000). Thus, research into the mundane functioning of systems for dealing with complaints against police is also a study of the operation of internal and external accountability functions.

Findings

The chart below summarises the outcomes in the 29 complaints cases examined for this paper, classified as (a) in favour of the police officer (complaint withdrawn; finding of “no complaint”; not substantiated; unfounded; exonerated); (b) adverse to the police officer (some element of the complaint substantiated); or (c) indeterminate in nature (lesser deficiency—finding against the officer but not in relation to the substantive subject of complaint; conciliated; unable to determine; not proceeded with due to resignation).
Summary of outcomes

There was an overall substantiation rate of 48.3 per cent, which is high compared both to the substantiation rate of 38.5 per cent for all conflict of interest cases examined in the wider study (see Davids, 2008) and the generally low rates of substantiation in other complaints against police—usually reported to be under 10 per cent (see Goldsmith, 1991). However, caution should be exercised in interpreting, principally due to the multifaceted yet interwoven nature of the allegations. In the present research a case is reported as substantiated if there was any adverse formal or informal finding against an officer (including counselling outcomes), whereas some other research reports formal findings in Disciplinary Hearings in relation to each separate allegation within a case. It may also be the case that certain complaint categories such as gratuities may be expected to have higher substantiation rates than general complaints against police because complainants may more easily provide direct and first-hand evidence in support of allegations, whereas other areas of alleged misconduct may be more difficult to prove.

RESULTS: DIMENSIONS OF THE GRATUITIES PROBLEM

The qualitative analysis of cases identified several areas of concern. Complaints were classified into the following groups: (1) free alcohol; (2) other free or discounted items; (3) free entrance to nightclubs; (4) other preferential treatment; and (5) gifts or payment perceived to be a kickback for specific acts. Although the “free cup of coffee” is often regarded as the quintessential gratuity (see Sherman, 1985; Kania,
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1988, 2005), this specific concern did not arise as a problem in any of the complaint cases examined for this research. However, comparable minor items did attract complaints and no definitive conclusions can be drawn about the presence or absence of complaints about specific items such as coffee.

Evidence within the case files did not necessarily suggest that the police officers involved were “aggressive shoppers” or “moochers” (Cohen, 1986, cited in Prenzler, 1994) who “seek out gratuities and develop work routines that permit maximum consumption of gratuities” (Prenzler, 1994, p. 2), but neither was it clear that they were “passive” recipients who accepted small gratuities as a matter of courtesy and to avoid embarrassment, or inexperienced police officers accepting gratuities as a result of peer pressure from more senior officers (“coercive”). However, approximately 40 per cent of the cases involved allegations that gratuities or benefits were actively solicited or otherwise sought by police officers. Although official findings did not generally pronounce on this aspect of the allegations, what the cases provide overall is an indication of the range of situations where the receipt of gratuities is likely to attract negative attention from the public, notwithstanding the specific intentions of giver or receiver.

1. Free alcohol

The receipt of free alcohol was complained against in several respects, and the evidence suggests this area is a concern for police management, especially where there is an implicit offer of a return favour in return for free drinks. Illustrating the sorts of problems that arise is a case involving a complainant who had been pulled over for a traffic offence (Case 57). An on-the-spot Infringement Notice was not issued but the driver was formally warned and told she would subsequently receive a courts summons. Worried that this might affect her (then current) application to join the Police Force, the driver telephoned the police station to discuss the situation. She was told to bring in a slab of beer and “all would be fixed”, which she did. She did not receive a summons, but later lodged a complaint against three police officers in relation to the incident. The police officer who requested the beer admitted that the beer was received (and consumed by station members) but in his defence contended that there was no “fix” as the complainant was only to receive a warning anyway.

Key concerns raised in the case related both to the acceptance of a gift from a possible offender, and the receipt of alcohol “over the counter” at the police station. The initial investigation recommended that all three officers be counselled. However, following a representation from the Ombudsman’s office this was upgraded to an admonishment for the officer who initially requested the beer. The Deputy Ombudsman argued that the driver of the car clearly associated the outcome of the traffic matter with the initial request of the police officer and that she was quite happy to deliver the beer because of a perceived relationship with that outcome. The other two officers were counselled for “Failure to advise a motorist … that no process would be issued for alleged traffic offences”.

In another case with some similar characteristics, when a police officer was asked for payment for his drinks by a new barmaid at the hotel he frequented he was alleged
to have stated that he was used to getting free drinks, asking how could he “let her off” speeding fines if she didn’t give something in return. He also allegedly suggested that the barmaid’s motor vehicle could be found to be unroadworthy and put off the road (Case 279). The evidence suggested that the police officer did subsequently pay for his drinks; he claimed in his defence that his remarks were light-hearted and jocular, and the Police Association argued that the matter had been taken out of context by the complainant. However, the investigation found evidence suggesting a history of the police officer obtaining free drinks at the hotel. He was charged with, and pleaded guilty to, the disciplinary offence of engaging in conduct likely to bring the force into disrepute.

Another case involved a string of allegations against a police officer including a claim that he had received a slab of beer as a gift from the complainant. Although the other allegations were unsubstantiated or withdrawn by the complainant, the police officer admitted receiving the beer, but he claimed it was a “Christmas gift”. The initial investigation and internal review recommended an admonishment for improper conduct, however a further review suggested that the evidence amounted to one word against another and a counselling was the final outcome.

All of the above cases involved the receipt of relatively significant gifts of alcohol but even minor instances of receipt of free drinks can be regarded as inappropriate. In a complaint alleging that the sole police officer in a country town accepted free drinks at the local hotel and consumed alcohol while on duty, the police officer argued that acceptance and consumption of (light) alcohol was “in the interests of community spirit” (Case 377). Although there was not sufficient evidence to definitively support the specific allegation, the police officer was counselled and it was suggested that “... whilst on duty he can still promote community cooperation and goodwill whilst drinking lemon squash”!

A much more serious concern regarding free alcohol was raised by a case where a police officer allowed a friend to use his (the officer’s) police badge to obtain free drinks at a hotel (Case 347). The officer’s behaviour was regarded as “extremely poor” and he was charged under section 69(1) of the Police Regulation Act with failing to comply with an instruction of the Chief Commissioner in that he had failed to take required proper custody, care and use of his police identification. He was officially reprimanded.

Another case included an implied allegation that police officers received free drinks at a table-top dancing club, and a specific allegation that they allowed part of their police uniform (a hat) to be used in a dance routine. The implication was that this was part of an inappropriate attendance at the licensed premises, although the specific allegations were not proven and the police officers involved were able to demonstrate at least some official police business at the premises. Perhaps strangely, but due as much to the nature of the evidence in toto, the two police officers were admonished not for attendance at the premises, accepting free drinks, or misuse of police property, but for failing to keep adequate records to account for their use of police time!
Gifts of alcohol to police officers are regarded as inappropriate at least in part because of the function of police in enforcing liquor and licensing laws. These cases show the range of problems that can occur, even if there is no ill intent on the part of giver or receiver. In analysing the cases it is difficult to imagine how the receipt of alcohol in the context of official police business could ever be regarded as appropriate, but it is evident that this was not foreseen by the police officers concerned.

2. Other free or discounted items

Similar problems to those outlined above may arise in relation to a range of other gifts. For example, a complaint relating to an alleged attempt to obtain a free hotdog was unable to be determined on the evidence, although the complainant alleged that the police officer concerned sought to “come to an understanding” implying that the police officer could “find” minor traffic-related violations on the part of the vendor (Case 14). In another case, a police officer solicited free soft drinks while in uniform and in a police car (Case 251). The donor was under the impression that the drinks were to be used by multiple police members involved in official promotional activities at a country show. In fact only the police officer concerned was involved in the activity, and the supplier/donor lodged a complaint, which was found to be substantiated. In another case, a general allegation that (unnamed) police officers received free meals at a particular restaurant and free public transport was found to be of little substance (unfounded) and based on hearsay (Case 213). Together, these three cases illustrate the problems that may flow from acceptance of what seem like only minor gratuities.

More serious complaints were made in two cases involving alleged attempts to gain advantage in relation to car repair services. One of these cases involved an allegation that a police officer sought to have his car fixed for free, although there was no corroborating evidence and the case was unable to be determined (Case 104). The second case involved a police officer allegedly using his position to avoid paying the full bill for repairs to his vehicle (Case 190). He had disputed the amount of the bill before allegedly producing his police badge (a claim he denied) and driving away without paying. The police officer argued the matter was a civil dispute and not an official concern. This was accepted by the initial internal investigation, but the Deputy Ombudsman suggested that the police officer may have acted in such a way to obtain a private benefit from his position as a police officer. The Deputy Ombudsman argued that police officers must not resort to the use of their police position in such instances and must adopt appropriate methods to resolve civil disputes. He stated: “As he was aware that the complainant knew he was a member of the Force, he should have appreciated that to leave without paying and to make no further contact had the potential to reflect adversely on the Force.” Following a subsequent review by the Divisional Commander, the police officer was counselled that: “… in all actions he must be particular to ensure that there is no chance of his actions creating an adverse impression of the Force ….” The case captures the problem of impressions that can be created in a manner that reflects on the police force, in what might otherwise be regarded as a private matter.
Two additional cases related to police obtaining or seeking to obtain free parking in circumstances where it would not be available to members of the public. In the first, a police officer parked his unmarked police vehicle in a loading zone near some shops, whilst he was inside a shop buying his lunch (Case 116). He admitted to taking “the lazy way out” in the circumstances. The internal investigation recommended that he be counselled “on the need to be aware at all times of the public relations aspects of driving and parking police vehicles”. Again, the Ombudsman went further in suggesting that while the breach itself may have seemed minor and a matter of mere laziness, the public relations implications of such matters were of wider significance.

In the second case, it was alleged that the private vehicles of police officers were illegally parked and the city council parking inspector issued infringement notices in accordance with usual procedure (Case 312). The complainant (the parking inspector) alleged that the police officers sought the withdrawal of the parking infringement notices without any good cause other than that they effectively felt they should have unrestricted free parking. The complaint was substantiated and a finding was also made against a sergeant who oversaw the matter.

Notwithstanding the range of eventual outcomes in individual cases, the above analysis illustrates the range of possible public concerns over what might otherwise be regarded as inconsequential gratuities. It seems clear that in addition to the sensitivity with alcohol-related gifts discussed earlier, matters relating to motor vehicles and traffic enforcement are particularly sensitive. This may reflect a more general predicament with a range of conflict of interest complaints that involve alleged police misuse of authority in civil matters (see Davids, 2008).

Internal policies and practices for dealing with such issues should be clear and consistent but this may not always be the case. For example, the policy of the McDonald’s hamburger chain to offer police and other emergency services officers half-price meals seems to be accepted by police management as a generalised worldwide policy of the hamburger chain. Police management regard the acceptance of such gratuities as unlikely to bring discredit to the Force, however it is suggested that a similar arrangement with a local independent hamburger shop might be regarded as problematic because it could create a closer relationship tied to an expectation (implicit or explicit) of favoured treatment (McColl, cited in Davids, 2005; see also Macintyre and Prenzler, 1999, p. 186). Whether members of the public would share this sort of distinction is open to question. An additional issue is whether the likely outcome (and the one that seems to be desired by the offeror in such cases)—that is, that police spend more time in the gratuity giver’s premises—not only results in a skewing of the distribution of police resources (Feldberg, 1985), but may increase the level of on-the-job “shirking” as officers spend more time away from other policing tasks (cf Brehm and Gates, 1993).

3. Free entrance to nightclubs

Perhaps due to the association both with the consumption of alcohol and a general impression of revelry and rowdiness, obtaining free entry to nightclubs and similar
venues is also regarded as a particular category of problem gratuity. Three cases involved allegations in this category (Cases 47, 65, 347). In each case, the allegations started with “free entry” but extended to concerns relating to the behaviour of police officers. Each case resulted in substantiated findings and counselling and fines were applied.

Partly as a result of the circumstances of one of these cases, involving several allegations (Case 65, in 1989), the issue of free admission to nightclubs was formally addressed: the continued practice of police obtaining free entrance to nightclubs was to immediately cease and breaches would be the subject of disciplinary action. Police were also warned that off-duty behaviour in such premises would also attract disciplinary action if it was regarded as bringing discredit to the Force. The minimal re-occurrence of complaints in this area (Case 47 in 1990 and Case 347 in 1996) may be indicative of a relative degree of success in dealing with this specific issue.

4. Other preferential treatment

Gratuities can also be received in the form of better or faster service. In a case where police officers used their police position to go to the head of a queue in a post office—described by the complainant as “rude and inconsiderate conduct”—the matter was considered by police management in terms of demeanour and incivility. The complainant alleged that the two police officers entered the post office and simply walked up to the front of her queue. The result of the initial internal investigation was that the allegation was found to be not substantiated. The police officers denied use of their position to gain preferential treatment and stated that they did not intend any offence or inconvenience to other customers. However, the Ombudsman insisted that the case be re-examined and extended to include speaking both to the complainant and workers in the post office, stating that “members should not take advantage of preferential treatment when it is offered”.

Following further investigation, it became apparent that an understanding had developed that preferential treatment would be received as a matter of course by uniformed police officers at the particular post office, although the preferential treatment had been offered by the post office and not actively sought by the officers. However, the findings in the case did not change as a result of the further evidence, and the office of the Ombudsman remained dissatisfied, clearly concluding that the two members were in the habit of taking advantage of preferential treatment, needlessly attracting criticism of the Force. The Ombudsman suggested that police officers be generally counselled against taking advantage of this sort of preferential arrangement when offered, and this suggestion was taken up by the (then) Internal Affairs Department. The Ombudsman’s input, here, provides a benchmark for a general response to the issue of preferential treatment: as tempting as it may be for individual police officers to accept preferential treatment when it is offered, in terms of the public perceptions thereby created, such offers are best not acted upon.
5. Gift or payment perceived to be a kickback for specific acts

Where a police officer receives a “kickback” for specific activities, the reward or gift in question retains the usual features of a gratuity but the relationship between the giver and receiver is much more problematic. If there is such a reciprocal relationship it might be suggested that a police officer has already commenced a descent down the “slippery slope” of corruption (see Cohen and Feldberg, in Feldberg, 1985, pp. 267–368; Sherman, 1985). It remains an open question whether such a descent is related to the gratuity per se, or a predisposition on the part of the police officer, or some other combination of factors. Certainly, anecdotal evidence of a “slippery slope” in one or more cases does not prove the thesis for all cases. Nevertheless, such expectations of reciprocation make evident the conflict of interest between a police officer’s private interests and the public interest, and increase the likelihood of a consequent breach of duty (including the general duty to act in a disinterested manner).

Prior to the emergence of the window-shutter kickbacks scandal, Victoria Police management had anticipated the problem in relation to broken glass and the security of premises and had implemented an authorised shutter service allocation system. The system was introduced to handle situations where police could not contact the owners of premises in need of securing (i.e., where a door or window had been broken). However, police officers subverted the official allocation system by directly contacting shutter service companies which then paid them for the referrals (see The Ombudsman, 1998). Police relationships with tow-truck and window-shutter providers were the subject of formal inquiry in Victoria Police’s Operation Bart and a major report into the issue was presented to Parliament by the Ombudsman (The Ombudsman, 1998).

The Operation Bart inquiries were current at the time of this study and therefore most of the relevant case files were unavailable for this research, but three files relating to alleged window-shutter kickbacks were included in the study. They provide useful insights into the nature and implications of the scheme.

The first of these complaints was made via an anonymous fax alleging that tips were passed on to a police officer’s brother who had a glass repair business, but the investigation of the complaint did not substantiate the allegations (Case 97). The second case involved an informal conversation between a Senior Constable and a Senior Sergeant who were serving on the Operation Bart taskforce. The Senior Constable allegedly related an anecdote about having been given $20 as a police trainee several years earlier, ostensibly as her share of a common pool of station funds from window-shutter kickbacks (Case 181). Although this was an off-the-cuff conversation, the matter was treated seriously and an investigation revealed that the incident had occurred nine years earlier (in the 1980s). Station records for that period were no longer available and other officers who had been stationed there denied receiving kickbacks. Various elements of the story were also disputed by the Senior Constable and the official finding of the investigation was “unable to determine”. However, the Senior Constable was counselled about the matter and was removed from her secondment to the Operation Bart taskforce. She objected to any formal reference to a “counselling”, arguing that her conversation had been misconstrued.
and taken out of context, and in the end it was formally recorded that she had not been counselled in an official sense.

In a further case, there had been damage to a shop window as a result of a brawl outside a neighbouring hotel (Case 187). There was no evidence to support the complainant’s principal allegation that attending police officers had failed to act against the offender, but during the investigation it emerged that the police officers had offered the complainant details of a window-shutter service. The Deputy Ombudsman picked this matter up in his oversight of the case and forwarded the matter to the Operation Bart taskforce for further investigation. Subsequent inquiries revealed that the police officers concerned had actually gone through appropriate official police channels (D-24), and that the service referred was an authorised shutter service.

Overall, the window-shutter kickbacks showed how police misconduct may flourish even in an area where official preventative measures have been taken in an attempt to preclude what might otherwise be seen as functionally efficient process corruption (The Ombudsman, 1998). The cases considered above illustrate how in some locations the kickbacks were not isolated to a few errant officers but had become institutionally embedded. The third case provides an illustration of how even legitimate actions come under suspicion in such an environment. It also shows how the actions of some police officers can implicitly damage the reputation of the entire Force.

Analysis and discussion

The case analysis reveals an ongoing struggle within Victoria Police to effectively deal with gratuities. Many individual officers and managers are clearly aware of the type of problems that are likely to arise and their implications, but the high substantiation rate found in this study provides a warning that the problem must be treated as a significant concern for police ethics and accountability.

Police are particularly vulnerable to two general problems associated with the acceptance of gratuities. First, when individual officers accept or are open to accepting gratuities, there may be an impact on their capacity (or willingness) to undertake official duties impartially. Many officers are clearly aware of this problem and may take personal steps to ensure that there is no impact on the performance of official duties, but individual police officers are not necessarily in the best position to judge such a matter. The second general problem concerns public perceptions, which itself has two aspects: police officers may be seen to be serving their own interests through the acceptance of gratuities; they may also be perceived to provide differential levels of service on the basis of private relationships that are buttressed via gratuities. These questions of partiality may reasonably be raised by the observer whether or not there has been an actual breach of official police duty, and there is likely to be a resultant diminution in public trust in policing as a fair and accountable activity.

The wider concept of conflict of interest draws each of the above general problems to attention and is therefore of assistance in analysing and managing the problem of
Gratuities. A conflict of interest should be acknowledged in any circumstances where the performance of official duties by a public official could be influenced by a private interest of the official, or could be reasonably perceived to be so influenced. In terms of public ethics and accountability, it is the mere capacity to affect performance of public duties that is the main problem because there is an interrelationship between public conclusions about police integrity and the specific ways in which police are perceived to apply the power, authority, and discretion afforded to them (Davids, 2008).

Arguments in favour of accepting the practice of gratuities often rest on the idea that if there is neither the intent on the part of the giver to influence the actions of a police officer nor the fact that the gratuity has influenced the willingness of a police officer to perform their duty, then the practice may be regarded to be harmless. By contrast, the case studies in this paper demonstrate that damage to public perceptions of integrity is not attenuated by the value of a gratuity, the fact that a police officer may not have sought a gratuity in any particular instance, or non-suspect motivations of giver or receiver (contra Cohen and Feldberg in Feldberg, 1985; Kania, 1988; Withrow and Dailey, 2004).

The analysis showed how some types of gratuity or context attracted particular attention—the receipt of free alcohol, matters involving motor vehicles, and free admittance to nightclubs. An additional dimension of the latter was shown to relate to the subsequent behaviour of police officers. Such behaviour, at least at the “minor” end, may be accepted on the part of private citizens, and even from off-duty police officers acting as private citizens. However, once a police officer has used police identification to gain admission to a venue, the formal identification of the person as a police officer means that a different standard of behaviour is expected. Because of the difficulties in regulating specific behaviours in the context of attending such venues, Victoria Police management dealt with this issue by prohibiting the practice of gaining free admission in the first place. Whilst this solution did not necessarily have any impact on the off-duty behaviour of police officers, it did impact on their identification as police officers.

Problems with gratuities are not isolated to these areas because, as the case studies show, the receipt of other free or discounted items or any form of preferential treatment can also result in negative public perceptions. Although an actual effect on performance of duty is less clear in some of the case analyses, there remains an effective diminution of public trust in police integrity, ethics, and accountability.

SAYING ‘MAYBE’ TO POLICE GRATUITIES

It has been argued that individual police officers are able to distinguish between “good” and “bad” motives for offering gifts and can retain their impartiality when accepting gratuities (Kania, 1988; Feldberg, 1985). Kania (2005) argues that saying “yes” to gratuities is not only acceptable, but important for ethical and pragmatic reasons because to say “no” in many cases would insult the giver.
Building on Kania's work, Withrow and Dailey (2004) developed a model of “circumstantial corruptibility” that categorised gratuity exchanges by analysing the roles and intentions of both the giver and receiver, whose levels of influence over the nature of gratuity exchanges tend to operate in an inverse relationship. The authors outlined a “hierarchy of wickedness” as the key determinant of corruptibility in gratuity exchanges. According to the model, if the influence of the recipient is low and the gratuity exchange is a mutual one between giver and receiver then it may be classified as simple “giving”, but as the balance of influence and control over the exchange changes, so does the ethical substance. The relationship becomes one of bribery if the giver and receiver have a more balanced influence but the giver controls the nature of the exchange. In the extreme, exploitation will be characterised when the receiver controls the exchange and the giver has little influence over its nature.

These analyses generally reflect an on-the-ground culture within operational policing where gratuity exchanges are both acceptable and accepted. It has been suggested that “there appears to be universal support of the practice” despite regulatory restrictions (Sigler and Dees, 1988, p. 14). Macintyre and Prenzler (1999) noted that the widespread receipt of free and discounted food, drinks and alcohol is an accepted part of “traditional” police culture, even though such practices have been condemned by public inquiries and reform programs. Evidence suggests police officers with varying levels of organisational commitment consistently engage in the acceptance of gratuities, do not think it is wrong, and would not report the acceptance of gratuities in defiance of formal rules (Knapp, 1972; Felkenes, 1984; Haarr, 1997; Deleon-Granados and Wells, 1998; Klockars et al., 2000; Kutnjak Ivković, 2003; Withrow and Dailey, 2004). This evidence is generally supported by the case studies in this paper.

The routine acceptance of gratuities continues, in part because of a view that “... we need not begrudge police officers their free coffee, half-priced meals, and the sense of welcome or appreciation that they convey” (Feldberg, 1985, p. 276). Although there is some evidence that police managers/supervisors view at least some types of gratuity with more seriousness than do line officers (Kutnjak Ivković, 2005), the evidence on this point from the present study is mixed.

Although the practice of accepting gratuities is actively discouraged in police training, the opposite forms an early part of the cultural socialisation of new recruits (Sigler and Dees, 1988; Miller and Braswell, 1992; Prenzler and Mackay, 1995). Kania (1988, p. 38) for example describes how as a new recruit he was “quickly shown that the supposedly unethical behaviour [of accepting gratuities] was the social norm for police and merchants alike”. When a new recruit refused to accept gratuities, the refusing officer would be ostracised from fellow officers (Kania, 1988; see also Ruiz and Bono, 2005). Personal accounts from other former police officers provide similar stories about an ingrained police culture that operates in defiance of departmental rules, and is sometimes used as an initiation test to see if new recruits are prepared to cross the line and join the “brotherhood”.

Macintyre and Prenzler (1999) examined the effect of gratuities on the conduct of police officers. In one example, they found that the majority of respondents indicated
that they would not issue a traffic violation notice to a café proprietor who had in the past provided free food and drinks—a decision directly related to the influence of the personal relationship with the offending driver. This result was surprising because the survey on which Macintyre and Prenzler drew was undertaken in the wake of Fitzgerald-inspired reforms (Fitzgerald, 1989).

Even if official police policies are regarded as relatively firm in prohibiting receipt of gratuities, often the rules fall short of total prohibition. For example, the Queensland Police Service Code of Conduct provides that any form of hospitality, gift or benefit is only to be occasional and of nominal value, thereby implicitly approving gratuities in many situations. The Code also states that “Officers should avoid situations in which the acceptance of a benefit or potential benefit could create a real, potential or apparent conflict of interest with their official duties” (Queensland Police Service undated, sections 6.2.1 and 6.2.2). Yet the generally poor operational understanding of the concept of conflict of interest (see Davids, 2008) diminishes the force of such a provision. Similarly, in the Victorian context during the timeframe of this study, it was the improper acceptance of gratuities that was prohibited by the Police Standing Order 6.16.

Provisions such as these leave considerable room for subjective determination both in the decision of an individual officer to accept a gratuity or not, and in official findings of a complaint that may come under investigation. The case studies in this paper show that the eventual outcome of a case is often sound, in part due to the oversight role of the Ombudsman, but what is expected “on the ground” is not always clear and inadequate consideration is often given to public perceptions. A regulatory concern that a gratuity should not have an improper influence is understandable, but the inherent ambiguity of this construction renders it of little practical assistance at an operational level other than for ex post facto determinations.

A problem with such provisions, and with Kania’s (1988; 2005) case and the Withrow and Dailey (2004) model, is not that they say “yes” to gratuities, but that they actually say “maybe”, leaving street-level judgements to subjective individual determinations. Although they provide something of a benchmark against which formal disciplinary judgements can be made, the standard is still a subjective one which can only effectively be applied after the fact. This approach is consequently unlikely to be sufficient to assuage public concerns about police ethics and accountability.

In summary, it is difficult to imagine how the Victorian Ombudsman’s advice that public officials should “never accept gifts … given in the context of a regulatory, inspectorial, oversight or similar relationship” (The Ombudsman, 2008, p. 48) could not be taken to apply to police officers in most aspects of their work. It is understandable that members of the public may sometimes wish to offer police gifts of gratitude in appreciation of a specific service performed as part of official functions. In general situations, even though such gifts may be regarded as a courtesy rather than an attempt to influence the individual (Independent Commission Against Corruption, 2006), the situation is more ambiguous in the context of policing because of the combination of police powers and political optics—such gifts will almost always be presented to police officers only because they are police officers (see Coleman, 2005).
Despite these concerns, the practice continues because it is accepted, in one form or another, at several levels:

- many commercial businesses willingly offer gratuities to police officers—some on a regular basis,
- at street level the receipt of gratuities is a relatively routinely accepted common practice,
- at managerial level gratuities may be overlooked, particularly where they are judged to be minor or "harmless",
- at regulatory level, rules are often ambiguous, leaving considerable scope for subjective judgement about what is proper and what is improper, and
- at academic level the debate goes on with some commentators condemning the practice but others unambiguously accepting it (exemplified by a forum in a recent issue of the journal *Criminal Justice Ethics*—Coleman, 2005; Ruiz and Bono, 2005; Kania, 2005).

**THE PROBLEM OF POLITICAL OPTICS**

Gratuities are part of a wider problem of public sector ethics that is acknowledged in Europe, Africa, Asia, the Americas, and Australia (Organisation for Economic Co-Operation and Development, 2003, p. 1; Committee on Standards in Public Life, 1995; Raile, 2004; Asian Development Bank and Organisation for Economic Co-Operation and Development, 2006; Pope, 2000). At core, the ethical problem of gratuities relates to how they are or may be interpreted by a reasonable observer. It is the obligation that may accompany gratuities that makes them problematic and damage may be caused whether or not there is an explicit nexus between the receipt of a gratuity and the actual performance of police functions, and whether or not there is a "slippery slope" that leads to major forms of corruption.

Gratuities do not represent a direct threat to the disinterested performance of police duty in all circumstances at all times, however the argument for viewing gratuities as a part of the broader problem of conflict of interest is accentuated when the factor of political optics is considered. This term refers to the issue of how particular acts and events appear to reasonable members of the public and the consequent effect on the formation of public opinions regarding police integrity and trustworthiness. The case analyses earlier in this paper provided evidence of a range of circumstances in which members of the public viewed a range of gratuity exchanges as an indication that police were not serving the public interest without fear or favour. Other studies of the opinions and experience of members of the public with regard to police gratuities support the view that political optics present an important consideration for appropriate management of the issue.

Receipt of gratuities is often a highly visible activity. Research in the US state of Ohio found that the acceptance of free coffee or food from a restaurant was the most commonly observed form of police misconduct (Son and Rome, 2004). Although New York’s Knapp Commission found that the public did not regard gratuities as
a serious category of police misconduct (Knapp, 1972), this could reasonably be interpreted as public acceptance of what was essentially a fact of life in that city. By contrast, Sigler and Dees (1988) reported that a majority of respondents to a survey about police gratuities were opposed to the practice, even in a setting (Reno, Nevada) where employment was dominated by service industries where workers themselves relied heavily on gratuities. About one-third of respondents who said they would be prepared to offer gratuities to police also said they would expect something in return. In Australia, Prenzler and Mackay (1995) found that 14 per cent of respondents reported having observed a police officer being offered a gratuity (mostly food or drink) and 12 per cent had observed acceptance of a gratuity. Over half reported a belief that gratuities should not be accepted by police under any circumstances, with a further one-third indicating gratuities were acceptable “under certain circumstances”. Although some of the “no” group wavered when presented with scenarios involving small and incidental gratuities, three quarters of all respondents had a negative opinion of regular gratuities.

If members of the public come to regard gratuities as a reciprocal transaction, as suggested by the case studies in this paper and the research cited above, several of Kania’s (1988) arguments in favour of the practice of accepting gratuities are brought into question. The reciprocation represented by the gift of a gratuity may only relate to a greater police presence in the premises of the giver, but even this may be of considerable value to a business in terms of crime deterrence. Even well-motivated gifts of gratitude to police for services already rendered, and not in anticipation of future reward, are subject to misinterpretation by third-party observers who may gain the understandable impression that police have been compromised, partly because “repayment of [a] debt already owed” (Kania, 1988, p. 39) implies a two-way exchange. Contrary to Kania’s argument that acceptance of gratuities provides a solid foundation for police–community relations, there is some evidence to suggest that acceptance of gratuities may present an impediment to community relations, particularly in respect of marginalised, disadvantaged, or other excluded community groups (Jones, 1999). Thus the posited effect of “maintaining social cohesion and avoiding alienation” (p. 40) may only apply to an “in-group”.

Because the recipient of a gratuity is “generally not in a good position to make judgements about the nature and purpose of a gift” (The Ombudsman, 2008, p. 48, contra Kania), a sound general rule is to not accept any gratuities other than token gifts such as minor mass-produced promotional-type items that do not constitute personal gifts (see Independent Commission Against Corruption, 2006; The Ombudsman, 2008). However, even here a note of caution must be sounded because token gifts may be provided in such quantities and with such regularity as to be capable of being interpreted as an attempt to collectively ingratiate the members of an agency or organisation.

Drawing an overall conclusion from the concept of political optics, much greater emphasis needs to be placed on the effect the receipt of gratuities may have on public perceptions. “[T]he public feel a need to trust the police and that trust is substantially dependent on fidelity to quite exacting standards” (Prenzler and Mackay, 1995). The
requisite public trust is not merely a cognitive issue but also an emotional one. If recipients of public trust are seen to have turned that trust to private advantage, “they inflict serious damage to the heart of civil society”. It is the abuse of trust, more than the simple misconduct, that provokes an emotional social response about integrity (Lewis and Weigert, 1985, p. 971).

The complaint case studies in this paper show how gratuities may, at any time and no matter what the motivations of the giver and/or receiver, create public perceptions of conflict of interest and, possibly, of inappropriate police conduct. Police officers may be perceived by members of the public as serving their own private interests and those of their private “patrons”, rather than being accountable to the broader public interest. Members of the public are unlikely to be satisfied by assurances that police officers can judge the “ethical quality of an exchange” (Kania, 1988, p. 42) As Loree (2006, p. 18) summarises this concern: “Perceptions, attitudes and relationships are affected whether the corruption is low level but well-known in the community, and involves the acceptance of gratuities or minor paybacks or whether it is the cause of major, well-publicised incidents ...”

DEALING WITH GRATUITIES: REGULATION AND MANAGEMENT

Sound public administration and maintenance of public trust in the integrity of police require that private interests do not directly or indirectly influence the performance of public duty, and that they are not seen to influence such performance. The primary purpose of regulation and management should be to enhance accountability in this area.

One possible approach is of the form “do not allow gratuities to interfere with the proper performance of duties”. This approach is hortatory in nature, because it simply exhorts police officers to “do the right thing”. It may (or may not) be good for public relations but is of little practical utility as it sets a subjective standard. An assessment of whether a gratuity has interfered with performance of duties often rests on an assessment of whether it has affected judgement within the discretionary realm of policing. One cannot see into the mind of a person to determine whether a private interest actually did have an effect in a given circumstance. Approaches that prohibit “improper acceptance” of gratuities are also of this nature and are therefore limited in their effectiveness.

A more effective regulatory approach focuses on situations that can be objectively perceived as giving rise to problems—when there is a capacity for an identifiable private interest, such as the receipt of a gratuity, to affect the performance of official duties. Prophylactic regulation indirectly prevents something other than that which is directly prohibited by the regulation itself (see Davids, 2008; Stark, 2000; Grano, 1985). This approach suits the management of gratuities, since the concern is not with private interests per se but their capacity to affect performance of public duty (that is, the focus of concern is something other than the interest itself)—to ensure that decisions and actions are not tainted by the receipt of gifts and benefits. Prophylaxis requires that gifts not be accepted at all, thus removing the possibility that the receipt
of a gift has an influence on decisions or actions or on public perceptions of same. This approach relates to the objective context of situations and allows determination and enforcement to deal with directly observable states rather than with interpretations of perceived mental states—either a gratuity was accepted or it was not. Of course, any policy can be taken to ridiculous extremes, so such policies need to be mindful of the practicalities of day-to-day police work and recognise that there are some exceptional circumstances in which the effective performance of an officer’s duty could be impeded by non-acceptance of a gratuity (Coleman, 2005; del Pozo, 2005)—but these are exceptions rather than daily practices. However, merely providing police with guidelines and then letting them make judgements, as recommended by Coleman (2005) is unsatisfactory. The argument that only an individual officer knows his own mind (Kania, 2005) provides little in the way of reassurance to concerned members of the public. The test in such circumstances should be the objective standard of the reasonable observer rather than a subjective test relying on states of mind.

However, if a view is taken that total prohibition on gratuities is undesirable or impractical, a de minimis policy that allows some acceptance of gratuities in defined circumstances (eg less than a specified dollar amount, or from defined offerors only) may be adopted (del Pozo, 2005; Coleman, 2005). Such a policy is prophylactically attenuated because it does not prevent all gratuities, therefore further steps are required to regulate and manage residual problems that will inevitably arise. Useful guidance on how to handle such matters in public sector organisations is available. For example, a toolkit on Managing Gifts and Benefits in the Public Sector produced by the New South Wales Independent Commission Against Corruption (2006) provides guidance on distinguishing gifts on the basis of their apparent purpose and a range of other characteristics. Other publications provide advice in relation to deciding whether gifts should be accepted and/or recorded in an official gifts register (eg Crime and Misconduct Commission, 2006; Public Service Commissioner, undated). The key point to note is that the public interest demands that clear policies and procedures are in place to ensure transparency and accountability whenever any public employee is offered or accepts a gratuity, and that these policies are implemented (The Ombudsman, 2008).

Ultimately, it is the public interest that must be the overriding criterion in any regulatory regime for public sector organisations and, whatever the specific regulatory regime, it must be buttressed by the development of an ethical and accountable culture throughout the organisation. Of course, police forces are not just “any” public sector organisation—they are unique in terms of the social role they play and the powers afforded them. Work is carried out in an environment where there is the operational necessity and legal sanction for significant amounts of discretion and a relative lack of direct managerial scrutiny over the performance of many day-to-day tasks (Dixon, 1997).

This situation presents a challenge in the face of the kind of cultural change that the evidence in this and other research suggests is necessary with respect to the traditional attitude to gratuities. Requisite change in policing and police culture
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rests on more fundamental change in the way police and policing are conceived both internally and externally (Davids, 2008; Dixon, 1999; Chan, 1997).

Conclusions

The significance of conflicts of interest in general and gratuities in particular is twofold: in the negative effect they have on both perceptions and the practice of integrity in public life. Prior research combined with the real complaint cases analysed in this paper demonstrate the significant levels of public concern that arise when police officers are seen to be putting their own interests ahead of the public interest. The giving and receiving of gratuities often occurs in full view of, or with the knowledge of, members of the public and therefore plays an important part in the development of the public image of police officers and policing more generally. If police officers may be reasonably perceived to be placing private interests ahead of the public—and this research shows how such perceptions are formed—then the demands of political optics are such that the practice must be addressed.

The key problem of gratuities is the reciprocal obligation that may be created, implied, or perceived between a police officer and a private individual or organisation. The challenge for ethics and accountability is in keeping private interests extraneous to the performance of public duty and being seen to do so. This requires recognition that, in the eye of the observer, a police officer’s official actions may be tainted by the mere fact of the acceptance of a gratuity whether or not this extends to any dereliction of duty in terms of police misconduct. The prevention and avoidance of conflicts of interest (the ethical problem) should preclude both conflict of interest breaches and the negative impact on public perceptions that conflicts of interest give rise to.

Ultimately, the socio-organisational setting that produces tolerance of gratuities lies at the root of this problem. The development of an accountability ethos within policing must recognise the need for rules to place reasonable limits and structure the use of discretion. However, in practical terms, even if a prophylactic approach is taken it is impossible to regulate all police activity with precise rules (Dixon, 1999). It is a truism that rules are most effective if they are internalised as norms of ethical conduct. This requires that police ethics and accountability be incorporated into the subjective sense of responsibility held by police officers. In this sense accountability is closely related to responsibility—one may be held accountable for those things for which one is responsible and, conversely, responsibility should be seen as being granted to police officers on condition of preparedness to be accountable.

The development of an accountability ethos requires that the standpoint of a reasonable public observer must be taken. Considerations of political optics mean that severe limitations must be placed—both in terms of regulation and street-level practice—on the acceptance of gratuities. An accountability ethos demands that police officers must be prepared not only to do the right thing but to be seen to do the right thing and to recognise that this means they must not participate in any activity
that allows or facilitates the formation of reasonable public perceptions that private interests have been placed ahead of the public interest.

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