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Conflict of Interest and the Private Lives of Police Officers: Friendships, Civic and Political Activities

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ABSTRACT

Dealing with breaches of police ethics that are manifested in the everyday practices of policing is recognised to be a crucial element in preventing upstream corruption. This article considers how a range of identifiable aspects of the private lives of police officers and their off-duty conduct may have an impact on the performance of official duties. The issues encompass matters relating to inappropriate relationships with criminals, suspects, informers, and persons or businesses of ill repute, the use of the services of a range of regulated industries, such as hotels and brothels, and social use of recreational drugs. Whilst many of these issues seem relatively easy to identify, self-recognition of the problems on the part of police officers and dealing with them on the part of police management is often more difficult. Central to the problem identified here are the conflicts of interest that are inherent in the divergence between a police officer’s public duties and their private friendships and involvements. The capacity of private interests to encumber the performance of official duties in a way that leads to the neglect of those duties is at the core of the problem of conflict of interest. The article examines how private involvements in civic, social, and other organised activities, including sporting and social clubs, sports teams, and schools councils can pose conflict of interest problems. More mundane aspects of the private lives of police officers, such as their relationships with friends and neighbours, are also considered. Although a general principle may be argued that as private citizens, police officers should be permitted to engage freely in personal associations and relationships, the article demonstrates how this principle must be qualified in certain circumstances. In addition to regulatory restrictions, it is argued that an enhanced understanding of the problem of conflict of interest is needed on
the part of individual police officers and police managers. Recognising various shades of grey in professional integrity and operational decision-making, and developing an active sense of personal and collective responsibility in complex ethical situations is a necessary precondition to effectively dealing with these problems.

Introduction

‘Neon light’ corruption issues tend to be the grist of media reporting of police misconduct. Occasionally such major scandals result in Royal Commissions or Inquiries that expose major cases of corruption, but it is also often the case that ethical breaches may be manifested in the mundane practices and everyday life of police officers. Royal Commissions have recognised that dealing with ethical breaches at this level may be crucial in controlling and preventing upstream corruption (Fitzgerald, 1989; Kennedy, 2004; Wood, 1997).

Some areas of the private lives of police officers have long been subject to specific regulatory restriction, the most obvious example being curtailment of secondary or outside employment. However, a range of other issues arise in relation to the capacity of particular aspects of the private lives of police officers to impact on their performance of official duty. These issues encompass matters relating to the off-duty conduct of police officers in their social lives such as inappropriate relationships with criminals, informers, persons or businesses of ill repute (whether or not these are recognised as such by the individual officer), the use of the services of a range of regulated industries, such as hotels and brothels, and illicit drug use. In addition, a range of activities in the civic and political realms can pose conflict of interest problems.

A conflict of interest involves a possible divergence between any part of a police officer's work or public duties and their private interests that may lead the officer to neglect official duties. In policing, a conflict of interest can be manifested at any point where a choice must be made between private or personal benefit and the disinterested performance of duty, the latter being broadly defined to encompass both clearly enunciated work roles and other factors such as good management, public perception of the police force as a whole, and the maintenance of public trust. Although conflicts of interest can arise in a range of areas, and be associated with a wide range of problematic behaviours, this paper focuses on one particular category of conflict of interest: the conflicts that arise from the friendships, civic and political activities of individual police officers (see Davids, 2005 for a comprehensive study of conflict of interest in policing).
There is a broad contemporary emphasis on the importance of integrity in public life—identified by the Organisation for Economic Co-operation and Development (OECD) (2000) as the key to forging strong links between expected ideals and formal behaviour. Integrity is:

...the fundamental condition for governments to provide a trustworthy and effective framework for the economic and social life of their citizens. The institutions and mechanisms for promoting integrity are more and more considered as basic components of good governance. (OECD, 2000: 11)

Integrity, and the trust that flows from it, is the key value of public life under threat from conflicts of interest (Graham, 2006; Siemensma, 2000; Werhane & Doering, 1992), along with selflessness, objectivity, and honesty (see Nolan et al., 1995, p. 14). Conflicts of interest are pervasive in many aspects of social, organisational and political life, and it has been said that they give rise to one of the most common forms of unethical conduct in the public service (Kernaghan & Langford, 1990, p. 133). In the United Kingdom the Committee on Standards in Public Life (Nolan et al., 1995) recognised that various cases involving misconduct by public officials had led to conflict of interest becoming a major issue, damaging public perceptions of integrity in Britain and other western countries.

**Defining conflict of interest**

Davids (2005) provides a comprehensive discussion of the definition of conflict of interest with particular reference to the domain of policing. The key element of conflict of interest that distinguishes it from other forms of official wrongdoing is that private interests have the capacity to affect the performance of public duties, whether or not this capacity is actualised in a breach of duty. There are two key components that must be understood: interests and conflicts. Analysing and dealing with conflicts of interest effectively require an understanding both of the range of interests that may be regarded as problematic, and the ways in which such interests may conflict with official duties.

**INTERESTS**

Any “socialized, passionate, interested human being functioning in a complex world” (Werhane & Doering, 1992, p. 50) would be expected to have many interests, including those associated with the performance of official duties. The ethical challenge relates to the recognition that some private interests may, sometimes, conflict with official duties, and these interests must be managed in such a way as to keep extraneous interests from directly or indirectly influencing the exercise of official duty. The interests of concern in conflict of interest are any of a range of encumbrances on an official, including “any influence, loyalty, or other
concern capable of compromising ...” the performance of a duty specific to a role (Davis, 1982, p. 18; see also Stark, 2000, p. 9). Traditionally the types of interests included within the concept of conflict of interest were exclusively financial or pecuniary (Carson, 1994, p. 390; Owen, 1997, p. 41) and some authoritative sources continue to restrict conflict of interest to its narrow pecuniary sense where the individual stands to gain in financial terms (see Kernaghan & Langford, 1990; Nolan et al., 1995; Rodwin, 1993, pp. 9, 274). However, this limited use brings to attention only a narrow range of concerns that relate to conflict of interest and ignores a range of non-financial interests that can encumber an official in much the same way as financial interests can. Thus, in most contemporary consideration of conflict of interest, the types of interests that may encumber an official’s judgement include a range of financial and non-financial matters, including subjective or ideological biases, associational and partisan attachments, predispositions and prejudices, and even moral beliefs and aesthetic judgements (Preston et al., 2002; Stark, 2000, pp. 4–5). For conflict of interest regulation, the key distinction to be drawn is between interests that are encumbering and those that are not (Stark, 2000), although a more distant potential or possibility that interests may interfere with proper action in an official capacity is also regarded as problematic (see Davis, 1982, pp. 18–21).

External encumbrances may be imposed or initiated by others who act on a person, so concern is not limited to the direct personal interests of an official: familial, friendship, professional, and associational relationships are also recognised to have the capacity to affect the performance of official duties (see Boatright, 2000, p. 144–145; Carson, 1994; Macklin, 1983). In addition, interests may arise not only in relation to the positive interests of self, family, friends, or associates, but could include an interest in action that thwarts the interests of “enemies”, or parties in opposition to the self (see Carson, 1994, p. 388). Thus conflict of interest may be manifested in the opposite of preferential treatment for enemies of the actor (that is, it could be in the interests of a person to act against the interests of a party opposed to that person). In policing, this could involve discriminatory enforcement of the law against particular individuals (or groups) (Royal Canadian Mounted Police External Review Committee, 1991, p. 69).

With the expanded notion of what constitutes ‘interests’, the emphasis has changed from focusing on the diversion of resources to a private party (a concern centred on pecuniary interests) to interference with the effective performance of official duties (concerned with a range of pecuniary and non-pecuniary interests). At the same time, the central issue in conflict of interest has moved from misappropriation to broad questions of integrity of officials, public confidence in the public sector and the legitimacy of the public sector itself (Nolan et al., 1995).
CONFLICTS

For interests to be regarded as problematic, they must conflict with official duties, thus the conflict in conflict of interest is "a collision between competent judgement and something that might make that judgement unable to function as the role requires" (Davis, 1982, p. 19). Conflict arises when a personal interest does not coincide with an obligation to serve the interests of another (Boatright, 2000; Werhane & Doering, 1992). The element of obligation to another is important because it is the potential for breach of this obligation in the pursuit of private interests (including those of an associated party) that makes conflict of interest problematic. Rather than a role conflict per se, the conflict in conflict of interest takes place in the mind, impairing or undermining judgement, particularly where there is a discretionary element in the judgement to be made (Davis, 1982). However, it is extremely difficult to peer into the mind in order to determine whether an official actually remained impervious to his or her own interests or was affected by those interests in judgement, decision-making, and action (Stark, 2000). Thus, analysis of conflicts of interest does not focus on subjective states of mind, but on situations that can be objectively perceived as giving rise to conflicts—generally regarded to be present when there is the capacity for a private interest to affect the performance of official duties (see Owen, 1997).

Since it is practically impossible to regulate to prevent officials becoming judgementally impaired by their own interests (the real issue), conflict of interest regulation tends to prohibit the holding of certain kinds of interests altogether or officially acting in relation to those interests. The concern is with acts or situations that are anterior to states of mind that might encumber or impair judgement (Stark, 2000, p. 4). For example, it would be impossible to enforce a law or regulation that prohibited officials from becoming psychologically beholden to those who have given them gifts. Therefore conflict of interest rules tend to prohibit the very act of receiving gifts under an array of circumstances. It should also be noted that in policing, if situations arise where private interests coincide with public duty, such that the performance of duty may further private interests, a conflict can still be regarded to exist because of a police officer’s duty to perform official functions in a disinterested manner. Therefore conflict of interest regulation generally prohibits a police officer taking any official action or decision in relation to a situation in which he or she has a personal interest.

Regulatory prophylaxis (preventive rules, designed to indirectly prevent some other thing than that which is prohibited by the rules themselves) obviates much of the contestability of a subjective definition of conflict that would arise if the emphasis was on actual states of mind (Preston et al., 2002, p. 82), thus allowing enforcement to deal with
directly observable states rather than with interpretations of perceived mental states.

Research method

This paper draws on a larger study of Internal Investigations Department case files relating to all conflict of interest complaints against police over a ten-year period (1988–1998) in the Australian state of Victoria (Davids, 2005). The empirical material consists of Victoria Police Internal Investigations complaints files alleging conflicts of interest on the part of individual police officers and groups of officers. On the basis of the dual-entry, cross-notification complaints coding system shared by Victoria Police and the office of the Ombudsman, the Victorian Ombudsman's office identified all cases for the period under examination where conflict of interest was believed to be the principal focus of the complaint, and Victoria Police made the relevant Internal Investigations Department case files available to the researcher. This data source provided a unique opportunity to examine a range of problems relating to conflict of interest. The case files were viewed in their original state; they varied in size from one hundred pages to four hundred pages or more. This paper utilises qualitative analysis of a subset of cases from the wider pool of 377 conflict of interest complaint cases. Cases for this paper were selected because they involved matters where the private friendships, civic and political activities of police officers were the focus of concern. To retain the integrity of the original data reported throughout this paper, case numbers from the entire pool of 377 cases are retained.

Recognising problems that arise in the private realm

A range of circumstances arise where the private interests of an individual police officer may impact on the impartial exercise of official duties (or generate an appearance that private interests have intervened). Many conflict of interest problems arise in the course of off-duty and otherwise private conduct of police officers, meaning that the problem extends into what might otherwise be regarded as the private realm. Table 1 shows the duty status of officers who were the subject of complaints (based on the wider study of 377 complaints). This shows that in almost one-quarter of cases, police officers were off-duty when the matters complained about occurred, providing an indication that the off-duty conduct of police officers is a matter of significant concern, both to the public and police management.
Table 1: Conflict of interest complaints related to on- or off-duty conduct

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<tr>
<td>On-duty</td>
<td>75.5</td>
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<td>Off-duty</td>
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The expectations and role requirements of individual police officers are enunciated in a regulatory framework that includes legislation, regulation and various formal directives from police management. In the Victoria Police context, conflict of interest complaints are dealt with under broad disciplinary rules, with the principal regulatory form being the Police Regulation Act 1958. Specific reference to conflict of interest as a discrete area of concern first appeared in the 1998 Code of Conduct. Prior to this time, complaints about conflict of interest were translated into various general disciplinary breaches such as improper or discreditable conduct; bringing the reputation of the Force into disrepute; and neglect of duty, or more specific breaches such as improper disclosure of information. It remains the case that although the existence of a conflict of interest may form the background to a particular complaint, investigation or charge, formally the basis is that there is a reasonable belief that a police officer has committed a breach of discipline.

In addition, various organisational ethical documents and associated materials such as the Code of Ethics, Code of Conduct and the Statement of Organisational Values provide a framework for discussion of notions of integrity and professionalism. These materials constitute more recent attempts by Victoria Police to provide some structure to members when contemplating ethical dilemmas (a recent example is the Victoria Police Best Practice Series Conflict of Interest Training Video, launched in 2006). Such materials are designed to convey to officers that the community has expectations of impartiality and professionalism at all times, whether on or off duty.

The next two sections provide analyses of the conflict of interest complaint case files that deal with problematic relationships with criminals, informers, suspected criminals, and other persons of ill repute; and a range of other personal friends and acquaintances. This is followed by consideration of cases that involved formal political involvements and a range of civic, social, or other organised activities. Together, these case analyses reveal the range and complexity of problems that arise in relation to the personal involvements of police officers.
In inappropriate relationships: Criminals, informers, suspects, and persons associated with regulated industries

In general, relationship-based conflicts of interest may arise because of a police officer's choice of personal (and/or professional) friends and acquaintances. It is inevitable that police officers will have private and personal relationships in the ordinary course of their off-duty interactions, but relationships may become problematic where they are conducted partly in the course of (or as an extension of) on-duty interactions. At their most serious, these relationships may present an inherent conflict of interest due to particular security concerns and risks or where socially engaged behaviour constitutes illegality—for instance, social drug-taking by police officers (Police Integrity Commission, 2005). On- or off-duty relationships with informers, convicted criminals, and people suspected of having committed or being engaged in the conduct of criminal activity, including known, alleged, or suspected drug dealers and other persons of ill-repute, can present a heightened risk of exposure to conflicts of interest. Associations with people engaged in the conduct of certain regulated business sectors such as the sex or gaming industries, including on- or off-duty attendance by police officers at licensed or unlicensed brothels, can also present conflicts of interest (see Independent Commission Against Corruption, 1993a, 1993b; Kennedy, 2004; Wood, 1997). The issue of public perceptions may also be problematic if police officer associations with such persons are publicly known.

INFORMANTS AND CONVICTED CRIMINALS

The use of informants is an area of policing that is subject to process corruption, where police officers may perceive the granting of undue favours to informants to be consistent with the overall ends of policing, and therefore acceptable. Where police officer misconduct occurs in the context of a relationship with an informant or other problems arise in the relationship, the informant may ultimately inform on the police officer (Billingsley et al., 2001). This study identified several cases that involved problematic personal relationships between police officers and informants or convicted criminals.

Illustrating the problems that may arise is a case alleging sexual misconduct and exploitation by a police officer who had initially met the complainant in the course of his police duties—attending a domestic complaint: she provided information in relation to illegal drug dealing by her former de facto partner. She and the police officer subsequently commenced a sexual relationship, and she continued to provide information against her former de facto partner, with a resultant Drug
Squad operation against the man. The relationship continued for several years but the police officer eventually ended the relationship, and the woman subsequently lodged a complaint against him, including allegations that he had made personal visits to her whilst on duty, had consumed alcohol whilst on duty, and had transported her to various places in a police vehicle. As a result of the investigation of the complaint, two charges of improper conduct by the police officer were substantiated and he was fined (Case 351).

Research by Settle (1995) indicates that promises to indemnify informants against prosecution are part and parcel of a bargaining process that is a routine part of police investigative work at street level, but a police officer may come under suspicion as a result of attempts to protect an informer (whether or not for legitimate reasons). Two police officers in one complaint case had first come into contact during a police operation with a person who later became an informer. The informer subsequently provided information relating to drug dealing, and over time information provided by the informer led to a number of arrests. The informer was subsequently arrested himself, whereupon he told the arresting officers that he was working for two other police officers. The arresting police officers became suspicious and lodged a complaint against the other two officers. It was claimed that one of the police officers who was the subject of this complaint had made an unethical suggestion that the informer should be released without charge. Despite the suspicions of the arresting police officers, the complaint of an improper association was found to be not substantiated (Case 388).

Maintenance of non-official relations with convicted criminals is clearly inappropriate for a serving police officer and complaints made by convicted criminals and serving prisoners may also signal wider problems of wrongful and corrupt conduct on the part of individual police officers (Fitzgerald, 1989; Independent Commission Against Corruption, 1994; Wood, 1997). In one case, a convicted criminal interstate had made various allegations of corrupt conduct against a number of police officers. Inspection of the telephone records of the relevant police station provided evidence of a lengthy non-official interstate call to the convicted criminal, indicating, at the very least, an inappropriate relationship with a convicted criminal, and lending credence to claims of corrupt conduct. The police officer resigned prior to the conclusion of the investigation (Case 362).

Although any kind of non-official relationship with a criminal or suspected criminal may be a general indication of a wider problematic relationship, some cases involve specific evidence of a police officer acting at variance with police duties in favour of a criminal or suspected criminal. For example, a police officer was found to have an inappropriate relationship with a suspected drug offender who was under telephone surveillance; the relationship was discovered as the result of a taped conversation between the two where the suspected offender asked...
the police officer to supply information from the police database. The police officer was found to have provided the information. Formal disciplinary charges were laid but did not proceed because the police officer took extended sick, recreation, then long service leave, and then resigned from the Police Force (Case 289).

There is a fine line between maintaining a professional police relationship with an informer and using one’s position as a police officer to induce an informer to do certain things whilst staying within the law. In one complaint from a police informer, it was alleged that the informer was being induced to engage in illegal activity by a police officer. The allegation included the claim that the police officer had told his informer that he was holding an arrest warrant against the informer’s girlfriend, in order to ensure complicity by informant (Case 281). This complaint was not substantiated.

As these cases demonstrate, complaints made against police are often difficult to substantiate, and where allegations are made by informers or convicted criminals the nature of allegations made and the background of the complainant means that they must be treated with concern, and care. The recent history in other jurisdictions of Commissions of Inquiry and Royal Commissions reveals that such claims can, on occasion, be the tip of the corruption iceberg (Finnane, 1994; Fitzgerald, 1989; Wood, 1997). Individual complaints in this area are likely to reflect a wider problem of process corruption, and the particular conflicts of interest that arise are a part of the wider problem. The management of relationships with informants thus needs to be dealt with on a systematic basis through the use of organisational controls of informant handling (Billingsley et al., 2001).

SUSPECTS IN CRIMINAL INVESTIGATIONS

In addition to care in relationships with convicted criminals and informers, police officers must also ensure that their relationships with people who may be suspects in criminal investigations are beyond reproach. Complaints may express allegations at a very general level or may be quite specific. An example of the former is an anonymous complaint sent to the Deputy Ombudsman alleging that several police officers had been warning people of impending police searches (“tipping them off”) (Case 177). Although the evidence provided was non-specific an extensive investigation was conducted, but no evidence was found to substantiate the allegation. However, recent inquiries in Victoria conducted by both the Deputy Ombudsman and internally by Victoria Police indicate that, particularly in the area of drug control (where some police officers were implicated in criminal activity) such tip-offs do occur (e.g., Director—Police Integrity, 2005).
In a different arena, a complaint was received from a government regulatory agency that a police officer may have been having an improper relationship with a suspected criminal. The police officer had a private association with a mechanic who was under criminal investigation, and the complainant felt that the police officer may have had knowledge of such activity and/or been complicit in it. The officer, who had knowledge of cars, had assisted the mechanic to compile an official report in relation to the roadworthiness of a vehicle. The Internal Affairs Department investigation found that a quasi-business relationship existed because of the suspect’s mechanical ability/knowledge, but there was no evidence of a social affiliation or improper association (Case 128). However, it was found that a conflict of interest could have been construed in his relationship with the mechanic and that his actions in assisting the mechanic had been inappropriate and demonstrated poor judgement. The police officer was issued with a Caution Notice.

The domestic arrangements of police officers may bring them into contact with suspected offenders. In an example of such a case, a complaint investigation revealed that through his de facto partner, a police officer was coming into contact with various motorcycle gang members who were employed by the partner (Case 270). It was not alleged that the police officer’s actions were corrupt, but his relationship with his de facto partner had led to his inability to see problems in terms of potential conflicts with his police duties. He was counselled on this matter.

PERSONS ASSOCIATED WITH REGULATED INDUSTRIES

Where ex-police officers conduct business in industries such as hotels and brothels, and serving police officers maintain relationships with these ex-police officers, various allegations of conflict of interest may arise. In addition, the fact that such relationships are often conducted in public places means that there is high potential for damage to public perceptions. Several cases illustrate the problems in this area, even though some of the allegations were not substantiated.

One case involved three police officers who attended a licensed entertainment establishment while on duty; it was alleged that this became an extended visit involving drinking and entertainment, including the use of a police hat in a table-top dance act. Specific allegations were unproveable and the police officers were able to justify their initial attendance at the venue, but they were admonished and counselled for failing to officially account for why they were at the venue (having not made accurate entries in the police records) (Case 391). In another case it was alleged that an assault at a hotel owned by ex-police officers was not investigated because of their relationship with serving police officers (Case 338). Again, this was not proven, but the case illustrated how
CONFLICT OF INTEREST AND THE PRIVATE LIFE OF POLICE OFFICERS

relationships with owners of hotel venues (whether or not they are ex-
police officers) may give rise to perceptions of conflict of interest.

Relationships with the owners of brothels are even more problematic,
as illustrated by a complaint that raised particular interest within Victoria
Police management. It was alleged that on-duty police officers regularly
frequented a particular brothel (operated by former Victoria Police
officers), engaged in sexual activity, and received a range of discounts
(Case 339). Although the particular complaint was not substantiated, the
investigation found that attendance at the brothel was more frequent than
officially notified to police (as required under established procedures).
The case attracted wide media attention, and police management took
steps to review the wider issues involved in police attendance and use of
services at brothels. Victoria Police concerns encompassed several
potential vulnerabilities that may result from such activities, including
those flowing from attempts by criminal elements associated with
prostitution to exert influence over Victoria Police members; leverage that
may be obtained over a member who did not wish off-duty attendance at
a licensed brothel to become known to family, friends or colleagues; and
the use of status as a police officer in private dealings such as attempts to
negotiate discounted prices for services at a brothel (detailed in a Risk
Assessment Unit review, Case 339).

SOCIAL USE OF RECREATIONAL DRUGS

Engagement in any illegal activity constitutes a conflict of interest for
a police officer (see Davids, 2005). Illegal drug use has the potential to
amplify the harms even further, through a range of upstream misconduct.
Although the case files examined for this research did not include
allegations of drug use by police officers, the conflicts of interest that
may arise in the social context of such activities must be recognised.
Recent research into illegal drug use by police officers found that police
officers who admitted to using drugs socially did so in the course of
socialising with friends and relatives while off duty, claiming that drugs
were sourced using similar channels to other community members: “a
broad range of low level suppliers: friends, relatives and acquaintances”
(Police Integrity Commission, 2005, pp. s-15). While most of the police
officers in the study acknowledged the inappropriateness of engaging in
prohibited behaviour, not all saw personal drug use as a conflict with their
role as a police officer, regarding it as a strictly private activity (pp. s-16).

The Police Integrity Commission research, along with the findings of
police Royal Commissions (including the most recent in Western
Australia, Kennedy, 2004), reveal a disturbing pattern of illegal drug use,
some of which is aligned with a propensity to engage in escalating
misconduct. Problems included the routine use of cannabis and other
illegal drugs (including the storage and use of drugs on police property),
the theft of money and drugs from police raids, deal making and standover tactics, and the inculcating into corrupt cultural practices of novice detectives and uniformed officers (see in particular Kennedy, 2004, p. 101 ff. on Operation Least Said). Even when the particular misconduct is not on the job, research reveals that other forms of misconduct can invariably flow from the social activity of illicit drug use by police, including turning a blind eye to illegal drug use by others and to drug suppliers, supplying illegal drugs to friends, and for monetary gain (Police Integrity Commission, 2005, pp. s-16).

The present study underscores problems associated with conflict of interest regulation of the private lives of police officers because it is often the case that not only do many of the officers fail to see the conflicts of interest involved, but many do not see these activities conducted with friends and relatives as involving improper associations (see Police Integrity Commission, 2005).

Other problematic personal relationships and friendships

It is recognised that most private relationships per se cannot be proscribed, but police officers are required to recognise the potential conflicts of interest that may arise in their performance of official duties. Illustrating the problem, the following case shows that even if a police officer may not have acted at variance with his or her duty, some close personal associations can give rise to problems.

The police officer concerned in this matter had a close personal family friendship with the operators of a towing and panel beating company and was frequently seen as a passenger in a marked company sedan (not a tow-truck) driven by his best friend, who was employed by the company. He was officially advised that members of the public and other tow-truck operators would be likely to perceive a conflict of interest in such circumstances and, even if his intentions were honourable, this could tarnish the professional image of police in general. Subsequently, the police officer was admonished for unprofessional conduct in relation to a specific complaint that he spoke inappropriately to a driver involved in a collision (the driver was a rival tow-tuck operator) (Case 126). He asked for a review of the sanction, arguing that his driving around with his friend was a purely social matter and suggesting that his admonishment had not made it clear as to whether he was permitted, while off-duty, to accompany his friend in the vehicle. He submitted that if this was to be the case, it would restrict his social relations and unfairly limit his recreational involvements. A resulting review found that the admonishment was appropriate, and that the police officer had not come to terms with the fact that his actions could cause public dissatisfaction.
and harm the general professional image and public trust in the integrity of police.

Although the police officer’s right to a private life and private associations was recognised, it was felt that his understanding of the conflicts of interest that may arise in these particular circumstances was limited. Subsequent and separate allegations alleged closer involvement with the towing company, including the provision of information that assisted the company to obtain towing contracts prior to other towing companies being informed (Case 251). The centralised towing system operated in the metropolitan area did not apply in the provincial location involved in this case. The investigation found that the police officer had provided information that was of assistance to the company and he was charged with three offences: engaging in conduct likely to bring the Force into disrepute, improper conduct, and engaging in conduct likely to diminish public confidence in the Force. The first two charges were found to have been proven and the officer was fined and transferred to another location. This case demonstrates how difficult it can be to regulate the private lives of police officers, and that self-regulation is often what is required in the context of day-to-day policing. Further, the case represents an important example of the limited capacity of regulation to deal with the specific problem of conflict of interest. In this case, the problem could ultimately only be effectively dealt with by moving the police officer to another station.

Another group of cases involved problematic relationships between a police officer and his or her neighbours. These included a range of complaints alleging inappropriate involvement in civil matters (Cases 4, 58, 182, 207, 245), failure to act against other neighbours (Case 28), inappropriate involvement in a case (Case 379), and misuse of police resources (Case 301). In most of these cases, the specific allegations against police officers were not upheld, but the need to attend carefully to procedural and associated matters in such cases were emphasised (these included the wearing of police uniform, or part thereof, while off duty (Case 58)).

Cases involving disputes over neighbourhood noise illustrate how fraught a police officer’s position can be, to the extent that in one case the police officer himself was regarded to have become a victim of intimidation and harassment, merely because he was a police officer (Case 245). The police officer had previously had correspondence with his local Member of Parliament expressing a degree of frustration in coping with a problematic neighbour and expressing the difficulty of combining his role as a member of the community and a member of the police force. This correspondence provided some evidence of the police officer’s understanding of the problem of conflict of interest in that he clearly saw the need to separate his personal and professional interests.
These cases illustrate some of the difficulties faced by police officers in normal life. Even though police officers may personally attempt to ensure that they do not use their police position to further their own interests in such contexts, other people who know their occupation may read events differently. They may attribute as public actions what are essentially private actions taken by police officers as private citizens. This attribution may be genuine, but it can also be malicious or vexatious, or complaints may be lodged against a police officer just because he or she is an available ‘target’, able to be complained about. If a police officer takes any action that can be misinterpreted, he or she may contribute to a complaint, consciously or not. Yet a police officer who is aware of these difficulties may become frustrated with an apparent inability to act freely as a normal citizen in relation to neighbourhood disputes. While this makes for a frustrating situation for some police officers, the possibility that a police officer has attempted to exercise improper influence, or otherwise acted inappropriately, cannot be ignored.

Membership of an organisation involved in politics

Many police services attempt to exercise a degree of control over members in relation to political expression and engagement in political activity, regarded as potentially dangerous areas because personal opinions expressed publicly might give the impression of official sanction. In the public eye, knowledge of individuals as police officers may affect attitudes to the Force as a whole, with the appearance of political impartiality possibly as important as the fact (Independent Commission on Policing for Northern Ireland, 1999; Kleinig, 1996; Neyrout & Beckley, 2001; Royal Canadian Mounted Police External Review Committee, 1991, p. 52). Two competing principles are often at work: police impartiality in perception and fact, and the rights of police officers as citizens to freedom of expression and association.

The potential for any elected member of a local government body to be involved in conflicts of interest is widely recognised (see Independent Commission Against Corruption, 1997) but police officers who serve in these roles may be subject to conflicts of interest both in their roles as police officers, and as elected officials. It has been suggested that even though police officers have a democratic right to become involved in such activities, the interests of neither the Police Force nor the public are well served when police officers serve as municipal councillors, particularly if official police responsibilities are likely to be exercised within the same municipal location (Deputy Ombudsman, Case 95). Nevertheless, police management has taken the explicit view that police members should be permitted to participate in local government (Case 95). A balance must
be struck between the need to maintain both the actuality and appearance of impartiality in the police force, and the democratic rights of individual police officers.

The case files demonstrate more a potential for problems of conflict of interest to arise or for aggrieved members of the public to make assumptions that lead them to perceive conflicts of interest, rather than a large number of actual proven instances of conflict of interest in relation to local elective office. One case involved an unfounded allegation that a police officer was using his position as a police officer to be elected to a local water board by inferring inside knowledge of existing problems of a criminal nature at the Board (allegations of theft) and his own ability as a police officer to investigate and clear up the problem if elected to the Board (Case 6). In another unsubstantiated complaint, an irate ratepayer who broke a glass door at the council offices after an altercation subsequently complained that the police officer/local councillor was behind the laying of charges against him (Case 308). Another unfounded complaint was lodged by a defeated candidate for election to the local council, alleging several minor matters against a police officer who had recently defeated him in municipal elections (Case 94).

Not all cases involve unreasonable or seemingly vexatious claims. For example, in a case that gained local press coverage, a police officer who was a member of the local council and was serving a term as mayor was admonished after it was found that he used his position to organise other ‘anonymous’ officers to undertake after-hours security work guarding a council building (Case 95). In another case, a police officer who was an ex-councillor was found to have deliberately targeted and harassed a driver who was a political foe from the officer’s former involvement on council (Case 54). He was admonished for acting in a manner prejudicial to the discipline of the Force.

Allegations of action against competing candidates in local elections may also arise. In such a case, a local councillor alleged that a police officer effectively teamed up with a local council opponent to harass and intimidate the complainant councillor during an election campaign. This case received widespread media attention and resulted in a major police investigation. However, the investigation was unable to produce independent evidence in support of the complainant’s allegations and was found to be unsubstantiated (Case 108).

Together, these cases demonstrate the range of conflict of interest allegations that may arise when police officers become involved in local political activities, albeit in their capacities as private citizens.
Engagement in civic, social, or other organised activities

Three key areas of civic, social, and other community-based associations emerge from the research: active involvement in sporting and social clubs, involvement in sporting teams, and membership of school councils. Several cases illustrate how police need to be mindful of a range of possible concerns.

SPORTING AND SOCIAL CLUBS

In a case that demonstrates the potential for conflict of interest allegations in relation to involvement in clubs and societies, a police officer held a position of captain in a cricket club that served alcohol. The club was frequented by patrons aged below the legal drinking age. Allegations from another member of the club related to problems regarding the liquor license, under age drinking at an event, and various breaches of the liquor licensing requirements. There was also an accusation of improper conduct and failure to assist in an assault/damage incident in the club car park. The indeterminate nature of the evidence in this case resulted in a finding of “unable to determine” (Case 252).

Another case involving the recovery of stolen property and its subsequent claiming by a local football club involved allegations of conflict of interest because the general manager of the club, who identified and claimed the property was the wife of a police officer at the station (also an official of the club). The police officer confirmed the identity of the property and the club’s claim to ownership. On the basis of the word of both the police officer and his wife, another police officer handed the property to the woman, as an officer of the club. Doubts were subsequently raised over the ownership of this particular item of property, and the Deputy Ombudsman expressed concern as to whether ownership of the claimed property had been proven. This case generated considerable correspondence between the Deputy Ombudsman and the Internal Investigations Department, but owing to doubts surrounding the precise facts it was ultimately agreed that no further action should be taken (Case 174).

At other times, a police officer’s involvement in sporting clubs may give rise to vexatious or vindictive complaints from disgruntled members or other officials. In one unsubstantiated allegation against a police officer, the complainant had failed in an effort to be elected to the club committee of which the police officer was a member. It was noted that the police officer had been unfairly caught up in a wider dispute (Case 136).
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The range of problems that arise in the context of sporting and social clubs illustrate two sets of difficulties: first, the need for a broad awareness of the problem of conflict of interest and the circumstances in which such conflicts can arise; and, second, the difficulties in effectively regulating involvement in this area without putting in place a (probably unworkable and potentially undesirable) blanket prohibition.

SPORTING TEAMS

While membership of sporting teams is clearly desirable for health, rest, and recreation, police officers need to be mindful of the need to conduct themselves appropriately at all times. In one complaint, a police officer had been reported for unsportsmanlike behaviour during a basketball match in which he was a player. He was suspended for a lengthy period at a subsequent basketball tribunal hearing. However the suspension was under a false name that he provided, and he continued to play under his real name. Subsequent inquiries revealed his true identity, further charges were laid and the matter was brought to the attention of Victoria Police. The complaint was substantiated and the police officer was admonished due to the impact on the reputation of the Police Force flowing from his lack of honesty and integrity (Case 393).

Whether as players, officials, or spectators, police officers need to be careful not to misuse their powers or position as members of the Force. For example, a police officer who served as an official in a local football club exerted his police authority in what was regarded as an inappropriate and overbearing manner. Following an on-field behind play incident, the police officer attended the umpires’ room, produced his police badge and started questioning the umpires about whether any of them had witnessed the event, and what action was to be taken regarding the incident. None of the field umpires had seen the incident in question, and they did not propose to take the matter further based on the police officer’s report. However, the police officer himself took subsequent action, including compiling an official crime report (Case 371). This resulted in concern by the head umpire as to the powers of police when not on duty and the apparent conflict between this particular police officer’s personal interest in the club and his acting as a member of the police force in the same instance. This case was conciliated under the Victoria Police Public Incident Resolution procedures.

SCHOOL COUNCILS

As with sporting clubs, involvement in civic interests such as school councils is prima facie desirable in terms of a police officer’s family and community responsibilities, but problems can arise when an individual police officer behaves inappropriately in relation to school council duties. A substantiated case that illustrates the problems in this area involved a
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police officer who was a member and office bearer of a school council and attended a meeting in full uniform (including revolver and baton) whilst on police duty (but not in a police capacity). The complainant raised issues of misuse of police time and a police vehicle, and the tying up of police resources in a general sense. None of these key issues related to his membership of the school council per se, but his performance of his duties as a police officer, and his use of his police position and police resources to further this private activity. In relation to these concerns and neglect of his supervisory duties (he left the station for two hours) the police officer was admonished (Case 228).

Conclusions and implications

While a general principle that police officers should be permitted to engage freely in personal associations and relationships seems prima facie reasonable on the grounds that intrusion into anyone’s private life should be minimal, the cases discussed demonstrate how this principle must be qualified in certain circumstances. A range of relationships and involvements, in which police officers are engaged in their private lives and during their own private time, can give rise to conflicts of interest. Conflicts can arise due to the nature of such relationships and involvements themselves, or the associations brought into being by them.

PROBLEMATIC PERSONAL RELATIONSHIPS

Some personal associations are subject to blanket prohibitions by discipline codes of many police forces, reflecting arguments about the need for police officers to exhibit a higher standard of conduct in their personal associations and relationships (see HM Inspectorate of Constabulary, 1999; Independent Commission on Policing for Northern Ireland, 1999; Kleinig, 1996; Royal Canadian Mounted Police External Review Committee, 1991). This paper has demonstrated a range of problems that can flow from situations where a police officer engages in private relationships with criminals, informers, or persons/businesses of ill repute, or situations where they engage in illegal activity in a social setting (such as illicit drug use with friends). In addition to alleged neglects of duty, negative public perceptions of police officer professionalism and impartiality may arise from a police officer’s personal associations.

Personal associations—direct or indirect—with persons associated with regulated industries, suspected criminal activity, or activities that have an association with police work, such as tow truck operations, can give rise to particular problems. It is possible to regulate on-duty activity, as illustrated by the discussion of attendance at brothels, but it is very difficult to regulate who police officers may associate with in their private

time, as recognised by Victoria Police management who have demonstrated awareness that greater consideration of and reflection on the potential compromise that may flow from private associations in particular areas, is required amongst police officers.

An enhanced understanding of various forms of problematic personal relationships on the part of police officers, and the conflicts of interest that may arise in such relationships is a necessary precursor to dealing with such problems. These areas constitute shades of grey in professional integrity, but recognition of them as key variables in operational decision-making is a step in the direction of active accountability.

ORGANISATIONAL INVOLVEMENTS

Regulation of particular associational involvements is difficult, because in their private lives police officers will invariably be members of sporting, social, professional, or community groups. "Stepping back further, they can also be members of different ethnic, religious or racial groups, or may have roots in a particular culture" (Royal Canadian Mounted Police External Review Committee, 1991, p. 69). Proscribing membership of particular organisations is difficult from a regulatory point of view because such prohibitions are limited to the organisations in question, whereas the conflict of interest may arise in relation to particular activities, which may or may not necessarily be exclusively associated with the organisations in which membership is proscribed.

It is recognised that involvement in political activity is a part of social participation, and that this ought not to be arbitrarily denied to citizens who happen to be police officers. However, there is a need to clearly delineate between political activity conducted as a private citizen, and the authority and prestige of the official position of a police officer. Prohibitive rules do not present a likely solution to the conflict of interest problems that may arise when a police officer is privately involved in the political arena. Once again, a heightened appreciation and understanding of the problem of conflict of interest, and its potential relation to breaches of official duty, seem apposite.

Involvement in sporting and social clubs, sporting teams, school councils, and other organised civic and social activities, takes the issue of conflict of interest a step further away from what might be regarded as reasonable regulation of the private lives of police officers. The identification of such involvements as part of the normal realm of private, family, and community engagements and the variability of possible activities with which one may be involved mean that police forces are reluctant even to attempt to regulate such involvements. A heightened appreciation and understanding of the problem of conflict of interest is warranted. This particularly relates to the potential link between such conflicts of interest and breaches of official duty. Regulation that limits
types of civic, social, or other organised activities in which police officers may participate, alone, will almost certainly be insufficient to deal with the problem. Thus, an enhanced understanding of the issue, and of the personal responsibility involved in sometimes complex ethical situations, would seem to be a necessary precondition to effectively dealing with this problem.

REFERENCES


CONFLICT OF INTEREST AND THE PRIVATE LIFE OF POLICE OFFICERS


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