

This Briefing Paper reviews policing policies and practices on the receipt of gratuities, and considers when and how such gifts may be considered to impair police integrity and reputation. The paper summarises international codes of conduct and the relevant ethical principles, noting that the motives for both offering and receiving gifts affect public perceptions of the police, in addition to raising expectations of 'special treatment' between the donor and recipient. The authors conclude by noting that, without clear policies and enforcement, scandals will continue to occur, resulting in negative public perceptions of police.



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Rethinking Police Gifts and Benefits Policies

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Overview

The acceptance of gifts and benefits – or 'gratuities' – has been described as 'a police image problem that doesn't seem to go away' (Benson & Skinner, 1988, p. 32). This assertion was borne out recently in the 'phone hacking scandal' in the United Kingdom, when the Commissioner and Assistant Commissioner of the London Metropolitan Police resigned following allegations that officers were compromised in their investigations by improper associations with newspaper executives and reporters; including acceptance of lunches, other hospitality and gifts (van Natta Jr, 2011). The scandal prompted a review of standards related to police relationships by Her Majesty's Inspectorate of Constabulary (2011), which concluded, amongst other things, that policies on gifts and benefits were under-developed and under-enforced, and that a nationally consistent approach was needed. On a smaller scale, a recent corruption inquiry in Queensland – 'Operation Tesco' – revealed improper associations between police and criminals, facilitated in part through officers frequenting licensed premises while off duty, enjoying free entry and free drinks (Crime and Misconduct Commission, 2011).

These cases highlight how wider scandals or controversies over police conduct often bring lower level integrity issues to light, such as acceptance of gifts and benefits. For many people, the most prominent examples are likely to be half-price meals offered by fast food outlets. However, the practice can include free entry to nightclubs and sporting venues, free or subsidised travel for police on public transport, and gifts to procurement officers by companies tendering for police business.

With these issues in mind, this CEPS *Briefing Paper* reviews the available research on the topic. The conclusions are that police acceptance of gifts and hospitality (however worthy or innocent the intention of the donors) can adversely affect the fair and impartial delivery of police services. The practice also has a strongly negative effect on public perceptions of police integrity and public confidence in police. A strict policy regime is required that prohibits anything other than the most minor gratuities offered on an incidental basis in circumstances where no obligation or expectation can be implied or perceived. Standards need to be clarified and communicated, and backed up by strict and consistent enforcement. A 'disciplinary matrix' is recommended as the most likely means of ensuring compliance through a graduated response to incidents of non-compliance.

Gratuities, International Police Codes of Conduct and Ethical Reasoning

Codes of conduct for police and other public sector personnel usually seek to prohibit the

acceptance of gratuities. For example, the United Nations *International Code of Conduct for Public Officials* explicitly identifies gratuities as a form of exploitation of the office of public servant and a threat to the impartial exercise of authority:

Public officials shall not solicit or receive directly or indirectly any gift or other favour that may influence the exercise of their functions, the performance of their duties or their judgement. (United Nations, 1997, p. 2)

The United Nations *Code of Conduct for Law Enforcement Officials* uses similar concepts in its definition of ‘corruption’:

The term should be understood to encompass the commission or omission of an act in the performance of or in connection with one’s duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted (1979, p. 4).

Another well-known code, the *Law Enforcement Code of Ethics* by the International Association of Chiefs of Police, is similarly explicit in prohibiting gratuities because of their possible real or perceived effect on police impartiality, and the exploitation of authority entailed in their receipt. The *Code* incorporates these principles into a model oath of office, which requires officers to declare: ‘I will enforce the law courteously and appropriately without fear or favour, malice or ill will, never employing unnecessary force or violence and never accepting gratuities’ (IACP, 2004, p. 45). The accompanying *Canons of Police Ethics* elaborates on the democratic basis of this position:

The law enforcement officer, representing government, bears the heavy responsibility of maintaining, in his own conduct, the honour and integrity of all government institutions. He shall, therefore, guard against placing himself in a position in which any person can expect special consideration or in which the public can reasonably assume that special consideration is being given. Thus, he should be firm in refusing gifts, favours, or

gratuities, large or small, which can, in the public mind, be interpreted as capable of influencing his judgment in the discharge of his duties (p. 38).

These principles (preferably recast in gender neutral language) are strongly supported by police ethics scholarship. Although there is some debate amongst scholars over finer points of the issue, there is a broad consensus on the largely harmful nature of gratuities. The main arguments against the practice are summed up by Pollock (2007, p. 239):

1. Police are professionals, and professionals don’t take gratuities.
2. Gratuities are incipient corruptors because people expect different treatment.
3. Gratuities are an abuse of authority and create a sense of entitlement.
4. Gratuities can add up to substantial amounts of money.
5. Gratuities can be the beginning of more serious forms of corruption.
6. It is contrary to democratic ideals because it is a type of fee-for-service of public functions.
7. It creates a public perception that police are corrupt.

The view has been put forward that gratuities can, on occasions, assist in improving police-community relations by allowing community members to express their gratitude to police. It is argued that police acceptance of gratuities in these circumstances can be ethical, so long as there is no implication that police are obliged to the gift-giver, and that individual officers should be given the discretion to make this judgment (Kania, 1988). However, most scholars argue that there are too many risks entailed in this scenario, primarily in terms of (a) the expectation or sense of obligation of a return favour that is likely to follow, or (b) third party perceptions of a privileged relationship (see, for example, Cohen & Feldberg, 1991; Coleman, 2004; Delattre, 2006; Kleinig, 1996; Neyroud & Beckley, 2001).

Ethical reasoning tends to be borne out by research on the motives for offering gratuities. Statements from business owners, case study analyses, and testimony from police indicate that a key motive behind standing offers of discounts to police by businesses is to obtain cheap security through a visible police presence (Lawrence, 1994; Macintyre & Prenzler, 1999). For that reason, discounts are often only given to uniformed police who walk into stores (Cameron, 1997; Cohen & Feldberg, 1991, p. 115). Gratuities have therefore been described as an investment in a ‘special service’ (Editorial, 1988, p. 3). “‘Willingness to pay’” is substituted for “‘need’” as the criterion for distribution of one valuable social resource – police presence’ (Cohen, 1986, p. 30). A second key motive for offering gratuities is as ‘a form of insurance’ (Lusher, 1981, p. 636) – to secure favourable treatment from police if the proprietor, staff or customers breach the law (Barker, 1996, Ruiz & Bono, 2004).

Ethical and empirical research has led many scholars to take a strong ‘zero tolerance’ stance towards all gratuities, reflected in categorical statements in codes of ethics. Some scholars, however, recognise the need for flexibility in relation to very minor and incidental forms of hospitality. Examples would include a gift, such as a pen, given to a police officer after addressing a community group; or a meal or refreshment when police are involved in an operation that prevents them taking a normal meal break. Coleman (2004, p. 42) provides another example:

Imagine an officer who goes to the home of a victim of violent crime in order to get a statement from the victim. The victim is badly shaken, and asks the officer to have a cup of tea with her while making the statement. The ‘no gratuities’ code will mean that the officer must refuse the cup of tea, which is likely to put the victim offside straight away.

This is a very different scenario to standing offers by commercial establishments. It would seem reasonable then that permissible gratuities should exclude any that are recurring, above a very nominal value, or that entail a real or perceived obligation – constituting a ‘near-zero tolerance’ policy.

Public Opinion

When developing policies, governments and police managers need to mediate public opinion with a variety of criteria, including ethical considerations and the practical feasibility of putting policies into practice. Public opinion is nonetheless a crucial factor to consider in ensuring policing is as democratic, and as fair and effective, as possible. In that regard, a number of public opinion surveys have been carried out on the issue of police gratuities, with fairly consistent findings.

An early study in the US was conducted in Reno, Nevada, where it was assumed that reliance on the gambling industry and a culture of tipping would predispose people to support gratuities for police. However, Sigler & Dees (1988) found that 56% of respondents replied 'no' to the question, 'Do you think that on-duty police officers should be allowed to accept unsolicited small gifts, such as free coffee or meals?' Additionally, 59% replied 'yes' to the question, 'Do you think that police officers who do accept things give favorable consideration to people who give them in contacts such as traffic stops?'; and 44% stated that if they did offer gratuities to police they would expect 'special consideration' in return, 'such as an extra patrol, or a warning on a traffic stop instead of a citation' (pp. 16-17).

A public opinion survey in Brisbane, Queensland, found that 66% of respondents supported police acceptance of 'an occasional free coffee, cold (non-alcoholic) drink or discounted meal when on duty', while 31% were opposed (Prenzler & Mackay, 1995, p. 22). However, 76% were opposed to 'regular free coffee, cold drinks or discounted meals when on duty', with only 17% expressing support. Between 95% and 97% of respondents opposed gifts such as free meals in restaurants when off-duty or free repairs to private motor vehicles. The top reasons respondents gave for opposing most gratuities were that the practice 'creates the expectation that a favour or service will follow' (59%) and 'makes the police officer look like he or she is corruptible' (48%) (p. 23). Reasons for allowing police to accept gratuities received very low levels of support: including 'helps relations

between police and the public' (15%), 'helps business receive deserved police protection' (8%), 'every occupation has its perks' (6%) and 'saves the police from being considered impolite if they reject offers of gratuities' (5%).

In another US study, conducted in North Carolina, 59% of respondents agreed that 'it is appropriate for a police officer to accept an occasional free coffee, non-alcoholic drink, or discounted meal when on-duty', while 64% disagreed with the statement 'it is appropriate for a police officer to accept free meals in restaurants when off-duty' (Jones, 1997, p. 9). More recently, in another Queensland survey – conducted as part of the Operation Tesco probe referred to above – 61% of survey respondents were opposed to regular gratuities, while 66% supported the acceptance of 'occasional' minor gratuities (Crime and Misconduct Commission, 2011, p. 30). A question about offers of free alcohol received a negative response from 84% of respondents.

Some division of opinion can be seen within these surveys, but on the whole they support the view, expressed in codes of conduct, that gratuities generate inappropriate obligations and perceptions of biased or potentially biased policing (Sigler & Dees, 1988, p. 19). Of course, public opinion surveys provide little opportunity for reflection or debate. Other studies show that discussions about the implications of police gratuities, in focus groups or classrooms, tend to increase participants' opposition (HMIC, 2011; Lord & Bjerregaard, 2003). Furthermore, the surveys summarised here could have made a clearer distinction between commercial and non-commercial contexts, but opposition to regular gratuities would appear to support a ban on standing offers of discounted meals by cafes and fast food chains. We should not begrudge a police officer a free drink, or even a meal, in exceptional circumstances where necessity dictates – for example, on a hot day or during a crisis. However, anything beyond that is likely to negatively affect public perceptions of the impartiality of police.

Gratuities in Practice

When examining the issue of police gratuities, normative arguments about the importance

of perceptions and public confidence override arguments about what occurs in practice. However, some attention should be paid to evidence of bias or other negative effects in practice. In light of this, it is notable that a survey of police officers in Queensland found that the majority – 57% – said they were willing to ignore a serious traffic violation in favour of persons who had provided gratuities (Macintyre & Prenzler, 1999). Accounts from police also indicate that gratuities often result in a skewed protective presence (e.g., Barker, 1996; Ruiz & Bono, 2004, pp. 46-48). One study in the US sought to measure the effect of gratuities in terms of the observability of police. The study found that stores offering discounts did receive a greater visible police presence, although the difference was considered to be fairly marginal (Wells & DeLeon-Granados, 1998).

In a famous historical case, the Knapp Commission of Inquiry in New York City in the early 1970s found that in some high crime areas police were wasting large amounts of time imbibing free drinks in bars instead of patrolling the streets and investigating offences (1972, p. 146). In fact, the Knapp Report stated that:

The most widespread form of misconduct the Commission found was the acceptance by police officers of gratuities in the form of free meals, free goods, and cash payments. Almost all policemen either solicited or accepted such favours in one form or another... Many thousands of free meals were consumed by policemen each day and the sheer numbers created problems for the most popular eateries (pp. 170, 172).

In another inquiry report, the 1997 Wood Royal Commission into the New South Wales Police Service found:

There was abundant evidence of the ready availability of various forms of gratuities ranging from small amounts of money to free liquor, meals and sexual services on both a casual and regular basis, particularly among those police whose duties took them to the clubs and premises where they might have been expected to enforce vice, gaming, licensing and drug laws. Although

in some cases the provision of favours was relatively innocent and even the product of friendship, very often it was not:

- sometimes it was a result of tacit extortion or arrogant exercise of power directed at those who were powerless to resist;
- occasionally it provided a convenient method for 'bleeding' or testing, police newly arrived on the squad or patrol;
- often it was the price for ignoring unlawful activities; and
- even more often it was the basis for the formation of unhealthy relationships with criminals and those on the fringe of criminality that led to more serious forms of corruption. (Wood, 1997, pp. 76-77)

At the level of practice, the financial benefit to police from accepting gratuities must also be of interest. In similar terms to the Knapp Report, Kania (1988) refers to the way gratuities can become a lucrative and obsessive way of life for some officers: 'In some cities the practice of gathering in gifts is undertaken with the zeal of tax collecting on a 100 percent commission basis. The merchants likewise view the visiting police officers as free-lance tax collectors' (p. 42). Kania's analysis supports the findings of the Knapp and Wood Commissions, that the label 'gratuity' can disguise a system of extortion operated by police against business owners. Non-delivery of discounts can lead to harassment and discriminatory enforcement.

Gratuities are often referred to as 'tokens of appreciation' of 'nominal value' (ICAC, 1999, p. 10-11), but repeated acceptance of gratuities can add up to a large monetary value. In an innovative study, Ruiz & Bono (2004) estimated the total dollar value of gratuities per officer over a 12 month period in a US police department where gratuities were allowed on a discretionary basis. The researchers counted the value of every type of gratuity – including free and discounted meals, coffee and soft drinks, cigarettes, alcohol, laundry and movie tickets – and found that the total benefits over a year increased officers' incomes by one third – an

extraordinary amount. While this degree of salary inflation may not be apparent in all jurisdictions, the point remains that the types of gratuities frequently referred in the debate are usually considered in terms of single transactions and this significantly understates the total financial benefit.

Upgrading policy and translating policy into practice

The evidence outlined in this briefing paper suggests there is a need to tighten policy on gratuities and improve compliance in many jurisdictions. The UK report by Her Majesty's Inspectorate of Constabulary, *Without Fear or Favour: A Review of Police Relationships*, emphasised the importance of reducing allowable gratuities down to the level of very minor and incidental benefits, in circumstances where no obligation could be implied or perceived (2011, pp. 21-22). A similar expectation came out of the Operation Tesco report in Queensland (Crime and Misconduct Commission, 2011), and similar calls have been made in other jurisdictions (e.g., Office of Police Integrity, 2009).

Revising policies or standards on paper is, of course, the easy part. Ensuring compliance 'on the ground' is the more challenging aspect of the issue, especially where a disciplinary approach might be seen as excessive and generate resentment amongst rank and file officers. The HMIC report focused on clarifying and communicating standards, including by enlarging the place of 'integrity and anti-corruption' topics in police training (HMIC, 2011, p. 62). One advantage of establishing a formal enforceable prohibition on gratuities is that it can assist officers by providing an 'excuse' for refusing offers when placed in a situation where refusal might cause offence; and simulation training can assist officers with prepared responses. It is also important to ensure that standards taught at police academies are reinforced through in-service training – especially given the well-known tendency for ethical standards to decline with experience on the job (Alain & Grégoire, 2008). Research also indicates that police supervisors are reluctant to enforce bans on lower level gifts and benefits (Schafer & Martinelli, 2008; Vito et al., 2011). Given the crucial role of leaders in ensuring standards are applied in

practice, the HMIC report emphasised the need for police managers to be adequately trained in their responsibilities in integrity and anti-corruption management – including in relation to gratuities (2011, p. 61).

An approach which emphasises communication of ethical standards should also be extended to businesses that offer gratuities to police, especially the larger chain stores. These outlets need to be politely informed of policy and the rationales for the policy, and their assistance requested in not offering gratuities to police in the first place.

The creation of Gifts and Benefits Registers – already in place in some police departments – is also recommended (HMIC, 2011). Items listed on registers should be reviewed and approved by senior officers, and should be subject to auditing and public disclosure. Gifts that have been accepted but not approved would need to be returned. Audits should check for slippage in practice and facilitate adjustments back to the minimum standard through further communication and enforcement.

In terms of clarifying standards, the HMIC report emphasised the need for 'a clear message for staff ... as to what is acceptable, what is unacceptable and what areas to avoid' (2011, p. 5). This entails the types of definitional refinements and explicit rationales outlined above. The use of scenarios or examples is also a valuable way of illustrating acceptable and unacceptable practice. For example, the Queensland Police Service (2011) policy – *Procedural Guidelines – Gifts and Benefits* – includes 13 'case studies' covering a wide variety of scenarios in which gratuities are offered or solicited, with an accompanying commentary applying the policy in each case. At the same time, police should be trained at higher levels of ethical reasoning to ensure they develop an informed sensitivity to ethical issues in their work (Kleinig, 1996).

One issue that cannot be escaped is what to do when communication and education fail. Ultimately, disciplinary action is required in the face of repeated and unjustifiable non-compliance. Given that gratuities involve a transaction between two parties, one option is to prohibit standing offers of gratuities by

businesses, subject to a system of warnings prior to disciplinary action or prosecution. For police officers, one way to respond to non-compliance is through a disciplinary matrix, where offences are clearly set out alongside matching sanctions, but where the focus is on behavioural change through a graduated response.

A good example of a disciplinary matrix is the one developed by Shane (2012), which includes six levels of seriousness and eight grades of responses covering increasing numbers of prior offences. 'Accepting gifts and gratuities' is included at the lowest Level I category. Shane proposes that an initial infraction should result in counselling, a second in a warning, and a third in a reprimand. Beyond that, various punitive responses are recommended, including reduction in rank and, ultimately, dismissal for multiple breaches after warnings have been issued. The matrix also includes scope for consideration of mitigating and aggravating factors. Shane's observational study of police disciplinary processes supports the view that a matrix is 'more rational than the traditional discretionary method' and likely to leave 'police employees with a sense of fairness in management's disciplinary decisions' (2012, p. 1).

Conclusion

This CEPS *Briefing Paper* was developed in response to recent manifestations of an old issue: what to do about gifts and benefits offered to police. This is clearly a perennial problem and one that is likely to contribute to scandals unless a 'near-zero tolerance' approach is formally adopted and properly enforced. There is a convergence in views on this issue – between policing scholars, international police leadership groups, and members of the public. The challenge is to effectively translate policy into practice.

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