



Volume 7, Number 1  
2019

# Salus Journal

An international, peer-reviewed, open-access journal for topics concerning  
law enforcement, national security, and emergency management

Published by  
Charles Sturt University  
Australia  
ISSN 2202-5677



**Volume 7, Number 1, 2019**

www.salusjournal.com

**Published by**

Charles Sturt University  
Australian Graduate School of Policing and  
Security  
PO Box 168  
Manly, New South Wales, Australia, 1655

**ISSN 2202-5677**

**Advisory Board**

Associate Professor Nicholas O'Brien (Chair)  
Professor Simon Bronitt  
Professor Ross Chambers  
Professor Mick Keelty AO, APM  
Mr Warwick Jones, BA, MDefStudies

**Editors-in-Chief**

Dr Philip Birch  
*Charles Sturt University, Port Macquarie*  
Dr Emma Colvin  
*Charles Sturt University, Bathurst*

**Book Review Editor**

Dr Susan Robinson  
*Charles Sturt University, Canberra*

**Assistant Editor**

Ms Kellie Smyth, BA, MAppAnth, GradCert  
(LearnTeach in HigherEd)

**International Editorial Board**

**Associate Editors**

Dr Anna Corbo Crehan  
*Charles Sturt University, Canberra*  
Dr Ruth Delaforce  
*Charles Sturt University, Canberra*  
Dr Veronica Fox  
*Royal Canadian Mounted Police*  
Dr Garth den Heyer  
*New Zealand Police*  
Dr Victoria Herrington  
*Australian Institute of Police Management*  
Associate Professor Valerie Ingham  
*Charles Sturt University, Canberra*  
Dr Alida Merlo  
*Indiana University of Pennsylvania*  
Professor Tim Prenzler  
*Griffith University, Queensland*  
Dr Suzanna Ramirez  
*University of Queensland*  
Professor Rick Sarre  
*University of South Australia*  
Associate Professor Patrick F Walsh  
*Charles Sturt University, Sydney*  
Dr Troy Whitford  
*Charles Sturt University, Sydney*

# Salus Journal

Volume 7, Number 1

2019

## Contents

### Research Articles

- Stand Your Ground Laws in the United States**  
Noel Otu 2
- Courtroom Questioning of Child Sexual Abuse Complainants: Views of Australian Criminal Justice Professionals**  
Nina J. Westera, Martine B. Powell, Rachel Zajac and Jane Goodman-Delahunty 20
- Police Moral Injury, Compassion Fatigue, and Compassion Satisfaction: A Brief Report**  
Brooke McQuerrey Tuttle, Karolina Stancel, Charles Russo, Mari Koskelainen and Konstantinos Papazoglou 42
- Procedural Justice and Complaints about the Police**  
Anna Corbo Crehan and Jane Goodman-Delahunty 58
- A Preliminary Review of Cyber-Deception Factors: Offerings From A Systematic Review**  
Anoushka P.A. Anderson, Jo Bryce, Carol A. Ireland, Jane L. Ireland 88

### Book Review

- Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work and Human Rights***  
Susan Robinson 108

### Licensing

All material published in *Salus Journal* is published under a Creative Commons License. Under this licence you are free to copy and distribute the essays, articles, and reviews under the following conditions: 1) you give attribution to the author(s); 2) the essays, articles, and reviews are not used for commercial purposes without written permission of the author(s); 3) that you do not alter, transform, or build upon the essays, articles, or reviews; and 4) further distribution is based on the “share-alike” principle.

# Stand Your Ground Laws in the United States

*Noel Otu\**

## ABSTRACT

On February 26, 2012 George Zimmerman killed Trayvon Martin and in July 2013 he was found not guilty. Also, on July 19, 2018, Michael Drejke killed Markeis McGlockton and it was not until August 13, 2018 that he was arrested. These cases sparked a nationwide debate around castle doctrine, self-defence and stand your ground laws. Texas, Florida and many other states have these laws, which generally allow an individual to stand his or her ground, and meet force with force, even deadly, at any place he/she has a legal right to be. This study examines what these laws do and do not do. The results of the cost and benefit analysis of this study make it clear that self-defence law is enough protection for individuals in the face of attack. The “Stand Your Ground” law promotes unpredictable and uneven use of violence. The argument by proponents that the law deters crime is unfounded. This study makes several recommendations, among which are: repeal the existing law and remove statutory immunity to allow victims to seek compensation and justice.

**Key Words:** Self-defence, Castle doctrine, Stand-Your-Ground, Violence, Justice.

## INTRODUCTION

‘Stand Your Ground’ (SYG) laws are legal justification for self-defence from perceived threats against an individual, including the use of deadly force without the duty to retreat. In general, under “Stand Your Ground,” also known as “Make My Day” or “No Duty to Retreat” or “Me or Them” or “Right Should Be Right” laws, a person who is in any place he has a lawful right to be at the time may be justified in using deadly force whenever he reasonably believes he faces an imminent and immediate threat of great bodily injury or death, without a duty to retreat.

---

\*Corresponding author: noel.otu@UTRGV.edu

Natural/Traditional/Common Law self-defence is available in all countries in the world, including the United States, and covers the use of both deadly and non-deadly forces. The idea behind Stand Your Ground laws comes from the castle doctrine. Castle doctrine was a common law that allowed an individual to defend himself or herself in the home and with the duty to retreat when it is safe to do so. Whereas typical English Common Law doctrine included the duty to retreat when faced with a violent. Stand Your Ground as an expansion of the Castle doctrine extended and redefined the “castle” to mean any place a person has a legal right to be.

Castle doctrine dates back to the 1600s (Alexander 2018) and began to move out of the home around the time of the American Civil War. After the Civil War, there were court cases that extended the boundaries of where a man can defend himself from the home (castle) to any place a man has a legal right to be, *Beyer Vs Birmingham* (1914). During the 2000s, there was a serious push by the National Rifle Association (NRA) to expand Stand Your Ground laws even more to include vehicles. In 2005 the first Stand Your Ground law was passed in the state of Florida. Florida SYG law states that a person must have reasonable fear of death or bodily harm when using defensive force. In the event that one’s home or vehicle is being violated, a person does not have to retreat if a threat is imminent, (Lord 2018).

The Florida Stand Your Ground law put the burden on the prosecution to prove that the suspect was not reasonably threatened enough to use force in defending his property. Additionally, it also offered immunity from civil and criminal liability. In addition to Florida, about 32 states in the United States have Stand Your Ground laws of some kind and seven allow the use of deadly force in self-defence in public without the duty to retreat. Some states require a person to retreat “with perfect safety,” meaning a person must retreat from a situation when he/she can do so without being harmed or lose the right to use the argument of deadly force self-defence in court, (Lord 2018). SYG laws have a lot of controversy surrounding them. Some people believe that these laws promotes more of a “shoot first, ask questions later” attitude rather than being a law that intends to keep people safe. Besides, people who disagree with this

statement say that the law allows self-defence without fear of prosecution. For example, after George Zimmerman shot and killed Trayvon Martin, and Michael Drejke killed Markeis McGlockton, the Stand Your Ground laws were cited in the two killings as the reason for avoiding arrest. Many believe both victims did not deserve to be killed, hence, the controversy goes on, (Jonsson 2013, William 2016). This article analyzes the impact of Stand Your Ground laws on violent crime rate, disparity in the use of them, and the frequency of violence in the states with Stand Your Ground laws, (Longley 2018).

### BACKGROUND OF STAND YOUR GROUND LAW

The U.S. Constitution provides that ‘ - - no (person) can be deprived of life, liberty, or property without due process of law.’ Florida statutes, sections 776.012 and 776.013, states that: “a person is justified in using or threatening to use deadly force if s/he reasonably believes that using or threatening use force is necessary to prevent imminent death or great bodily harm...[or a] forcible felony. A person...does not have a duty to retreat and has the right to stand his or her ground if....not engaged in a criminal activity and is in a place where he has a right to be...A person is presumed to have a reasonable fear ...if: the person against whom the defensive force was used or threatened was in the process of unlawfully and forcefully entering...a dwelling, residence, or occupied vehicle...[This] person who unlawfully and by force enters or attempts to...is presumed to be doing so with the intent to commit an unlawful act or involving force or violence”.

The Stand Your Ground law basically says that if someone is in a place they are legally allowed to be, they do not have a duty to retreat before using deadly force on a person they feel threatened by (Lords 2018). According to Williams (2016) Castle Doctrine and Stand Your Ground laws in the U.S. were created to protect the rich property owners and these laws are the expansion of castle doctrine. Castle doctrine refers to a legal rule that originated in ancient Roman society and that, in written form, dates back to English common law (Rock 2012). Stand Your Ground laws and castle doctrine have a common origin in medieval English laws. They originated as a theory in the early common law meaning it was a

universally accepted natural right of self-defence and not a formally written law. (Longley 2018) Stand Your Ground laws basically extend the protection of the Castle doctrine from the castle (home) to any place a person has a legal right to be. Stand your ground laws with English common law origin held a duty to retreat, meaning that you have a duty to retreat in the face of an attack. Castle doctrine was defined in a 1604 court case concerning intrusion of the king's servant into a man's private home (Semayne 1604). Castle Doctrine and Stand Your Ground laws originated as an exemption to the duty to retreat. The due-process requirement is lost with Castle Doctrine. Stand Your Ground laws diminished the government's responsibility to punish criminals and shifted the right to individuals to punish others without due process.

According to Light (2018) the idea of Stand Your Ground is very selective in the United States. Even though we claim every person is equal regardless of race and gender, it is common knowledge that when the United States says "A man's home is his castle" what they actually mean is "A white, property-owning man's home is his castle" and he is allowed to use deadly force to protect it (Light 2018). This goes back to the "reconstruction era in the United States when post-war political and economic problems and the enfranchisement of African American men existed. Coupled with late 19th century gender panic, and the legal terrain shifted to characterize a man's castle and dependents residing therein as an extension of the white masculine self" (Light 2018, William 2016 :3)

According to Sunburn (2016), there are other opinions about the origin of the Stand Your Ground laws in the United States. If the State of Florida is considered the birthplace of Stand Your Ground law, the father is Dennis Boxley. He was a Florida State Representative in 2005 and heard of an incident involving a man living in a Federal Emergency Management Agency (FEMA) trailer who killed an intruder but had to wait many months to know if he would be charged or not. Boxley said the delay persuaded him to push for clarifying the law of self-defence in Florida (Sunburn 2016). There are other opinions that the "Stand Your Ground" law originated from the Bible. According to Ephesians 6: 13-14 which states "therefore put on the full armor of God so that when the day of evil

comes, you may be able to Stand Your Ground, and after you have done everything to stand”. There is yet no consensus on the origin of “Stand Your Ground” laws. It is interesting to note that the Bible verse uses “Stand Your Ground” as the last resort by saying “after you have done everything.” For the purpose of this study, Castle Doctrine originated as a theory of early common law, declared as a universally accepted natural/traditional right of self-defence, (Longley 2018). Accordingly, “Stand Your Ground” laws are controversial and problematic but effectively extend the protection of the Castle Doctrine from the home to any place a person has a legal right to be.

### PROBLEM STATEMENT

When Michael Drejka shot unarmed Markeis McClockton outside a Clearwater, Florida convenience store on July 19, 2018, law enforcement initially refused to arrest and charge him for the killing. Pinellas County Sheriff Bob Gualtieri had initially declined to arrest Drejka after invoking the “Stand Your Ground” defence which prohibits police from making an arrest in self-defence circumstances. According to self-defence principles, all Americans have a legal right to defend themselves from an attacker as long as the force used was necessary, (Beyer vs Birmingham 1914). Stand Your Ground laws have expanded the natural/traditional definition of self-defence and allow people to use deadly force outside their homes even if they can de-escalate the conflict situation and walk off. Stand Your Ground laws do deal with the right of self-defence at home, but it is the expansion of home to include everywhere else, creating a rule instead of an exception. According to these laws, every confrontation can become deadly. This study will show the impact of Stand Your Ground laws on crime and on African Americans.

### PRIOR RESEARCH

Despite the need for research on the effects of SYG Laws and their relationship to the Castle Doctrine and the increase in violent crime rate, a review of the literature did not find many studies that focused on these questions. Xenakis (2018) explains that Cheng and Hoekstra (2013) used state and time variation in the passage of SYG laws’ effects on homicide

rates. They defined SYG laws using a binary variable equal to one for policies that removes the duty to retreat in places outside the “castle”. They found that these laws significantly increase homicide rates, but their study had uncertain results for burglary, robbery, and aggravated assault. Also, Webster, Crifast and Vernick (2014) did the analysis of the effect of SYG laws on age-adjusted homicide rates. They used generalized least-squares regression models. Crifast, et al, results show minor to uncertain relationship between SYG laws and homicide rates, non-firearms homicide, and firearm homicide rates. They used a large number of estimated parameters which are related to observational studies. Their estimated result would be difficult to generalize to other forms of SYG laws. According to Humphreys, Gasparrini and Wiebe (2017), Florida experienced a significant 24 percent increase in total homicide rate and 32 percent increase in firearm homicides after the creation of the SYG law that eliminated the duty to retreat. Their study used segmented quasi-poson regression analysis to look at the changes between 1999 and 2014 in Florida’s monthly homicide rate before and after the enactment of Florida’s SYG law in 2005. Humphrey’s et al. compared the changes in four out of 27 states that did not have SYG laws at the beginning of the period---Virginia, New York, Ohio, and New Jersey. The control states did experience a statistically insignificant 6 percent increase in total homicide and 8 percent increase in firearm related homicide after 2005. Humphreys, et al model did not include covariates for possible adjustment for other sources that could cause the difference between Florida and comparison states. Also, according to Xenakis (2018) evidence that SYG laws may increase homicide rates is moderate, and evidence that such laws may increase firearm homicide is limited. Evidence for the effect of SYG laws on other types of violent crime is inconclusive.

Finally, most of the studies reviewed for this paper examined FBI homicide data and controlled for factors that might affect state homicide rates; for example, poverty rate, the region and the number of police officers per population while holding other factors constant. The result shows that SYG laws were associated with either a 7 percent or 9 percent increase in total homicides depending on the statistical methods used. This study differs significantly from other studies because we used

triangulation, which is a combination of different methods to explore our research hypotheses, tailored to gain as much detailed and multi-layered information as possible about Castle Doctrine, Stand Your Ground laws and their effect on crime rate.

## METHODOLOGY

In the months following the shooting death of Markeis McClockton, the author gathered part of this research information from hundreds of newspaper reports, journal and magazine articles, U.S. Court web sites, and legal exhibits related to the SYG laws and Castle doctrine cases. The author understands that the results of this study are qualitative and rely considerably on “documentary evidence,” but a serious effort was made to distinguish meaningful facts from emotional ideas expressed in the sources reviewed.

Major findings and the recommendations of this article are based on reviews of numerous articles and on discussions with key individuals involved in both the McClockton case and the enactment of the Florida SYG law.

## IMPACT ON CRIME RATE

Laws in the United States have always protected the individual’s right of self-defence, allowing people to use force to repel attackers when necessary. Stand Your Ground laws, from a public policy perspective, cloud the administration of justice by removing the instances of investigation when someone is killed. This creates an environment of flawed subjective analysis (Goodville Pierre, Vice President, National Bar Association). Since Stand Your Ground law was implemented in Florida in 2005, the overall monthly homicide rate has increased 24.4% and the homicide by firearm rate is up 31.6% (Humphreys et al 2017). The Florida statistics back up a similar national study from 2013 finding an 8% average increase in homicides in states that have passed Stand Your Ground laws (Sunburn 2016). According to Florida Department of Law Enforcement statistics, the murder rate per 100,000 residents in 2005 was 4.9, but in 2006 after the enactment of Stand Your Ground law, it jumped to 6.2 and has been going up yearly since 2005 (Sunburn 2016). In addition, there are

interesting studies that also conclude that there is a link between Stand Your Ground laws and an increase in homicide rates. Webster, Crifasi and Vernick (2014) found that Stand Your Ground laws have an uncertain effect on the total homicide rate. Chong and Hoekstra (2013) concluded that Stand Your Ground laws significantly increase the homicide rate. Above all, Humphreys, Gasparrini and Wiebe (2017) result shows significant effects consistent with the Stand Your Ground laws increasing the homicide rate. In 2017 a study by Oxford University, published by the American Medical Association revealed that homicide rates in states with Stand Your Ground laws have increased by 20 to 25 percent since the enactment of the laws, (Alexander 2018). Based on the findings of this study and analysis of numerous literature and newspaper articles on this topic, this study concludes that there is a positive link between Stand Your Ground laws and an increased homicide rate. Inclusive link to other types of violent crime.

#### STAND YOUR GROUND LAWS JUSTIFIED?

Stand Your Ground Laws, sometime, referred to as “me or them”; (ratt ska vara ratt) “right should be right” are closely related to, and in some cases derived from, an old English common law concept, the Castle Doctrine, which states that an individual’s home is his/her castle and that he/she has no duty to retreat from a potentially dangerous situation and can use deadly force to defend himself in his home. Stand Your Ground laws expand the castle doctrine defence out of the home and into any place a person lawfully has a right to be. (Peschong 2013) Like many controversial laws, Stand Your Ground laws have their proponents and critics, and both sides always make good points in defending their positions. The aim of this study at this point is to show the pros and cons of Stand Your Ground laws and give some recommendations. “Stand Your Ground” laws have been self-defence law or standard for centuries and in all parts of the world; however, most countries self-defence laws failed to say anything for or against the duty to retreat. In *Beard vs. United States*, (1895) the U.S. Supreme Court ruled that “a man assailed on his own grounds, without provocation, by a person armed with a deadly weapon and apparently seeking his life is not obliged to retreat but may stand his ground and

defend himself with such means as are within his control; and so long as there is no intent on his part to kill his antagonist, and no purpose of doing anything beyond what is necessary to save his own life, is not guilty of murder or manslaughter if death results to his antagonist from a blow given him under such circumstances” (wwwjustia.com).

There are some misconceptions about stand your ground laws (1) The duty to retreat in the common law, which is the foundation/precedent in the U.S. law, applies to a situation where the person claiming self-defence was a party to the fight and was the aggressor. Equally, in some states in the U.S., Stand Your Ground Laws require the aggressor to retreat or surrender. (Harding 2017) (2) It is assumed that Stand Your Ground law plays a role in many cases of murder and that it is always in the jury instructions in all cases of self-defence. In almost all cases of self-defence there was no opportunity to retreat. It is common knowledge that we cannot outrun a bullet; hence, whenever an attack involves a gun, it is automatically considered ‘No opportunity to retreat. (Harding 2017). “Stand Your Ground” laws have been part of the self-defence laws of the United States Federal Government for as long as we can remember. In the *District of Columbia v Heller* (2008) the Supreme Court held that the Second Amendment protects the right to keep and bear arms in the home for self-defence, which is very close to declaring it a constitutional right. Also, for most American judges and the public pared self-defence from criminal sanctions and relates it to the common law or a part of the due process or the Ninth Amendment. Either way, self-defence is fixed in the common law tradition and not tied to any one culture, nation, or time, but trans-cultural and trans-temporal, (*McDonald v City of Chicago*, 2010).

#### PROS OF “STAND YOUR GROUND” LAWS

Reasonable Person Standard – “Stand Your Ground”/natural self-defence have the same general principle, which is you may use force, up to deadly force if and when it is a necessary, reasonable and proportional response to an imminent threat. To use deadly force, an individual must be able to say that he/she reasonably believed that his/her life was in danger at the time he used the weapon. (Kehoe 2016) Hence, Stand Your Ground has been implied in all self-defence situations.

Waiver/Forfeiture of right to life - By breaking into the home of an innocent homeowner, the individual has waived his/her right to live, because the homeowner never entered into an agreement with the intruder to engage in a fight. The homeowner has made no agreement to accept risk in his protected space and has done nothing to commit a justifiable grievance against any intruder. Breaking into someone's home is a voluntary choice waiver of right to life made by the individual. The homeowner is the victim and has a right to protect his/her life and property. Hence, intruders have forfeited their right to be safe, (Davis 2018). Forfeiture of right to live applies also to rape situations; all humans have the right to defend their body by any force. Any potential rapist has waived his/her right to be alive, because the victim never agreed or contracted to be raped.

Basic Human Right - If one person is obliged to retreat in order to safeguard the well-being of another person who is illegally threatening another it means one person's right is more important than another's. What gives one person the right to chase another person out of some place he/she is legally entitled to be? The laws have changed the calculus of self-defence in the United States. The laws have expanded the legal justification for the use of lethal force, increasing the expected cost of committing violent crime.

### CONS OF "STAND YOUR GROUND" LAWS

The negative aspects of Stand Your Ground laws centre on the application and the abuse of such laws. A Stand Your Ground law means that, if you reasonably believe that you face imminent death, serious bodily injury, rape, kidnapping, or (in most states) robbery, you can use deadly force against the assailant, even if you have a perfectly safe avenue of retreat (Volokh 2014).

Maximize and Encourage Violence - Since Florida adopted Stand Your Ground law, "lawful" homicides increased by 75 percent and overall homicides in Florida increased by 22 percent, (Queen 2018). In many instances, law enforcement is limited by the version of events alleged by the person who survives. Dead men tell no tales. The dead

individual cannot provide a second version of what happened. It makes criminals more violent since they don't want to be killed, hence, they kill a law-abiding person first. The high homicide rate uncovered by this study, however, shows that criminals were killing more often than law abiding citizens, because who shoots first is standing his/her ground and dead men cannot defend themselves.

Retributive - Stand Your Ground laws allow someone to hunt down a burglar, or even a murderer, after the fact. Someone may want to be insulted, challenged or burglarized for the chance of doling out street justice, which is playing fast and loose with morality, (Davis 2018). It is common knowledge that most people who are put in a situation to "Stand Their Ground" did so willingly, happily, and they wanted the opportunity.

Legal Cover - Stand Your Ground laws provide legal cover for use of deadly force in situations where it might not be appropriate or justified; all they have to say is that they feared for their lives. Someone might seek out suspicious looking people, and/or initiate confrontations knowing they'll have SYG law to resort to in their defence afterwards. It may encourage someone to believe or claim that they have a right to dominate others and escalate a situation to violence. Stand Your Ground laws turn all conflicts into violence situations and encourage criminals to be more violent.

### DISPARATE RACIAL IMPACT

According to Professor Paul Butler, SYG laws do have a racially disparate effect that devalues black life. The law is predicated on the belief that if an imminent threat exists, shootings are more likely to be considered justified by a judge or jury when white people shoot black, (Whack 2018). Also, Wagner, Kim and Hagler (2016) states that in cases with minority victims, the probability of getting a guilty verdict is lower, and the success rate of using the SYG defence is measurably and significantly higher. In 2006 Laurie Lynn Bartlett said her boyfriend was drunk and tried to sexually assault her. She stabbed him, killing him, and got 10 years imprisonment. The following year, Ernestine Broxsie's ex-boyfriend "snapped" and began choking her, so she shot him, killing him, and she went free. Here

we have two similar cases, with one major difference - race; Bartlett's victim was white while Broxsie's was black. These laws upset a basic social order by, in essence, giving police authority to citizens and raising the risk of minor disputes, misunderstandings and disagreements becoming deadly encounters. They also provide legal cover for people to take deadly action based on an individual's subjective and racially motivated views, (Jonsson 2013: 6). The Tampa Bay Times published a study which they analyzed 200 Stand Your Ground cases in Florida and found that defendants who killed a black person were not guilty 73 percent of the time, while those who killed a white person were found not guilty 59 percent of the time (Jonsson 2013). Also, Ackemann, Goodman, Gilbert, Arroyo-Johnson and Pagano (2015) state "Our resultant analysis reveals the disturbing message in these data that there indeed is a quantifiable racial component in the impact of the SYG law in Florida; namely, a suspect is twice as likely to be convicted of a crime if the victim is White compared to when the victim is not White" (p. 14).

The FBI data analysis of demography shows that the increase in justifiable homicides has disproportionately increased among the African-American population. The number of homicides against African American people that were considered justifiable in stand your ground states more than doubled between 2005 and 2011 increasing from 0.5 to 1.2 per 100,000 people. The number remained unchanged in the rest of the country (Roman, 2013, FBI data). Legal scholars agree that Stand Your Ground laws further aggravate the racial bias in the criminal justice system against minority victims; this is especially true for Black victims, (Hall 2013, American Bar Association, 2014, Rice, 2013; Lee, 2013) This issue reflects the disparate racial impact of Stand Your Ground laws.

## DISCUSSION

There is no doubt that SYG laws do save the lives of some innocent people who, without it, would have been killed by violent criminals; but the number of lives saved by the law does not correspond to/outweigh the innocent lives lost due to stand your ground laws. The controversies surrounding the recent shooting of unarmed Markeis McClockton by Michael Drejka outside a Clearwater, Florida convenience store on July

19, 2018 have captured the attention of the United States and the world and renewed the conversation about SYG laws since the expansion of the “ground” in SYG laws in many states to include any and all places where someone is legally authorized to be. The concept of Stand Your Ground law is based on whether a person feared for his/her life in a situation, not whether a person was actually in serious danger, so it makes excuses for an extremely paranoid person reacting to a normal situation in a maniacally violent way (Dorai 2018). The “Stand Your Ground” laws concept lends itself to the hyperbolic non-sequitur that all a person has to do to murder others is to say that they felt “threatened” and feared for their life. It shifts the responsibility to prove otherwise onto the dead person who has been deprived of life. “Stand Your Ground” laws in some states allow drivers to shoot someone when threatened in their car instead of driving away. According to O. H. Eaton a retired Judge of 24 years, the SYG statute should be repealed because it promotes violence, unwise and potential for abuse, (Eaton 2013) The study supports the following recommendations:

- SYG laws tend to silence the victim because dead men cannot talk in order to defend themselves.
- Traditional/Natural self-defence was and should be good enough to protect lives and property.
- Law enforcement officers should be trained in new techniques for investigating Stand Your Ground cases.
- Jurors should be given standard written instructions in simple English to allow for clear understanding of the laws.
- The laws should be repealed to reduce the rate of killings, given the impact these laws have had on inequities in public health, (Ackermann et al 2015 p.16).

## CONCLUSION

The result of this study shows that self-defence and castle doctrine did not cause the increase in the homicide rate but Stand Your Ground laws and the expansion of no duty to retreat even outside the ‘castle’ are the major causes of the increase in homicides. One explanation for this conclusion is that natural self-defence provisions have been in existence longer than “no

duty to retreat” and/or “every place being a castle”, but the crime rate did not increase substantially. It is common knowledge that some of the increased homicides are caused by individuals using deadly force against another person in situations where the threat of death and/or serious bodily injury is not imminent to either person. Another fact is that some of the places used as a castle that resulted in the killing of individuals would not have been considered a castle without the expansion of the Castle and Stand Your Ground laws. No law should be able to enable somebody to declare a street to be his/her home and kill somebody and walk away as the aggressor and the killer.

#### ABOUT THE AUTHOR

**Noel Otu Ph.D.** is an Associate Professor of Criminal Justice at the University of Texas, Rio Grande Valley in Texas. His current research interests include ethnic behaviour, culture and crime, and Police brutality. His recent publications have appeared in several leading criminological journals, including The Justice Professional, International Journal of Comparative and Applied Criminology and Criminal Justice, The Police Journal, Journal of Nigerian Affairs, African Journal of Criminology & Justice Studies, Salus Journal, International Journal of police Science & Management, and Law Enforcement Executive Forum.

#### REFERENCES

- Ackemann, N., Goodman, M. S., Gilbert, K., Arroyo-Johnson, C. & Pagano, M. (2015). Race, law and health: Examination of “Stand Your Ground” and defendant convictions in Florida. Retrieved from <https://www.sciencedirect.com/science/article/pii/S0277953615300642>
- Alexander J. W. (August 27, 2018). How did “Stand Your Ground” laws Originate? How Stuff works, Retrieved from: <https://people.howstuffworks.com/how-did-stand-ground-laws-originate.htm>
- American Bar Association (2014). American Bar Association National Task Force on Stand Your Ground Laws, A Review of the

Preliminary Report & Recommendations Boston, MA, Google Scholar.

Beard vs. United States, 158 US 550 (1895).

Beyer vs Birmingham R.L. 64 so. 690 611 (Ala 1914).

Cheng, C & Hoekstra, M (2013) Does Strengthening Self-defense law Deter Crime or Escalate Violence? Evidence from expansion of Castle doctrine' *Journal of Human Resource*, 48 (3), 821-853.

Dorai, A. (updated 2018) in Harding, P. (2017). What's Your Opinion of Stand Your Ground laws? Quora. Retrieved from <https://www.quora.com/whats-your-opinion-of-stand-your-ground-laws>

Davis, J. (updated 2018), in Harding, P (2017). What's Your Opinion of Stand Your Ground laws? Quora. Retrieved from <https://www.quora.com/whats-your-opinion-of-stand-your-ground-laws>

Eaton, O. H. (2013). Stand Your Ground law ripe for abuse and needs repeal. Orlando Sentinel. Retrieved from <http://article.Orlandosentinel.com/2013-07-18/news/os-ed-stand-your-ground-071713-20130717-1-groundlaw-deadly-force-status>

FBI Uniform Crime Reports. (n.d.) Supplementary Homicide life Natural Archive of Criminal Justice Retrieved from <http://bit.ly/IbNoHhry>

Hall, A. (2013). Stand for Justice-examining why stand your ground laws negatively impact African Americans South, Region Black Law Stud Association Law Journal 7, 95-112.

Harding, P. (2017). What's Your Opinion of Stand Your Ground laws? Quora, Retrieved from <https://www.quora.com/whats-your-opinion-of-stand-your-ground-laws>

Humphreys, D. K., Gasparrini, A. & Wiebe, D. J. (2017). Evaluating the Impact of Florida's 'Stand Your Ground' Self-Defense law on Homicide and Suicide by Fireman: An Interrupted Time Series

- Study. JAMA Retrieved from <files:///c:/users/zpf453/Download/101160090.pdf>
- Jonsson, P. (2013). Racial Bias and “Stand Your Ground” laws: What the data shows, *The Christian Science Monitor*, Retrieved from <https://www.csm/usa/justice/2013/0806/racial-bias-and-stand-your-ground-1--->
- JUSTIA—U.S. (n.d.) Supreme Court: Retrieved from <https://supreme.justia.com-cases/federal/us/150/550>
- Kehoe, T. (2016), in Harding, P (2017) What’s Your Opinion of Stand Your Ground laws? Quora, Retrieved from <https://www.quora.com/whats-your-opinion-of-stand-your-ground-laws>
- Lee, C. (2013). Making race salient: Trayvon Martin and implicit bias in a not yet post-racial society, *North Carolina Law Review* 91, 1555-1612.
- Light, C. (2018). The loaded History of self-defense, *The Harvard Gazette* Retrieved from <https://news.harvard.edu/gazette>
- Longley R. (2018). An overview of the ‘ ‘castle doctrine’ ’ and ‘ ‘stand your ground’ ’ laws. Thought co, Retrieved from <https://www.thoughts.com/the-castle-doctrine-721361?print>
- Lord, D. (2018). What does Florida’s Stand Your Ground law say you can do? Cox Media Group National Content Desk, Retrieved from <http://www.wsocvtv.com/news/trending-now/what-does-floridas-stand-your-ground-law-sa>
- Peschong J. (2013). Pros & Con: Stand Your Ground laws Make Sense; *The Tribune*: Retrieved from <https://www.sanluisobispo.com/opinion/letters-to-editor/article39452169.html>
- Queen, E.L. (2018). Florida Stand Your Ground Law Incentivizes Violence. Markers McClockton’s death proves it. Retrieved from

<https://www.nbcnews.com/think/opinion/Florida-s-stand-your-ground-law>

- Roman, J. K. (2013). Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data. Retrieved from <http://search.proquest.com/docview/1497406399?accountid=15159>
- Rock R. J. (January 25, 2012). Florida Stand Your Ground law: A Solution without A problem, Journey 24 Point. Retrieved from <http://journey24pointoh.com2012/01/25/Florida.Stand-your-ground-law-a-solution-without-a-problem/>
- Semayne's Case. (1604). 77Eng. Rep(KB195).
- Sunburn J. (2016). Florida 'Stand Your Ground' law linked to homicide increase, Time, Retrieved from <http://time.com/4569145/florida-stand-your-ground-law-homicide-increase-study/>
- Volokh, E. (2014). What Stand Your Ground laws actually mean, The Washington Post. Retrieved from <http://www.washingtonpost.com/news/volokh-Conspiracy/wp>
- Wagner, K. M., Kim D. and Hagler J. C. (2016). Stand Your Ground in Florida: The Effect of Race, Location and Weapons on Convictions, *Ralph Bunche Journal of Public Affairs*. Retrieved from <https://digitalscholarship.tsu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1034&context=rjpa>
- Webster, D.C.K, Crifasi & Vernick, J.S. (2014). Effects of the repeal of Missouri's Handgun purchases licensing law on homicides. *Journal of Urban Health*, 91(2), 293-302.
- Williams, P.J. (2016). The 'ground' in "Stand Your Ground" means any place a white person is nervous, Nathan. Retrieved from [https://www.thenation.com/prwacy-policy/Father Blames "Stand Your Ground " in Son's parking-lot death](https://www.thenation.com/prwacy-policy/Father Blames )
- Whack E. H. (2018). Father Blames Stand Your Ground in Son's Parking-lot Death, Associated Press and Fox news Network LLC. Retrieved

from <http://www.foxnews.com/us/father-blames-stand-your-ground-in-sons-parking-lot-death>

Xenakis, L. (2018). Effects of Stand Your Ground laws on violent crime, Rand Corporation. Retrieved from <https://www.rand.org/research/gun-policy/analysis/stand-your-ground/violent-crime.html>

# Courtroom Questioning of Child Sexual Abuse Complainants: Views of Australian Criminal Justice Professionals

Nina J. Westera, Martine B. Powell\*, Rachel Zajac, and Jane Goodman-Delahunty

## ABSTRACT

In the prosecution of child sexual offences, complainants' accounts are the most important and sometimes the sole evidence. Police organisations around the world have taken steps to ensure that they interview children using evidence-based interview protocols, yet far less attention has been paid to the way children are interviewed in the courtroom. Here, we provide a snapshot of Australian criminal justice professionals' views on the questions posed to child witnesses in court, and on the willingness of judges to intervene when questions are inappropriate. We interviewed judges, prosecutors, defence counsel, and witness assistance officers (N = 43) from four Australian jurisdictions. Participants generally agreed that questioning of child complainants—especially during cross-examination—remained problematic, and that judges did not consistently disallow inappropriate questions. Overall, these professionals did not perceive these problems to stem from a lack of rules and guidelines, but rather from problems implementing them. We consider potential ways forward.

**Keywords:** Courtroom questioning, Cross-examination, Child sexual abuse, Child witnesses, Judicial interventions, Professionals' views

## INTRODUCTION

Around the world, child sexual abuse cases are characterised by high rates of attrition (Australian Law Reform Commission, 2010; Eastwood, Krift & Grace, 2006; Goodman, 2006). Some estimates suggest

---

\* martine.powell@griffith.edu.au

that a reported case of child sexual abuse has only an 8-9% chance of being prosecuted (Community Development and Justice Standing Committee, 2008; Fitzgerald, 2006). One major contributor to these statistics is the nature of the evidence. Because such cases so rarely involve physical evidence or corroborating witnesses, fact-finders have to base their decisions largely on the complainant's account. Therefore, the way in which these accounts are elicited is critical.

In recent decades, researchers have firmly established effective interview procedures to facilitate memory recall. Although questioning considerations are broadly the same for children and adults, children exhibit specific cognitive and social vulnerabilities that can make them disproportionately vulnerable to error (Ceci, Hritz, & Royer, 2016). Evidence-based interview protocols ensure that police investigators elicit child complainants' accounts in a way that maximizes the chances of adducing a high level of detail without compromising accuracy. The NICHD protocol (La Rooy et al., 2015) and the Developmental Narrative Elaboration Interview (Saywitz & Camparo, 2014) are two examples of widely-used protocols catering specifically to the unique needs of child witnesses, including their language skill, memory capabilities, and susceptibility to suggestion.

Yet the way in which child complainants are questioned during the trial has received less attention. Child complainants of sexual abuse report that being questioned in court is extremely challenging; many state that they would not disclose abuse again (Eastwood & Patton, 2002; Quas et al., 2005; Prior, Glaser, & Lynch, 1997). Such sentiments typically concern the cross-examination process, during which the defence lawyer scrutinizes the child's evidence (Eastwood & Patton, 2002).

Some decades ago, numerous reforms were introduced to make the trial process more child-friendly. Many of these (e.g., screens, CCTV, and witness support persons) focused on altering the child's environment to reduce distress, but restrictions on the nature and scope of cross-examination questions were also strengthened. For example, in Uniform Evidence Law jurisdictions, judges are now required to disallow cross-examination questions that are (a) misleading or confusing; (b) unduly annoying, harassing, intimidating, offensive, oppressive, humiliating or repetitive; or (c) put to the witness in a manner or tone that is belittling, insulting, or otherwise inappropriate (Babb, 2009).

Whether these reforms have led to meaningful changes in the questions posed to children in court remains largely untested. Acquittal rates at trial in child sexual assault cases remain disproportionately high in comparison to other types of criminal cases (Zhou, 2010). Concerns about the nature of cross-examination questions continue to be raised by academics, many of whom contend that this process still presents substantial and unacceptable challenges for children (Ellison, 2001; Kean, 2012; Malloy et al., 2007; Goodman-Delahunty, Lee, Powell & Westera, 2017; Zajac, O’Neill, & Hayne, 2012). The limited existing research aligns with these views, suggesting that defence lawyers still struggle to match their linguistic style to the developmental needs of child complainants, and that judicial intervention is rare (Cashmore & Trimboli, 2005).

To assess whether further improvements to courtroom questioning are necessary, we need to identify what is—and isn’t—working. Currently missing from the research landscape is an analysis of the perspectives of key legal stakeholders. We asked Australian criminal justice professionals to reflect on the way in which child questioning is conducted and managed in the courtroom, with a particular emphasis on perceived barriers to best practice.

## METHOD

### *Sample*

Approval was obtained from the University Human Research Ethics Committee. Criminal justice professionals were recruited from four Australian jurisdictions: New South Wales, Victoria, Western Australia, and Tasmania. The heads of relevant criminal justice agencies were contacted to secure approval for their members to participate. Only agencies whose members had regular experience with children’s evidence were approached. Participating agencies were offices for public prosecution, law firms conducting criminal defence work, a barristers’ society, the judiciary, and witness assistance agencies. Based on the agency’s preferences, either the head of the agency nominated participants known to have expertise in child sexual abuse matters, or the agency circulated an email inviting eligible members to participate.

Of 58 criminal justice professionals identified and approached, 43 agreed to participate. All were experienced in their criminal justice role

and with child sexual abuse matters (Table 1). To safeguard participants' anonymity, no further demographic details are provided, and broad descriptors are used to specify the source of interview responses.

**Table 1**

*Participant Characteristics*

	<i>N</i>	<u>Gender</u>		<i>M</i> years in current role	<i>M</i> years in professi on	<i>M</i> number of cases
		Male	Fem ale			
Prosecutors	12	3	9	16	20	115
Defence counsel	11	6	5	11	17	119
Judges	14	7	7	13	29	174
Witness support officers	6	1	5	9	20	>300

*Note.* *M* = mean

***Procedure***

Of the 43 participants, 21% (n = 9) were interviewed in person and 79% (n = 34) via telephone. All interviews were conducted by the first author. Stakeholders were asked to consider the manner in which child complainants were questioned in court; current practice, policy, and procedures in their jurisdiction; reasons for any variation in practice; the strengths and limitations of current practice (including the way in which judicial intervention was used to moderate this process); and how—if at all—the process could be improved.

Rather than rely on pre-existing theories or frameworks, the study involved an inductive, bottom-up approach to gain insight into what stakeholders perceived were the major issues for practice. The researcher

asked only broad open-ended questions to encourage narrative responses. At the end of the interview, each participant provided details about their experience in the criminal justice system, and estimated the number of child sexual abuse prosecutions on which they had worked. All interviews were audio-recorded, transcribed verbatim, double-checked for accuracy, and de-identified.

### *Analysis*

Thematic analysis conformed to the six guidelines for best practice using an inductive approach (Braun & Clarke, 2006). Two researchers subjected each transcript to open coding, independently conducting a line-by-line analysis of the transcripts (reduction) and identifying concepts within statements (Strauss & Corbin, 1990). Statements with similar concepts were grouped together. The two researchers met to identify common concepts, and found a high rate of agreement. They re-examined transcripts for statements that supported the identified concepts, grouping these according to core themes. Identification of core themes reduced the large volume of natural language data into meaningful and concise units of analysis (Miles & Huberman, 1984). Once the two researchers had agreed on all themes, a third researcher re-analysed the transcripts using these themes, and identified representative quotes to illustrate the findings. Potentially identifying information was removed, and minor corrections to wording and grammatical were made to improve readability.

## RESULTS

Below, we outline the main themes that arose during discussion of (1) lawyers' questioning, and (2) judicial intervention. Within each topic, themes are presented in order of frequency, with the most common listed first. There were no discernible differences across jurisdiction, therefore the quotes provided are not differentiated in this way.

### *Lawyers Questioning*

Of our sample, 33% (N=14) perceived that child questioning was working effectively, 41% (n=18) said that it depended on the circumstances, and 26% (N=11) rated it as ineffective. We identified four primary themes in stakeholders' responses, most of which centred on cross examination

*Variability in questioning practices.* Stakeholders noted considerable variability in questioning practices. Some legal professionals—often those

with their own children—were perceived to be very effective at establishing rapport, communicating effectively, and putting the complainant at ease. Others, however, were considered ill-equipped to question children, for a variety of reasons. Stakeholders gave examples of legal professionals who were aggressive, dismissive, rude, harassing, confusing, and repetitive; they suspected some defence counsel of deliberately trying to inflict distress. The general tenor of the comments suggested that stakeholders considered the cross-examination process to be particularly unfair to child complainants.

Much like the police interview, cross-examination varies so wildly depending on the capability of the person asking the question. (Defence Lawyer)

There are lawyers who are antagonistic and aggressive in these cross-examinations and there are some that are not... I have seen defence counsel be aggressive with child witnesses, and sometimes it appears that they are deliberately trying to cause distress. (Defence Lawyer)

There are still some older-style barristers whose tone is belittling and humiliating, and often victims say to me at the end of it “Why are they allowed to just call me a liar? Why am I on trial? I didn’t do the wrong thing”. Overwhelmingly, victims feel quite horrified by the ordeal that they have been put through in cross-examination. (Prosecutor)

I have seen prosecutors and defence counsel who should not be allowed near a complainant. (Judge)

*Developmentally inappropriate questioning.* The most common criticism of questioning was legal professionals’ inability to adapt their question style to the developmental level of the child. This could manifest itself in two ways: (1) questions formatted in a confusing and complex way (e.g., lengthy, multiple, or leading questions), and (2) questions using developmentally inappropriate language and concepts (e.g., complex terminology or legalese). Stakeholders expressed concern that problematic questions elicited unreliable responses.

Lawyers vary a lot in terms of their capacity to understand the cognitive limitations of children. Some of them talk to children as if they are adults, and some of them talk to them as if they are babies. Trying to pitch their questions in terms that are appropriate to the child's level of language ability is a difficult thing. I have seen very ineffective cross-examination because the defence counsel gets that wrong. (Defence Lawyer)

The main problems I see are double-barreled questions, multiple questions rolled up into one, confusing topics that make the questions confusing, the use of legal terminology as opposed to simple plain English and changing topics. (Prosecutor)

Everyone needs more education on the appropriateness of the language used. (Judge)

The questions are always complex and ambiguous, and children do not understand so they just agree. (Witness Support Officer)

*Aggressive cross-examinations are counterproductive.* Despite their criticisms of current practice, many stakeholders suggested that attitudes towards child cross-examination had changed considerably over the last 30 years, and that an aggressive and harassing style of cross-examination was less common than it used to be. Defence counsel emphasised that treating a child aggressively or disrespectfully during cross-examination was counterproductive, because jurors reacted negatively to this behaviour, in turn biasing the jury against the accused. Aggressively questioning children was perceived to indicate outmoded practice and/or incompetence of defence counsel. Many stakeholders suggested that fairness to both the child and the accused was achieved by a considered and careful approach to cross-examination.

Defence counsel are far less aggressive with children because they know it will completely turn off the jury. So they are much more careful about their questions because they know the child has to understand them, and the judge will jump on them [the defence counsel] if they are using complex or multi-barrel questions. (Prosecutor)

I think there is a wide understanding among defence counsel that you do not win any points with the jury by speaking rudely to a child, trying to confuse them, or being unduly nasty. That sort of hostility in cross-examination is on the decline. But there are different people with different styles. My experience of watching defence counsel cross-examine children is that generally they do it quite well, in a way that would not leave them feeling too attacked. (Defence Lawyer)

Sensible counsel have taken the view that extremely aggressive questioning of a child witness can often be counterproductive. (Judge)

*Current questioning guidelines are sufficient but poorly enforced.* Lawyers and judges commonly noted that current practice guidelines for the questioning of child sexual abuse complainants (e.g., s41 of the *Evidence Act 1995* (Cth); Babb, 2009) gave adequate protection to complainants and were fair to both parties, but the degree to which they were followed varied. Particular concern was raised that the guidelines were sometimes disregarded—at times deliberately and at other times due to a lack of skill or awareness of their existence or form. In such cases, legal counsel had a basis for objection and the presiding judge had sufficient power to intervene, but objections were not usually made and judges did not always exercise this power.

We have published guidelines on cross-examining child witnesses and witnesses with mental disabilities. The guidelines assist both the judge and counsel to understand what the expectations are. But sometimes it does not matter how many guidelines you have, some counsel are just incapable of framing a question in a simple way. (Judge)

One of our judges has drawn up some guidelines, which guide defence and prosecution about how they need to be talking to children. The problem is that it depends on the judge actually managing that process. (Witness Support Officer)

There is this brilliant practice direction but defence lawyers have not read it and judges do not enforce it, so it is basically useless.  
(Prosecutor)

One rule that defence counsel noted could be reformed to improve child complainants' courtroom experience was having to ask the child about the accused's theory of the case. Often this requirement was achieved using questions like "I put it to you that..." or "I suggest to you that..." Several defence counsel questioned the utility of this long-standing practice—both evidentially and in terms of the potential harm and confusion it might cause to child complainants.

I do not deliberately set out to upset anybody, but you have to put to people fairly directly that they are lying about things. It is the adversarial process, and you cannot get around it. It is never going to be a round table discussion, it is always going to be two sides of the story, otherwise it would be a guilty plea. There is no easy fix. (Defence lawyer)

The way that questions are asked during cross-examination could be simplified. They need to take away the "I put it to you" and "I suggest to you", and just say "maybe it did not happen that way." (Witness Support Officer)

*Lawyers and judges need more professional development in this area.* There was strong acknowledgement by lawyers and judges that cross-examining a child required a high level of skill. Levels of professional development varied across jurisdictions and professions, but most legal professionals in our sample expressed a desire for more training and professional development opportunities for evidence-based questioning.

Although some stakeholders noted that their organisations provided initial and ongoing opportunities for professional development, others reported that they had to learn "on the job." Several judges described their current level of training as inadequate, and acknowledged the negative impact this might have on trials. Defence counsel in particular were considered to be at risk of lacking ongoing professional development because, unlike judges and prosecutors, they did not tend to have

organisational support for training. Stakeholders recognised that even when opportunities for professional development existed, there was no guarantee that professionals took advantage of them.

We are doing a pretty good job at professional development, but it comes down to the individual and how much they take on board. For those people who really believe in the work we do, it's great. Other people will just do it to get the professional development points. In terms of what is being offered by our office as an organisation, I think we are doing pretty well. (Prosecutor)

We have continuing professional development every year about various strands of our practice. In criminal law, a lot of us do child sex (or sexual) type matters. But I think the development in this area is something that you learn from experience, rather than being told. (Defence Lawyer)

Generally we have no evidence-based practice. Legal training generally is very limited. There is a lot of misplaced intellectual snobbery about learning from social science disciplines. A lot of research about juries, child development and children's disclosure in sexual offence cases is being done but is not actually known and is not easily accessible to practising lawyers and judges. There is a real risk that unfounded belief and mythologies continue to be perpetuated. (Judge)

Regarding the specific nature of training required, lawyers and judges perceived that training should be more practical (e.g., role-playing) and should include external expertise (e.g., experts in memory and interviewing). As well as wanting specific knowledge, direction, practice and feedback on appropriate questioning of children, professionals further commented on the need for broader training—in child development and children's responses to sexual abuse, for example.

There is a need for experts in child psychology to speak to lawyers. (Defence Lawyer)

Education is needed for lawyers and judges regarding the appropriateness of the language used with children. We have had a little bit, but we need a lot more. (Judge)

The more professional development available and the more we base things on evidence, the better. Tell our politicians that. (Judge)

## JUDICIAL INTERVENTION

Stakeholders were divided in their views about the effectiveness of judicial interventions when children are questioned. Across the sample, 38% ( $n = 16$ ) of participants stated that interventions were working effectively; 41% ( $n = 18$ ) stated it depended on the circumstances; and 21% ( $n = 9$ ) stated it was ineffective. Our analysis revealed two primary themes in stakeholders' responses.

*Some judges are better at intervening than others.* A strong theme in responses about the scope and quality of judicial interventions was that these depended on the characteristics of the presiding judge. Stakeholders stated that some judges allowed inappropriate cross-examination to continue without intervening, whereas others erred by intervening too much, disrupting the flow of the trial.

It depends on the particular view of the judge and their attitude toward whether their role is to intervene, or be a more traditional judge who should leave it to the parties and intervene as little as possible. (Prosecutor)

The process of cross-examination is necessarily one that is meant to test the evidence, and the question is: when does it reach the point of being too testing because it becomes too traumatic for the witness or too aggressive? The dividing line is a matter of judgment, which can vary from judge to judge. (Judge)

Stakeholders offered a variety of reasons for observed inconsistencies in judicial practice; these primarily centred on how the judge balanced the need to protect the child's welfare with the accused's right to a fair trial. The degree to which a judge restricted cross-examination was considered

to reflect the degree to which the judge leaned towards the prosecution or defence. Some judges were perceived as more protective of complainants due to a better understanding of their needs and of the myths around sexual abuse. Judges who were more understanding were often also perceived as more friendly to complainants and able to put them at ease, thereby improving the complainants' experience of giving evidence. Prosecution and defence counsel perceived that variability in judicial intervention was problematic because the judge could exert a strong influence on trial outcome.

The success and failure of a case can depend on which judge you get. It affects everything. It affects the interventions that they make and how they speak to the complainant. It affects when you object to a cross-examination that is unfair, convoluted or confusing to a child, as you are dependent on whether they allow the objection or not. (Prosecutor)

Some judges are fantastic and will stop defence when they keep asking the same question, or when they have been at cross-examination for days on end. But there are judges who just allow things to go on ad nauseam. So it is a personality choice as well when you are choosing the judicial officers. Some of them are divine, they put victims at their ease. Other judges, usually the older males, can be rude and dismissive. (Prosecutor)

There are so many different judges. I had one judge who was very defence-leaning and although no one was being nasty, there were lengthy cross-examinations, without due regard for the needs of the children. But you also get the other extreme of that. (Defence Lawyer)

Some judges are really good at making sure that the victim understands the questions and they do intervene if the questions are too long or confusing. But, at the same time, some judges will not say one word to the victim during the whole of the evidence and cross-examination. (Witness Support Officer)

*Intervening regularly is detrimental to a fair hearing.* Many of the lawyers and judges in our sample saw the judge's role as overseeing the trial and ensuring that both parties adhere to the law. These participants believed that judges should intervene minimally when lawyers were questioning a child complainant. Concerns were expressed that frequent interventions could bias juror decision-making by implying support for one side. In particular, participants noted that frequent interventions during cross-examination of a child could be prejudicial to the accused. Again, stakeholders discussed the need for a judge to walk a delicate line between protecting the complainant and allowing a fair trial.

The more the judges butt out and leave it to the parties running the case the better. Judges batting for either side is dangerous, and it can backfire if it becomes too obvious. The judge has a lot of power and they should be very careful about using it. (Defence Lawyer)

The prosecutor does not necessarily mind that the defence counsel are asking inappropriate questions, to a point, because it does not go down well with the jury, so it may actually advance your case. (Prosecutor)

I avoid intervening during counsel's questioning because it is not a good look. I am not running the trial, the advocates are running the trial. Their job is to represent their respective clients, the complainant and the accused. My job is to keep my head down. (Judge)

There is, in my view, great wisdom in aspiring to silence when on the bench. (Judge)

Both prosecutors and defence counsel expressed strong views that an overly interventionist judge could inappropriately disrupt a line of questioning, and therefore the lawyers' ability to test the evidence. Lawyers reported that some judges adopted a more inquisitorial manner—asking questions and eliciting more information; this approach was perceived to be contrary to their assigned role within the adversarial system. Another disincentive for judges to intervene was that it could

provide grounds for appeal; hence, adopting a conservative approach reduced the likelihood of a re-trial and of the complainant having to give evidence again.

Some judges are so interventionist that they keep interrupting and try to run the trial themselves. You might be asking a line of questioning when they cut you off and ask a series of questions, so when they tell you to continue it has completely stuffed up your line of questioning. (Prosecutor)

Judges are intervening for everything you can imagine; it is really completely unnecessary. They just need to sit back, and if there is anything detrimentally wrong then by all means they should intervene, but unless they are called upon they should just adjudicate. They are there as the law's judge; they need to make sure the law is in force in their courtroom, but they are not an inquisitor. (Defence Lawyer)

The judge should not interfere with the adversarial process, and it is for counsel, being conscious of their obligations, to decide what questions are going to be asked and what questions are not going to be asked. That has led judges to be reluctant to intervene in cross-examination. (Judge)

A lot of judges stay out of it to a certain degree because if they do intervene it could be an appeal point. (Witness Support Officer)

## DISCUSSION

The overarching theme in stakeholders' responses was that the procedures for questioning child complainants in the courtroom were not optimal and could be improved. Stakeholders noted that the adversarial nature of criminal trials meant that giving evidence at trial will inevitably be taxing for child complainants, but they nonetheless identified clear pathways for improving the process, emphasising that such improvements were likely to improve the reliability of the evidence as well as the subjective experience of the child.

The major focus of discussion about questioning practices was cross-examination. This focus was not surprising given that cross-examination's unique aims (i.e., to discredit the witness) and methods (e.g., a high reliance on leading questions) are out of step with best-practice techniques for interviewing children. This focus echoes concerns of social scientists who have explored the effect of this process on children's consistency and accuracy (Zajac et al., 2012). The observed emphasis on cross-examination may also reflect the fact that, in all four jurisdictions represented in this study, pre-recorded police interviews were increasingly used as children's evidence-in-chief, greatly reducing the need for prosecutors to question child complainants in court.

Although stakeholders acknowledged that cross-examination posed difficulties for children, they perceived that legal counsel had come a long way from the days of confusing and intimidating children in an attempt to strengthen the defence. Their perception was that, nowadays, very few defence lawyers—and typically only those who were “old school”—sought to do this deliberately. Stakeholders noted that the reduction in this approach was likely for ethical reasons, and because aggressive cross-examinations were now seen as counterproductive.

But even defence lawyers who are not aiming to cause distress or confusion do not automatically ask questions commensurate with a child's developmental level. In fact, the structure of cross-examination questions in Australia and New Zealand has remained unchanged across several decades (Zajac, Westera, & Kaladelfos, 2018). Rather, our stakeholders perceived that the inappropriate pitch of courtroom questions was often unintentional—both in terms of the structure of the questions and the vocabulary and concepts used.

Although judicial interventions should serve as a safeguard against inappropriate questions, our analysis revealed three primary reasons why this is unlikely to be the case. First, judges might not be aware of when they should intervene. In fact, some early North American empirical research suggested that judges believe they are already doing a good job of addressing inappropriate courtroom questions posed to children (e.g., Hafemeister, 1996). Such beliefs are out of step with the low rates of judicial intervention perceived in this study and directly observed in studies in New Zealand (Davies & Seymour, 1998; O'Kelly et al., 2003; Zajac et al., 2003; Zajac & Cannan, 2009). Such a mismatch suggests that

judges may not possess a robust functional understanding of the types of questions that are inappropriate for children (Eastwood & Patton, 2002).

Second, other factors discourage judges from intervening in response to developmentally unsound questions. Foremost among these is avoidance of any action that might evoke an appeal or form a basis to set aside a verdict. For instance, judges avoid the appearance of bias. They may also be hesitant to disrupt the trial—especially if an intervention necessitates legal discussions in the absence of the jury (see also Davies & Seymour, 1998; O’Kelly et al., 2003).

Third, judicial interventions do not necessarily serve to improve the questions posed. Research tells us that even when lawyers are alerted to the fact that their questions are developmentally inappropriate, they struggle to know how to correct them. In Zajac and Cannan’s (2009) study, for example, on the rare occasions when a child complainant asked a lawyer to rephrase a question, the lawyer’s subsequent question was more likely than chance to be linguistically complex. Such findings suggest that awareness is a necessary-yet-insufficient component of improving questioning.

How, then, do we improve the skill with which lawyers question children? The stakeholders in our study appreciated that interviewing children is a particularly complex task requiring a specialist skill-set that can’t be taught without practice. They expressed a need for instruction that was practically focused—based on active skill development rather than the mere transmission of information. The empirical literature supports this approach. Even evaluations of practical-based interview training programs for child witness interviewers show that participants struggle to develop and maintain appropriate questioning skills (Cederborg, Orbach, Sternberg, & Lamb, 2000; Sternberg, Lamb, Orbach, Esplin, & Mitchell, 2001; 1999). The key to achieving lasting change is likely to be an incremental approach, in which professionals first receive clear instruction on questioning methods and their application, then build from sub-skills to more complex skills, engage in multiple progressive learning sessions spaced over time, conduct mock interviews with trained actors, and receive expert feedback on their performance (Powell, 2008). Blended learning—which includes both online and face-to-face sessions—can be an effective and inexpensive means of developing these skills (Benson & Powell, 2015). The use of intermediaries and communication assistants could also

provide a contingency plan for situations in which lawyers' questions are still unnecessarily challenging (see Plotnikoff & Woolfson, 2015); such approaches are already being piloted in Australia (Cashmore, Katz, Shackel, & Valentine, 2017).

Notably, the stakeholders also expressed a desire for education on broader topics, such as children's responses to sexual abuse. Training in this area could eliminate some of the myths about the behaviour of child abuse victims that have persisted in courtroom questioning—even across several decades (e.g., that a genuine victim of abuse would not maintain a relationship with the perpetrator; Zajac, Westera, & Kaladelfos, 2017).

## CONCLUSION

Overall, stakeholders perceived that the questioning and management of child questioning courtroom had improved markedly in recent decades, but noted that further progress was necessary. Rather than communicating a desire for further reform, however, their proposed solutions focused predominantly on the need for more assistance to adhere to existing rules and guidelines. While we note the limitations associated with research of this kind—including a relatively small, self-selected sample and potential memory and social desirability biases—it is of note that the issues raised were consistent, both within our sample and outside of it. Indeed, the concerns voiced by the stakeholders in this study are largely the same as those raised by researchers for a number of years. Now that legal professionals are acknowledging the importance of—and indeed welcoming—input on these issues, it is imperative that psychological scientists respond swiftly to their call, by developing and providing comprehensive hands-on training for lawyers, and by conducting ongoing research into the factors that increase its relevance and efficacy. Such an approach will pave the way for a fairer process for child witnesses, and in turn for a more effective criminal justice system.

## AUTHOR NOTE

This work was supported by funding from the Royal Commission into Institutional Responses to Child Sexual Abuse. The views and findings expressed in this report, however, are those of the authors.

## ABOUT THE AUTHORS

**Nina J. Westera BSc, MSc, PhD** was a Research Fellow in the Griffith Criminology Institute at Griffith University in Brisbane, Australia. She has served as a member of the New Zealand Police and conducted research focused on investigative interviewing, eyewitness testimony and the criminal justice process. Nina passed away in May 2017.

**Martine Powell DipTeach, BA(Hons), MClinPsych, PhD** is a Professor in the Griffith Criminology Institute and Founding Director of the Centre for Investigative Interviewing at Griffith University in Brisbane, Australia. She has over 28 years of experience as a researcher in child witness testimony, investigative interviewing and evaluation of criminal justice reforms.

**Rachel Zajac BSc, BA(Hons), DipCIPs, PhD** is an Associate Professor in the Department of Psychology at the University of Otago in Dunedin, New Zealand. Her research focuses on factors that affect the quality of eyewitness evidence, with a particular emphasis on the cross-examination process.

**Jane Goodman-Delahunty BA, TTHD, JD, PhD** is a Research Professor in the School of Psychology at Charles Sturt University in Sydney, Australia. She is an experimental psychologist and lawyer whose empirical research focuses on the promotion of social, procedural and distributive justice within organisations and the community.

## REFERENCES

- Australian Law Reform Commission. (2010). Family violence: A national legal response. Retrieved from [http://www.alrc.gov.au/sites/default/files/pdfs/publications/ALRC14\\_WholeReport.pdf](http://www.alrc.gov.au/sites/default/files/pdfs/publications/ALRC14_WholeReport.pdf)
- Babb, L. (2009). What does s 41 of the Evidence Act mean to you as a judicial officer? In *Sexual assault trials handbook*. Sydney: Judicial Commission of New South Wales.
- Benson, M.S., & Powell, M.B. (2015). Evaluation of a comprehensive interactive training system for investigative interviewers of children. *Psychology, Public Policy, and Law*, 21, 309-322.

- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3, 77-101.
- Cashmore, J., Katz, I., Shackel, R., & Valentine, K. (2017). Evaluation of the Child Sexual Offence Evidence Pilot. Sydney: Social Policy Research Centre, UNSW Australia.
- Cashmore, J., & Trimboli, L. (2005). An Evaluation of the NSW Child Sexual Assault Specialist Jurisdiction Pilot. Retrieved from [http://www.lawlink.nsw.gov.au/lawlink/bocsar/l1\\_bocsar.nsf/vwFiles/r57.pdf/\\$file/r57.pdf](http://www.lawlink.nsw.gov.au/lawlink/bocsar/l1_bocsar.nsf/vwFiles/r57.pdf/$file/r57.pdf)
- Ceci, S., Hritz, A., & Royer, C. (2016). Understanding suggestibility. In W. T. O'Donohue and M. Fanetti (Eds), Forensic interviews regarding child sexual abuse. Switzerland: Springer International Publishing, pp. 141-153.
- Cederborg, A.C., Orbach, Y., Sternberg, K.J., & Lamb, M.E. (2000). Investigative interviews of child witnesses in Sweden. *Child Abuse & Neglect*, 24, 1355–1361.
- Community Development and Justice Standing Committee, (2008). Inquiry into the prosecution of assaults and sexual offences (Report No. 6). Perth, Australia: Legislative Assembly, Parliament of Western Australia.
- Davies, E., & Seymour, F. (1998). Questioning child complainants of sexual abuse: Analysis of criminal court transcripts in New Zealand. *Psychiatry, Psychology, and Law*, 5, 47–61.
- Eastwood, C., & Patton, W. (2002). The experiences of child complainants of sexual abuse in the criminal justice system. Report to the Criminology Research Council, Australia. Retrieved from <http://www.criminologyresearchcouncil.gov.au/reports/eastwood.pdf>
- Eastwood, C., Krift, S., & Grace, R. (2006). Attrition in child sexual assault cases: Why Lord Chief Justice Hale got it wrong. *Journal of Judicial Administration*, 16, 81–91.
- Ellison, L. (2001). The mosaic art? Cross-examination and the vulnerable witness. *Legal Studies*, 21, 353-375.

- Fitzgerald, J., (2006). The attrition of sexual offences from the New South Wales criminal justice system. *BOCSAR NSW Crime and Justice Bulletins*, 1-12.
- Goodman, G. S. (2006). Children's eyewitness memory: A modern history and contemporary commentary. *Journal of Social Issues*, 62, 811-832.
- Goodman-Delahunty, J., Lee, E., Powell, M.B., & Westera, N. (2017). Methods to evaluate justice practices in eliciting evidence from complainants of child sexual abuse. *Newcastle Law Review*, 12, 42-60.
- Hafemeister, T. L. (1996). Protecting child witnesses: Judicial efforts to minimize trauma and reduce evidentiary barriers. *Violence and Victims*, 11, 71-90.
- Kean, A. (2012). Towards a principled approach to the cross-examination of vulnerable witnesses. *Criminal Law Review*, 6, 407-420.
- La Rooy, D., et al. (2015). The NICHD Protocol: A review of an internationally-used evidence-based tool for training child forensic interviewers. *Journal of Criminological Research, Policy and Practice* 1, 76-89.
- Malloy, L. C., Mitchell, E., Block, S., Quas, J. A., & Goodman, G. S. (2007). Children's eyewitness memory: Balancing children's needs and defendants' rights when seeking the truth. In M. P. Toglia, Read, J. D., Ross, D. R., & Lindsay, R. C. L. (Eds.), *Handbook of eyewitness psychology: Volume I Memory for events*. New York: Lawrence Erlbaum Associates, pp. 545-574.
- Miles, M. B., & Huberman, A. M. (1984). *Qualitative data analysis: A sourcebook of new methods*. Thousand Oaks, CA: Sage.
- O'Kelly, C. M. E., Kebbell, M. R., Hatton, C., & Johnson, S. D. (2003). Judicial intervention in court cases involving witnesses with and without learning disabilities. *Legal and Criminological Psychology*, 8, 229-240.
- Plotnikoff, J., & Woolfson, R. (2015). *Intermediaries in the criminal justice system: Improving communication for vulnerable witnesses and defendants*. Bristol, UK: Policy Press.

- Powell, M. B. (2008). Designing effective training programs for investigative interviewers of children. *Current Issues Criminal Justice*, 20, 189-208.
- Prior, V., Glaser, D., & Lynch, M. A. (1997). Responding to sexual abuse: The criminal justice system. *Child Abuse Review*, 6, 128-140.
- Quas, J. A., Goodman, G. S., Ghetti, S., Alexander, K. W., Edelstein, R., Redlich, A. D., and Haugaard, J. J. (2005). Childhood sexual assault victims: Long-term outcomes after testifying in criminal court. *Monographs of the Society for Research in Child Development*, i-139.
- Robinson, O. C. (2014). Sampling in interview-based qualitative research: A theoretical and practical guide. *Qualitative Research in Psychology*, 11, 25-41.
- Saywitz, K. J., & Camparo, L. B. (2014). Evidence-based child forensic interviewing: The developmental narrative elaboration interview. New York, NY: Oxford University Press.
- Sternberg, K.J., Lamb, M.E., Orbach, Y., Esplin, P.W., & Mitchell, S. (2001). Use of a structured investigative protocol enhances young children's responses to free-recall prompts in the course of forensic interviews. *Journal of Applied Psychology*, 86, 997-1005.
- Strauss, A., & Corbin, J. M. (1990). Basics of qualitative research: Grounded theory procedures and techniques. Hampshire: Sage Publications, Inc.
- Zajac, R., & Cannan, P. (2009). Cross-examination of sexual assault complainants: A developmental comparison. *Psychiatry, Psychology and Law*, 16, S36-S54.
- Zajac, R., Gross, J., & Hayne, H. (2003). Asked and answered: Questioning children in the courtroom. *Psychiatry, Psychology, and Law*, 10, 199-209.
- Zajac, R., O'Neill, S., & Hayne, H. (2012). Disorder in the courtroom? Child witnesses under cross-examination. *Developmental Review*, 32, 181-204.
- Zajac, R., Westera, N., & Kaladelfos, A. (2018). The "good old days" of courtroom questioning: Changes in the format of child cross-

examination questions over 60 years. *Child Maltreatment*, 23, 186-195.

Zajac, R., Westera, N., & Kaladelfos, A. (2017). A historical comparison of Australian lawyers' strategies for cross-examining child sexual abuse complainants. *Child Abuse & Neglect*, 72, 236-246.

Zhou, J. (2010). Challenges in prosecuting child sexual assault in New South Wales. *Criminal Law Journal*, 34, 306–322.

# Police Moral Injury, Compassion Fatigue, and Compassion Satisfaction: A Brief Report

Brooke McQuerrey Tuttle<sup>\*</sup>, Karolina Stancel, Charles Russo, Mari Koskelainen and Konstantinos Papazoglou

## ABSTRACT

Police compassion fatigue, or the emotional cost of caring associated with police work, can lead to post-traumatic stress disorder, work dissatisfaction, depression, burnout, self-criticism and destructive coping strategies. Similarly, officers may experience moral injury in the line of duty when they witness or become involved in acts that transgress their moral beliefs. The strains of compassion fatigue and moral injury may negatively influence police compassion satisfaction, or the positive feelings and benefits experienced because of caring for others. The purpose of this study was to examine the contributions of compassion fatigue and moral injury on police compassion satisfaction among a sample of police officers from the National Police of Finland (n=454). Results indicated that greater levels of compassion fatigue and moral injury were significantly associated with low levels of compassion satisfaction. Clinical and practical ideas are offered, with the aim of minimizing the effects of compassion fatigue and moral injury while promoting compassion satisfaction for law enforcement officers.

**Keywords:** moral injury, compassion satisfaction, compassion fatigue, law enforcement, police stress, trauma

## INTRODUCTION

**L**aw enforcement officers experience a myriad of occupational stressors associated with the high demands of policing. These include, but are not limited to, answering unforeseen emergency calls, dilemmas related to use of officer discretion, and facing moral transgressions in the

---

<sup>\*</sup> Corresponding author: brooke.tuttle@okstate.edu

line of duty that are inconsistent with their personal beliefs. The distinct types of perceived stressors in law enforcement are categorized as operational (stress of doing the job), and organizational (stress related to the culture of policing) (McCreary & Thompson, 2006). Prior research has demonstrated that common stressors in policing include: fatigue, shift work, lack of time spent with family and friends, paperwork, bureaucratic red tape, staff shortages, inconsistencies in leadership, and the perception of having to prove yourself to the organization (Kohan & Mazmanian, 2003; McCreary, Fong, & Groll, 2017). These stressors may lead to burnout and low job satisfaction among officers (Brady, 2017).

### ***Police Stress and Trauma Exposure***

In addition to routine stressors, police officers encounter potentially distressing events in the line of duty that can result in psychological trauma. It is estimated that officers are exposed to nearly 900 traumatic events throughout their careers (Rudofossi, 2009). A study of trauma exposure among early career officers showed that cadet officers reported at least one exposure to off-duty trauma prior to their recruitment process and a 59% higher traumatic stress level once exposed to work-related types of trauma after one year on the job (Huddleston et al., 2007). The multifaceted, complex and cumulative form of police trauma can be direct or indirect, and has been conceptualized as Police Complex Trauma (Papazoglou, 2013). Officers' cumulative and frequent exposure to traumatic events can lead to post traumatic stress disorder and poor physical health outcomes such as cardiovascular disease, high blood pressure, and hormonal abnormalities (Chopko, Palmieri & Adams, 2015; Hartley, Violanti, Sarkisian, Andrew, & Burchfiel, 2013; Violanti et al., 2006). In summary, exposure to multiple types of traumatic events carries profound effects on officer well-being.

### ***Compassion Fatigue and Compassion Satisfaction***

High stress occupations often require emotional labour. Officers often take on dual roles in the line of duty that can be emotionally demanding. For example, when responding to a domestic violence call, officers may show compassion to the victim while maintaining assertiveness and composure to apprehend the perpetrator (Chopko, 2011). The emotional cost of caring associated with police work is described as compassion fatigue (Figley, 1995). Compassion fatigue is also recognized as an indirect, secondary form of trauma exposure that can lead to post-traumatic stress disorder,

work dissatisfaction, depression, burnout, self-criticism and destructive coping strategies (Bride, Radey, & Figley, 2007; Cicognani, Pietrantonio, Palestini, & Prati, 2009). The frequency of traumatic events also leads to compassion fatigue (Gehrke & Violanti, 2006). Specialised officers who work extensively with sexual assault victims and child victims report high levels of burnout and secondary trauma (Gehrke & Violanti, 2006; Turgoose, Glover, Barker, & Maddox, 2017). Similarly, police officers who have witnessed fellow officers being shot in the line of duty have experienced compassion fatigue (Gehrke & Violanti, 2006). Additionally, prior research demonstrates that one in four officials who investigate online child exploitation is vulnerable to secondary trauma and burnout associated with indirect trauma exposure through graphic imagery (Brady, 2017; Silver et al., 2013). The cost of caring for others regularly exposes officers to emotional exhaustion through indirect forms of trauma.

Although officers experience adverse emotional well-being due to compassion fatigue, the satisfaction of helping others is a positive attribute of police work. According to the tenets of Positive Psychology, it is possible to experience positive and negative psychological well-being simultaneously (Seligman & Csikszentmihalyi, 2000). Comparatively, compassion satisfaction is a feeling of emotional accomplishment and reward for helping others, despite the exposure to traumatic events and burnout associated with job performance (Papazoglou, Koskelainen, Stuewe 2017; Stamm, 2002). The concept of compassion satisfaction is understudied among the law enforcement population. However, prior research demonstrates that compassion satisfaction leads to higher job commitment, performance, and better quality of life (Cicognani et al., 2009; Stamm, 2002). Furthermore, not all individuals who face traumatic events experience compassion fatigue, suggesting that satisfaction from helping others buffers the negative outcomes of compassion fatigue (Stamm, 1995; Stamm, 2002). Therefore, it has been proposed that strong support systems outside of work, and within the workplace, may mitigate the severity of compassion fatigue (Brady, 2017; Harr, 2013).

### ***Moral Injury***

Existing research on moral injury focuses on soldiers and veterans. Less is known about the prevalence of moral injury among police officers (Papazoglou & Chopko, 2017). Moral injury is defined as, “Perpetrating, failing to prevent, bearing witness to, or learning about acts that transgress

deeply held moral beliefs and expectations” (Litz et al., 2009, p.700). It is argued that mistakenly taking the life of a civilian, witnessing or participating in atrocities, seeing the grotesque aftermath of human remains, or having the inability to help women and children in a war zone lingers in the minds of soldiers (Litz et al., 2009). Examples of moral injury include decisions related to strategic bombings that put civilians in danger, decisions by medical military personnel to assist wounded individuals at the risk of incurring additional casualties, or ambiguous threat assessments made on approaching vehicles (Bryan et al., 2016). As a result, moral injury is accompanied by feelings of guilt and shame thereafter (Tangney, Stuewig, & Mashek, 2007). The feeling of shame is more destructive than guilt, as it evaluates and condemns the self as powerless and worthless, which leads to externalizing the inner conflict through anger (Bryan et al., 2016; Tangney, Stuewig, & Mashek, 2007). Thus, moral and ethical conflicts can disrupt core, personal beliefs.

Furthermore, the transgressions of personal core values and beliefs resemble trauma-related symptoms. The principal guide for psychiatric diagnoses in the United States (Diagnostic and Statistical Manual of Mental Disorders, DSM-5) argues, yet does not fully capture, that moral injury is a precursor to PTSD symptoms (Litz et al., 2009; Nash & Litz, 2013). The symptom similarities between moral injury and PTSD include triggering, re-experiencing, avoiding, and numbing (Shay, 2014). However, Bryan, Bryan, Roberge, Leifker, & Rozek (2018) argue that moral injury and PTSD are two separate constructs with unique characteristics, and the combination of the two leads to higher risk for suicide ideation and suicide attempt among military personnel. Specifically, the presence of moral injury in combination with PTSD increases the risk of suicide attempt. Whether moral injury is a precursor to PTSD, or simply exacerbates the symptoms, it should not be excluded when treating soldiers and veterans diagnosed with PTSD (Litz et.al, 2009; Nash & Litz, 2013).

Although extant research focuses on moral injury among military personnel, police officers are also exposed to similar traumatic events. Police officers in the line of duty experience atrocities, exposure to gruesome crimes, and death (Papazoglo, 2013). Officers have ranked killing someone during use-of-force, bearing witness to someone else being killed, and mistakenly killing a colleague, as the most traumatic events with which to cope (Chopko et al., 2015; Violanti & Aron, 1995;

Weiss et al., 2010). Additionally, police compassion fatigue such as burnout and secondary trauma may be closely related to the transgression of personal moral beliefs (Papazoglou & Chopko, 2017). As previously mentioned, hearing stories from victims of sexual assault or being exposed to images of child exploitation can lead an officer to experience compassion fatigue and moral injury. These experiences can alter beliefs about the safety and benevolence of the world as well as beliefs about the trustworthiness of human beings (Litz et.al, 2009; Papazoglou & Chopko, 2017). As a result, the strains of moral injury and compassion fatigue may lead to lower compassion satisfaction among police officers. Therefore, it is hypothesised that compassion fatigue, compassion satisfaction and moral injury among law enforcement personnel are closely related.

### ***The Present Study***

The purpose of this study is to examine the contributions of compassion fatigue and moral injury on police compassion satisfaction. It is expected that high levels of moral injury and compassion fatigue are associated with low levels of compassion satisfaction.

## METHODS

### ***Participants and Procedures***

Data for the present study were obtained through research collaboration with the National Police of Finland. There are approximately 7,500 officers in the Finnish National Police and training to become a police officer in Finland takes approximately 3 years to complete. Police training in Finland includes psychoeducation about the physiology and psychology of stress as well as resilience training offered by a multidisciplinary team of police officers and psychologists. Since 2012, there have been mandatory procedures following critical incidents which include debriefing, national post-trauma workshops, and recommendations for private partnerships to support physical and psychological officer wellness and overall occupational health (CEPOL, 2017).

Officials from the National Police of Finland invited all officers who had been exposed to critical situations to participate in an online, internal police survey about their trauma-related experiences (as manifested by compassion fatigue and moral injury) as well as their satisfaction with helping those who suffer. Informed consent for study

participation was obtained electronically. Officers who self-reported exposure to critical incidents in the line of duty were included in the current study and they were directed to additional survey questions which assessed compassion fatigue, compassion satisfaction, and moral injury. Critical incidents were broadly defined for officers with examples provided of what could be experienced as critical such as experiencing a life-threatening incident or resolving a situation involving interpersonal violence. The sample (n=454) was 74% male and 100% white Europeans with a mean age of 42 and a mean of 18 years in law enforcement. A majority of participants (87%) were assigned to patrol or criminal investigation areas of work. Participants were asked about their frequency of exposure to critical incidents with 37% of participants reporting that over 20% of their work time included critical or similar incident exposure.

### *Measures*

**Demographic variables.** Gender and length of career in law enforcement were included as control variables in the present study. Gender was included as a dichotomous variable and length of services was a continuous variable with responses ranging from 1 to 42 years of service.

**Compassion satisfaction and compassion fatigue.** The Compassion Satisfaction and Fatigue Test was used to assess levels of compassion satisfaction and compassion fatigue in the present study (Figley & Stamm, 1996). This test is comprised of 66, Likert-type items, with response options ranging from 0=never to 5=very often. Items included questions about the thoughts and feelings associated with helping others (e.g. “Working with those I help brings me a great deal of satisfaction,” “I have a sense of hopelessness associated with working with those I help”). Summed composite scores were calculated with higher scores reflecting higher levels of compassion satisfaction and compassion fatigue respectively. The Compassion Satisfaction and Fatigue Test has been widely used to assess these constructs among helping and frontline professionals (Bride, Radey, & Figley, 2007). The Cronbach’s alpha for compassion satisfaction was .910. The Cronbach’s alpha for compassion fatigue was .897.

**Moral injury.** The Moral Injury Events Scale was used to assess levels of moral injury in the present study (MIES - Nash et al., 2013). This scale consists of 9 Likert-type items, with response options ranging from 1=strongly disagree to 6=strongly agree. A summed composite score was

calculated, with higher scores reflecting higher levels of moral injury. Items included questions about behaviours related to personal morals and witnessing immoral acts (e.g. “I saw things that were morally wrong,” “I acted in ways that violated my own moral code or values”). The Cronbach’s alpha for moral injury was .750.

## RESULTS

Multiple linear regression analysis was employed to examine the influence of compassion fatigue and moral injury on police compassion satisfaction. Length of service was not significantly associated with compassion satisfaction (Model 1:  $B = -0.032$ ; n.s.; Adjusted  $R^2 = -.004$ ). Compassion fatigue was significantly associated with compassion satisfaction (Model 2:  $B = -0.286$ ;  $p = .000$ ; Adjusted  $R^2 = .073$ ). Additionally, moral injury was significantly associated with compassion satisfaction (Model 3:  $B = -0.176$ ;  $p = .001$ ; Adjusted  $R^2 = .099$ ) such that the linear combination of predictors accounted for 10% of the variance in compassion satisfaction;  $R^2 = .109$ , adjusted  $R^2 = .099$ . However, years of experience was not significantly related to compassion satisfaction. The results of regression models predicting compassion satisfaction are shown in Table 1.

**Table 1**

*Regression Model Predicting Compassion Satisfaction (n=454)*

	Model 1	Model 2	Model 3
	<i>B(p)</i>	<i>B(p)</i>	<i>B(p)</i>
<hr/>			
Demographics			
Gender*	0.018(0.733)	0.057(0.257)	0.051(0.300)
Years of service	-0.032(0.535)	0.006(0.906)	-0.003(0.955)
Compassion Fatigue		-0.286(0.000)	-0.232(0.000)
Moral Injury			-0.176(0.001)
<hr/>			
Overall Model	n.s.	$p = 0.000$	$p = 0.000$
Adjusted $R^2$	-0.004	0.073	0.099
<hr/>			

Note. Reference group for gender: males. Coefficients are standardized.

## DISCUSSION AND IMPLICATIONS

This study explored the influence of compassion fatigue and moral injury on compassion satisfaction among police officers. It is possible that officers do not feel more or less satisfied over their years of service; alternatively, officers who feel less compassion satisfaction over their years of service may resign, retire, or move to a position that does not entail exposure to traumatic incidents. Current study findings showed no significant difference between males and females regarding the experience of compassion satisfaction. As expected, results showed that both compassion fatigue and moral injury were significantly and negatively associated with compassion satisfaction. Therefore, it appears that different types of traumatisation, as manifested in the present study by compassion fatigue and moral injury, may negatively influence how officers view the importance of their professional role. Both compassion fatigue and moral injury are negatively related to compassion satisfaction. To this direction, clinical and practical recommendations are made to address both types of traumatisation.

### *Clinical and Practical Implications*

Increasing compassion satisfaction among police officers, while simultaneously minimising compassion fatigue, should be paramount aims of law enforcement agencies and administration. Compassion fatigue has been shown to weigh heavily on officers' mental and physical well-being (Donnelly, Valentine, & Oehme, 2014; Warren, 2015). Reducing burnout and fatigue among officers can have a positive impact on the officers, and hence the agency budget.

Agencies experiencing high turnover may look to burnout, frustration, and stressors as leading causes of issues with officer retention. The costs associated with hiring and training a new officer can exceed US\$100,000 (Meade, n.d.). With the ever-increasing scrutiny of public funds, reducing these expenditures by keeping existing personnel can enable police administrators to direct scarce funds to areas of greater concern. This can have a positive impact on job satisfaction among an agency's officers.

By introducing new officers to clinicians early in their careers, such as initial agency orientation, and incorporating clinicians in frequent in-

service training sessions, agencies can have a positive impact on compassion fatigue while minimising the stigma around seeking mental health support. Frequent and repeated interaction with a clinician can help to reduce the stigmatisation of seeking help and increase utilisation of clinical services to reduce compassion fatigue. By emphasising wellness, clinicians and police administration can demonstrate support for officers, and encourage them to seek assistance prior to issues negatively impacting their work performance (Butterworth, 2001; Donnelly, Valentine, & Oehme, 2014).

In addition, clinical work should focus on the important role of compassion satisfaction in reducing the damaging impact of moral injury and compassion fatigue on officers' health, well-being, and even job performance. Compassion satisfaction may be addressed and improved in multiple ways during clinical practice. More specifically, officers may be encouraged to journal, write letters of appreciation, and engage in mindfulness techniques to promote appreciation for the value of their service to the community. Officers put themselves in high-risk situations and even sacrifice their lives to maintain peace and order; yet, officers may view these sacrifices as part of their normal job duties and be unable to see the value of their service.

Furthermore, clinicians should collaborate with police administration and trainers to apply compassion satisfaction promotion practices in organisational policy and training curricula. More precisely, clinicians should be present during police training and, in collaboration with trainers, stress the important contributions officers make when helping victims and those in need. For example, the current multidisciplinary training efforts to support officer resilience among the National Police of Finland could be expanded to include the promotion of compassion satisfaction. Analogously, clinicians could help promote organisational culture that encourages officers to spend time with their co-workers and supervisors, and share accomplishments or moments of exemplary service internally. In this way, officers' actions can be appreciated and celebrated by their colleagues in the department. Departments may also offer accolades to officers who have performed exceptional services such as helping victims of crimes or saving people from severe accidents or crime-related injuries. Community organisations should be invited to participate in officer recognition activities so that

appreciation for police services is also expressed by community organisations and not solely by police organisations.

### ***Research Implications***

Compassion fatigue and posttraumatic stress have been predominately featured in North American professional and mainstream media outlets because of recent events such as mass shootings in schools, theatres, and churches, as well as highly publicised officer-involved shootings. It is important for researchers to bring forward accurate data and information to provide policymakers and stakeholders with the tools necessary to reach informed and educated decisions. Expanding the research to include other public safety professionals may also prove beneficial. Moral injury, compassion fatigue, and compassion satisfaction research should be expanded to include fire service personnel too.

Limitations of the study associated with cross-sectional and self-report data include the inability to understand how compassion fatigue and moral injury influence compassion satisfaction over time and how physiological stress response processes impact officers' psychological responses to stress as captured by self-report measures. Future studies should explore these relationships over time through longitudinal methods and consider the interplay of biomarkers in the relationship between compassion fatigue, moral injury, and compassion satisfaction. While the current study predominantly included white, male officers, future research on the manifestation of police trauma should purposively sample ethnic minority officers and explore gender differences. Results can then be used to inform gender-specific recommendations for the promotion of female officer health and well-being. As this study collaborated with the National Police of Finland, it would be beneficial if future research explored the topic in regard to US and Canadian law enforcement officers and agencies to examine compassion fatigue, moral injury, and compassion satisfaction comparatively and increase the generalisability of findings.

## CONCLUSION

The present study found that greater levels of compassion fatigue and moral injury were associated with lower levels of compassion satisfaction among study participants. This study highlights how compassion fatigue

and moral injury, as manifestations of trauma, influence the experience of compassion satisfaction. The strain of compassion fatigue and moral injury may influence the way officers make meaning of their work and shape the way they view their contributions of service and sacrifice for the communities they serve. Law enforcement agencies and clinicians are encouraged to integrate policies and practices that promote compassion satisfaction among police officers while working to reduce the effects of compassion fatigue and moral injury.

#### ABOUT THE AUTHORS

**Brooke McQuerrey Tuttle MS, PhD** serves as the Program Manager for the Center for Family Resilience at Oklahoma State University (OSU) where she leads community research. She received her MS in Criminal Justice from the University of Central Missouri and is a current PhD student in Human Sciences at OSU. Her interests include risk and resilience for law enforcement officers and their families.

**Karolina Stancel** graduated with honors from University of Toronto majoring in psychology and criminology. She is interested in the study of mental and physical well-being. Karolina has served as a research assistant to the Health Adaptation Research on Trauma (HART) lab at the University of Toronto, and the Ontario Correctional Institute (OCI) and plans to pursue graduate education.

**Chuck Russo PhD** is the Program Director of Criminal Justice at American Military University (AMU). He began his career in law enforcement in 1987 in Central Florida and was involved in all areas before retiring in 2013. He completed his doctoral degree in Public Affairs from the University of Central Florida. His recent research and presentations focus on emerging technology and law enforcement applications, post-traumatic stress, and nongovernment intelligence actors.

**Mari Koskelainen PhD** is a Senior Advisor at the National Bureau of Investigation in Finland. She completed her Doctorate in Clinical Psychology at the Plymouth University, UK. She has worked in a forensic medium secure unit in London. In her current post she works as part of a national Threat Assessment Team conducting threat assessments on severe targeted violence.

**Konstantinos Papazoglou** received his doctoral degree in psychology (clinical-forensic area) as a Vanier Scholar at the University of Toronto. He is a former police major of the Hellenic Police Force and European College and holds a master's degree in applied psychology from New York University. His research focuses on stress, trauma prevention, and resilience promotion among police officers.

## REFERENCES

- Brady, P. Q. (2017). Crimes against caring: Exploring the risk of secondary traumatic stress, burnout, and compassion satisfaction among child exploitation investigators. *Journal of Police and Criminal Psychology*, 32(4), 305-318. doi:10.1007/s11896-016-9223-8
- Bride, B. E., Radey, M., & Figley, C. R. (2007). Measuring compassion fatigue. *Clinical Social Work Journal*, 35(3), 155-163. <http://dx.doi.org/10.1007/s10615-007-0091-7>
- Bryan, C. J., Bryan, A. O., Anestis, M. D., Anestis, J. C., Green, B. A., Etienne, N., & Ray-Sannerud, B. (2016). Measuring moral injury: Psychometric properties of the moral injury events scale in two military samples. *Assessment*, 23(5), 557-570. doi:10.1177/1073191115590855
- Bryan, C. J., Bryan, A. O., Roberge, E., Leifker, F. R., & Rozek, D. C. (2018). Moral injury, posttraumatic stress disorder, and suicidal behavior among National Guard personnel. *Psychological Trauma: Theory, Research, Practice, and Policy*, 10(1), 36-45. doi:10.1037/tra0000290
- Butterworth, I. (2001). The components and impact of stigma associated with EAP counseling. *Employee Assistance Quarterly*, 3, 1-8. doi:10.1300/J022v16n03\_01
- CEPOL. (2017). European Police Science and Research Bulletin. [Bulletin]. Publications Office of the European Union. Retrieved from <https://www.cepol.europa.eu/sites/default/files/science-research-bulletin-15-2.pdf>
- Chamberlain, K., & Zika, S. (1990). The minor events approach to stress: support for the use of daily hassles. *British Journal of Psychology*, 81(4), 469-481. doi:10.1111/j.2044-8295.1990.tb02373.x

- Chopko, B. A. (2011). Walk in balance: Training crisis intervention team police officers as compassionate warriors. *Journal of Creativity in Mental Health*, 6(4), 315-328. doi:10.1080/15401383.2011.630304
- Chopko, B. A., Palmieri, P. A., & Adams, R. E. (2015). Critical incident history questionnaire replication: Frequency and severity of trauma exposure among officers from small and midsize police agencies. *Journal of Traumatic Stress*, 28(2), 157-161. doi:10.1002/jts.21996
- Cicognani, E., Pietrantonio, L., Palestini, L., & Prati, G. (2009). Emergency workers' quality of life: The protective role of sense of community, efficacy beliefs and coping strategies. *Social Indicators Research*, 94(3), 449-463. doi:10.1007/s11205-009-9441-x
- Donnelly, E., Valentine, C., & Oehme, K. (2014). Law enforcement officers and Employee Assistance Programs. *Policing: An International Journal*, 38(2), 206-221. doi:10.1108/PIJPSM-11-2014-0116
- Figley, C. (1995). *Compassion fatigue: Coping with secondary traumatic stress disorder in those who treat the traumatized*. New York, NY: Bruner/Mazel.
- Gehrke, A., & Violanti, J. M. (2006). Gender differences and posttraumatic stress disorder: The role of trauma type and frequency of exposure. *Traumatology*, 12(3), 229-235. doi:10.1177/1534765606294992
- Hartley, T. A., Violanti, J. M., Sarkisian, K., Andrew, M. E., & Burchfiel, C. M. (2013). PTSD symptoms among police officers: Associations with frequency, recency, and types of traumatic events. *International Journal of Emergency Mental Health and Human Resilience*, 15(4), 241-253. Retrieved from <http://myaccess.library.utoronto.ca/login?url=https://search-proquestcom.myaccess.library.utoronto.ca/docview/1526136277?accountid=14771>
- Harr, C. (2013). Promoting workplace health by diminishing the negative impact of compassion fatigue and increasing compassion satisfaction. *Social Work and Christianity*, 40(1), 71-88. Retrieved from <http://myaccess.library.utoronto.ca/login?url=http://search.proquest>

[.com.myaccess.library.utoronto.ca/docview/1315739540?accountid=14771](https://www.library.utoronto.ca/docview/1315739540?accountid=14771)

- Kohan, A., & Mazmanian, D. (2003). Police work, burnout, and pro-organizational behavior: A consideration of daily work experiences. *Criminal Justice and Behavior*, 30(5), 559-583. doi:10.1177/0093854803254432
- Litz, B. T., Stein, N., Delaney, E., Lebowitz, L., Nash, W. P., Silva, C., & Maguen, S. (2009). Moral injury and moral repair in war veterans: A preliminary model an intervention strategy. *Clin. Psychol. Rev.* 29(8), 695–706. doi:10.1016/j.cpr.2009.07.003
- McCreary, D. R., & Thompson, M. M. (2006). Development of two reliable and valid measures of stressors in policing: the operational and organizational police stress questionnaires. *International Journal of Stress Management*, 13(4), 494-518. doi:10.1037/1072-5245.13.4.494
- McCreary, D. R., Fong, I., & Groll, D. L. (2017). Measuring policing stress meaningfully: Establishing norms and cut-off values for the operational and organizational police stress questionnaires. *Police Practice & Research: An International Journal*, 18(6), 612-623. doi:10.1080/15614263.2017.1363965
- Meade, B. (n.d.). Recruiting, selecting, and retaining law enforcement officers. Police Foundation. Retrieved from <https://www.policefoundation.org/recruiting-selecting-and-retaining-law-enforcement-officers/>
- Nash, W. P., & Litz, B. T. (2013). Moral injury: A mechanism for war-related psychological trauma in military family members. *Clinical Child Family Psychology Review* 16(4), 365–375. doi:10.1007/s10567-013-0146-y
- Nash, W. P., Marino Carper, T. L., Mills, M. A., Au, T., Goldsmith, A., & Litz, B. T. (2013). Psychometric evaluation of the moral injury events scale. *Military Medicine*, 178(6), 646-652. doi:10.7205/MILMED-D-13-00017
- Papazoglou, K. (2013). Conceptualizing police complex spiral trauma and its applications in the police field. *Traumatology*, 19(3), 196-209. doi:10.1177/1534765612466151

- Papazoglou, K., & Chopko., B. (2017). The role of moral suffering (moral distress and moral injury) in police compassion fatigue and PTSD: An unexplored topic. Retrieved from <https://www.frontiersin.org/articles/10.3389/fpsyg.2017.01999/full>
- Papazoglou, K., Koskelainen, M., & Stuewe, N. (2017). Exploring the role of compassion satisfaction and compassion fatigue in predicting burnout among police officers. *Open Journal of Psychiatry & Allied Science*, 9(2), 107-112.
- Rudofossi, D. (2009). A cop doc's guide to public-safety complex trauma syndrome: Using five police personality styles. Amityville, NY: Baywood.
- Seligman, M. E., & Csikszentmihalyi, M. (2000). Positive psychology. An introduction. *American Psychologist*, 55(1), 5–14. doi:10.1037/0003-066X.55.1.5
- Shay, J. (2014). Moral injury. *Psychoanalytic Psychology*, 31(2), 182-191. doi:10.1037/a0036090
- Silver, R. C., Holman, E. A., Andersen, J. P., Poulin, M., McIntosh, D. N., & Gil-Rivas, V. (2013). Mental- and physical-health effects of acute exposure to media images of the September 11, 2001, attacks and the Iraq war. *Psychological Science*, 24(9), 1623-1634. doi:10.1177/0956797612460406
- Stamm, B. H. (Ed.). (1995). Secondary traumatic stress: Self-care issues for clinicians, researchers, and educators. Baltimore, MD: Sidran Press.
- Stamm, B. H. (2002). Measuring compassion satisfaction as well as fatigue: Developmental history of the Compassion Satisfaction and Fatigue Test. In C. R. Figley (Ed.), *Psychosocial stress series*, no. 24. Treating compassion fatigue New York, NY, US: Brunner-Routledge, pp. 107-119.
- Tangney, J. P., Stuewig, J., & Mashek, D. J. (2007). Moral Emotions and Moral Behavior. *Annual Review of Psychology*, 58, 345–372. doi:10.1146/annurev.psych.56.091103.070145
- Turgoose, D., Glover, N., Barker, C., & Maddox, L. (2017). Empathy, compassion fatigue, and burnout in police officers working with rape victims. *Traumatology*, 23(2), 205-213. doi:10.1037/trm0000118

- Violanti, J. M., & Aron, F. (1995). Police stressors: Variations in perception among police personnel. *Journal of Criminal Justice*, 23(3), 287-294. doi:10.1016/0047-2352(95)00012-F
- Violanti, J. M., Fekedulegn, D., Hartley, T. A., Andrew, M. E., Charles, L. E., Mnatsakanova, A., & Burchfiel, C. M. (2006). Police trauma and cardiovascular disease: Association between PTSD symptoms and metabolic syndrome. *International Journal of Emergency Mental Health*, 8(4), 227-238. Retrieved from <http://myaccess.library.utoronto.ca/login?url=https://search-proquest-com.myaccess.library.utoronto.ca/docview/621512391?accountid=14771>
- Warren, T. (2015). The effects of frequent exposure to violence and trauma on police officers. (Doctoral dissertation, Walden University). Retrieved from <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2328&context=dissertations>
- Weiss, D. S., Brunet, A., Best, S. R., Metzler, T. J., Liberman, A., Pole, N., Fagan, J.A., Marmar, C.R. (2010). Frequency and severity approaches to indexing exposure to trauma: the critical incident history questionnaire for police officers. *Journal of Trauma. Stress*, 23(6), 734–743. doi:10.1002/jts.20576

# Procedural Justice and Complaints about Police

*Anna Corbo Crehan\* and Jane Goodman-Delahunty*

## ABSTRACT

Prior to this research, legal practitioners and client advocates in New South Wales were regularly reporting that their disadvantaged or marginalised clients were mistrustful of, and dissatisfied with, the NSW Police complaints system. In an online survey, 239 client advocates described a recent incident in which a client with grounds to lodge a complaint against police declined and provided the reasons for their client's decision. Qualitative analyses of the narrative responses confirmed the anecdotal evidence, thereby indicating a diminished sense of the legitimacy of the police service. The research findings were then examined against the four principles of procedural justice – trustworthiness, respectful treatment, neutrality and voice – which have been established as critical for securing and maintaining police legitimacy. This allowed conclusions to be drawn about how police might restore community confidence.

**Keywords:** police, complaints, procedural justice, legitimacy

## INTRODUCTION

In a survey about experiences with the New South Wales Police Force (NSWPF) complaint system, client advocates described the most recent incident for which a client had adequate grounds to complain about police but declined to do so. The project was instigated in response to anecdotal evidence from legal practitioners and client advocates in New South Wales indicating that their disadvantaged or marginalised clients have low levels of trust in, and significant levels of dissatisfaction with, the police complaints system. These reports also suggest fear of retaliation

---

\* Corresponding author: [acorbocrehan@csu.edu.au](mailto:acorbocrehan@csu.edu.au)

by police against complainants. In some cases, the legal practitioners and client advocates are advising their clients not to make a complaint against police, despite serious allegations about police misconduct. While these reports have serious implications for the integrity of policing in NSW, and for the human rights of people in contact with the police, prior to this research, no scientifically robust empirical evidence existed to support or refute these claims. This article reports findings in relation to three open-ended questions to participants about circumstances in which their clients declined to formally complain or they advised their clients not to pursue a complaint.

While the findings were interesting in a number of ways, of particular note was the frequency with which participant responses referred to domestic violence (almost one-third of all responses) and unprofessional and/or illegal conduct by police (61% of all responses). Findings in relation to domestic violence were reported in a previous article (Goodman-Delahunty & Corbo Crehan, 2016). The present paper provides an overview of the issues raised by participants about police behaviours, and considers the implications of those findings in light of procedural justice theory.

## REVIEW OF THE LITERATURE

### *Procedural Justice Theory*

According to procedural justice theory, the use of fair procedures by those in authority improves compliance and satisfaction with discrete exercises of their authority thereby promoting acceptance of the legitimacy of that authority. Two broad views of the importance of such fair procedures have been posited. The first view, which might seem the more intuitively apt, is fundamentally instrumental in nature, asserting that fair procedures are valued because of the “favourable outcomes” they produce (Elliott, Thomas, & Ogloff, 2011; Goodman-Delahunty, Verbrugge, Sowemimo-Coker, Kingsford, & Taitz, 2013). The second view, that has been confirmed in multiple international tests of the theory, asserts that the fairness of the process by which outcomes are achieved may be more important than the favourability of the outcomes themselves (Elliott,

Thomas, & Ogloff, 2011; Mazerolle, Bennett, Davis, Sargeant, & Manning, 2013a). This phenomenon is known as “the fair process effect”.

Irrespective of the mechanism, when applied to policing, procedural justice theory leads to a “process-based model [that] calls attention to procedural factors that may have significant impacts on citizens’ behaviour during encounters with police” (Dai, Frank, & Sun, 2011, p. 159). While this appears to focus attention on discrete police encounters with members of their communities, the principles also apply more broadly to conceptions of police legitimacy or “public support of the police and policing activities” (Sunshine & Tyler, 2003, p. 513). As social psychologists have demonstrated, police work is legitimized in the eyes of the public when it is conducted fairly, thereby increasing the likelihood that people will “cooperate with policing efforts” (Sunshine & Tyler, 2003, p. 514). While “cooperation” with police may seem most relevant to suspects or offenders (i.e. people likely to be noncompliant with police directions), the importance of procedural fairness in police interactions with all citizens, including victims (Elliott, Thomas, & Ogloff, 2011) and in terms of police customer service more generally (Goodman-Delahunty, 2010; Goodman-Delahunty, Verbrugge, Sowemimo-Coker, Kingsford, & Taitz, 2013; Goodman-Delahunty, Verbrugge, & Taitz, 2013; Mazerolle, Bennett, Davis, Sargeant, & Manning, 2013a), has also been demonstrated.

In the context of policing, a wholly instrumental view of procedural justice is unlikely to be useful, given that police can engage in markedly fair procedures but still not bring about favourable or desired outcomes (e.g., because of a magistrate’s decision or a non-negligent failure to identify an offender). Indeed, Murphy has argued that ... recent social justice theories ... have steered away from ... an instrumentally focused view of individuals to suggest that procedural justice matters to people for reasons above and beyond self-interest concerns and the outcomes they receive (2014, p. 4027).

In terms of a non-instrumental perspective, “procedures matter as they convey important information to individuals about their value and status in society” (Elliott, Thomas, & Ogloff, 2011, p. 594); “When people feel they are treated with procedural fairness, their sense of self-worth is

bolstered” (Murphy and Cherney, 2011, p. 237). On this view, “perceptions of fair procedures ... shape the perceived legitimacy of the authority, which, in turn, encourage adherence to the rules, and cooperation with and support for authority” (Elliott, Thomas, & Ogloff, 2011, p. 592). And these fair procedures manifest in four components or values, “trustworthiness, respectful treatment, neutrality, and voice” (Goodman-Delahunty, 2010, p. 404; Mazerolle, Bennett, Davis, Sargeant, & Manning, 2013b; Mastrofski, Jonathan-Zamir, Moyal & Willis, 2016).

In relation to a police complaints system, two temporal points of police-citizen contact are especially relevant to procedural justice: (a) the point in time when the relevant police behaviour occurred; and (b) the point in time when the complaint was addressed. This article focuses on ways in which people were treated that evoked consideration of a complaint against police.

### ***Police Complaints Systems***

The statutory provision for complaints about police officers in NSW is contained in Part 8A of the Police Act 1990. Following legislative changes in mid-2017, there are two avenues by means of which complaints about police officers’ conduct can be made: the NSW Police Force itself via any member of the Force, and the Law Enforcement Conduct Commission. This Commission “replaces the Police Integrity Commission (PIC) and the Police Compliance Branch of the NSW Ombudsman with a single oversight body ... [and will] focus its attention and efforts on ... serious cases of misconduct and maladministration ...” (Law Enforcement Conduct Commission, n.d.). Serious misconduct is defined by the Commission as ... conduct that could result in prosecution for a serious offence (an offence punishable by imprisonment for life or for a term of 5 years or more) or serious disciplinary action (e.g. termination of employment) or a pattern of conduct indicating systemic issues or corrupt conduct (Law Enforcement Conduct Commission, n.d.).

According to the Commission, serious maladministration, which may occur at either agency or officer level, is defined as “conduct of a serious nature that is unreasonable, unjust, oppressive or improperly discriminatory or arises wholly or in part from improper motives”. At

officer level, such maladministration is conduct that “although not unlawful, is of a kind that is procedurally unfair”. Importantly, it remains the case that “the NSW Police Force ... [is] primarily responsible for investigating complaints involving their employees” (n.d.).

This system of police investigating police is not without problems, which have been well-canvassed (e.g. Brown, 2012; NSW Coroner, 2011; Independent Broad-based Anti-corruption Commission, 2015; Federation of Community Legal Centres (Victoria), et al., 2011; Police Accountability Project, 2017; Commission for Public Complaints against the RCMP, 2009). In 2011, the NSW Coroner, in findings related to a death in police custody, said of the underlying police investigation that it “was seriously flawed, ... and will have failed to persuade the community that the circumstances surrounding ... [the] death were investigated scrupulously and fairly” (para. 124). This same issue of community confidence was raised by the Commission for Public Complaints against the Royal Canadian Mounted Police, which commented in 2009 that the “fundamental” issue is “whether this process can engender public confidence in the transparency, impartiality and integrity of the criminal investigation and its outcome” (p. 1). And a UK Inquiry concluded, *inter alia*, that “Investigation of police officers by their own or another Police Service is widely regarded as unjust, and does not inspire public confidence” (Macpherson, 1999).

The United Nations Office on Drugs and Crime (UNODC) goes further than simply observing a causal link between the investigation of police complaints and community confidence by stating that “The aim of a complaints procedure is to prevent impunity and restore (or enhance) public confidence” (2011, p. 36). Public confidence is not, then, simply an effect of a properly-constituted police complaints procedure, but the *raison d’être* for the existence of such a procedure. A police complaints process that does not contribute to public confidence is simply not fit for purpose; if the key purpose of a police complaints system is ensuring public confidence, then a good (or appropriate) complaints system must be one that does ensure public confidence.

Indeed, UNDOC makes an interesting observation about how to gauge whether a complaints system is working well:

It is often observed that the number of complaints increases (rather than decreases) if police enhance their efforts to improve integrity and the complaints procedure in particular. An absence of complaints must not be interpreted as a sign that police performance is meeting with overall satisfaction, but may indicate a lack of faith in the effective handling of complaints (2011, p. 36).

In relation to the survey results reported below, any lack of confidence in the NSWPF complaints system will be interpreted as an indication that the system is not achieving the goals it ought to be achieving.

### SURVEY RATIONALE

The survey was initiated in response to anecdotal reports from client advocates and legal practitioners in New South Wales indicating that their disadvantaged or marginalised clients had low levels of trust in the police complaints system (Goodman-Delahunty, Beckley, & Martin, 2014). These reports also suggested fear of retaliation by police against complainants; in some cases, client advocates and legal practitioners had advised their clients not to make a complaint against police, even when allegations of serious police misconduct were involved. These reports raised serious concerns about the integrity of policing in NSW, and the human rights of citizens, particularly vulnerable victims, in encounters with the police. However, no scientifically robust empirical evidence supported or refuted these claims, thus motivating the present survey.

In collaboration with Community Legal Centres, Inc. NSW, the second author developed an online survey to test the truth of the anecdotal claims referred to above. The survey sought evidence from client advocates and legal practitioners about their experiences with and perceptions of the NSWPF complaints system in relation to their non-police clients (Goodman-Delahunty, Beckley, & Martin, 2014).

## METHOD

### *Participants*

Employers at Community Legal Centres, Aboriginal Legal Services ACT/NSW, Legal Aid NSW and the NSW Council for Social Services facilitated recruitment of participants for the survey. In addition, the Law Society of NSW distributed the survey link to its members via email. Participation was voluntary, no incentives were provided, and completion of the survey took approximately 20 minutes.

The final number of survey participants was 493, of whom 41% were community advocates, 32% were other practitioners, and 27% were legal professionals. They were dispersed across metropolitan and rural locations in New South Wales (Goodman-Delahunty, Beckley, & Martin, 2014). Participants had an average of ten years of professional work experience. Almost three-quarters of the participants were women (73%). One half of the participants (52%) had personal experience submitting one or more written complaints against NSWPF in the past 24 months.

A total of 59% ( $n = 289$ ) of the participants reported experience in this time-frame with a client who had declined to lodge a formal written complaint. These participants responded to two open-ended follow-up questions about the nature of the incident and the reasons behind the decision not to make a complaint: Why did your client decline to complain and I advised my client not to pursue a complaint because: - Please explain. Of those responses, 83% ( $n = 239$ ) were codable (i.e., contained sufficient unambiguous information for further analysis).

### *Data Analysis*

All 239 natural language responses were de-identified for analysis. Analysis was conducted in two stages: initially, the first author read responses multiple times to facilitate immersion, and then she applied a systematic, thematic qualitative analysis (Hayes, 2000). An inductive analysis, based on the steps outlined by Braun and Clarke (2006), was used as this permitted novel themes to emerge. Notes were made in the margins of individual responses to code at the level of idea (phrase, sentence, or paragraph). Tentative themes were assigned to codes and refined after

reviewing further responses. Responses to all questions were read as a unit, and themes for each participant were systematically tabulated.

A random selection of responses was independently coded by a second rater. To ensure inter-rater reliability of the coding, the degree of consensus was statistically tested and found to be in an acceptable range: Cohen's kappa (K) were 0.72 for question (a) and 1.0 for question (b). Illustrative quotations which best exemplified participants' comments on the themes are reported below.

The themes and sub-themes identified in the responses were then examined through the prism of procedural justice, given that both police complaints systems and procedural justice are concerned with the legitimacy of policing.

## RESULTS AND DISCUSSION

### *Overview of Key Themes in the Responses*

Participants were first asked: For the most recent client who declined to formally complain - briefly describe the incident of concern. Within the 239 responses that were analysed, a total of 367 references to discrete problems in police-citizen interactions were distinguished, as some responses specified more than one type of problematic police action or inaction. Within these responses, 12 themes were initially identified. With further analysis these 12 were grouped under five overarching manifest (surface) themes: (i) Unprofessional conduct by police; (ii) Police do nothing (or take no action) in circumstances where action could justifiably be expected; (iii) Incorrect, possibly illegal, behaviour by police (excluding instances of excessive force); (iv) Excessive or inappropriate use of force; and (v) Insufficient information about police behaviour. The latter group contained codable information in relation to the other two questions.

The five themes were not mutually exclusive, but were chosen to best illuminate the information contained in the data. For example, excessive force is typically an instance of illegal police behaviour, but to have used the latter, more general, terminology to capture the former

occurrence would obscure important aspects of the data. No phrase or word was coded twice (e.g. text about an instance of excessive force was not coded for “excessive/inappropriate force” and “incorrect and/or illegal conduct” even if the former did meet the threshold of the latter). In some detailed responses, however, specific mentions of two related themes were evident (e.g., a response referring to both excessive force and some other instance of illegal behaviour by police) and so in those cases both themes were applied. The themes and sub-themes resulting from this question are captured below in terms of the types of problematic police behaviour identified.

Of the 239 participants who responded to the first question, 44% (n = 105) also responded to the second question Why did your client decline to complain? These 105 responses contained 111 references to reasons why a participant’s client had declined to complain. Seven themes were identified within these responses. No attempt was made to group them into fewer overarching themes because some were already complex. For example, the theme Nothing could be achieved included responses covered by the following descriptions: “didn’t think issues would be considered important by police”, “wouldn’t make any difference”, “waste of time”, “felt intimidated by police”, and “lost faith in police”. Unlike the themes drawn out of the responses to the first question, themes for this question were mutually exclusive: (i) Nothing could be achieved; (ii) Fear of further targeting; (iii) No clear reason expressed in response; (iv) Too scared/overwhelmed/stressed; (v) Other; (vi) Complaint would jeopardise legal proceedings; and (vii) Didn’t see point of complaint because relevant assistance had been gained. The reasons why clients were advised not to complain are detailed below.

Only eight participants (3% of the study sample) responded to the third question I advised my client not to pursue a complaint because ... (Please explain), precluding further analysis. These responses are presented in Table 1.

**Table 1.**

*Reasons why advocates advised a client not to pursue a complaint against police*

---

- She was fearful of repercussions
  - The reaction by police in light of the circumstances of the incident was not totally inappropriate.
  - 2 laws apply
  - Referred the matter to the lawyer
  - There is no point making a complaint until after his current matters are settled. The police would likely have been called as witnesses against him in his current case. The complaint process would have adversely impacted their attitude to giving evidence against my client and increased hostility toward him.
  - The matter is ongoing and to ventilate this matter at this stage would not be in my client's interests
  - The client was of Aboriginal descent and had very little motivation to follow through apart from they felt they would be targeted more than they already are
  - Indigenous clients and young people in rural regions fear that they will be further targeted by police if they make a complaint
- 

***Types of Problematic Police Behaviour I – Unprofessional conduct by police***

The most common form of problematic police behaviour, accounting for more than two-fifths of the responses to the first question, was unprofessional conduct (43%; n = 158). Five sub-themes were identified, with responses evenly spread across the five. Table 2 presents these themes.

*Unprofessional and/or inappropriate conduct (not further described).* The largest sub-theme (26%; n = 42) comprised responses where the respective police conduct was clearly identified as unprofessional but no further detail was given about the nature of that conduct. Responses in this category

included a number of common descriptors: “appalling” (Participant 3), “poor” (e.g. Participants 39 and 104), “incompetent and inattentive” (Participant 215), “lazy and unhelpful” (Participant 230) and “inappropriate” (e.g. Participants 26, 38 and 59) treatment of clients. One advocate specifically referred to “extremely inappropriate” treatment of a client by a Domestic Violence Liaison Officer (DVLO) while at court (Participant 177), while another referred to “poor” treatment by a DVLO (Participant 226). Some participants referred to unprofessional verbal behaviour, for example: “police person made inappropriate comments about the DV [domestic violence] behaviour experienced by the woman while he was obtaining information for a statement” (Participant 49) and one advocate told of a client being transported to hospital by police who “said some things to her that were quite unprofessional” (Participant 72). Other examples of note within this sub-theme include an officer taking “4 sessions and 1 year to take ... [a] statement [about a ‘historical child sexual assault’]. Continually made excuses to the victim about appointments cancelled or forgotten” (Participant 114). One participant described an incident where “Police officers showed prejudice during investigation after finding out Other Party was involved in law enforcement previously” (Participant 236) and another reported an incident where “... the police prosecutor inflamed the court and the press with his choice of language based on false accusations and a completely wrong presentation of the facts” (Participant 225).

**Table 2.**

*Reported problematic behaviours by police, themes and sub-themes*

<b>Type of police action or inaction</b>	<b>N</b>	<b>%</b>	<b>n</b>	<b>%</b>
Unprofessional conduct by police	158	43		
<ul style="list-style-type: none"> <li>• Unprofessional and/or inappropriate behaviour</li> </ul>			42	26
<ul style="list-style-type: none"> <li>• Aggression/intimidation/provocation/threat</li> </ul>			34	21

• Disrespect (belittling, blaming)	31	20
• Harassment	26	17
• Racist or discriminatory treatment	25	16
Police inaction where action justifiably expected	80	22
• Police inaction, no reason given	41	51
• Police inaction (don't take client seriously)	19	24
• Police inaction (misunderstanding, failure to follow law, procedures)	15	19
• Police inaction (other reason)	5	6
Illegal or incorrect police conduct	66	18
Excessive or inappropriate use of force	46	12
Insufficient information about police behaviour	19	5
Total	369	100

---

*Aggression/intimidation/provocation/threat.* Just over one fifth of the responses, the second largest sub-theme (21%; n = 34) reported police intimidation, aggression, provocation or threatening behaviour. Most instances of aggressive behaviour or the like were described as “bullying”, with one advocate (Participant 205) referring specifically to a client’s “feelings of fear and bullying”. One client advocate (Participant 8) referred specifically to police trying to “provoke” her client by speaking to them in a “derogatory manner”. Two advocates employed these descriptions in relation to a DVLO (Participants 158 and 177).

Some responses referred to police engaging in threatening or intimidating behaviour with a view to securing an end that was unrelated to the needs of the respective client indeed that ran counter to those needs. For example, a client advocate described a situation involving a “policeperson coercing client to make a retracting statement about ongoing

safety concerns after directly liaising with the perpetrator to drop another matter” (Participant 62). A young person who had been sexually assaulted was described by another advocate (Participant 122) as feeling “threatened into not pursuing the incident”. Worryingly, a domestic violence victim was told by police “that if they kept being called to her house they would arrest someone and said it in a way that was so intimidating that she stopped calling them. She eventually had to become homeless because of this” (Participant 182).

*Disrespect (belittling, blaming).* An almost equivalent proportion of responses (20%; n = 31) were coded as disrespectful and included instances where police blamed a victim or engaged in conduct that was belittling. (Racist or otherwise discriminatory treatment was not included in this sub-theme.) Disrespectful treatment was reported in a variety of ways. A number of participants referred to “verbal abuse”, while others referred more generally to “rudeness” and clients being treated “with contempt” (Participant 32) or in a “demeaning” way (Participant 176) or “dismissed and victimised” (Participant 85). A client was described as being “taunted” by police as they took her to hospital (Participant 72), while another was “made to feel like she was being dramatic and crazy” (Participant 57).

Twenty-six percent of responses coded as instances of disrespectful treatment related to young people, one of whom was identified as having “diagnosed mental health issue” (Participant 180). In an additional 19% of responses the disrespectful treatment was directed at a victim of violence, in one case by a “DVLO at the local court [who] interrogated a victim of Domestic Violence as though she was a perpetrator” (Participant 177).

Two particularly revealing responses deserve a mention. One client was reported as saying that police they had dealt with while making a report at a police station were “rude, made assumptions, spoke over them, did not listen ‘spoke to me like I was an idiot’” (Participant 108). In a response not likely to garner any confidence in police, another client advocate told of a client who “made a report about a burglary in her property to the police and was told by a policeman, ‘oh not you again, now what is it? Are you sure none of your relatives did it?’” (Participant 235).

*Harassment.* Harassment by police was mentioned in 17% of responses in this theme. The nature of police harassment was not specified in all cases (some participants, such as Participant 200, simply noted that their client was harassed by police with no further detail). In some responses, however, the harassment was linked to the respective clients being Indigenous (e.g. Participants 48 and 170) and in others it was linked to the respective clients being young people (Participants 80 and 212). One participant combined the two descriptors, giving an example of an Indigenous young person who was harassed by police (Participant 71). Two interesting results also showed up in this category. In two responses, police harassment was attributed to a female client's perceived attractiveness (Participants 67 and 181); and in another two responses, such harassment was identified as based on police assumptions about drug addiction ("they have that junkie look" and "no one would ever believe a junkie hooker", Participants 56 and 178).

*Racist or discriminatory treatment.* Sixteen percent of responses in this theme identified the behaviour of police as racist or discriminatory. Four responses describing racist or discriminatory behaviour by police, including racial abuse, were general in nature, referring only to "race" as the motivator of the respective police action. In an additional five responses, however, the police behaviour was specifically identified as motivated by a client's being Indigenous. Interestingly, five further responses referred to discrimination in relation to a client not being given access to an interpreter; one specifically referred to their client needing a "sign language interpreter" and this being "too difficult and too hard to organise" (Participant 76). Other types of discrimination referred to in the responses included discrimination against women qua women), discrimination based on a client's disability, and homophobic police behaviour.

***Types of Problematic Police Behaviour II – Police do nothing (or take no action) in circumstances where action could justifiably be expected***

The second most common form of problematic behaviour by police was characterised as police doing nothing (or taking no action) in circumstances where action could justifiably be expected (22%, n = 80).

Given the legal training of the participants, responses were coded into this category if the participant clearly indicated that police action was justifiably expected, and sub-themes were based around the reasons police gave for not acting.

*Police inaction, no reason given.* In most responses, the reasons for the particular police inaction were not specified (51%). Participant 232, for example, simply referred to “Reports of being a victim of violence not acted on by police”. Interestingly, almost two-thirds of the responses in this sub-theme referred to domestic violence issues. These issues included police failing or refusing to act on a breach of an AVO, police reluctance to take out an AVO on behalf of a victim, police not assisting with domestic violence incidents generally, and police completing an AVO application incorrectly. While not clear from the responses, it is interesting to speculate whether police feel less need to justify decisions not to act in relation to domestic violence, or whether participants did not think it necessary to record the police reasons.

*Police inaction (don't take client seriously).* In almost a quarter (24%) of the responses in this theme, police failed to take action on such grounds as disbelieving a person or not taking a person seriously. For example, one participant (Participant 89) described a client's problems with a neighbour and said “Police did not take him seriously and on most occasions do not even come”; while another (Participant 207) reported:

A client who I see for Domestic Violence Counselling reported that when she went into the police station the officer did not take her seriously about the recent Domestic Violence Incidence and declined to take a statement. She said ‘she [police officer] basically said it wasn't important to note’.

One response combined both disbelief and failure to take a client seriously:

... client felt that police didn't pursue his childhood sexual assault allegations seriously. Felt he was not believed by police and they thought he was just making complaint for purposes of victims' compensation (Participant 96).

In some reported instances, the police officers' attitude was attributed to a specific cause. For example, one participant noted police "not taking statements from witnesses ... if woman is distressed/emotional they tend to believe the articulate person's version of events" (Participant 60), while another reported:

Police were dismissive of a domestic violence incident, citing the 'intelligence' of both parties as a reason why they should be able to resolve the issue. The DV aspect was not taken into account at all (Participant 209).

Interestingly, two responses in this sub-theme referred to situations where police officers' personal relationships (with people other than the victim) had led to them not taking an incident seriously enough to offer assistance (Participants 1 and 84).

*Police inaction (misunderstanding, failure to follow law, procedures).* This sub-theme applied to 15% of all responses coded as police doing nothing in circumstances where action could justifiably be expected, with an alarming 93% of the responses specifically related to domestic violence issues. The one response that did not explicitly mention domestic violence did report police conduct that sounds very much like that reported in relation to domestic violence situations. It described a client who was "... being harassed and threatened, they were told when it was reported there is nothing they can do about it as the person has not harmed them physically" (Participant 18).

The ways in which the law was misunderstood or not properly known often related to the presence or absence of physical injuries. For example, Failure by Police to initiate an ADVO even though there were witnesses. Telling the victim that because she was not bruised or had broken bones they could not pursue the matter (Participant 95); and Female victim of DV wanting AVO, but because she wasn't bruised and battered she didn't receive it, until more threats had to be recorded and ongoing before the victim received the AVO (Participant 149).

Not all responses in this category related to police interpretation of law; in at least one case, the issue seems to be more about whether relevant

laws applied at all: one participant referred to “numerous ADVO breaches not considered or fobbed off as ‘technical breaches’” (Participant 62).

*Police inaction (other reason).* The remaining 5% of responses in this theme did not fit neatly into the sub-themes described above. In one a lack of police resources was the reason given by police to explain their failure to act:

Client lives approximately 150km out of [town]. She reports incidents to the local station but because it is so far out of town, officers rarely attend and comment ‘we don’t have enough patrols.’ On one occasion the client was severely bashed outside her house - police wouldn’t attend and she was taken via ambulance to the hospital (Participant 55).

The same client, on another occasion, received no assistance from police when she reported a breach of an AVO after “police allegedly phoned the perpetrator and [then] commented to the victim ‘he is 500 km away, you are imagining things’. At this point the victim resorted to filming the perpetrator in her yard” (Participant 55). One participant described police officers’ decision not to take seriously a domestic violence victim’s request for assistance:

The victim had been in a Domestic Violence relationship and had previously returned to the perpetrator of the violence after police had assisted her so when she was assaulted again and asked for assistance the police officer said ‘we tried to help you in the past and you f\*\*\*ed us around so why should we help you now’. The woman has been assaulted on two more occasions since this was said. The perpetrator of the DV has threatened to cut her throat. With the assistance of our service she is now out of that relationship (Participant 175).

In another incident involving domestic violence, it was reported that police believed a victim did not need an AVO and therefore would not assist with applying for one (Participant 60), while another participant recounted the experience of a client for whom “police would not extend [an existing] AVO, would not allow client to speak with DVLO and suggested this victim stop pushing the perpetrator’s buttons” (Participant 197). Finally in this sub-theme, a police failure to take action in a road rage

incident was attributed to the fact that the aggressor was “a prominent Community Member” (Participant 70).

***Types of Problematic Police Behaviour III – Incorrect, possibly illegal, conduct by police (not excessive force)***

This theme accounted for 18% of all problematic behaviours attributed to police. “Illegal” and “incorrect” actions were included within the one theme due to the difficulties in separating them based on the information provided by participants. One participant, for instance, noted that their client had been “incorrectly held in custody - police withdrew resultant charges in Local Ct [Court]” (Participant 7); and another referred to a client, a “young person”, being “arrested without sufficient reason” (Participant 14). In both cases, there was not enough information to determine whether the police acted illegally, though the clear inference is that they acted at least incorrectly. Furthermore, even reference to legislation would not have enabled identification of specifically illegal actions, given that illegality so often turns on the precise details of an event, details not provided in the relatively brief answers provided by participants. Instances of excessive force, although illegal, were coded in a separate theme.

In the previous theme, concerning police inaction, domestic violence related incidents were in the majority, compared to incidents that did not relate to domestic violence at all. That is, police were more likely to fail to take action, where action might reasonably have been expected, in situations involving domestic violence. In this theme, however, which involves policing doing something (rather than nothing) domestic violence incidents are in the minority (27% of cases in this theme). In relation to domestic violence related issues, police behaviour is more often problematic as a result of police doing nothing as compared to problematic behaviour from police taking action of some sort.

While a number of different actions were described within the responses coded into this theme, there were a number of common threads among the responses not related to domestic violence. Of those, 21% (n = 10) related to the arrest of clients and 17% related to the searching of clients. One response described an incident in which a client “was not told

why he was arrested or what was happening to him” (Participant 44), while another simply referred to clients “being arrested without sufficient cause” (Participant 228). One participant recounted a particularly embarrassing incident where their client was “arrested without proper cause causing client to soil their pants” (Participant 117). In a response related specifically to the searching of suspects, a participant reported:

Repeat offender. From disadvantaged socio-economic background, who frequents local shopping district and is found with prescription drugs in possession. Was validly prescribed such medication, but police officer who stopped and searched did not believe him. Advised client about LEPR [Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)] and ‘reasonable suspicion’, etc. ... (Participant 146).

Another participant described an incident involving a young person who ... was walking down the street when he was stopped by police and verbally abused. When the young person retaliated verbally he was forcefully placed on the ground and searched by police for no apparent reason (Participant 93).

In five responses, misuse or abuse of powers was identified, usually in general terms but in one instance as “minor corruption” without further description (Participant 112). Perhaps most worryingly were the five responses that included references to strip searches. Two participants (Participants 75 and 125) referred simply to a strip search “in a public place”, with the latter response providing some additional information, namely that the search occurred “in front of everyone and was [of] a young person under 16”. Three responses (Participants 140, 210 and 212) also gave examples of strip searches conducted on young people, with one noting that their client “was subjected to a strip search without a responsible adult present, completed by a single officer” (Participant 140), and another referred to “Girls [being] stopped at night and strip searched without reason” (Participant 210). The response from Participant 212 included the disturbing information that police were “Constantly pulling YP [young person] over in street and searching and strip searching the YP, with no reasonable suspicion, just as a matter of course”. It could not be

determined from this response whether only one young person was being referred to in this answer, or whether it referred to young people in general.

Two other particularly disquieting responses coded within this theme included one where an "... Aboriginal girl of 15 ... was physically groped by a constable" (Participant 28), and another where the participant reported "police telling lies on oath" (Participant 221).

#### ***Types of Problematic Police Behaviour IV – Excessive or inappropriate use of force***

Instances of excessive or inappropriate use of force by police made up 12% of the problematic behaviours attributed to police. A number of responses contained little descriptive information beyond excessive force having been used; interestingly, the word "assault" was used twelve times in the responses. Nine percent ( $n = 4$ ) of responses in this theme identified the excessive force as involving the use of OC spray (Participants 48, 63, 184 and 187), and one identified the use of a taser (Participant 184).

Twenty-four percent of responses referred to the undue use of force occurring during an arrest, and four of these identified the arrest itself as problematic: "wrongful" (Participant 133), "unlawful" (Participants 184 and 217), "inappropriate" (a second incident referred to by Participant 184) and conducted "without sufficient cause" (Participant 228). One participant described an incident in which a client resisted arrest (Participant 48), while another specified the respective arrest was for a "minor offence" (Participant 58). Excessive force directed against young people was identified in 13% of cases in this theme; and two of the participants noted that their respective client had been "cooperating" (Participant 90) or "complying" (Participant 110) with police when the excessive force was used.

#### ***Reasons Why Clients Declined to Complain***

This question was answered by 105 participants, all of whom had answered the previous question about problematic police behaviours. Within these responses, 111 separate reasons were identified, which were coded into six distinct themes. Themes and frequencies are specified in Table 3.

**Table 3.***Themes indicating reasons clients declined to complain*

<b>Reasons clients declined to complain</b>	<i>N</i>	<b>%</b>
Nothing would be achieved	33	30
Fear of further targeting	31	28
No clear reason expressed	18	16
Other	12	11
Too scared/overwhelmed/stressed	10	9
Complaint would jeopardize legal proceedings	7	6
<b>Total</b>	<b>111</b>	<b>100</b>

*Nothing would be achieved.* The most common reason given by participants referred to the belief that nothing would be achieved (no difference would be made) if a complaint against the police were made (30% of all responses in this theme). Descriptors included “pointless”, and “nothing would change” if a complaint were made. In two responses, the participants referred to their own legal experiences as support for their client’s views: one said of their client that they “Felt their complaint would go nowhere, which is my experience as a criminal lawyer” (Participant 219), while the other reported that “Client thought that a complaint was a waste of time and I ... [could] not, in good conscience, advise him otherwise ...” (Participant 44).

*Fear of further targeting.* The second most common reason given by participants for not making a complaint about police was clients’ fear that such action would lead to further targeting of the complainant by police (28%). Fear was mostly identified as fear of something, including fear of “comeback” (e.g. Participant 22), of “retribution” (e.g. Participants 87 and 206), of “reprisal” (e.g. Participants 121 and 105), and of “repercussions” not otherwise specified (e.g. Participants 205, 211 and 236). Some

responses referred to clients who had previous experience of targeting by police and who believed this would be exacerbated by a complaint. For example, “My client was scared that if they made a complaint the targeting would get worse” (Participant 56), and “Aboriginal people will not complain about police because they fear that the police will then target them after the complaint, as this has happened in the past” (Participant 64). Nineteen percent of the responses in this category specifically identified a fear that police assistance would not be forthcoming in the future should a complaint be made. For example: “Client felt if complaint was followed up she would continually be ignored or treated like a liar by all police officer at that station” (Participant 32), and “concerns of refusal to assist in future should police support be needed” (Participant 78). Two participants gave more detail:

My client knew she had to rely on the police to continue to support and protect her against serious family violence as well as upholding the ADVO. Consequently she regarded making a complaint as inevitably lessening the likelihood of police support (Participant 215); and

She feared making a complaint could make things worse for her as she was still living in the house and would rely on the local police to respond to her if she needed them in the future, i.e. if she made a complaint the police would not help her in future (Participant 216).

An additional two responses were particularly concerning. One referred to a client who believed a complaint would result in her being “punished” by the police (Participant 54), while the other spoke of a client who had a “genuine fear that the unwanted police attention will increase as well as ferociousness” (Participant 181). The response from Participant 56 indicated the extent to which targeting by police might impact negatively on a client: “My client was scared that if they made a complaint the targeting would get worse, and the police would continue to fine them, and they would both lose their licences, lose their jobs and be placed in more financial hardship”.

Leaving aside those responses that did not clearly give a reason for a client's decision not to make a complaint against police (16%), the remaining responses coded into this theme referred to clients being too scared or too overwhelmed by the relevant matter to pursue a complaint for reasons other than a fear of future targeting by police (9%), clients perceiving a complaint would jeopardize ongoing legal proceedings (6%), and a 'mixed bag' of responses that were coded as "other" (11%). Illustrative quotes concerning clients' feeling too anxious or nervous to make a complaint include "My client was too tired, fearful and disheartened and wanted no further contact with the police" (Participant 190) and "Client was so exhausted by what she'd been through she did not want to prolong her stress and anxiety by making a formal complaint about the actions of police" (Participant 151). Responses coded into the "other" category, while not numerically significant, did raise some interesting matters. Only one cited police investigating police as a reason for not complaining (Participant 93). Two referred to cultural reasons: "... she is a Muslim woman and thought it was inappropriate for her to complain" (Participant 81) and "just being part of culture where reporting offences/making complaints is not done" (Participant 228). And one (Participant 193) made the particularly interesting observation that "Police insist on complaints being in writing, and many of my clients have literacy issues".

## GENERAL DISCUSSION

### *The Findings Through the Lens of Procedural Justice*

Overall, the findings support the anecdotal evidence that prompted this research, namely that disadvantaged or marginalized clients of legal practitioners and client advocates in NSW have low levels of trust in, and significant levels of dissatisfaction with, the police complaints system. Such a view of the system indicates a diminished sense of the legitimacy of the police service, since it is "taken as axiomatic that the [police] complaints system plays an important role in securing police legitimacy" (Torrible, 2016, p. 1). This, in turn, justifies applying the lens of procedural justice to the findings since its four principles of trustworthiness, respectful

treatment, neutrality and voice have been established as critical for securing and maintaining police legitimacy.

The survey responses demonstrated significant and sometimes egregious breaches of each of the four principles of procedural justice. To a significant extent, police were not perceived as trustworthy by either the advocates or the clients whom they described. This lack of trust was evident in three different dimensions. First, there was a lack of trust expressed in the efficacy of utilising the police complaints system itself, with almost a third of the relevant responses stating that nothing would be achieved. Second, a lack of trust can be inferred from the fear expressed in an almost equal number of responses that clients would be targeted by police if they made a formal complaint. And third, a lack of trust is also implicated in the finding that in many instances, police took no action in situations where action could reasonably have been expected – i.e. in situations where people had reason to trust that the police would take some sort of action to assist them. These situations were not ones where police were unable to respond, either practically or legally; they were ones where they actively chose not to respond, which is arguably inimical to trustworthiness. In most of the situations described by participants, their clients were victims of crime, in which case not being able to trust police to provide assistance is likely to exacerbate victims' typical feelings of shock, anger, helplessness and violation.

Moreover, the police conduct described was not indicative of respectful treatment. Such treatment “can most clearly be paraphrased as ‘professional behaviour’” (Goodman-Delahunty, 2010, p. 404; emphasis added). Yet the largest category of problematic police behaviour identified in this study was that of unprofessional conduct, with all other categories of that behaviour fitting the broad description also. In addition, a number of participants indicated that police did not “treat individuals with dignity, [or] take them seriously” (Goodman-Delahunty, 2010, p. 404; Tyler and Lind, 1992), but rather dismissed their concerns, or belittled them.

A lack of neutrality was directly indicated in a number of ways in the survey responses, including via racist or discriminatory treatment, and harassment. There were reports of capricious police decision-making, as

distinct from decisions based on “consistently applied legal rules and principles and the facts of a case” (Murphy and Tyler, 2017, p. 288), and a number of participants identified a lack of transparency (Goodman-Delahunty, 2010, p. 404) on the part of the respective police officers. While conduct consistent with a breach of the Procedural Justice principle of neutrality were apparent across all categories of problematic police behaviours, it was perhaps most worryingly apparent in the numbers of participants who reported police acting in illegal ways and inappropriately using force. This sort of conduct is inconsistent with police “using only legitimate criteria for deciding how to exercise authority” (Mastrofski, Jonathan-Zamir, Moyal & Willis, 2016, p. 120).

In many ways, violations of the fourth principle of procedural justice – voice – tie together all the specific findings. Both advocates and clients, but more so clients, were silenced or had their voices disregarded by police in many ways, both at the time police assistance was sought and later when consideration was given to lodging a complaint. Moreover, in a number of instances police mocked the voices that clients tried to use, by belittling and blaming them, intimidating and threatening them or harassing them. In both their actions and inactions, police gave clients and advocates no reason to “infer that they are valued” by the police (Goodman-Delahunty, 2010, p. 405). In fact, while Mastrofski, et al. have said that the “the degree of PJ or injustice shown someone communicates a powerful symbolic message about the citizen’s status or worth” (2016, p. 121), many of the police officers referred to by participants eschewed even symbolic representations and made it quite clear to clients that they were not “valued by the authorities” (Goodman-Delahunty, 2010, p. 405).

## CONCLUSION

Overall, the findings support the anecdotal evidence that prompted this research, namely that disadvantaged or marginalised clients of legal practitioners and client advocates in NSW have low levels of trust in, and significant levels of dissatisfaction with, the police complaints system. This in turn indicates that the NSW police complaints system is not meeting the aim that UNDOC said should motivate all such systems, namely “to prevent impunity and restore (or enhance) public confidence”

(UNDOC, 2011, p. 36). There was no evidence of public confidence being enhanced; if anything, the data suggested an erosion in such confidence.

As indicated above, police legitimacy is diminished when complaints systems cannot be relied on. This is not simply a theoretical problem existing at the level of political philosophy; it has practical implications for the ability of police to do their job and carry out their sworn duties. When the legitimacy of police is questioned, members of the public are less willing to assist them (e.g. by “reporting incidents, undertaking crime prevention activities, and generally being helpful in the community”), and less willing to cooperate with them, thereby making crimes more difficult to solve and increasing the likelihood that force will be needed to resolve situations (Mazerolle, Sargeant, Cherney, Bennett, Murphy and Martin, 2014, pp. 5, 10). Viewing the current deficits in the police complaints system as failures of procedural justice provides a clear way forward for preserving and, if necessary, re-establishing, police legitimacy and, thereby, community confidence in their police –namely, instantiating the four tenets of procedural justice.

This would need to take place in a multi-dimensional way – at the level of the complaints system itself and in terms of individual officers who interact with the public. Arguably, individual officers’ perceptions of the complaints system should also be addressed as part of any remedial effort, since the frequency and types of police misconduct identified in this study suggest a sense of impunity on the part of the officers described in the data. Equally, that misconduct also suggests a significant level of frustration with the limitations of police work – and indeed of the human beings with whom police work. Any attempt to refocus police on the principles of procedural justice will need to address the cause of this frustration (a misunderstanding of what is achievable, community or departmental pressures to ‘make things right’?) to have any lasting effect.

*Acknowledgments:* Roxana Zulfacar and Mira Taitz assisted in developing and fielding the survey.

*Funding details:* This study was supported in part by a grant to the second author from Community Legal Centres New South Wales, Inc., and by Charles Sturt University Faculty of Arts.

## ABOUT THE AUTHORS

**Anna Corbo Crehan PhD** is Senior Lecturer at Charles Sturt University's Australian Graduate School of Policing and Security, and Presiding Officer of the Charles Sturt University Human Research Ethics Committee. She has published papers about a number of aspects of policing, including police ethics, obedience to authority, the policing of vulnerable people and professional boundaries.

**Jane Goodman-Delahunty JD PhD** is a Research Professor at Charles Sturt University and member of the NSW Civil and Administrative Tribunal. Her recent books include *Legal Psychology in Australia* (2015, Thomson Reuters), *Juries and Expert Evidence in Criminal Trials* (2017, Oxford University Press), and *Trends in Legal Advocacy: Interviews with Leading Prosecutors and Defence Lawyers Around the Globe* (2017, CRC Press). She recently led three empirical legal research projects for the Australian Royal Commission into Institutional Responses to Child Sexual Abuse.

## REFERENCES

- Brown, A. (2012). Independent inquiry the only way for police killing [online]. Human Rights Law Centre. Retrieved from <https://www.hrlc.org.au/opinion/2012/10/09/independent-inquiry-the-only-way-for-police-killing?rq=Independent%20inquiry%20the%20only%20way%20for%20police%20killing>
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77–101.
- Commission for Public Complaints against the Royal Canadian Mounted Police. (2009). Police investigating police – final public report

[online]. Retrieved from <https://www.crc-cetp.gc.ca/en/police-investigating-police-final-public-report>

Dai, M., Frank, J. & Sun, I. (2011). Procedural justice during police-citizen encounters: The effects of process-based policing on citizen compliance and demeanor. *Journal of Criminal Justice*, 39(2), 159–168.

Elliott, I., Thomas, S., D., M., & Ogloff, J. R. P. (2011). Procedural justice in contacts with the police: Testing a relational model of authority in a missed methods study. *Psychology, Public Policy, and Law*, 17(4), 592–610.

Federation of Community Legal Centres (Victoria), Human Rights Law Centre, Darebin Community Legal Centre and Flemington Kensington Community Legal Centre. (2011). Effective Transparent Accountable: An independent system to investigate police-related deaths in Victoria [online]. Retrieved from <https://d3n8a8pro7vhmx.cloudfront.net/fclc/pages/153/attachments/original/1520486659/report-effective-transparent-accountable-June-2011.pdf?1520486659>

Goodman-Delahunty, J. (2010). Four ingredients: New recipes for procedural justice in Australian policing. *Policing: A Journal of Policing and Practice*, 4(4), 403–410.

Goodman-Delahunty, J., Verbrugge, H., Sowemimo-Coker, C., Kingsford, J., & Taitz, M. (2013). Procedural justice violations in police-citizen interactions: Insights from complaints about police. *The Journal of the Institute of Justice & International Studies*, 13(1), 83–98.

Goodman-Delahunty, J., Beckley, A., & Martin, M. (2014). Resolving or escalating disputes? Experiences of the NSW Police Force complaints process. *Australasian Dispute Resolution Journal*, 25(1), 79–90.

Goodman-Delahunty, J., & Corbo Crehan, A. (2016). Enhancing police responses to domestic violence incidents: Reports from client

advocates in New South Wales. *Violence Against Women*, 22(8), 1007–1026. doi:077801215613854

Hayes, N. (2000). *Doing psychological research: Gathering and analysing data*. Buckingham, UK: Open University Press.

Independent Broad-based Anti-corruption Commission. (2015). Special report concerning police oversight [online]. Retrieved from <http://www.ibac.vic.gov.au/docs/default-source/special-reports/special-report-concerning-police-oversight.pdf?sfvrsn=13>

Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)

Law Enforcement Conduct Commission, n.d. Understand what you can report [online]. Retrieved from <https://www.lecc.nsw.gov.au/reporting-serious-misconduct/understand-what-you-can-report-to-us>.

NSW Coroners Court. (2011). Inquest into the death of Adam Quddus Salter. Retrieved from [http://www.abc.net.au/mediawatch/transcripts/1324\\_inquest.pdf](http://www.abc.net.au/mediawatch/transcripts/1324_inquest.pdf)

MacPherson, W. (1999). The Stephen Lawrence inquiry. Report of an Inquiry [online]. Retrieved from <https://www.gov.uk/government/publications/the-stephen-lawrence-inquiry>

Mastrofski, S.D., Jonathan-Zamir, T., Moyal, S. & Willis, J.J. (2016). Predicting procedural justice in police–citizen encounters. *Criminal Justice and Behavior*, 43(1), 119–139.

Mazerolle, L., Bennett, S., Davis, J., Sargeant, E., & Manning, M. (2013a). Procedural justice and police legitimacy: A systematic review of research evidence. *Journal of Experimental Criminology*, 9(3), 245–274.

Mazerolle, L., Bennett, S., Davis, J., Sargeant, E., & Manning, M. (2013b). Meta-analytic review of legitimacy in policing. *Campbell Collaboration Library of Systematic Reviews*, 1(1), 1–146.

- Mazerolle, L., Sargeant, E., Cherney, A., Bennett, S., Murphy, K., Antrobus, E., & Martin, P. (2014). *Procedural justice and legitimacy in policing*. Switzerland: Springer International Publishing.
- Murphy, K. (2014). Procedural justice, legitimacy, and policing. In G. Bruinsma & D. Weisburd (eds), *Encyclopedia of criminology and criminal justice*. New York, NY: Springer, pp. 4024–4034.
- Murphy, K. & Tyler, T.R. (2017). Experimenting with procedural justice policing. *Journal of Experimental Criminology*, 13, 287–292. doi:10.1007/s11292-017-9300-8
- Police Accountability Project. (2017). Independent investigation of complaints against the police [online]. Retrieved from [http://www.policeaccountability.org.au/wp-content/uploads/2017/09/Policy-Briefing-Paper-2017\\_online.pdf](http://www.policeaccountability.org.au/wp-content/uploads/2017/09/Policy-Briefing-Paper-2017_online.pdf)
- Police Act 1990 (NSW).
- Sunshine, J., & Tyler, T. R., (2003). The role of procedural justice and legitimacy in shaping public support for policing. *Law & Society Review*, 37(3), 513–548.
- Torrible, C. (2016). Reconceptualising the police complaints process as a site of contested legitimacy claims [online]. *Policing and Society*, 28(4), 464-479. doi: 10.1080/10439463.2016.1191486.
- Tyler, T. R. & Lind, E. (1992). A relational model of authority in groups. *Advances in Experimental Social Psychology*, 25, 115–191.
- United Nations Office on Drugs and Crime. (2011). *Handbook on police accountability, oversight and integrity* [Ebook]. Retrieved from [https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability\\_Oversight\\_and\\_Integrity\\_10-57991\\_Ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf)

# **A Preliminary Review of Cyber-Deception Factors: Offerings from a Systematic Review**

*Anoushka P.A. Anderson, Jo Bryce, Carol A. Ireland,\* Jane L. Ireland*

## **ABSTRACT**

The current paper aims to provide a preliminary exploration of the characteristics associated with cyber-deception, by focusing on motivations for engagement and the psychological characteristics of those perpetrating such behaviour. It aims to further outline gaps in the literature and suggest what areas any potential model of cyber-deception could include to benefit future research. A systematic search of 11 databases was undertaken, with additional manual searching for relevant journals and sources. This was followed by data extraction and thematic analysis. A total of 21 studies were identified as meeting eligibility criteria. Six motivational themes emerged (i.e. acquiring attention and sympathy; a response to negative childhood experiences; preserving identity and presenting your 'true' self; to cause intentional harm and to pursue personal enjoyment; to exploit materially; deception as a stress-reliever in response to life strain), and one individual theme (i.e. perpetrator personality). Perpetrator motivation included a varied range of factors, with more static characteristics (i.e. personality) less well captured in the literature. Future research could determine if psychological differences are of value or if the area is better understood through consideration of more dynamic (motivational) factors.

**Key words:** Cyber-detection; Motivation; Attention; Preserve identity; Harm; Enjoyment

## **INTRODUCTION**

**D**eception is defined as a deliberate act with the intent to mislead (Buller & Burgoon, 1996), with online deception the use of Information and Communication Technology (ICT) to commit such acts (McGuire &

---

\* Corresponding author: CAIreland@uclan.ac.uk

Dowling, 2013) and thus captured using the term cyber-deception. There is recognition that such behaviours can be used for dissocial purposes and that use of ICT can facilitate increased prevalence of this (McGuire & Dowling, 2013), creating a wider range of opportunities for dissocial behaviour (Danquah & Longe, 2011; MacEwan, 2013).

Information on the prevalence rates of cyber-deception is, however, limited and it has been argued that it fails to provide a full account of both perpetration and victimisation (McGuire & Dowling, 2013). This is likely a result of the research being focused on a narrow set of dissocial behaviours, such as fraud. There has been a failure to examine the broader spectrum of deceptive activities that can occur and the differing levels of severity. Regarding reported prevalence rates, Kaakinen, Keipi, Rasanen and Oksanen (2018) found that self-reported rates of victimisation was low, with only 6.4% of a sample of 3,557 users acknowledging victimisation. Yet, 29% of internet users admitted to lying online (Caspi & Gorsky, 2006) suggesting some disparity perhaps in the definition; for example, some may not have recognised lying to represent a form of dissocial behaviour.

The internet is considered, however, a prime medium for deceit (Hancock & Woodworth, 2013), with a reported belief that online deception occurs frequently (Tsikerdekis, 2014). The research does not, however, capture the type of cyber-deception in depth. It could be, for example, that certain types of online lies (e.g. about age) occur more frequently than others, and may be localised more within certain online platforms (e.g. dating websites). There is some evidence for the context being important, with Drouin, Miller, Wehle & Hernandez (2016) reporting dating websites as platforms where users can deceive others regarding career and weight.

Berg, Dickhaut and McCabe (1995) argued that the assumption that cyber-deception is widespread minimises the repercussions of the behaviour because ‘everyone does it’. Hancock and Woodworth (2013) further argue that this view results in certain types of cyber-deception being both accepted and expected online. This arguably normalises deceptive activities and reduces the degree to which behaviour is considered dissocial (Suler, 2004).

Historically, the literature that has examined cyber-deception has focused on the individual psychological characteristics of those involved

as opposed to considering contextual and motivational factors. Motivation may be particularly important. Ekman (1997), in considering off-line deception, identified a range of motivations for lying; namely to avoid punishment; to obtain a reward; to protect others; to protect the self from harm; to win the admiration of others; to get out of an awkward social situation; to avoid embarrassment; to maintain privacy; and to exercise power over others. The extent to which these motivations could apply to cyber-deception is unknown and yet may be of value in determining whether or not deception (off-line) and cyber-deception are distinct or shared behaviours that simply use a different medium of enactment. Understanding motivating factors is also of value in formulating a model for cyber-deception that could assist with educating perpetrators, victims, cyber providers and potentially assisting with intervention.

The decision to engage in deceptive behaviour often depends on a balance between reward, cost and successful outcome (Tsikerdekis & Zeadally, 2014). This fits with *Incentive theory*, which suggests that individuals are motivated to engage in deceptive behaviour to achieve rewards such as financial gain or gifts, or to satisfy needs or wants, such as attention (Beckmann & Heckhausen, 2018). The extent to which this applies to cyber-deception remains, however, unknown. This absence of application also applies to research exploring psychological factors of value. In the off-line environment, personality has been found to represent an associated feature. Kashy and DePaulo (1996), for example, found that those who lie frequently scored higher on measures of machiavellianism and psychopathy. A direct link between lying and factors of manipulation, selfishness, callous behaviour, and low levels of remorse was also discovered. Personality factors also linked to victimisation, with Ngo and Paternoster (2011) demonstrating a connection between poor self-control and becoming a victim of deceit. This preliminary review aims to begin exploration of the area of cyber-deception, focusing on the characteristics and motivations of perpetrators in the first instance. In doing so, it aims to outline what is known about causation and motivations for cyber-deception and explore what is known about the psychological characteristics of perpetrators of cyber-deceit.

## METHOD

### *Search strategy*

Bibliographic databases were searched via EBSCO Host (Academic Search Complete; Computers and Applied Sciences Complete; Criminal Justice Abstracts; E-Journals; Medline; PsycArticles; PsycInfo; Social Sciences Abstracts, SocIndex; Psychology Database) and Science Direct; Taylor and Francis; Wiley Online; and Web of Science. There was also manual searching of websites that specialise in cyber-deception (e.g. government websites, iPredator.com) and of magazines focusing on cyber-deception (i.e. Cyber Security Source magazine). The following key words were used and combined to search the databases:

1. (deception OR lie\* OR lying OR deceit\* OR fak\*)
2. (online OR internet OR web OR cyber OR virtual community)
3. (malinger\* OR crim\*)
4. (spam\* AND malware AND virus)
5. 1 AND 2 AND 3
6. 1 AND 2 AND 3 AND NOT 4

### *Inclusion criteria*

Studies were considered eligible if they reported information on the aetiology, motivation, characteristics and/or risk-factors for participating in cyber-deception (regardless of whether or not it was described as a criminal act), or discussed how social factors, personality traits and/or psychological disorders influenced the likelihood of an individual participating in cyber-deception. Studies had to be available in English. A date range of 2000 to 2017 was utilised to allow for the identification of sufficient literature, whilst also identifying that papers pre-2000 were not capturing cyber-deception as understood in more recent years.

### *Exclusion criteria*

Studies were excluded if they involved organised cybercrime targeted at IT systems and not individuals (e.g. targeted at businesses); if they involved clear criminal activity (e.g. child abuse or dark-web activities) since the current study was focusing on cyber-deception and not cyber-crime per se.

### *Eligibility screening*

Paper titles were originally screened to determine whether they met the inclusion criteria. If their inclusion was not clear it proceeded to abstract review regardless. All resulting papers were then considered for full-text review. All papers were also quality assessed using an adapted checklist originally designed for completing audits (National Institute for Health and Clinical Excellence, 2009), prior to proceeding to full-text analysis. The developed checklist is indicated in Figure 1.

**Figure 1: Quality Checklist**

<b>Section 1: theoretical approach</b>		
<b>1.1 Is the study clear in what it seeks to do?</b> <i>For example:</i> <ul style="list-style-type: none"> <li>• Is the purpose of the study discussed – aims/objectives/research question(s)?</li> <li>• Is there adequate/appropriate reference to the literature?</li> <li>• Are underpinning values/assumptions/theory discussed?</li> </ul>	Clear Unclear Mixed	Comments:
<b>Section 2: study design</b>		
<b>2.1 How defensible/rigorous is the research design/methodology?</b> <i>For example:</i> <ul style="list-style-type: none"> <li>• Is the design appropriate to the research question?</li> </ul>	Defensible Not defensible Not sure	Comments:
<b>Section 3: validity</b>		

<p><b>3.1 Is the role of the researcher clearly described?</b></p> <p><i>For example:</i></p> <ul style="list-style-type: none"> <li>• Does the paper describe the research was explained and presented to the participants?</li> </ul>	<p>Clear</p> <p>Unclear</p> <p>Not described</p>	<p>Comments:</p>
<p><b>3.2 Is the context clearly described?</b></p> <p><i>For example:</i></p> <ul style="list-style-type: none"> <li>• Were observations made in a sufficient variety of circumstances?</li> <li>• Was context bias considered?</li> </ul>	<p>Clear</p> <p>Unclear</p> <p>Not sure</p>	<p>Comments:</p>
<p><b>3.3 Were the methods reliable?</b></p> <ul style="list-style-type: none"> <li>• Are the methods adopted reliable?</li> <li>• Do the methods investigate what they claim to?</li> </ul>	<p>Reliable</p> <p>Unreliable</p> <p>Not sure</p>	<p>Comments:</p>
<p><b>Section 4: analysis</b></p>		
<p><b>4.1 Is the data analysis sufficiently rigorous?</b></p> <p><i>For example:</i></p> <ul style="list-style-type: none"> <li>• Is the procedure explicit?</li> <li>• Is the procedure reliable/dependable?</li> <li>• Is it clear how the themes and concepts were derived from the data?</li> </ul>	<p>Rigorous</p> <p>Not rigorous</p> <p>Not sure/not reported</p>	<p>Comments:</p>
<p><b>4.2 Are the data ‘rich’?</b></p> <p><i>For example:</i></p> <ul style="list-style-type: none"> <li>• How well are the contexts of the data described?</li> <li>• Has the diversity of perspective and content been explored?</li> </ul>	<p>Rich</p> <p>Poor</p> <p>Not sure/not reported</p>	<p>Comments:</p>

<p><b>4.3 Is the analysis reliable?</b></p> <p><i>For example:</i></p> <ul style="list-style-type: none"> <li>• Were discrepant results addressed or ignored?</li> </ul>	<p>Reliable</p> <p>Unreliable</p> <p>Not sure/not reported</p>	<p>Comments:</p>
<p><b>4.4 Are the findings convincing?</b></p> <p><i>For example:</i></p> <ul style="list-style-type: none"> <li>• Are the findings clearly presented?</li> <li>• Are the data appropriately referenced?</li> <li>• Is the reporting clear and coherent?</li> </ul>	<p>Convincing</p> <p>Not convincing</p> <p>Not sure</p>	<p>Comments:</p>
<p><b>4.5 Are the findings relevant to the aims of the study?</b></p>	<p>Relevant</p> <p>Irrelevant</p> <p>Partially relevant</p>	<p>Comments:</p>
<p><b>4.6 Are the conclusions adequate?</b></p>	<p>Adequate</p> <p>Inadequate</p> <p>Not sure</p>	<p>Comments:</p>
<p><b>Overall assessment</b></p>		
<p><b>As far as can be ascertained from the paper, how well was the study conducted? (see guidance notes)</b></p>		

Source: Quality checklist (slightly abridged). See <https://www.nice.org.uk/process/pmg4/chapter/appendix-h-quality-appraisal-checklist-qualitative-studies#checklist-2>

***Data extraction: Coding***

Themes were identified initially by using line-by-line coding, where a potential theme was given a code and then the description of this code was revisited as further papers were considered. The most frequently occurring

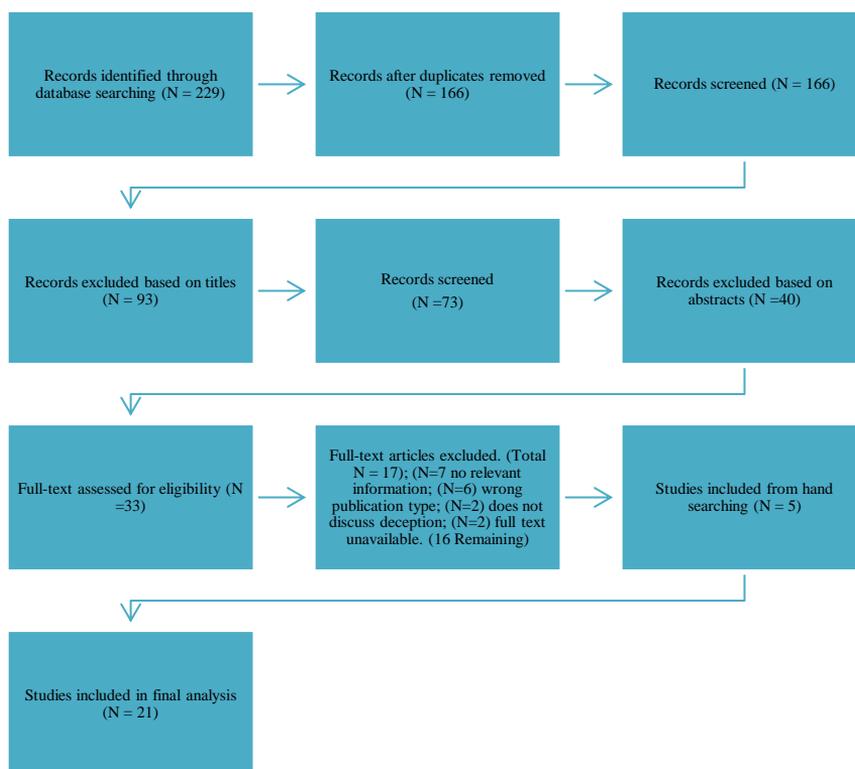
codes were then used to group into categories (focus coding). This was a fluid process that required constant revision until all potential coding was considered exhausted and thus saturation was reached. Thematic analysis was the final stage of coding. It used the recommendations of Braun and Clarke (2006) regarding such analysis. It was completed using a coding and qualitative data analysis system (CAQDAS) program, in this instance, ATLAS.ti. An independent reviewer then verified the final coding, after being presented with three randomised papers, to ensure reliability of coding.

## RESULTS

### *Study selection*

The final sample comprised 21 papers, with the process of selection listed in Figure 2. The included papers are listed in Figure 3.

**Figure 2: Steps of systematic review**



### Figure 3. Included studies

Carlson, J. R., George, J. F., Burgoon, J. K., Adkins, M., & White, C. H. (2004). Deception in computer-mediated communication: Group decision and negotiation. *Journal of Computer-Mediated Research, 13*, 5-28.

Caspi, A., & Gorksy, P. (2006). Online deception: Prevalence, motivation and emotion. *Cyberpsychology and Behaviour, 9*, 54-62.

Chen, C., & Huang, L. (2011). Online deception investigation: Content analysis and cross-cultural comparison. *International Journal of Business and Information, 6*, 91-111.

Cunningham, J. M., & Feldman, M. D. (2011). Munchausen by internet: Current perspectives and three new cases. *Psychosomatics, 52*, 185-189.

Danquah, P., & Longe, O. (2011). Cyber-deception and theft: An ethnographic study on cyber criminality from a Ghanaian perspective. *Journal of Information Technology Impact, 11*, 169-182. Retrieved from <http://www.jiti.net/v11/jiti.v11n3.169-182.pdf>

Feldman, M. D. (2000). Munchausen by internet: Detecting factitious illness and crisis on the internet. *Southern Medical Journal, 93*, 669-672.

Grazioli, S., & Jarvenpaa, S. L. (2003). Deceived: Under target online. *Communications of the ACM, 46*, 196-203.

Joinson, A. N., & Dietz-Uhler, B. (2002). Explanations for the perpetration of and reactions to deception in a virtual community. *Social Science Computer Review, 20*, 275-289.

Kaakinen, M., Keipi, T., Rasanen, P., & Oksanen, A. (2018). Cybercrime victimisation and subjective well-being: An examination of the buffering effect hypothesis among adolescents and young adults. *Cyberpsychology, Behaviour and Social Networking, 21*, 129-137.

Lawlor, A., & Kirakowski, J. (2014). When the lie is the truth: Grounded theory analysis of an online support group for factitious

disorder. *Psychiatry Research*, 218, 209-218. doi: 10.1016/j.psychres.2014.03.034

Lawlor, A., & Kirakowski, J. (2017). Claiming someone else's pain: A grounded theory analysis of online community participants experiences of Munchausen by internet. *Computers in Human Behaviour*, 74, 101-111.

MacEwan, N. (2013). A tricky situation: Deception in cyberspace. *Journal of Criminal Law*, 77, 417-432.

Moore, P. (2012). The stranger among us: Identity deception in online communities of choice. *Unpublished manuscript*.

Muscanell, N. L., Guadagno, R. E., & Murphy, S. (2014). Weapons of influence misused: A social influence analysis of why people fall prey to internet scams. *Social and Personality Psychology Compass*, 8, 388-396.

Stanton, K., Ellickson-Larew, S., & Watson, D. (2016). Development and validation of a measure of online deception and intimacy. *Personality and Individual Differences*, 88, 187-196. doi: 10.1016/j.paid.2015.09.015

Tskierdekis, M. Z. S. (2014). Online deception in social media. *Communications of the ACM*, 57, 72-80.

Utz, S. (2005). Types of deception and underlying motivation. *Social Science Computer Review*, 23, 49-56.

Whitty, M. T. (2018). Do you love me? Psychological characteristics of romance scam victims. *Cyberpsychology, behaviour and social networking*, 21, 105 – 109.

Whitty, M. T. & Buchanan, T. (2012). The online romance scam: A serious cybercrime. *Cyberpsychology, Behaviour and Social Networking*, 15, 22-31.

Whitty, M, T., & Gavin, J. (2001). Age/sex/location: Uncovering the social cues in the development of online relationships. *Cyberpsychology, behaviour and social networking*, 4, 623–630.

Zhou, L., & Zhang, D. (2008). Following linguistic footprints: Automatic deception detection in online communication. *Communications of the ACM*. Retrieved from <http://dl.acm.org/citation.cfm?id=1389972>.

### ***Summary focus of the studies***

Five papers provided information on the causation of deception; six outlined motivations of participating in cyber-deception; five papers provided information on psychological factors relating to perpetrators of cyber-deception and five papers discussed psychological factors relating to victims of cyber-deception. Findings regarding victims are not included in the themes indicated later since focus is on perpetrators.

### ***Emerging themes***

A total of six motivational themes for perpetration were found, with one relating to perpetrator characteristics. These were as follows:

#### ***Theme one (motivation): Acquiring attention and sympathy.***

This was defined as wanting to elicit feelings of pity, sorrow, admiration, care or to feel noticed. Lawlor and Kirakowski (2014) found that attention and sympathy was the highest perceived motivation for why someone would create a false online persona. Of their respondents, 20% stated they believed users created fake identities to receive attention from others. Some examples of these behaviours were lying about physical or mental health or being part of an exclusive group (e.g. mothers of children with terminal diseases). A theme of coping was also indicated, with it suggested it could be a means of coping with a genuine psychiatric illness (Lawlor and Kirakowski, 2014) and/or to gain support for life pressures, including mental health. There was a suggestion of needing to gain sympathy for the latter, with physical illness more likely to obtain a caring response from others, and thus leading to the fabrication of a physical illness to fulfil psychological needs of care, sympathy and social attention.

The latter was not always identified as a motivation, certainly not one that was immediately conscious (Feldman, 2000), although there was a lack of consistency on this point, with others arguing that the motivation for attention was an explicit one (Lawlor and Kirakowski, 2017). The same study found that participants who feigned illnesses online enjoyed the concern that was shown to them, and it would encourage further deceptive

activities. There was, overall, an indication that the cyber-deception was either masking undisclosed issues or was a means of acquiring unmet psychological needs.

***Theme two (motivation): In response to negative childhood experiences.***

This was defined as a response to the long-term impacts of experiencing adverse events in childhood. Experiences such as emotional abuse, living in foster care, absentee fathers, physical abuse, irresponsible parenting and sickness were included (Chen & Haung, 2012; Lawlor and Kirakowski, 2017). Some individuals were thought to be attempting to fulfil deficits in interpersonal interaction and what was not available to them emotionally during childhood through cyber-deception.

***Theme three (motivation): Preserving identity and presenting your ‘true’ self.***

This was perhaps best described as lying to self-promote, preserve a reputation and/or allow for an individual’s ‘true’ self to be exposed (Joinson & Dietz-Uhler, 2002). It could involve use of an online persona as a means of expressing an individual’s ‘true’ self whilst protected from the social exposure or a need to confirm socially (Joinson & Dietz -Uhler, 2002). This included a need to communicate deviant behaviour without fear of social retribution. Zhou and Zhang (2008) highlighted the role of online communication in relieving individuals of contextual restrictions and formalities, perhaps also supported by an expectation that individuals lie online. This arguably allowed permission for the behaviour and makes it safer. It also allowed individuals to form close connections online (McKenna, Green & Gleason, 2002), particularly for those who were socially anxious who subsequently found expression online a safer experience through cyber-deception.

***Theme four (motivation): To cause intentional harm and to pursue personal enjoyment***

This included a desire to intentionally cause harm or control a situation for selfish reasons and/or enjoyment. Individuals motivated by a malicious intent were considered unpredictable, with their target group unspecified (Seiter, 2007). It appeared to include ‘trolling’ (Dynel, 2016). Malice as a primary motivation was, however, argued to be uncommon (Utz, 2005), and likely promoted by the success of their actions, such as not being prevented by others (Caspi & Gorksy, 2006). Cyber-deception in this

theme was not considered linked with negative emotions such as guilt or shame, but rather enjoyment (Caspi and Gorsky, 2006).

Manipulation was also felt to be a key factor in successfully creating a fake persona (MacEwan, 2013), where a perpetrator was able to exploit the emotions of a victim in the manner intended. Manipulation was described more as a skill, however, than a motivation, and in essence was felt to be the skill that allowed the motivation to be successfully pursued (MacEwan, 2013; Moore 2012).

***Theme five (motivation): To exploit materially***

This was defined as participating in acts of deception with the aim of benefitting financially or by gaining material goods. Grazioli and Jarvenpaa (2003), for example, found that most acts instigated by material exploitation were motivated by greed, desperation and the need for quick gratification. However, Danquah and Longe (2011) showed that, in some instances, cyber-deceit is a by-product of poor economic status, with perpetrators needing to gather money or goods through cyber-deception. Alternatively, Lawlor and Kirakowski (2017) found that material exploitation was a consequence of cyber-deception rather than a motivating factor, with only 4% of individuals reporting this as a primary motivation for their deceit, with other motivations (e.g. attention and sympathy) more important. Whilst material exploitation may not be the initial reason for cyber-deception, it may become a primary reason as the relationship with the victim(s) evolves.

***Theme six (motivation): Deception as a stress-reliever in response to life strain***

This was defined as a psychological state that can result from external stressors, which occur when an individual is involved in multiple, high-strain roles such as being a caregiver, home-owner and working in a demanding career (Carlson, George, Burgoon, Adkins & White, 2014). Carlson *et al.* (2014) hypothesised that, when an individual is faced with various external stressors, deception can become a stress-relieving mechanism. The same research argued that when an individual becomes overwhelmed by different role demands, particularly those in the work environment, they need to find an outlet for the negative emotions that accrue. Creating a false online reality can assist with this, with the act of

cyber-deception serving to further reinforce the behaviour and leading to a potential escalation of the deceit (Carlson *et al*, 2014).

***Theme seven (individual characteristic): perpetrator personality***

This was the only theme identified under the perpetrator category, defined as personality traits, which included lower levels of agreeableness (Stanton, Ellickson-Larew & Watson, 2016) and conscientiousness among perpetrators (Stanton *et al*, 2016; Youli & Chao, 2015), which could link to a tendency to display selfish behaviour, a lack of empathy and maladaptive personality traits (Stanton *et al*, 2016), including psychopathy (Youli & Chao, 2015). Higher levels of neuroticism were also noted in perpetrators (Stanton *et al*, 2015).

## DISCUSSION

The current study reported a range of motivations, which appear relevant to cyber-deception. These include a need to acquire attention and sympathy; a response to negative childhood experiences; preserving identity and presenting your ‘true’ self; to cause intentional harm and to pursue personal enjoyment; to exploit materially; and deception as a stress-reliever in response to life strain. Only a single perpetrator theme emerged, that of personality, with this factor consistent with prior research in the off-line environment (Kashy & DePaulo, 1996). The study further highlighted the limitations in this area, with the noted motivations of descriptive value but the overlap between them and the process by which they were acquired were not captured. This is undoubtedly a product of the research being cross-sectional and not yet advancing its methodology to capture longitudinal design. In short, it highlights the value of motivations in terms of how heterogeneous the perpetrators may be but it does not inform us on how these motivations develop over time and what skills are acquired to enhance their use.

Nevertheless, it demonstrates the importance of motivation, sharing similarities in this regard with the off-line deception literature (Ekman, 1997), particularly in relation to such deception being motivated by a reward, gain (e.g. through manipulation), or by presenting yourself in a manner that accrues admiration. However, this is where the similarities seem to end, with the cyber-deception area not outlining motivations connected to punishment avoidance, protection or to avoid something unpleasant. These related to the off-line context only. It would appear

therefore that the cyber context is focused *more* on coping and the acquisition of attention and sympathy as additional factors of note. Both clearly fit with Incentive Theory, in that there can be motivations of both gain and/or of needs being satisfied (Beckmann & Heckhausen, 2018), but it would appear that the latter is associated more with cyber-deception.

There is, undoubtedly, evidence from the systematic literature review of motivations having a dynamic component to them; for example, material exploitation appeared in some cases a by-product of another original motivation that then developed into a primary motivation across time. What is particularly surprising, however, is the absence of focus on the individual psychological characteristics of the individuals engaging in cyber-deception (Stanton *et al*, 2016; Youli & Chao, 2015). The research at most is presenting a rudimentary analysis of personality but not significantly beyond five-factor considerations of this concept.

The concept of cyber-deception being a potentially dynamic and evolving process is a key offering from the current review, and one that could inform future model development. It certainly fits with prior research that explores the role of decision-making (a dynamic process in its own right) (Tsikerdekis & Zeadally, 2014). A recurrent theme was one of cyber-deception presenting as a result of *accumulating* strains, such as work, other life pressures, and social/individual challenges (e.g. perceived inadequacies, poor mental health), which then evolve into a more sustained pattern of engagement with others on-line. It is the development of this pattern and how the ‘relationship’ with those they are deceiving that then becomes of interest but as of yet is not captured within the literature. There also appears to be a distinction emerging between those who are engaging in such deception for enjoyment and honing their manipulation skills to do this, versus those that are engaging in cyber-deception in order to cope with the actual or perceived inadequacies in their life (e.g. economic stress, family and personal stress, health stress). It could be speculated that the former (i.e. enjoyment/manipulation motivation) may be related more with unhelpful and damaging personality traits as opposed to the latter (i.e. coping motivations), which may be characterised more by poor coping and inadequacy. The research has yet to offer any insights into this and yet it does suggest that we may require a dynamic model of understanding cyber-deception, one that describes the different pathways through which an individual may emerge as likely to engage in such behaviour.

The role of the environment in driving cyber-deception appears to be emerging as a potential factor but as yet is under-considered and at most is focusing on cumulative stress (i.e. strain) through role-demands and economic hardship. It supports the suggestion that the context in which cyber-deception is occurring is an important one (Drouin *et al*, 2016). What is clearly being evidenced, however, is that this is a dynamic process as opposed to one focusing on individual characteristics. Even personality, although noted as such a characteristic, cannot be enacted in the absence of contact with others; personality is by its very nature a social factor. Consequently, the finding that personality is emerging as valuable could arguably represent a further artefact of the social and thus dynamic environment. It could be speculated that through the medium of the cyberworld opportunities for engagement with others are simply increasing (Danquah & Longe, 2011; MacEwan, 2013), allowing for personality traits to manifest themselves to a now online as opposed to purely direct audience. For example, the notion that cyber-deception is common place, normalised and thus an excusable behaviour (Berg, Dickhaut & McCabe, 1995; Hancock & Woodworth, 2013; Suler, 2004) may be particularly meaningful to those whose personality aligns itself more with exploitation and/or a lack of empathy.

This current study is not without its limitations. It is a preliminary study, with a limited pool of scientific literature on the topic from which to draw its conclusions from. Of the research that it did have available it was cross-sectional and descriptive. This does not lend itself to developing a detailed of understanding concerning the factors involved in making the decision to engage in cyber-deception. Understanding the dynamic process underpinning this decision and, potentially, the individual characteristics that could further reinforce this process, represents an important consideration for future research. A dynamic model that captures what facilitates and inhibits the decision to engagement in cyber-deception and what maintains the engagement is perhaps a key area for consideration as we advance towards proposing a future model to inform education, prevention and intervention.

#### ABOUT THE AUTHORS

**Anoushka Anderson** was a student at the University of Central Lancashire, who completed her MSc in Forensic Psychology, and engaged in further post-graduate research, of which the current paper is part of this.

**Jo Bryce** is Director of the Cyberspace Research Unit at the University of Central Lancashire. Her research interests focus on the psychological, social and forensic aspects of the Internet and related technologies, with a specific focus on their use by young people, associated risk exposure and esafety. Other interests include: the role of ICTs in the commission of criminal offences; online privacy and security; online piracy and filesharing. She is also School equality and diversity lead and Vice-chair of the ethics committee in the school.

**Carol A. Ireland PhD, MBA** is a Chartered Psychologist, Consultant Forensic Psychologist and Chartered Scientist. She previously worked in a High Secure Setting for nine years, where she was lead for sex offender therapies and critical incident (hostage) negotiation, and where she acted as an advisor in crisis/conflict situations. Dr. Ireland is also a Senior Research Lead at the Ashworth Research Centre at Ashworth Hospital. She also works at CCATS ([www.ccats.org.uk](http://www.ccats.org.uk)), a child and adult therapeutic service in the community. She has more than 70 publications, including journal articles, books and book chapters, mainly on offending, consultancy and crisis (hostage) negotiation.

**Jane L. Ireland PhD** is a Chartered Forensic Psychologist and Chartered Scientist. Professor Ireland holds a Professorial Chair at the University of Central Lancashire and is a Violence Treatment Lead within High Secure Services, Ashworth Hospital, Mersey Care NHS Trust, where she holds a clinical practice. She is an elected Academy Fellow of the Council of the Academy of Social Sciences and Fellow of the International Society for Research on Aggression (ISRA). Professor Ireland is currently lead for the Ashworth Research Centre (ARC), an NHS clinical and forensic centre for research based within Mersey Care NHS Trust and covers all secure services. Professor Ireland has over 100 publications, including book chapters and journal articles.

## REFERENCES

- Beckmann, J., & Heckhausen, H. (2018). Motivation as a function of expectancy and incentive. In J. Heckhausen & H. Heckhausen (Eds.), *Motivation and Action* Cham, Switzerland: Springer, pp. 10-22.

- Berg, J., Dickhaut, J., & McCabe, K. (1995). Trust, reciprocity, and social history. *Games and Economic Behaviour*, 10, 122-142.
- Braun, V. & Clarke, V. (2006) Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3 (2). 77-101. ISSN 1478-0887. Retrieved from <http://eprints.uwe.ac.uk/11735>
- Buller, D., & Burgoon, J. (2006). Interpersonal deception theory. *Communication Theory*, 6, 203-242.
- Carlson, J. R., George, J. F., Burgoon, J. K., Adkins, M., & White, C. H. (2004). Deception in computer-mediated communication: Group decision and negotiation. *Journal of Computer-Mediated Research*, 13, 5-28.
- Caspi, A., & Gorksy, P. (2006). Online deception: Prevalence, motivation and emotion. *Cyberpsychology and Behaviour*, 9, 54-62.
- Chen, C., & Huang, L. (2011). Online deception investigation: Content analysis and cross-cultural comparison. *International Journal of Business and Information*, 6, 91-111.
- Danquah, P., & Longe, O. (2011). Cyber-deception and theft: An ethnographic study on cyber criminality from a Ghanaian perspective. *Journal of Information Technology Impact*, 11, 169-182. Retrieved from <http://www.jiti.net/v11/jiti.v11n3.169-182.pdf>
- Drouin, M., Miller, D., Wehle, S., & Hernandez, E. (2016). Why do people lie online? "Because everyone lies on the internet". *Computers in Human Behaviour*, 64, 134-142.
- Dynel, M. (2016). Trolling is not stupid: Internet trolling as the art of deception serving entertainment. *Intercultural pragmatics*, 13, 3.
- Ekman, P. (1997). Deception, lying and demeanour. In D. F. Halpen & A. E. Voiskounsky (Eds.), *States of mind: American and post-Soviet perspective on contemporary issues in psychology*. Oxford, England: Oxford University Press, pp. 92-105.

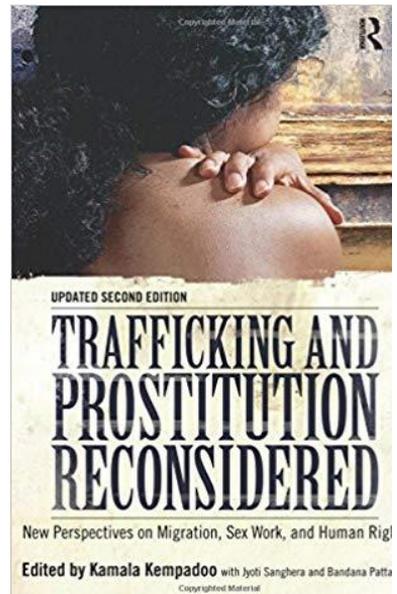
- Feldman, M. D. (2000). Munchausen by internet: Detecting factitious illness and crisis on the internet. *Southern Medical Journal*, 93, 669-672.
- Grazioli, S., & Jarvenpaa, S. L. (2003). Deceived: Under target online. *Communications of the ACM*, 46, 196-203.
- Hancock, J. T., Woodworth, M. T., & Porter, S. (2013). Hungry like the wolf: A word-pattern analysis of the language of psychopaths. *Legal and Criminological Psychology*, 181, 102-114.
- Joinson, A. N., & Dietz-Uhler, B. (2002). Explanations for the perpetration of and reactions to deception in a virtual community. *Social Science Computer Review*, 20, 275-289.
- Kaakinen, M., Keipi, T., Rasanen, P., & Oksanen, A. (2018). Cybercrime victimisation and subjective well-being: An examination of the buffering effect hypothesis among adolescents and young adults. *Cyberpsychology, Behaviour and Social Networking*, 21, 129–137.
- Kashy, D. A., & DePaulo, B. M. (1996). Who lies? *Journal of Personality and Social Psychology*, 70, 1037.
- Lawlor, A., & Kirakowski, J. (2014). When the lie is the truth: Grounded theory analysis of an online support group for factitious disorder. *Psychiatry Research*, 218, 209-218.
- Lawlor, A., & Kirakowski, J. (2017). Claiming someone else's pain: A grounded theory analysis of online community participants experiences of Munchausen by internet. *Computers in Human Behaviour*, 74, 101-111.
- MacEwan, N. (2013). A tricky situation: Deception in cyberspace. *Journal of Criminal Law*, 77, 417-432.
- McGuire, M., & Dowling, S. (2013). Cyber-crime: A review of the evidence. Home Office Research Report, 75, 1-25.
- McKenna, K., Green, A., & Gleason, M. (2002). Relationship formation on the internet: What's the big attraction? *Journal of Social Issues*, 58, 9–31.

- Moore, P. (2012). The stranger among us: Identity deception in online communities of choice. Unpublished manuscript.
- Ngo, F., & Paternoster, R. (2011). Cybercrime victimisation: An examination of individual and situational level factors. *International Journal of Cyber Criminology*, 5, 773-793.
- Stanton, K., Ellickson-Larew, S., & Watson, D. (2016). Development and validation of a measure of online deception and intimacy. *Personality and Individual Differences*, 88, 187-196.
- Suler, J. (2004). The online disinhibition effects. *Cyberpsychology and Behaviour*, 7, 321-330.
- Tskierdekis, M. Z. S. (2014). Online deception in social media. *Communications of the ACM*, 57, 72-80.
- Utz, S. (2005). Types of deception and underlying motivation. *Social Science Computer Review*, 23, 49-56.
- Whitty, M. T. (2018). Do you love me? Psychological characteristics of romance scam victims. *Cyberpsychology, behaviour and social networking*, 21, 105 – 109.
- Whitty, M. T. & Buchanan, T. (2012). The online romance scam: A serious cybercrime. *Cyberpsychology, Behaviour and Social Networking*, 15, 22-31.
- Whitty, M, T., & Gavin, J. (2001). Age/sex/location: Uncovering the social cues in the development of online relationships. *Cyberpsychology, behaviour and social networking*, 4, 623–630.
- Youli, H., & Chao, L. (2015). A comparative study between the Dark Triad of personality and the Big Five. *Canadian Social Science*, 11, 93-98.
- Zhou, L., & Zhang, D. (2008). Following linguistic footprints: Automatic deception detection in online communication. *Communications of the ACM*. Retrieved from <http://dl.acm.org/citation.cfm?id=1389972>.

# *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work and Human Rights*

Edited by Kamala Kempadoo with Jyoti Sanghera and Bandana Pattanaik  
Second Edition  
Routledge Press 2016, paperback, 282 pages  
ISBN-978-1-59451-989-5

Reviewed by Susan Robinson



The book *Trafficking and Prostitution Reconsidered* edited by Kamala Kempadoo and others, challenges the traditional discourse and rhetoric around human trafficking, voluntary and involuntary migration and voluntary and forced prostitution; in order to reframe the discussion of this problem within a human rights perspective. The book is a compilation of edited essays that cover the pertinent themes and sub themes that need to be considered to properly understand these issues. It is divided into four parts with each part covering a broad theme with the summarised themes being: shifting paradigms/globalisation; the complexities of sex work; reports from the field; and looking back and looking forward.

Human trafficking and forced prostitution are primarily international crimes but these issues are gaining more attention in the domestic criminal justice field as more is known about how victims are trafficked into western countries and sexually exploited within these countries. In the past the response has been to treat the victims as criminals, firstly for being engaged in prostitution and secondly for being in the country illegally. The authors argue that this has been an unsuccessful approach in preventing sex trafficking and has also been an unjust approach.

Criminalising the victims of trafficking and forced prostitution conceptually places the responsibility for the trafficking on the victims rather than the traffickers. It also places an obstacle in the way for victims to come forward to report the crimes against them. This book discounts much of the previous attention given to these subjects as hyperbolic and sensationalist and tries to reconceptualise sexual slavery by unpacking and normalising the types of arrangements covered by this term. For example, one of the authors makes the claim that true slavery makes up a very small proportion of the people smuggled across the border and that most of the sex and labour workers smuggled into countries are in debt-bondage, indentureship or tied to exploitative contracts. Unfortunately, the author does not successfully argue why these conditions are actually different to slavery.

In regard to the trafficking of children, the author makes good points around the tendency for children to be lumped together with adults in the discourse around trafficking and the need for change in this regard, especially when it comes to the development of anti-trafficking legislation. In regard to the sexual exploitation of children the complexities around the issue of consent is considered in the discussion, as is the tendency to criminalise children for having been engaged in illicit activities, some of which, the author argues, is tied up in issues of consent and agency. I found this argument to be a little confronting and confusing as it seems to suggest that children should be given the right to choose in regard to these activities. Overall however, the author states that he is advocating for the protection of children in these circumstances rather than supporting child prostitution as it might otherwise be interpreted.

The book covers the changing international legal and policy environment but disappointingly it tends to convey an overtly left leaning political position on topics such as immigration and counter-terrorism. The language used by one author refers to the enactment of “regressive” anti-terrorism laws and there is discourse around “the other” which has the effect of demonising all conservative opinions on immigration and national security without actually engaging in a balanced discussion of these or considering other perspectives as potentially being able to contribute positively to the discourse.

Despite the criticisms contained in this review, in the main, the second edition of the book *Trafficking and Prostitution Reconsidered* edited by Kamala Kempadoo et al is an interesting and well compiled book that is useful for criminologists, victimologists, social workers and other academics interested in better understanding the trafficking process and how to assist the victims. It is also a useful book for professionals working in the criminal justice field, students studying this area and those working in law enforcement. People working in border control and immigration areas may also find this book useful.

#### ABOUT THE REVIEWER

**Dr Susan Robinson** is a criminologist and lecturer with the Australian Graduate School of Policing and Security. Her research interests include theoretical and applied criminology, women in the criminal justice system, crimes involving women and children, child abuse, policing, juvenile crime and correctional services.

- o O o -

# Call for Papers

*Salus Journal* is an international, peer-reviewed open-access journal for the publication on law enforcement and security issues as well as research findings and discussion papers regarding emergency management and public safety. *Salus Journal* seeks to contribute to practice by inspiring discussion through an interdisciplinary approach.

The journal invites submissions of articles of between 3,000 and 5,000 words for double-blind peer-review that:

- focus on issues that have an impact on criminal justice, law enforcement, national security, or emergency management;
- engage with contemporary topical practice issues; or
- add to the understanding of complex management conundrums.

Submissions can use either qualitative or quantitative approaches, including studies that employ the use of exploratory or holistic approaches. The journal also accepts discussion papers, critical essays, and analytical papers if a clear position is stated and the argument is grounded in sound practice, or the subject literature.

*Salus Journal* is an accredited Australian Research Council (ARC) *Excellence in Research for Australia* (ERA) journal. *Salus Journal* is indexed in [EBSCOhost](#)'s research database, RMIT Publishing's [Informit](#), [Google Scholar](#), and the [Directory of Open Access Journals](#) (DOAJ).

## **Book Reviews**

*Salus Journal* also accepts book reviews of around 750 words. Reviews should go beyond the descriptive account of the book's contents. Reviews that discuss the book's message in terms of practice or policy issues are sought for inclusion in future editions. Books can be either newly published or vintage editions where the book's thesis can be applied to a current situation or in an emerging context.

## **Submission Process**

Visit the journal's submissions page to see a copy of the author guidelines and a summary of the refereeing process:

[www.salusjournal.com/submissions](http://www.salusjournal.com/submissions)