



Use of Alternative Dispute Resolution and Civilian-Led Mediation in the Resolution of Complaints Against Police: Analysis of Case Studies

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Use of Alternative Dispute Resolution and Civilian-Led Mediation in the Resolution of Complaints Against Police: Analysis of Case Studies

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Master of Criminology and Criminal Justice (Class 1 Honours)

Bachelor of Justice and Legal Studies

A thesis submitted in fulfilment of the requirements for the degree of

Doctor of Philosophy

School of Law and Society

USC Australia

2 September 2020

DECLARATION OF ORIGINALITY

The work presented in this thesis is, to the best of my knowledge and belief, original except as acknowledged in the text. I hereby declare that I have not submitted the material, either in full or in part, for a degree at this or any other institution.

.....
Mary Elizabeth Riley

Dated: *2 September 2020*

SUPERVISOR STATEMENT ON AUTHORSHIP

The candidate for this PhD 'Thesis with Publications' shared authorship with her three supervisors in recognition of their oversight of the work and the process of publication, consistent with their role.

The publications all represent substantive and original work by the candidate worthy of lead author status.

As part of the initial scoping of the project, the first publication – Riley, Prenzler & McKillop 2020 – included some additional primary research and direct editing by the Principal Supervisor (second author).

In all other cases, the input of the supervisors to the writing process was advisory only.

Tim Prenzler

Nadine McKillop

Susan Douglas.

DEDICATIONS

I am deeply grateful to my family and friends, especially my three incredible children, Madeleine, Alex and Hallie, and my dear sister, Krista, for their unconditional and unfailing love and support. Their belief in me and constant words of encouragement assisted me to stay committed to my PhD when I wanted on so many occasions to give up. We all endured some very difficult times during my years of study and I want to thank them from the bottom of my heart for persevering with me. I thank God every day for these amazing people whom I am so lucky to have in my life.

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ABSTRACT

The police perform an invaluable service to the community through the maintenance of law, order and peace, which positively impacts community safety. However, at times, the tactics used by some police in the exercise of their duties is criticised by the public. Heavy-handed practices in apprehending offenders, alleged racism and unfair practices, deaths in custody, bribery, illegal searches and victim neglect, are just some of the events that have resulted in complaints against the police around the world. Given the high volume of daily interactions between police and members of their communities it is not surprising that disputes occur and that these can result in large numbers of complaints, including those involving customer service issues or allegations of minor and serious misconduct.

In many jurisdictions police conduct is overseen by internal integrity units, external oversight agencies and semi-independent ombudsmen departments which detect, address and attempt to prevent police misconduct. The existing mechanisms for dealing with complaints in most countries involve internal management and investigation with little involvement by complainants. Civilian complaints against the police are frequently investigated and adjudicated by the police themselves, leaving issues of police accountability and procedural fairness unresolved. The limited use of independent authorities, and the deficiencies and apparent bias that exist in internal complaints investigation processes, has engendered widespread community dissatisfaction and diminished public confidence in the police. This sentiment is reflected in the consistently high levels of complaints against the police in many jurisdictions and indicates that existing resolution strategies are failing. Even where complaints are independently investigated the process is often overly legalistic and adversarial and results in low levels of substantiation and low levels of participant satisfaction. Outcomes include reduced public trust in police and reduced cooperation from the community, which impedes the effectiveness of police work.

Internationally, some jurisdictions have embraced alternative dispute resolution, including mediation underpinned by restorative justice principles, as a viable option to handling police complaints. Civilian-led complaints mediation programs, with varying degrees of independence, have successfully been implemented in several jurisdictions in the United States, England and Northern Ireland. The conciliatory, reparatory and expeditious resolution of disputes achieved from mediation, has resulted in positive feedback from both police and civilians, as evidenced in the extant literature. In Australia and New Zealand, alternative dispute resolution processes, including local managerial resolution and informal resolution are used to resolve selected civilian complaints against the police, but very little exists in the way of mediation.

As such, this thesis examined the institutional processes and policies around the implementation of civilian-led mediation programs to determine why some jurisdictions have adopted the strategy and others have not. A qualitative case study analysis was chosen as the appropriate method for data collection. The first phase of the research was a scoping study involving case study analyses of alternative dispute resolution practices with complaints against police in the eight Australian jurisdictions and New Zealand. The study drew on public source material. The results were used to develop a more in-depth case study of the Queensland system ('case study' means police agency site). The literature review also identified potentially useful case studies sites in Denver, Los Angeles, New York City and Thames Valley. Hence, the second phase of this thesis consisted of a two-part approach involving document analyses and semi-structured interviews at selected case study sites. A purposive approach to case sampling was undertaken, as the chosen sites (Denver, Los Angeles and New York City) were known to be conducting civilian-police mediation programs and were deemed to be impressive exemplars. The Thames Valley, England was also chosen as it had a long history of mediation trials and the incorporation of restorative justice principles into all aspects of policing. New Zealand and Queensland (despite a successful trial) were used as comparative sites given their reliance on

police-led conciliation and reluctance to implement mediation. Overall, four in-depth case studies were identified – Denver, Los Angeles, New York City and Queensland; with summary case studies of nine sites – Thames Valley, New Zealand, New South Wales, Victoria, Tasmania, South Australia, Western Australia, Northern Territory and the Australian Federal Police. Approximately 80 public and confidential documents were analysed and sixteen interviews, involving twenty-seven interviewees in either group or individual interviews, were conducted. The small number of interviewees and reliance on some internally generated documents was a limitation of the study. However, the triangulation of the various data sources added validity to the findings and conclusions drawn in the study. It also highlighted areas of possible future research, such as a comparative study of external mediation and local managerial resolution processes in Australia.

The findings from the primary research supported the view in the literature that mediation provides complainants with a valuable face-to-face option with the subject police officer to resolve their complaints. It provides opportunities to (1) directly address complainants' need to be heard, (2) discuss sensitive issues in a safe environment, (3) understand why the officer acted the way they did and, at times, (4) receive an apology. Similarly, police officers often appreciate the opportunity to hear how their actions have affected the complainant and, where appropriate, change their behaviour so it is not repeated. The literature posits that people respond well to being treated with respect and fairness. Mediation fulfils this legitimate need and has the potential to positively impact the civilian-police relationship by building trust and confidence in the police and its complaints system.

The findings from the literature on formal evaluations of civilian-police complaints mediation programs showed high levels of stakeholder satisfaction with well-structured, third-party facilitated mediation programs. Many complainants report a preference for mediation over internal resolution practices as the process cultivates dialogue between parties and the

exploration of each participant's perspective. Yet, despite the positive results relating to mediation as a preferred process, the primary research also found that the path to mediation can be obstructed by institutional misunderstandings of its purpose, implementation issues related to the locality, structural problems related to its delivery, and a lack of top down support within the police service (e.g., New York City and Thames Valley case study sites). However, these limitations provided invaluable insight into areas for improvement in the institutional management of mediation. Analysis of the findings in both research phases led to the development of practical recommendations to manage mediation for optimal stakeholder benefits. A civilian-police complaints management model is proffered in this thesis that offers all complainants the option of external mediation to resolve their complaint through a completely independent mediation agency. The model could be implemented in Australia and elsewhere as a core process within existing police complaints and integrity management systems. Hence, the thesis contributes to the small but growing body of research on mediation of police complaints through the assessment of what works, for whom and why.

Definitions

The widespread introduction of alternative dispute resolution in civil law in the 1980s and later in criminal law, provided a developing framework of conflict resolution models; see Table 1.

Table 1: Forms of Alternative Dispute Resolution

Alternative Dispute Resolution ('ADR')	An array of problem-solving methods that are 'alternatives' to litigation. They are used to manage, resolve or determine disputes or to reach agreement, within or outside courts and tribunals. (Sourdin, 2016)
Arbitration	A process where parties to a dispute present arguments and evidence to an impartial, neutral, third party who makes a determination which is either binding or non-binding. (Australian Disputes Centre, 2015)
Conciliation	A process where the issues in dispute are identified, and options are developed and considered with the aim to reach an agreement. The facilitator may have an advisory and/or determinative role. (Australian Disputes Centre, 2015)
Therapeutic Jurisprudence	A solution-focused approach that uses legal processes and actors to promote the wellbeing and healing of those who come before the law. A lack of wellbeing is often connected with a legal problem and the resolution of the underlying issues may be needed to resolve the legal problem and prevent its recurrence. (King, 2014)
Negotiation	A direct or indirect process in which parties may compromise in an effort to reach mutual agreement and settle a matter without it resulting in dispute. (Sourdin, 2016)
Court-annexed ADR	Diversion of cases before a court hearing to an appropriate ADR (e.g. mediation and case management). Judicial involvement in the resolution of these disputes is common. (Holbrook & Gray, 1995)
Mediation	A non-adversarial and usually voluntary process conducted by an impartial third party who assists parties to mutually resolve their dispute. The focus is self-determination. The process is controlled by the mediator but not its content or outcome.
Types:	
• Facilitative	Mediator identifies a comprehensive list of issues which focus on the interests and needs of the parties. Mediator assists parties to develop creative solutions to their problems.
• Settlement	Mediator uses strategies of persuasion and doubt creation to encourage parties to reach a compromise on their claims.
• Evaluative	Mediator guides and advises parties to reach a settlement. Emphasis is placed on legal rights and obligations.
• Transformative	Mediator encourages dialogue between parties to assist them to deal with the underlying causes of their conflict and to resolve their dispute by transforming the way they relate to each other.
• Narrative	Mediator encourages parties to recreate the reality of their experiences so that issues can be redefined, refused and repositioned to reach a resolution. (Douglas, 2012)
Restorative Justice	A facilitated process that deals with the outcome of wrongful conduct by promoting healing for the parties and the community. Restorative justice is used in mediation (e.g., victim offender mediation); informs Aboriginal sentencing courts (e.g., circle sentencing); and informs the youth justice system approach to offending by young people (e.g., conferencing). (King, 2014)

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SECTION 1: BACKGROUND AND METHOD

CHAPTER 1: INTRODUCTION

1.1 Introduction

This doctoral thesis evaluates the suitability and efficacy of independent (i.e., external) mediation as a resolution mechanism for civilian complaints against the police and makes recommendations for the inclusion of mediation into a best-practice model of police complaints management in Australia and internationally. In many countries, the current system for managing complaints and allegations of misconduct involves a police internal process of investigation and management. However, growing dissatisfaction, both in Australia and internationally, with this potentially biased process, has led to calls for the establishment of independent, civilian-led oversight agencies for dealing with complaints (Goldsmith, 1990; Porter & Prenzler, 2012). Police conduct has been placed under increased scrutiny by these agencies, unlike other professions (e.g., doctors and lawyers) that are governed by internal control mechanisms (Hopkins, 2009). Nonetheless, effective law enforcement is underpinned by strong civilian-police relations (Clemmons & Rosenthal, 2008; Walker & Archbold, 2000), so the absence of an objective mechanism for dealing with conflict between these parties weakens this relationship.

1.2 Development of Research Study

Policing in Australia has its roots in the English tradition. Formally established in the mid-19th century, policing has evolved from the provision of public safety services to a diverse range of activities including crime detection, investigation and prevention (Drew & Prenzler, 2015). In Australia, policing is regulated by legislation at the commonwealth, and state and territory levels. The structure consists of the Australian Federal Police and independent police services within each of the eight states and territories. The conduct of police officers in all jurisdictions is

overseen by internal integrity units, external oversight agencies and semi-independent ombudsmen departments (see Appendix A).

Police, like all civilians, are accountable for their actions. In Western countries, the Rule of Law espouses that all civilians are equal before the law, that no one is above the law, and that all should be treated equally and fairly by the law (Law Council of Australia, 2017). It provides the right to a prompt and fair trial and that issues in conflict with the law should be adjudicated by an independent and impartial person (Walker, 1988). Further still, it provides that the public may criticise the law and its administration without fear of reprisal. In the adversarial court setting, the Rule of Law is observed in determining just outcomes in criminal and civil matters. The judge performs an adjudicative role in a passive and impartial way and therefore hears and makes decisions on conflicts between people from all walks of life, including the police.

In relation to conflict with police, some of the reasons civilians avoid pursuing justice in the courts include the cost; complexity and formality of the process, which can be personally taxing; the complainant's perception that they would have little chance of winning; and fear of being unfairly targeted by the police in the future (Hopkins, 2009). Essentially, complainants would be fighting the law enforcers in front of the law makers/interpreters with limited confidence in the outcome. Hence, the independence of the process may be obscured, the effort required to seek justice may be daunting and the win/lose scenario may not provide the resolution sought.

The alternative to litigation is to take the conflict directly to the police service or an oversight organisation. Civilians can make complaints against the police to the officer involved, to the police service or to an external agency (e.g., the Crime and Corruption Commission in Queensland) in the first instance. These relatively informal options for minor and serious complaints resolution are more accessible and affordable for complainants and help to improve police service delivery by highlighting corruption when it occurs (Smith, 2014). However, most

police services worldwide, internally manage the majority of complaints made against them. This means that the process consists of the receipt of the complaint, internal allocation, investigation and resolution, with a response (usually but not always) provided to the complainant. Rarely does the complainant have any contact with the police officer who is the subject of the complaint or have any input into the complaint management process. Arguably, this process has failed to keep pace with the evolution of policing as it brings into question issues of openness and accountability of police actions. Yet in 2010, the European Human Rights Commissioner advocated that the adoption of an “every complaint matters” approach to handling civilian complaints against the police was fundamental to a fair, effective, transparent and democratic police service (Smith, 2014, p. 59). The fact that police officers are rarely held accountable for their actions only adds to the public’s growing distrust of the service.

In Australia, the police, and police unions, have constantly resisted change in relation to public accountability (Porter & Prenzler, 2012). Although, the corruption scandals in New South Wales, Queensland and Western Australia in the 1970s, 80s and 90s resulted in the use of commissions which oversee investigations into alleged misconduct. However, the process still involves a measure of police involvement in the decision-making and resolution process. Systemic injustice is concealed by the ‘blue code of silence’ (Skolnick, 2002) whereby police officers close ranks to protect each other in times of alleged misconduct. The jurisdictional approaches to integrity strategies and complaints management vary with no consistency in practices (Porter & Prenzler, 2012). This inconsistent and internal approach to complaints management does little to renew trust or repair the relationships harmed by the allegations made.

An understanding of what citizens want to achieve when making complaints against the police is key to providing a mechanism that will resolve conflict. Citizens do not necessarily want disciplinary action to be taken against police officers. They often simply want to voice their version of events, discuss how the incident affected them, gain some insight into what happened

and why and get some assurance that the subject officer's behaviour will be corrected (Criminal Justice Commission 1994a; Olson, 2008). An explanation, and possibly an apology, are often sought within a reasonable timeframe. However, a swift approach in addressing a complaint may be viewed by complainants as a lack of interest by the police in the issue. As such, due process is required. Police also often want to explain their actions to educate the public on their role and learn from their interactions with the public without fear of workplace reprisals. As such, the current complaints system is ineffective in many instances as it does not include independent civilian oversight which would alleviate many of these obstacles (Prenzler & Den Heyer, 2016).

The mechanisms used for handling complaints against the police in some international jurisdictions include mediation and other forms of alternative dispute resolution and restorative justice practices. In Australia, there is no one legislative definition of mediation (e.g., ‘appropriate’, ‘assisted’, ‘additional’ or ‘affirmative’ are used) and as such each jurisdiction has adopted and developed mediation characteristics that suit the jurisdiction (Douglas, 2012; Sourdin, 2016). Nonetheless, the mechanisms provide opportunities for all parties to a dispute to come together in an informal setting and engage in discussion facilitated by an impartial, independent, trained member of the public. This oversight by a third party helps to eliminate the perception of bias and lends fairness and transparency to the process, thereby achieving mutual benefits, including trust (Brookes & McDonough, 2006; Sourdin, 2016).

Police have engaged as mediators in conferences between victims and offenders in Australia and elsewhere, with varying degrees of success. Research on police mediation has revealed problems around the observation of restorative justice principles and due process. Police officers are “trained to take charge of situations and act as problem solvers for individuals who they perceive to need assistance” (Alarid & Montemayor, 2012, p. 456). This conundrum was evident in the first youth justice conferencing program in Wagga Wagga, Australia in 1991 which found police facilitation was intimidating and not collaborative. Similarly, McCold and

Wachtel (1998) found that police were less neutral, more likely to lecture offenders and influence agreements than civilian mediators. Therefore, complaints mediation sessions that directly involve police officers as participants likely suffer from these issues and appear biased if not independently facilitated.

Indeed, the frequent interactions between police and civilians can result in unconscious disparate treatment by police. People can be unwittingly grouped according to salient characteristics (e.g., race, gender, age, disadvantage) and have personality traits attributed to them (Butcher, 2003). Krieger (2002) argues that stereotyping is a part of being human and that well-meaning people can unconsciously do it. However, this generalisation of behaviour across people sharing the same characteristics can result in negative stereotypes (Butcher, 2003; Krieger, 2002). For example, when complaints are made against police by youths or adults from different racial backgrounds, resolution by police may have a disparate impact and affect civilian-police relations. However, independently facilitated alternative dispute resolution, such as restorative justice and transformative mediation, can eliminate these issues (Butcher, 2003).

It is difficult to build public trust and confidence in a complaints system that is overtly biased. Even some police have “recognised that internal processing is intrinsically suspect and does not satisfy the criterion of public confidence” (Prenzler et al., 2013, p. 166). Yet trust between the police and the community is vital as it has a ripple effect. When civilians feel that they are treated fairly by the police they are more inclined to treat others fairly as well, thereby maintaining an atmosphere of mutual respect and promoting crime prevention in the community (Myhill & Quinton, 2011). This also has the effect of building legitimacy in terms of police actions and civilians would be more open to an alternative perspective on their conflicted histories. The police and civilians gain a better understanding of the other party’s position by “reminding police that they ultimately serve the public’s interests, and by educating the

community on the unique and difficult challenges officers encounter every day” (Cohen & Howard, 2017-present).

Civilian complaints generally relate to actions that occur during contact with on-duty police. Although some conduct issues also arise involving off-duty officers. Complaints can contain several allegations about police conduct and duty failure and provide police services with opportunities to monitor, discipline and provide additional training for officers (Holland, 2000). However, this process of review, investigation and resolution is currently undertaken in secret. As most allegations against the police are not sustained, it begs the question: why isn't the complaints process externally conducted "free from peer pressure and loyalty to police"? (Lewis & Prenzler, 1999, p. 1). This would promote police integrity by providing a mechanism for the exchange of explanations, apology and reassurance.

1.3 Problem Statement and Aims

Police are the first point of contact for civilians who come into conflict with others or break the law themselves. Police work often involves the use of intrusive and coercive actions to enforce the law and protect the public (Ransley et al., 2007). The exercise of these powers can be met with resistance and give rise to highly emotional situations (Berger, 2000). The police are authorised to use force to enforce the law, while at the same time rendering justice. Therefore, dual expectations exist around what the police are mandated to do – protect the public and to act fairly and justly when carrying out their duties (Skogan, 2004). Yet news reports in Australia and elsewhere constantly feature stories relating to police misconduct and heavy-handed tactics. Even in instances where police practices are deemed lawful, if they are perceived as being unfair or overly harsh, the legitimacy of the service can be undermined (NACOLE, 2015). Increased public questioning of police actions undermines the public's willingness to defer to or obey the police (Sunshine & Tyler, 2003; Hinds & Murphy, 2007). Complaints act as a 'barometer' of police conduct (Holland, 2000). They also provide the impetus for issues such as

miscommunication, misunderstandings, poor treatment or service to be aired and discussed. The fact that civilians lodge complaints indicates an expectation that the wrongs they believe have happened to them will be investigated (Faull, 2013). Historically, the system for managing complaints and allegations of police misconduct has involved a police internal process of investigation and management. To date, this practice of self-regulation has remained largely unchanged throughout most jurisdictions, despite widespread empirical evidence of high levels of complainant dissatisfaction (Prenzler et al., 2013; Schulenberg et al., 2015). This practice of internal complaints management has manifested a two-fold problem.

Firstly, depending on the seriousness of a complaint, the complainant has limited contact with the police service and minimal to no contact with the officer against whom the complaint has been made. That is, the complaints management system is characterised by complainant exclusion and marginalisation with limited opportunity for meaningful dialogue to resolve issues (Young et al., 2005). The 'blue code of silence' means that systemic injustices may be concealed (Skolnick, 2002). As Prenzler and Ronken (2001) state "there is now an extensive critique of internal affairs units that stresses the apparent pathological inability of police to objectively investigate their peers" (p. 157). Unsurprisingly, this biased process results in significant numbers of unsubstantiated claims. As Hopkins (2009) states "it is the lack of independence of these decision-makers that is part of the reason why police complaint systems rarely find for the complainant" (p. 147). This also means that complainants often do not receive an explanation, apology or reassurance that inappropriate behaviour will not be repeated. The consequence is growing public suspicion and distrust of the service.

Secondly, the rates of complaints against the police in Australia have, according to the 2017 Productivity Commission Report remained fairly consistent and high across jurisdictions over the past decade (see Table 2). Additional data from the Queensland Police Service Annual Reports – 2016-17 and 2017-18 revealed rates of 11.3 and 12 per 100 sworn officers,

respectively, maintaining an average of 11 per 100 sworn officers over the five years to 2018. The few decreases in complaints may suggest an increase in public confidence in the police, a decline in police deviance or an unwillingness of the public to complain. Although it is difficult to determine given the differing definitions of ‘customer’ and methods used in data recording across jurisdictions. Also, complaint rates do not reflect the number of allegations within each complaint – with many complaints containing two or more allegations. For example, in 2016-2017, the New South Wales Police Force recorded 7,801 individual allegations in 4,409 complaints lodged, and in 2017-18, there were 8,934 individual allegations contained in 4,449 complaints lodged (NSWPF 2017; NSWPF 2018). The Queensland Police Service does not report its complaints data in the same way, but it is likely the 4,231 complaints in 2016-2017 and 4,633 complaints in 2017-2018 contain multiple allegations (QPS 2017a; QPS 2018c). The high number of allegations and consistently high complaint rates in most jurisdictions suggest that the existing methods of resolution have failed to reduce the numbers of complaints.

Table 2: Trends in Complaints against Police in Australia

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Complaints per 100 sworn (operational) staff								
2007-08	20	11	22	19	37	6	56	30
2008-09	24	13	22	27	34	6	54	29
2009-10	22	12	25	23	36	5	52	26
2010-11	24	9	22	19	40	13	39	19
2011-12	23	8	21	17	39	9	34	28
2012-13	22	7	16	19	38	9	32	23
2013-14	22	7	12	21	31	10	27	23
2014-15	22	9	10	20	26	9	24	32
2015-16	21	10	11	19	25	12	21	29

Source: based on Productivity Commission data, Justice: Police Services 2008-2016, Table 6A.16;

The current practice of police investigating police is problematic. Internal resolution is, by definition, inherently biased and for complainants is exclusionary and secretive (Landau, 1996). As indicated, complainant dissatisfaction in Australia remains high despite the introduction of anti-corruption agencies. However, there is a small but growing number of established oversight agencies in the United Kingdom and United States, that not only promote social justice and equality but have implemented programs that investigate and mediate complaints against the police. These programs show a range of positive outcomes for all stakeholders, including repair of the trust harmed by the allegations made. Yet despite this evidence and the positive findings of the mediated civilian-police complaints pilot in Queensland in the 1990s, little exists in practice in this country. There are no civilian-led police complaints mediation programs in operation and no obvious restorative justice principles employed in any complaint resolution processes. The absence of an independent mediation model for complaints resolution within Australian police services highlights a gap in best-practice procedures. This thesis fills the gap by answering questions around the process of implementation and the strengths and limitations of exemplar models.

1.4 Rationale

Current international complaints mediation programs show that this mechanism achieves a range of positive outcomes for all stakeholders. Yet it has failed to be established in Australia. This thesis fills the gaps in knowledge and practice by answering a range of sub-questions, detailed in Chapter 2 and Appendix B that contribute to answering the primary research question. The method used to achieve this was a two-phase qualitative case study approach involving a combined non-reactive and reactive investigation of case study sites (Kraska & Neuman, 2012). Secondary data analysis via documentary review, from nine summary case study sites revealed the complaints systems and various attempts at alternative dispute resolution processes, including mediation, in Australia and New Zealand. This history provided the impetus

for further investigation into the use of complaints mediation globally. Primary data collection via in-depth interviews, in a small number of case study sites, provided a rich and more interesting data analysis through an interpretive lens. This two-phase sequential exploratory and explanatory design provided the best approach to fill the identified gaps in best-practice complaints management. Overall, the goal in conducting this research was to strengthen the relationship between the police and the communities they serve by identifying a mechanism that would complement existing strategies and provide improved oversight and management of policing accountability in Australia.

1.5 Theoretical Framework

The existing police complaints-handling system is characterised by complainant exclusion and marginalisation with limited opportunity for meaningful dialogue to resolve issues. From a theoretical perspective this can have a damaging effect on complainants. Conflict resolution theories suggest that basic human needs for identity, recognition and security can influence a person's beliefs, values and the impact of events (Burton, 1997). As King (2008) states "emotional issues can be intimately related to a dispute's development or to harmful behaviour, and that effective management of emotions is important in resolution processes" (p. 1097). Tyler's (1990) theory of Procedural Justice, Tavuchi's (1991) Apology Theory, and Braithwaite's (1989) Reintegrative Shaming Theory which links closely with Marshall's (1999) work on restorative justice provide a coherent conceptual framework for understanding how conflict with the police can be resolved through the utilisation of open, respectful dialogue that minimises harm.

Procedural justice, which requires fairness and respectful treatment by those in authority during an investigative process (De Angelis & Kupchik, 2007), is absent in a process that manages complaints made against itself. This apparent lack of due process limits reparation. Apology Theory states that by engaging in dialogue people are able to express sorrow and regret,

which can have a transformative and healing effect (Bottoms, 2013; Tavuchis, 1991). Mediation sessions that are characterised by restorative values can elicit from complainants deep and troubling feelings caused by conflict. Therefore, the better and more timely the means of resolving conflict (that address basic human needs) the better the outcomes.

1.6 Scope of Thesis

The use of mediation in the resolution of complaints against the police in Australia has been limited. A trial was conducted in Queensland in the 1990s and while the evaluation found positive effects, no independent complaints mediation programs have been implemented in any police jurisdiction. Internal police complaints management has remained largely unchanged except for an offer in most jurisdictions of internal mediation, if agreed to by both parties. Given the relative status quo in Australia, the scope of this study was extended to international jurisdictions with successful independent mediation programs – ‘success’ being based on high uptake and stakeholder satisfaction with mediation over non-mediation; sustained program over time; high stakeholder satisfaction rates with process and outcomes, and perceptions of fairness. To undertake research in Australia and New Zealand, formal research agreements were entered into with the Queensland Police Service and the New Zealand Police. This was for the purpose of conducting semi-structured interviews with police officers, oversight agency staff and mediation providers. Approval was also received from the respective international agencies to access documentation and to undertake and record semi-structured interviews. It was agreed that the identities of all participants would not be publicly disclosed. This arrangement was approved by USC Australia’s Office of Research Ethics.

1.7 Thesis Structure

This thesis with publications is a combination of standard PhD thesis chapters and publications.

Chapters 1 to 3: Introduction, Literature Review and Method

Chapter 1: Introduction – provides an introduction and overview of civilian complaints against police and the widespread use of internally managed resolution practices, despite calls for alternative independent mechanisms. Chapter 2 – Literature Review, explores the literature on police complaints; alternative dispute resolution mechanisms and their application to civil and criminal law matters; the use of mediation in police complaints, both in Australia and globally; and lastly what might constitute a best-practice model. This review led to the development of the principal research question and sub-questions. Chapter 3 –Method - outlines the methodology adopted and provides the rationale for the use of a case study approach and qualitative research design.

Chapters 4 to 8: Findings

These chapters consist of five journal articles, listed below. At the time of final submission, all five journal articles had been published:

1. Riley, M., Prenzler, T., & McKillop, N. (2018). Alternative dispute resolution and mediation of complaints against police in Australia and New Zealand. *Police Practice and Research*. <https://doi.org/10.1080/15614263.2018.1500284>
2. Riley, M., & Douglas, S. (2019). Is there a place for restorative justice in civil mediation? *Australasian Dispute Resolution Journal*, 30 (14), pp. 14-22.
3. Riley, M., & Prenzler, T. (2020). Conciliation versus mediation of complaints against police: Lessons from the Queensland experience. *Journal of Criminology, Criminal Justice, Law & Society*, 21(1), pp. 22-38.
4. Riley, M., & Prenzler, T. (2020). Mediation of complaints against police: Program implementation in the Denver Police Department. *Newcastle Law Review*, 15, pp. 5-34.

5. Riley, M., Prenzler, T., Douglas, S. (2020). Mediation of complaints against police: A review of programs in Los Angeles and New York City. *Contemporary Justice Review: Issues in Criminal, Social & Restorative Justice*.
<https://doi.org/10.1080/10282580.2021.1884978>

The journal articles report the findings from the case study sites. Chapter 4 – Scoping Study: Australia and New Zealand – provides the findings of the initial scoping study that examined the use of alternative dispute resolution and mediation in police complaints in these jurisdictions. Chapters 5-8 – Thames Valley, Queensland, Denver, Los Angeles and New York, describe and analyse the findings of the case site studies undertaken.

Chapter 9: Discussion, Recommendations and Conclusion

This chapter synthesises the key findings from the journal articles, including limitations; makes recommendations for a best-practice police complaints mediation model, including implications for police policy and practice; and concludes with suggestions for further research.

CHAPTER 2: LITERATURE REVIEW

2.1 Introduction

This chapter explores the three primary issues of police complaints, alternative dispute resolution and mediation to augment existing informal complaints resolution processes, and what this might mean for informing and improving current practice. Firstly, the chapter examines the prevalence of police complaints and the reasons for them. Secondly, the literature on mediation, its use and possible advantages for dealing with police complaints – complaints which are uniquely civil disputes within a criminal justice context – are examined. Thirdly, it looks at best-practice and investigates whether mediation utilising restorative justice principles, can be incorporated into a best-practice model of police complaints management in Australia.

Research surrounding the use of alternative dispute resolution as a means of resolving civilian complaints against police in Australia is limited. Indeed, the use of independent mediation is a phenomenon which only started to gain acceptance and use overseas in the 1990s. Its introduction has been based on research findings that civilian complainants are not satisfied with the internally managed complaints systems operating in most police services globally. The dissatisfaction is mainly due to the inherent bias in the process and the desire for neutrality to ensure transparency, fairness and just outcomes. Due to the limited use of alternative dispute resolution in Australia, the scope of the literature review was expanded. It examined the broader research on alternative dispute resolution and mediation to determine its use and effectiveness in dealing with conflict generally. It also explored the strengths and limitations of its application to police complaints resolution globally. The following were examined:

1. the use of mechanisms for the resolution of civil law disputes, and their application in criminal law;

2. the nature and handling of police complaints and the theoretical basis for using mediation in their management;
3. the experiences of the police and civilians in both formal and informal complaints management processes; and
4. the application of best-practice principles of restorative justice in the mediation of police complaints. Mediation programs in Canada, United States, United Kingdom, Europe, Australia and New Zealand were examined for this purpose.

This amalgam of civilian-police disputes, the use of alternative dispute resolution in conflict resolution, and the calls for independent mechanisms to investigate and resolve allegations against police is a rich area of study which will contribute significantly to improving police and civilian relations.

2.2 Police Complaints

2.2.1 Role of Police

Police are considered “the gatekeepers of the Criminal Justice System” (Prenzler & Sarre, 2015, p. 278; Russell & Light, 2006). In the course of their duties, they are required to follow rules as well as exercise discretion around crime concerns (Berger, 2000; Carter, 2006). Many of the common characteristics of police work are unpredictable. When police officers respond to situations, they may face life-and-death situations involving drunk, quarrelsome, angry, violent, confused and frightened people (Langdon & Wilson, 2005). They usually come into contact with these people as a result of family and neighbourhood disputes, and search, seizure, traffic enforcement and property issues (Holland, 2000). Commensurately, police have the authority to enforce the law so as to maintain order and protect society. With this authority comes an extraordinary amount of power that can result in fines, arrests and civilian prosecution. The prevailing political climate, as well as the values and attitudes to crime at street-level (Thacher,

2001), affect how they respond. At times, the wielding of this power can bring the police into conflict with civilians. The traditional response has been for the police to deal with issues on the spot or for more serious allegations, within the department. However, the efficacy of this internal process has been increasingly questioned. The use of alternative dispute resolution, and in particular independent mediation incorporating restorative justice principles, has been proffered as a fairer and more reparative system for complaints resolution.

2.2.2 Nature of Police Complaints

The types of complaints against police usually concern conduct, practice and procedural issues (Porter & Prenzler, 2012). They range from least serious (low risk behaviour), generally related to customer service breaches, such as rudeness, incivility, disrespect and minor inaction; to minor misconduct (low-moderate risk behaviour), such as neglect of duty or inaction with some public visibility but with no significant consequences or use of force, harassment and poor decision-making (e.g., cautions), to more serious misconduct (moderately-high or high risk behaviour) that involves alleged abuse of power and corruption issues, such as conduct that results in physical or psychological injuries, assaults (e.g., excessive force), custody issues, inappropriate associations, attempts to obtain a confession, behaviour that is a detriment to the public image of the police, and complaints involving Indigenous Australians (Corbo Crehan & Goodman-Delahunty, 2019; Goodman-Delahunty & Corbo Crehan, 2016; Holland, 2000; Porter & Prenzler, 2012; Young et al., 2005).

Minor issues are often resolved at the point of contact with police. Increasingly, however, the police are dealing with social issues, such as those involving mentally ill and homeless people; and responding to repetitive calls by the same groups of people, such as in domestic violence situations, which can cause frustration, conflict and complaints (Alarid & Montemayor, 2012). In addition, heavy-handed practices in apprehending offenders, alleged racism and unfair

practices, deaths in custody, bribery, illegal searches and victim neglect also result in complaints against the police around the world (Prenzler, 2016).

2.2.3 Traditional Responses and Outcomes

It is common practice that complaints against the police are not acknowledged as such until they are formally submitted in writing. The internal management of complaints varies but the formalities around lodgement and the process of internal investigation and resolution are similar, at least in Western countries. Complainants can lodge their grievances with their local police station or state or territory police service. The relevant police complaints units exercise discretion in determining which complaints to refer for informal resolution, internal investigation or investigation by an external oversight body. The distinction lies in whether the alleged police action could best be resolved through communication with the complainant or whether criminal or disciplinary proceedings could be justified (Goldsmith, 2000).

Informal or local resolution ('conciliation') evolved in the 1980s in countries such as the United States, Canada, United Kingdom, New Zealand and Australia, in response to moves towards external oversight of police complaints (Goldsmith, 2000). Existing processes were punitive rather than remedial, contained a diverse range of complaints, and were opposed by police rank and file (Goldsmith, 2000). Local resolution gave police the responsibility for dealing with minor allegations expeditiously. This approach to complaints management coincided with the growth of the alternative dispute resolution movement although few conciliatory principles were adopted in local procedures. The local model was characterised by meetings organised between consensual parties and an internally assigned, supervisory level investigator. However, the investigator often acted as an intermediary; and face-to-face encounters rarely occurred (Ede & Barnes, 2002). Pressure was often exerted for complaints to be withdrawn, especially when difficulties were encountered in identifying the subject officer within a set time period (Goldsmith, 2000). Complainants were frequently directed to take their complaints to the Ombudsman.

However, these complaints were usually devolved to police resolution (Goldsmith, 2000), suggesting a process lacking in accountability. Complainants often felt pressured to accept the outcome, and the arms-length reconciliation generated dissatisfaction and negative attitudes towards the police (CJC, 1994a; Goldsmith, 2000). These local resolution procedures continue today although complainants may pursue internal police mediation, which is touted as a resolution option on some Australian police websites. This is rarely used, however, as the latest police annual reports reveal. In Victoria, conciliatory approaches to complaints handling revealed three cases mediated in 2015, one in 2016 and none in 2017 (Victoria Police, 2016, p. 94). Other jurisdictions such as Queensland and New South Wales simply make no mention of mediation. An alternative for complainants is to take their grievances to an Ombudsman or other government oversight agency, such as a crime and corruption watchdog. However, these agencies vary in their degree of impartiality and independence from the police, with most complaints devolved to the police for resolution (Ferdik et al., 2013) (see Appendix A).

The process of internal investigation of more serious allegations grew out of the classification of complaints. Complaints are referred to internal units, such as the Ethical Standards Command in Queensland, but do not entail contact with complainants. Progress reports are rare, and complainants are not usually advised of the outcome. Complainants often feel that rigorous investigation is not made and that the police version of events is favoured (Prenzler, 2009). There is little oversight of this process, the lack of transparency only serves to heighten perceptions of corruption, and this damages the image and relationship the public has with the police service.

2.2.4 Effects of External Oversight

Police accountability is crucial to effective policing that strives to protect the interests of the public. International models of accountability and integrity vary yet police corruption has become a proven fact and public confidence and satisfaction in policing has waned. In Australia,

serious misconduct and corruption within law enforcement has been evidenced a number of times over the past fifty years. The Fitzgerald Inquiry in Queensland (1987 - 1989), the Wood Royal Commission in New South Wales (1994 - 1997) and the Kennedy Royal Commission in Western Australia (2002 - 2004) highlighted the extent of systemic issues and the problems faced by those who investigate complaints. Recommendations from these inquiries included the overhaul of crime and anti-corruption commissions; the creation and/or overhaul of external oversight agencies, such as cross-public sector integrity commissions; legislative change giving increased investigative power to Ombudsmen; and in some instances, the establishment of fully independent civilian oversight agencies (den Heyer & Beckley, 2013) – although there has been little evidence of this.

Complaints containing very serious allegations and misconduct issues are rarely conciliated. They are referred to external oversight bodies; in Australia, these include the independent oversight agencies – Australian Commission for Law Enforcement Integrity (ACLEI, Commonwealth); Police Integrity Commission (NSW); Independent Broad-Based Anti-Corruption Commission (IBAC; incorporating the Office of Police Integrity (Victoria); Crime and Corruption Commissions (Queensland and Western Australia); and the Police Complaints Authority (South Australia). These agencies review complaints as part of their statutory oversight role, make an assessment of the probative value of a complaint and either investigate at first instance or refer complaints back to the police service for management (ICAC, 2014) and monitor the informal and formal resolution processes of police services. However, most external oversight agencies are basically decentralised government, often over-regulated and contrary to the concept of independent facilitation (Spencer, 2016). That is, they have “own motion” powers which they use in deciding which cases to investigate (Prenzler, 2016). Some employ civilian and seconded police officers to conduct investigations (Porter &

Prenzler, 2012). However, there are no points for complainant involvement in the process nor is there provision for feedback.

2.2.5 Civil Litigation

Complainants may pursue civil litigation. This adversarial process is conducted before an independent decision-maker; includes full documentary disclosure and evidence testing; and the outcome is open to review through the appeals process (Hopkins, 2009). Research suggests that the number of claims and amount of damages awarded against police have trended upwards over the past two decades (McCulloch & Palmer, 2005; Ransley et al., 2007). However, litigation still remains cost prohibitive for many complainants (Clarke & Davies, 1991; Popa, 2015). The complex nature of litigation may obscure the independence of the process; the effort required to seek justice may be daunting; and the win/lose scenario may not provide the resolution sought (Hopkins, 2009). Further, there is limited research as to whether the cases that do progress through litigation have any accountability impact on the police (Ransley et al., 2007). Although the risk of paying damages may have some impact on behaviour (Freckelton, 1996). What is clear from litigation is that some litigants have lost confidence in the police complaints process to resolve disputes (McCulloch & Palmer, 2005); and that adjudication by an independent third party removes any bias or intimidation that may exist and affords parties equality before the law. Litigation falls short, however, in giving parties an opportunity to engage in meaningful communication with each other.

2.3 Alternative Dispute Resolution, Mediation and Restorative Justice – The Use of Mechanisms

In most countries today, the law and its disposition have been categorised as administrative, civil or criminal. Administrative law is an accountability mechanism that regulates government decision making as it relates to individuals (Commonwealth of Australia, 2011). Civil law

defines the rights and responsibilities of individuals and organisations in relation to their interaction with each other (Vines, 2009). This includes issues relating to property, businesses and government entities. Unresolved disputes over a breach of these rights and responsibilities is often litigated in the courts with the action usually commenced by one of the parties. Conversely, criminal law, which is concerned with the punishment of those who commit crimes, involves court proceedings that are commenced by the State (Vines, 2009); with the direct conflict between parties removed through the role of the prosecution (Nolan, 1993). The adversarial nature of these proceedings has been shown to leave parties dissatisfied with the process and outcomes. As such alternative dispute resolution has been increasingly used in the resolution of private and public disputes, which formerly would have been dealt with by the justice system (Birgden & Lopez-Varona, 2011).

2.3.1 Alternative Dispute Resolution, Mediation and Restorative Justice

The term alternative dispute resolution typically applies to civil law disputes and includes processes such as conciliation, negotiation, arbitration and mediation (Sourdin, 2016). It offers an ‘alternative’ to traditional court hearings and trials. However, alternative dispute resolution is used within courts and tribunals, and outside of these formal settings (Sourdin, 2016). External mechanisms include ombudsmen, complaint bodies, such as commissions and dispute resolution centres, and private practitioners. Yet the concept of ‘alternative’ is a misnomer as parties do not necessarily get to choose an alternative over litigation and many disputes ultimately return to court for final resolution (Spencer, 2016).

The application of the various forms of alternative dispute resolution to matters is based on the nature of the disputes (see Table 1 for a description of the forms of alternative dispute resolution). For example, ‘conciliation’ (i.e., ‘informal resolution’) in police complaints systems is a process whereby complaints are resolved by a senior officer between the complainant and the police organisation, with the subject officer excluded (Ede & Barnes, 2002). Restorative

justice mediation, however, requires direct communication between the complainant and the subject officer with a focus on restoring a presumed positive relationship – mutual respect, trust and confidence in police integrity (Furman & McCrary, 2015; Newkirk, 2016; Patterson, 2006). In civil justice, ‘conciliation’ which consists of the principles of ‘equidistance’ (“activist intervention approach that creates symmetry in negotiations between parties”), ‘partiality’, ‘expertise’ and ‘authority’ often precedes arbitration and is a rights-based approach to dispute resolution (ADRAC, 2017, p. 4). This contrasts with mediation which offers a problem-solving, interest-based approach.

Conciliation practice has developed over time in Australia with some drift evident across jurisdictions resulting in a “blurring of conciliation and mediation in practice” (ADRAC, 2017, p. 2). Originally, conciliation sat within the facilitative model but gave conciliators advisory and evaluative roles. A matrix of conciliation practices now exists with some upholding self-determination while still allowing mediators to provide advice and/or expert information. However, it is the lack of self-determination that differentiates the practice in most ‘conciliatory’ police complaint processes.

Growing recognition of the value of restorative justice principles in not only reducing conflict but enhancing relationships (Johnstone & Van Ness, 2013) has also contributed to the use of alternative dispute resolution. One advantage of this approach is that those involved learn how to resolve conflict in a consensual manner; which has the potential of minimising disputes in the future (Spencer, 2016).

Therapeutic jurisprudence is a strategy used by courts that applies a mental health approach to a legal problem to assist those who come before it to address the underlying cause of their conflict or offending. It focuses on reparation or the healing of pathologies that cause crime over punitive justice while still observing justice and due process (Sivasubramaniam & Goodman-Delahunty, 2006). This can be a by-product of mediation, but it is not an essential part

of the process. Brooks Dollar (2018) states that respectful interaction of all parties; allowing parties to express their standpoint and transparent judicial decision making are fundamental to therapeutic jurisprudence (pp. 270-274). Restorative justice is consistent with these principles and the overlap of principles in both approaches confirms the importance in conflict resolution of a 'therapeutic' element to enhance the outcomes. Both approaches focus on 'healing' although restorative justice is more appropriate to the resolution of conflict between complainants and police officers as it is exercised in the broader social world, beyond specialised legal settings (Sivasubramaniam & Goodman-Delahunty, 2006).

'Mediation' is a non-adversarial mechanism used for the resolution of civil and criminal conflict. It offers third-party facilitation of negotiation between disputing parties with the aim of reaching mutual understanding and collaborative resolution (Spencer, 2016). Several typologies of mediation have developed over time, including 'facilitative', 'settlement', 'evaluative', 'narrative' and 'transformative' mediation (Douglas, 2012); see Table 1 for descriptions. The models vary in how they separate or do not separate process, content and outcome. The facilitative model enables a central principle of mediation – 'self-determination' – where the parties control the content and decide the terms of the settlement, to be exercised (Brookes & McDonough, 2006; Douglas, 2012). The settlement model gives greater control of the process to the mediator who employs strategies to encourage the parties to reach consensus on an outcome (Douglas, 2012). Similarly, the evaluative model is focused on the law as opposed to the parties' needs and as such the mediator controls the content, emphasising the parties' rights and obligations (Douglas, 2012). The narrative model encourages parties to tell their stories to understand the conflict and make sense of their lives (Douglas, 2012). The transformative model, which does not draw a distinction between process, content and outcome, is focused on the reparation of relationships because conflict between human beings causes distress and needs to be resolved (Baruch Bush & Ganong Pope, 2002; Butcher, 2003; Douglas, 2012; Zumeta, 2020).

The parties want to be in control of themselves and achieve ‘closure’ without the involvement of lawyers and/or the courts (Baruch Bush & Ganong Pope, 2002) especially where there is an ongoing relationship. Many of these principles overlap with restorative justice mediation (e.g., the narrative and transition stages of mediation in which parties clarify how the conflict came about and how they would like to see it resolved).

However, transformative mediation is not widely used today as a coherent model in Australia although therapeutic principles with which it is associated, are reported by some mediators as employed with the classic facilitative model (Douglas, 2012). Transformative mediation and ‘therapeutic jurisprudence’ both have a ‘relationship’ focus as distinct from a focus on ‘interests’, which is central to facilitative mediation. Transformative mediation is not centrally about accepting responsibility – its principles are empowerment and recognition (Zumeta, 2020). There is space for blaming to occur as parties are encouraged to express themselves fully without being silenced (Butcher, 2003). It is not designed specifically for addressing ‘harms/wrongs’ identifiable in a criminal justice context. Further, the clear institutional context of mediation in police complaint systems differs from transformative mediation which is designed to more broadly apply to interpersonal conflicts and not limited to complaint systems in which one party is typically alleged to have wronged the other, even though each may have contributed something. As such, facilitative mediation (used in restorative justice) provides a good model for the resolution of civilian-police complaints.

Since its introduction, mediation has become an integral part of how courts approach legal problems (King, 2014). According to Poitras (2005), there were nine factors that indicate whether or not a complaint could be mediated. Seven of these factors were positive and two were negative. The positive factors related to the parties’ willingness to engage and use constructive dialogue; receptiveness to interests and acceptance of individual responsibility; desire to find a solution, to reconcile and confidence in achieving these. The negative factors related to

indifference and hostility (Poitras, 2005). Mediation enables parties to come together in an informal setting to discuss their interpretations of disputes, hear the other party's perspective, investigate the issues, develop solutions and achieve consensus on the outcome (Spencer, 2016). As such, the conflicting parties actively participate, in good faith, and the decision-making around the outcome is placed in their hands (Douglas, 2012; Sourdin, 2016). Technical and complex material can be considered, and the process may result in policy change (Woolford & Ratner, 2010). A trained mediator guides the parties to a resolution using a set of universally accepted procedural steps, including identifying issues, reality testing and writing up the settlement (Spencer, 2016).

Its application in family and civil law in Australia is extensive (Sourdin, 2016). Mediation of disputes prior to court proceedings is mandated in some instances. For example, all civil matters before the Supreme and District Courts of Queensland and the Queensland Civil and Administrative Tribunal (QCAT) must first be mediated (Sourdin, 2016). Quantitative research shows mediation to be highly successful in diverting parties from arduous court proceedings (Mack, 2003); for a comparison of the features of litigation, arbitration and mediation see Appendix C. However, the outcome of civil mediation does not necessarily mean that the parties are completely satisfied with what they have agreed to (Charlton & Dewdney, 2014) or that the relationship between them has been repaired. Rather, it simply means that each side has had an opportunity to voice their concerns, be informed and conclude discussion on the matter. Further communication is unnecessary, yet the outcome may be undesirable, especially where there are ongoing relationships, such as in the workplace (Goldsmith, 2000).

The uptake of mediation in criminal justice was low for several years following the introduction of alternative dispute resolution in Australia. For example, in 1992 a civilian-police complaints mediation pilot in South-East Queensland, that used civilian mediators, was recommended as an ongoing program following the success of the trial. However, civilian-led

mediation diminished in use shortly afterwards in favour of internal police-facilitated ‘conciliation’ which was reportedly the preferred option as it allowed the police service to deal with disciplinary issues (CJC, 1992b). In 1999, a Restorative Justice Unit was established within the New South Wales Department of Corrective Services as a three-year pilot project to provide post-sentence Victim-Offender Family Group Conferencing and Mediation. However, the low uptake of mediation in this and other projects at the time was due, in part, to the limited knowledge and understanding of mediation and restorative justice by both community and law enforcement. A major issue related to the appropriateness of using any type of alternative dispute resolution where a power imbalance existed between the parties (Garkawe, 1999). The exploration of the use of restorative justice beyond the courts and police (e.g., Justice Mediation Program in Queensland) had only just begun in Australia (Larsen, 2014); and the National Mediator Accreditation System and Standards were not introduced until 2008 (Resolution Institute, 2021). Hence, the low initial uptake of mediation and restorative justice can be attributed to the development and evaluation of these and other programs, such as informal resolution during the 1990s and early 2000s. However, some research on informal resolution has revealed mixed feelings within police organisations about its appropriateness for complaints resolution. Police organisations regarded it as “a useful management tool and an effective mechanism for dealing with minor police complaints” but “police officers exposed to the procedure often feel powerless in the process and think that it provides little by way of fairness or justice” (Warburton, May & Hough, 2003, p. 22). This type of finding supported the move toward civilian-led mediation of civilian-police complaints. In the early 2000s, many agencies recognised the importance of having “someone unconnected to the police, to facilitate and ensure that an appropriate balance is maintained” in the mediation process (Ede & Barnes, 2002; HMICS, 2004, p. 52).

However, research has also revealed that the main problem in relation to the resolution of disputes between civilians and police officers is that parties can be reconciled through mediation but without any change in systemic misconduct and inappropriate conduct by police that generates complaints (Ede & Barnes, 2002). As such, complaints are simply ‘churned’ through a ‘revolving door’ of mediation instead of through a process, such as one based on restorative justice principles and facilitated by civilians, where police behavioural change can be encouraged. Without this additional restorative component, the big picture does not change and new ‘victims’ are constantly brought into the system.

Restorative justice has been criticised for not addressing identified shortcomings within the traditional criminal justice system (Richards, 2014). However, problem-solving courts have similarly been criticised. King (2008) argues that the opposite is equally true for restorative justice. Dealing with the consequences of one’s own behaviour can be painful and challenging, but it can address the underlying causes of that behaviour.

Brookes and McDonough (2006) discuss distinctions between mediation and restorative justice which arise in different contexts such as schools, community and workplaces. Mediation is used for the resolution of a dispute or conflict, whereas restorative justice is “motivated primarily by the need to address the harm done” and encourage reparation (e.g., an apology) (Brookes & McDonough, 2006, p. 4). However, the authors conclude that despite the distinctions, mediative skills and a restorative approach (whether it is called ‘justice’, ‘practice’, ‘process’ or ‘approach’) can be used together.

Mediation that incorporates restorative justice principles, such as the model used in criminal justice, produces outcomes whereby parties often feel vindicated and get answers to plaguing questions, such as those related to victimisation. Restorative justice practices, such as mediation and conferencing, are used primarily for criminal law matters where guilt has been accepted or proven. A widely accepted definition by Marshall (1999) states that of restorative justice is “a

process whereby all parties with a stake in an offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future” (p. 5).

Daly (2016) adds that this "contemporary justice mechanism" can be used for disputes and community conflict (p. 21). Nonetheless, restorative justice practices aim to divert young, first-time and minor offenders away from the Criminal Justice System, but also to restore harmony to the lives of victims of crime, including serious crime. The practices are a valuable adjunct to criminal justice as they seek to achieve emotional reparation for victims, something the courts cannot do.

Harming another person incurs a moral debt. This debt must be repaid by the offender making amends for their wrongdoing (Radzik, 2007). Parties are brought together in an egalitarian setting that is safe, employs respectful language and is facilitated by a skilled, independent, neutral third party. The facilitator guides the parties through a narrative discourse, to recount and explain their stories and develop solutions to the issues raised (Radzik, 2007).

Victims are validated by this process. They have an opportunity to reclaim their personal power that was removed by the crime (Zehr, 1990). They are given a voice which allows them to give significance to their experience; to confront and ask the offender questions, such as whether they will be victimised again; and to have direct input into the outcome (Morris, 2002). Other benefits include restoration of the victim's sense of security; reparation or restitution for personal injury or property loss; a commitment by the offender not to reoffend and an opportunity to express forgiveness (Zehr, 1990).

For offenders, the benefits lie in conveying their story and being listened to; in developing empathy for their victims; expressing remorse; taking action to make amends for their wrongdoing, and restoration of their dignity as human beings and their sense of social acceptance (Menkel-Meadow, 2007). The restorative justice process encourages the

transformation of an offender's attitude and behaviour which can have a rehabilitative effect (Morris, 2002).

From a theoretical perspective, offenders are more likely to change their offending behaviour when “those in positions of authority do things *with* them, rather than *to* them or *for* them” (International Institute for Restorative Practices, 2015). Restorative justice practices promote open dialogue that can reveal how crime is both the cause and effect of weakened relationships (Bazemore, 2000) and foster repair. Braithwaite’s (1989) Reintegrative Shaming Theory explains how constructive shaming in a restorative environment can bring about change in offenders. Braithwaite distinguishes between destructive shaming that humiliates and stigmatises offenders, and constructive shaming that emphasises the offence, assists offenders in feeling ashamed of their actions and paves the way for reintegration into society (Retzinger & Scheff, 2013). Similarly, Tavuchis’ (1991) Apology Theory says change results from the “expression of sorrow and regret” (p. 23). This requires the offender to “engage in a painful moral exercise, which involves openly admitting guilt and responsibility and asking forgiveness” (Hayes, 2006, p. 376).

2.3.2 Restorative Justice Values and Principles

Restorative justice is guided by values that favour procedures that are collaborative and consensus-based over conventional criminal justice procedures that are adversarial and adjudicative (Robins, 2009). Restorative justice espouses commonly held values, such as responsibility, respect, open communication, empathy, compassion and fairness (Roche, 2003) as well as voluntariness, the creation of a safe environment and a commitment to make amends for any wrongdoing (Wachtel, 2016). These are embedded in the human condition which thrives on relationships (Pranis, 2007). Restorative justice principles which include having a ‘voice’, procedural justice and mediator impartiality are used in all aspects of society, including families, groups and communities and more broadly in workplaces, hospitals, prisons and schools, and in

the corporate, industrial and government sectors (Spencer, 2016). The principles are used before conflict or wrongdoing to build relationships and afterwards to repair the affected relationships, restore the victim or complainant's sense of security and emotional wellbeing, and to allow parties to move forward in their lives (Larsen, 2014; Llewellyn & Howse, 1998).

Restorative justice principles manifest themselves in a range of criminal justice practices including police cautions; victim impact statements read in court; family group conferencing; circle sentencing involving the judge; victim-offender mediation and youth justice conferencing (Spencer, 2016). The promotion of restorative justice values often enables conflicting parties to lower their defences and participate in a process aimed at changing wrongful behaviour (Pranis et al., 2003). Agreements result from encounters where the focus is on the issue or offence, procedural fairness and taking responsibility for what happened. Adherence to these principles can elicit feelings of remorse and apology. Cultural, gender and age gaps can also be bridged resulting in relationships which may be better than they were at the outset due to mutual understanding (Clemmons & Rosenthal, 2008). Therefore, restorative justice values and principles are useful in the resolution of both civil and criminal matters.

2.3.3 Applications and Outcomes in Civil Law

The type of alternative dispute resolution mechanism employed depends on the nature and complexity of the dispute. It is useful for people in all contexts, such as consumer disputes, and where a power imbalance may exist between disadvantaged or vulnerable persons and other disputants. For this reason, legal representation is not encouraged. The processes vary in their facilitative, advisory or determinative powers and their recommendations may or may not be binding on participants (Legal Aid NSW, 2014).

Court-annexed alternative dispute resolution is mediated by an experienced officer of the court and has the legal privilege of confidentiality. Parties attend with sufficient evidentiary material and the intention to achieve an acceptable resolution (Sourdin, 2016). Compliance with

statutory requirements may be mandated, and the settlement agreement is binding (Supreme Court of NSW, 2017). Tribunals and other alternative dispute resolution mechanisms involve problem-based negotiations where advice may be given, such as in workplace disputes. Lastly, other types of mediation involve a relational approach, such as for separating parents where a compromise may need to be reached for the benefit of children (Sourdin, 2016). Private mediation can be used in some cases and engagement of a mediator is at the discretion of the parties.

Currently in all Australian jurisdictions, potential litigants have court-imposed obligations to attempt resolution of their disputes before commencing court proceedings (Sourdin, 2016). The objectives include equitable access, irrespective of personal, social or economic circumstances; reduction of associated court costs and delays; fairness and a focus on the complainant's well-being (Sheen & Gregory, 2012). Data on mediated disputes in Australia is limited and drawn from jurisdictional examples and the now discontinued National Alternative Dispute Resolution Advisory Council (NADRAC). However, available data suggest that increases in settlement rates correlate to decreases in trial rates. In 2008, the NSW Supreme Court referrals to mediation had a 59 percent settlement rate (Sheen & Gregory, 2012); and a study of the Supreme and County Courts in Victoria ($n = 36$) found that perceptions of fairness and satisfaction with the process were high, although 67 percent of disputants felt pressured to settle their dispute (Sourdin & Balvin, 2009). Nonetheless, this suggests that mediation is an efficient method of case disposal.

2.3.4 Applications in Criminal Law

The criminal law application of restorative justice practices closely parallels civil law alternative dispute resolution in that it uses mechanisms such as mediation, to resolve conflict away from formal court proceedings. The adversarial nature of court proceedings and rules of evidence that remove any interaction between the victim and the offender (Van Ness & Strong,

2006) are replaced by a process that hears directly from the stakeholders in a crime. The victim and offender roles, as witness for the state and passive observer, respectively (Johnstone & Van Ness, 2007), become active and interactive in restorative justice processes.

Globally, models of restorative justice, including circles, conferences and mediations have been initiated at various points in criminal justice systems. Five entry points have been identified: “Police (pre-charge); Crown [State] (post-charge); Courts (pre-sentence); Corrections (post-sentence) and Parole (Pre-revocation)” (Latimer et al., 2005). A meta-analysis of 22 studies in North America (that reviewed 35 restorative justice programs) found in relation to recidivism that treatment group participants showed significant reductions in recidivism at follow-up periods compared to control group participants (Latimer et al., 2005).

Restorative justice mediation and conferencing, for adult and juvenile offenders, have been legislated in all Australian jurisdictions (Maxwell & Hayes, 2006). The pathways to these encounters typically involve referral by the police, the Director of Public Prosecutions or the courts. In Queensland, the legislation and protocols that provide for restorative justice practices include the *Justices Act 1886* (Qld), *Dispute Resolution Centres Act 1990* (Qld), the National Guidelines or Principles for Restorative Justice Programs and Processes for Criminal Matters, the *Youth Justice Act 1992* (Qld) and other related legislation.

The types of crimes referred to mediation and conferencing vary across jurisdictions and while most include minor offences, referrals can be made for serious crimes. Further, referrals occur at any stage of the criminal justice process, including post-sentencing (Daly, 2016). The process is voluntary, yet consequences exist for some offenders, such as those under Restorative Justice Orders who do not participate in conferencing or fail to comply with their agreements (DJAG, 2016).

2.3.5 Outcomes from Applications in Criminal Law: Victims

Historically, there has been little scope in criminal justice for addressing the needs of victims of crime. In a study by Gardner (1990) most victims who endured criminal proceedings, said they wanted the court to be informed, for sentencing purposes, of the impact of the crime on their lives; even if it meant reliving the crime. Since then, victim support groups, counselling, legal and financial assistance services, as well as victim impact statements tendered in court, have developed in Australia and overseas, to address this gap (Erez, 1991). The introduction of restorative justice mediation and conferencing continues these efforts, offering flexible and communicative environments, tailored to meet the capacities and needs of victims.

Recent victim-and-offender mediation studies have revealed high levels of victim satisfaction with the process and victim clarity around the offence (Hayes et al., 1998). The meta-analysis by Latimer et al. (2005) found that victim satisfaction with conferencing was significantly greater than for court attendance due to their involvement in the process. Other studies have found that victims are less punitive than society generally (Indermaur, 1990) and more interested in reparation than retribution (Hayes, 2006).

The importance of restorative justice mediator skills cannot be understated in relation to the efficacy of mediations. Mediators require a tool kit of problem solving, language and negotiation skills (Charlton & Dewdney, 2014) as well as neutrality. However, Choi and Gilbert (2010) suggest that the unobtrusive style of restorative justice mediators can influence sessions as victims may not be provided with the emotionally supportive environment they need to express their pain and for offenders to express remorse. Yet Strang (2002) argues that most victims worldwide want the opportunity to express their experiences of victimisation, to be taken seriously, and to do this without interruption.

2.3.6 Outcomes from Applications in Criminal Law: Offenders

In Australia and elsewhere, offender satisfaction rates with mediation and conferencing are higher than for court adjudicated cases (Cant & Downie, 1998; Daly, 2001; Hayes et al., 1998; Trimboli, 2000). Consistently, offenders have expressed satisfaction that mediation processes have been inclusive and neutral and outcomes fair and realistic (Maxwell & Morris, 2001).

Mediation and conferencing success can be measured in a number of ways. The involvement of stakeholders, such as welfare referral services, can address the personal and social difficulties that relate to offending behaviour (Prenzler & Hayes, 1999; Schiff, 1998). An offender who is able to offer material and symbolic reparation is likely to gain an improved sense of self-worth (Scheff & Retzinger, 1991; Zehr, 1990) which in theory should influence future behaviour. Diversion from criminal justice institutions give offenders a second chance (Rossner, 2012) and avoids the inherent effects of criminalisation and prisonisation that result from detention and imprisonment (Scott & Flynn, 2014). Research findings on the effectiveness of victim-offender mediation and conferencing in reducing reoffending is mixed. However, where mechanisms are used in conjunction with conventional justice rather than as a substitute for it, and employ restorative justice principles, there is confidence of good results especially with violent offenders (Strang et al., 2013).

Yet an obstacle to mediation has been the police use of discretionary power to refrain from referring cases to what they view as “soft” justice (Power, 1996). This, along with the common practice of magistrates deferring to police decisions, has fuelled doubts about the credibility of restorative justice practices (Prenzler & Hayes, 1999). However, Maxwell and Morris (1996) state that once police officers have participated in mediation, they generally embrace it and agree that the process demands more of the offender than an appearance in court.

A pilot conferencing project for juvenile offenders in Queensland (1997-1998) received offender referrals from Ipswich and Logan and resulted in 101 conferences (Prenzler & Hayes,

1999). Mixed views were expressed on conferencing suitability for all types of offenders, including serious and repeat offenders. Yet high offender satisfaction levels were reported. Ninety-nine percent of offenders felt the process and outcomes were fair. The use of narrative allowed offenders to identify the dominant story influencing their actions without diminishing their guilt. Conferencing had a rehabilitative effect as offenders reported understanding how their actions had harmed others and completion rates of agreements were high (Prenzler & Hayes, 1999). It also affected attitudes as “a more positive view of police” was reported (Prenzler & Hayes, 1999, p. 23). The ‘us’ versus ‘them’ mentality (Campeau, 2015) was negated through mediated dialogue and while recidivism was not a focus of the study, arguably, changed attitudes influence desistance from offending.

2.4 Mediation in Police Complaints

2.4.1 Theory of Alternative Dispute Resolution, Mediation and Restorative Justice for Police Complaints

The conflict that arises between the police and civilians is largely civil but sits in a criminal justice context. This is because complaints against police are about conduct that harms relationships of trust between police and civilians and might involve improper conduct; and might also involve harmful conduct in circumstances where the police have assumed responsibility for the safety and well-being of civilians including a complainant – that is, circumstances importing a heavier burden than procedural justice cases, but may be akin to civil rights violations if the police are respondents.

Given that the police have the authority to enforce the law and protect the public, conflict over their conduct may be viewed by the public as contrary to this mandate and requiring independent adjudication. Conflict may be formally resolved by the courts for police and civilians but its impact on those involved remains largely ignored. This is because courts deal

with objective fact not subjective issues. The civil court determines which party is responsible, but compensation may do little to enhance the parties' relationship. Alternative dispute resolution, such as mediation, is an early intervention, non-adversarial model of complaints handling.

From a theoretical perspective, mediation that is characterised by restorative values and principles and adheres to a proven structure and steps, is effective in drawing out attitudes and emotions aroused by conflict. Without acknowledgement and exploration of a person's grievances, the conflict will fester. Mediation aims to address conflict by bringing both parties together in dialogue. It "does not seek or result in punishment of police officers" (Walker & Archbold, 2000, p. 233) but rather guides the parties through stages that are conciliatory in nature. This may result in an apology and/or a consensus on how to move forward that satisfies both parties.

Apology theory and reintegrative shaming theory focus on relationships. The 'healing' that can result from self-reflection, recognising the other person's shared humanity, taking responsibility for one's part in a dispute, and symbolic reparation, strengthen feelings of self-worth and acceptance by others (Butcher, 2003; Zehr, 1990). Similarly, restorative justice is a 'relational' form of justice (Liu, 2014). Stakeholders are empowered through the problem-solving approach that puts the "problem in the centre of a circle of deliberation, rather than putting the person alleged to be responsible for it in the dock" (Braithwaite, 2016, p. 1). The HMICS (2004) study highlighted the need for a robust police complaints system that would move from a "blame culture to learning culture" (p. 47). Restorative justice mediation was recommended as a way to "find a mutually acceptable solution and a restoration of trust, not the allocation of blame" (HMICS, 2004, p. 52). Although, blame can be claimed by either or both sides and form part of an apology. The mutual understanding articulated by the parties was identified as a point of difference that was "rarely achieved in the conventional informal

resolution procedure” (HMICS, 2004, p. 53). Therefore, the justification for using restorative justice is that it is an extension of the underlying principles of mediation (e.g., from self-determination to ‘healing’ concepts) (Douglas, 2012).

The state of the ongoing relationship between the police and the public is important to community safety and law-abiding behaviour. Tyler’s Procedural Justice theory states that the community’s voluntary compliance to the law is grounded in the principles of procedural justice which dictates that respectful treatment, neutrality, fairness/trustworthiness and participation/**voice** are employed in the processes that resolve disputes (Corbo Crehan & Goodman-Delahunty, 2019; Mazerolle et al., 2013; Tyler, 2003). Procedural justice provides what Ronner (2002, p. 94) describes as the “three Vs” that ensure the quality of the contact and the civilian’s dignity: voice, validation and voluntariness. The community expects the police to observe these tenets in their interaction with them (Bottoms & Tankebe, 2012), but if they do not, for civilians to have an opportunity to voice their concerns and be heard (Tyler, 2006).

A 2016 study that explored low levels of trust and significant dissatisfaction in the New South Wales Police Force by people involved in domestic violence incidents found that most of them declined to lodge complaints against the police. These people had grounds to protest against police treatment, including being belittled and/or ignored. However, fear of retaliatory victimisation by police as well as distrust of the police complaint system were the main reasons for not lodging a complaint (Goodman-Delahunty & Corbo Crehan, 2016). The study recommended the inclusion of procedural justice components in police training as a way to improve police responses and enhance civilian-police relations (Corbo Crehan & Goodman-Delahunty, 2019; Goodman-Delahunty & Corbo Crehan, 2016).

The police also expect to receive fair treatment and have an opportunity to give their perspective of events (De Angelis & Kupchik, 2007; Landau, 1994). Hence, mediation that

integrates restorative justice, apology, reintegrative shaming and procedural justice theories offers a suitable conflict resolution mechanism for police and civilians.

2.4.2 Initiatives in Canada and the United States of America

Independent complaints mediation programs have been successfully trialled and implemented in several countries. This section examines the agencies and alternative dispute resolution mechanisms used in North America.

Canada

Similar to other Western countries, Canada has grappled with internal versus external forms of police oversight. Various steps have been taken and, in 2009, Paul Kennedy, the Chair of the Commission for Public Complaints Against the Royal Canadian Mounted Police said “what is at issue today is no longer whether civilian review is desirable, but rather, how civilian involvement in investigations can be most effective” (Preface).

Three types of civilian-led complaints resolution agencies operate in Ontario, Canada: police services boards, the Special Investigation Unit and the Office of the Independent Police Review Director. The latter offers two avenues to mediation: Informal Resolution and Customer Service Resolution processes. Where a resolution is not achieved in either internal process, an external mediation, which is a voluntary process, is utilised. In 2015-2016, 1,327 complaints against police were received; 19 requests for mediation were received and seven of these were satisfactorily completed; two were outstanding at the time of the report and the remainder were either withdrawn or did not achieve a satisfactory resolution; however, most complaints were resolved via formal or informal investigation (OIPRD, 2016) suggesting that while civilian oversight exists, mediation is still rarely used.

Since the report, a 156-delegate forum involving “60 community groups, three government agencies, four universities, and nine police services (officers at the rank of Constable, Detective, and Inspector)” convened to determine how they could improve the effectiveness of the

OIPRD's police complaints system (Buffone et al., 2016, p. 2). The Forum brought a diversity of stakeholders together to collaboratively identify positive changes. Although, the outcome was a lack of consensus, opening up dialogue on the issues was viewed as a step forward (Buffone et al., 2016).

United States of America

According to Walker, Archbold and Herbst (2002) of the 17,000 law enforcement agencies in the United States, only 100 were oversight agencies and only 16 were mediated. The effectiveness of the mediated programs was due to community and police support with Denver, Colorado heading the way in successful programs. Since 2005, the resolution process for civilian complaints against police in Denver has been a voluntary, community-police mediation program, managed by the Office of the Independent Monitor. The Office of the Independent Monitor or the Denver Police Department's Internal Affairs Bureau receive, categorise and determine what complaints may be diverted to mediation (Schaible et al., 2012). Complaints that involve serious allegations of police misconduct which may result in suspension, demotion or dismissal are excluded from mediation. All other legitimate complaints, typically around communication-related issues, excessive force, racism or improper procedure are considered (Proctor et al., 2009). An independent mediation vendor, Community Mediation Concepts is used and if either party does not act in good faith or drops out of mediation, the complaint is referred back to Internal Affairs Bureau for processing (Schaible et al., 2012).

The effectiveness of the Office of the Independent Monitor was quantified in a study of complaints received between 2005 and 2010. Satisfaction surveys were analysed comparing complainants (281) and police officers (299) who had engaged in mediation, with complainants (308) and police officers (368) assigned to the traditional process. The results revealed significantly higher levels of satisfaction regarding mediation over non-mediation for both complainants (79% compared with 11%, respectively) and police officers (81% compared to

12%, respectively). In relation to outcome, similar results were found. Complainants (63% compared with 7%, respectively) and police officers (73% compared to 49%, respectively) who engaged in mediation were more satisfied than the non-mediation group (Schaible et al., 2012). Analysis of other factors, such as fairness, level of information provided and Office of the Independent Monitor's motives around the resolution of complaints, also scored highly by mediation participants. Overall, satisfaction rates with complaints handling increased from the pre-program level of 10-15 percent to 75-85 percent (Proctor et al., 2009).

The significance of these findings was that independent mediation was then viewed as appropriate and preferable in resolving minor and serious complaints against police. At the same time as this mediation satisfaction study was conducted, the Office of the Independent Monitor conducted an internal survey to determine the effect of mediation on the behaviour of police officers. The following variables were measured: discourtesy, force, improper procedure allegations, total allegations and complaints. Significant decreases in these variables were found for police officers who engaged in mediation over the control group (Proctor et al., 2009). These authors' state:

this meant that mediation proved to be more effective in helping officers to avoid future citizen complaints than disciplinary-track methods such as informal and formal case handling ... officers have learned why and how to self-correct in mediation and apply this more readily than officers whose complaints have been handled through traditional means. (p. 3)

In New York, independent mediation of complaints against the police became an option in 1997 following an agreement between the Civilian Complaint Review Board and the New York City Police Department. The Board, comprised solely of members of the public, was authorised to investigate, mediate and make recommendations regarding allegations of police misconduct

(Tink, 2015). The Board determines whether a complaint is appropriate for mediation, but the process is voluntary. The nature of the complaint and the officer's past record are first considered and then both parties must agree to participate (Bartels & Silverman, 2005). Since its inception, the number of annual mediated complaints have increased steadily (e.g. 32 in 2001; 91 in 2003; Bartels & Silverman, 2005). Statistics for the year to November 2017 reveal that 318 complaints were referred to mediation, of which 165 were mediated and 153 were attempted (CCRB, 2017, p. 29). The longevity of the program is testament to its success, with the Board reporting that the main reason for mediations not to proceed has been the unavailability of complainants. This suggests that the police have embraced the process in the largest program of its kind in the United States.

In 2005, the Office of Professional Accountability Mediation Program was introduced in Seattle, Washington. The program initially handled minor misconduct allegations but in 2007 expanded to include complaints about "enforcement of law, Department policy, procedures, or tactics, or concerns about service quality, including promptness of response and demeanour" (Olson, 2008, p.3). Forty cases were selected for mediation in that year, of which 24 (60%) were successfully resolved. According to Olson (2008) "the program has been instrumental in furthering our efforts of transparency, outreach to the community, alternative conflict resolution, and to further 'demystify' the issues of police culture" (p. 12). Of the remaining 16 cases, refusal to participate in mediation (9 complainants and 6 police) was cited as the reason for not proceeding; and in one case the wrong police officer had been identified. Overall, the program was viewed as beneficial in improving civilian-police relations.

2.4.3 Initiatives in United Kingdom and Europe

This section examines the agencies and alternative dispute resolution mechanisms used in the United Kingdom and Europe.

United Kingdom

A study by Young et al. (2005) of two police areas in England and Wales found that the public regarded the role that the police play in complaints handling to be the “prime factor in the low proportion of complaints that are substantiated following a formal investigation” (p. 280). A restorative justice conferencing program was trialled to further examine the apparent poor public opinion of the complaints process. Participants who engaged in either the traditional police complaints process or restorative justice conferencing were surveyed on factors such as the process and outcome. The study found that conferencing achieved moderately better results than the traditional process for both complainants and the police. Participants who attended conferencing reported that the experience had allowed them to become better informed and more willing to make changes to their behaviour (Young et al., 2005).

Mistrust of police and negative experiences in relation to complaints management has, until recently, been high in Northern Ireland. Unlike other Western countries, Northern Ireland is a "transitional society emerging out of decades ... of violence, occupation and sectarianism" (Cunneen et al., 2010, p. 376). Political conflict over the ownership of justice has waged between republican and loyalist communities, employing paramilitary policing. A study by Hayes (1997) found that 95 percent of complainants, whose matters were internally investigated by police, were highly dissatisfied with the outcome. Substantiation rates were very low, and complainants received very little feedback. However, the establishment of the Police Ombudsman for Northern Ireland (PONI) in 2000 saw the start of a completely independent and impartial system for dealing with police complaints (Lawther, 2014). Part of the Ombudsman's role was to act as mediator in cases determined appropriate for mediation (Roth, 2015). However, findings from the annual Complainant Satisfaction Survey for 2013-14 suggest that satisfaction with PONI is now decreasing. The establishment of the Police Service of Northern Ireland also in 2000, paved the way for the formation of District Policing Partnership Boards (DPPB) in 2003 (Reiss, 2004).

These boards were made up of civilians and local councillors who facilitated police accountability within communities (Reiss, 2004). Community programs, overseen by the Boards, ran independently of the state, to deal with crime problems and police disputes at the local level (McEvoy & Mika, 2002). These programs, which utilised restorative justice principles, reported better satisfaction outcomes. However, in 2012 the Boards merged with a community organisation to form the Policing & Community Safety Partnership (PCSP, 2016). While the membership continues to be civilian, there is little evidence of mediation of complaints.

A report by the HM Inspectorate of Constabulary for Scotland in 2004 advocated for the use of restorative justice mediation to resolve civilian complaint cases – identified as appropriate. The Service tracked and compared 82 complaints against police. These were fairly evenly distributed across two police forces – one using the statutory system of complaints resolution and the other using restorative justice mediation. The statutory system involved an internally facilitated approach to complaints resolution but gave the conciliator (i.e., the police) an advisory and evaluative/determinative role. The main findings were that the initial negative views of police held by complainants decreased as a result of the restorative process but increased in the conventional process; a higher percentage of police officers in the restorative process compared to the conventional process (19% compared to 9%) admitted to some wrongdoing; and complainants and police officers in the restorative process expressed ‘mutual understanding’ as an outcome, something that did not occur in the conventional process (HMICS, 2004, p. 53).

The report highlighted the focus by Police Scotland on the culpability of individual officers, over the needs of complainants to be provided with an explanation, receive reassurance that the behaviour would not be repeated and seek an apology. The focus on apportioning blame and punishing police officers had become a “straight-jacket” that prevented the service from viewing complaints as a “management tool to help improve services” (HMICS, 2004, p. 60). The

report argued that conciliation often failed, with 1,133 of 2,823 complaints (4,387 allegations) conciliated in 2002-2003. Subsequent action required an investigation and potential disciplinary action against the subject police officer. Restorative justice mediation was recommended as a mechanism to “break the almost automatic link between complaints and discipline”; to view complaints from the complainant’s perspective; and restore trust (HMICS, 2004, p 50). The report noted that restorative justice mediation may not be a panacea, but it does promote positive ethical standards and “it represents not just a change in systems and procedures but a change in culture. It will not be achieved easily but it is in the interests of all parties to the police complaints system to embrace it” (HMICS, 2004, p. 60). Restorative justice mediation, using a neutral mediator, became a complaints resolution option from 2011 (PCCS, 2010).

Europe

Most of Europe operates under an inquisitorial civil law legal system which means that civil and criminal justice and policing traditions are substantially different from the Anglo-American-Australian adversarial system. Nonetheless, Europe faces similar problems in police-civilian relations, with many of the complaints arising from interaction with minority groups.

From 2012 to 2014, experts in police education in Germany, Austria and Hungary partnered on a comparative project to address relationship issues between ethnic minorities (Turks in Germany, Roma in Hungary, sub-Saharan Africans in Austria) and the police in their countries. The *Corepol* project (meaning – core policing) was a restorative justice research project, in the framework of European security research (European Commission, 2017). The 'gatekeepers' in the identified minority groups were approached to enable interviews concerning their issues (minor allegations, not misconduct) with the police. These minorities reported discrimination as the core problem experienced through over-policing or under-policing. The result was a lack of trust in the police and disinclination to file complaints after being mistreated (European Commission, 2017, p. 3).

The research also revealed that while restorative justice principles were identifiable in the judicial and corrections system there was no evidence of its use among continental European police services. Minorities were unaware of their rights to complain; most police officers had never heard of restorative justice and a general indifference was shown to its features as a conflict resolution tool (European Commission, 2017). To explore the potential for improved conflict resolution between the police and minorities, restorative justice practices, including "structured dialogue, de-escalation training and intercultural competence workshops" were variously used in the three countries (European Commission, 2017, p. 1). The outcome was a body of knowledge on the benefits of restorative justice practices in policing and the importance of police oversight in Europe for the future of professional and democratic policing. Restorative justice is now being included in police training programs in the three countries studied and elsewhere (European Commission, 2017).

2.4.4 Initiatives in Australia and New Zealand

This section examines the agencies and alternative dispute resolution mechanisms used in Australia and New Zealand.

Australia

During the 1980s and 1990s, Terry O'Connell, a member of the New South Wales Police Force was pivotal in exploring the application of restorative justice principles in dealing with complaints against the police (Dobry, 2001). He conducted a pilot project in New South Wales and while his work underpinned the Thames Valley project in the United Kingdom, it was not adopted in New South Wales. Similarly, the New South Wales Ombudsman at the time, David Landa, undertook training at Harvard University in alternative dispute resolution. He was eager to apply his knowledge, but again, evidence of this is difficult to pinpoint (Goldsmith, 2000). In 1997, following the Wood Royal Commission, a complaints process, using informal resolution as opposed to mediation, was implemented in the New South Wales Police Force. Endorsed by

the Australian Law Reform Commission, the process returned the responsibility for resolving disputes to the police. The shift dispensed with the neutral third party (Goldsmith, 2000). Nonetheless, the informal process was enhanced in 2009 by the implementation of a Customer Service Charter, although the complaints management element, including the use of mediation, was not widely promoted.

The impact of the Charter was researched in 2011 by Charles Sturt University using an anonymous online survey of 493 legal practitioners (Goodman-Delahunty et al., 2014; Roth, 2015). Responses from 258 legal practitioners, who had experience with the New South Wales Police Force complaints process, were received. They reported working with their clients, over the previous two years, to attempt informal resolution rather than litigation. Many clients had legitimate police complaints but failed to formalise them because they feared police retaliation. Those who lodged complaints and sought informal resolution did so at the local level and not through the Customer Assistance Unit. Most attempts at informal resolution were unsuccessful but the reasons were unclear. Overall, 75 percent of complainants were dissatisfied with both the process and outcome (Roth, 2015). The survey also found that there were no standard procedures for contacting complainants, progress reports were not routinely issued, and over 50 percent of complainants had no contact with the police until the complaint was finalised (Goodman-Delahunty et al., 2014). The complaints process was viewed as intimidating, biased and difficult to use with most complaints declared to be unsubstantiated.

In 2014, the New South Wales Law Reform Commission conducted a review of the legislative framework for the provision of alternative dispute resolution, including mediation for dispute resolution in New South Wales. Approximately 50 statutes were identified as containing alternative dispute resolution provisions and as such an overarching legislative framework was suggested. A submission by the Australian Dispute Resolution Advisory Council was submitted in late 2016 in response to the New South Wales Law Reform Commission's model provisions

(ADRAC, 2016). There was strong support amongst the submissions for “a uniform approach to confidentiality and admissibility of mediation information in evidence” (NSWLRC, 2016, p. 9). However, the review excluded some statutes, including the *Police Act 1990* (NSW) and the *Ombudsman Act 1974* (NSW) from the proposed scheme as mediation in these contexts is not uniform. In fact, the final report in 2018 did not recommend changes to the law because of ‘uniformity’ issues (NSWLRC, 2018). Nonetheless, the review raised issues such as public disclosure of information and future litigation which are common concerns that have been expressed by the police in international civilian-police mediation programs but allayed.

From the early 1990s, the Community Justice Program, within the Department of Justice and Attorney-General in Queensland, engaged in mediating family and neighbourhood disputes, often involving Indigenous Australians (KPMG, 2010). Between 1991 and 1993, a pilot Aboriginal mediation project was run in the north Queensland communities of Doomadgee and Hopevale (Nolan, 1993). The program addressed a range of disputes including citizen complaints against police. Participants self-selected to engage in mediation following several visits by independent mediators to their communities. Due to the patriarchal structure and cultural patterns of self-deprecation in communication observed by Aboriginal people, these visitations enabled complainants to be matched with mediators with whom they felt comfortable (Nolan, 1993) and to meet with the police. Little information is available on the effectiveness of these mediations with police however, it has been suggested that where a "respected older person" was present, complainants were better able to engage in the process (Nolan, 1993, p. 290). Police in Indigenous communities are still able to refer to the Community Justice Program for mediation (KPMG, 2010), although it appears this rarely occurs.

Around this time, another pilot mediation program was trialled in South-East Queensland. It ran for six months under the guidance of two mediators from the Community Justice Program. Thirty-three mediation sessions, averaging 2.5 hours, were facilitated between complainants and

police officers, who were the subject of complaints. The outcome of the pilot program was that agreements were reached by parties in all but one session (CJC, 1992b). In terms of satisfaction with the process, results were mixed. There were high levels of satisfaction with the way the complaints were handled, and the speed and cost effectiveness of the process, compared with formal investigations. However, some complainants did not participate due to factors such as distance from the program; difficulty in allocating time to attend; apprehension about meeting with the police officer; and a desire to simply advise the Queensland Police Service of the concerns, and not to attend a mediation (CJC 1992b). At the conclusion of the pilot there was agreement between the Community Justice Program and Criminal Justice Commission to continue mediation. A report at the end of 1992 made several recommendations, including the introduction of informal resolution procedures, including the option of mediation in relation to minor complaints. Training in alternative dispute resolution was provided to 210 police officers but not to civilians. As such, the focus reverted to Queensland Police Service handling of complaints without any civilian oversight of the process.

In 2007, the Crime and Corruption Commission joined with the Queensland Police Service in a complaints-handling project called Project Verity. The project aimed to devolve low level complaints management to the local level in two Queensland Police Service regions. The project ran for six months with mediation as an option. However, it was rarely used due to issues such as police officer unwillingness to participate in the process (Porter & Prenzler, 2012). Nonetheless, since then, managerial resolution and mediation have become stated options on the Queensland Police Service website. Ede and Barnes (2002) suggest that the choice of intervention should be dependent on which “best meets the interests of all stakeholders” (p. 6). A comparison of the purpose, use, outcomes, strengths and weaknesses of all interventions available to the Queensland Police Service are outlined by Ede and Barnes (2002) at Appendix D.

New Zealand

Independent oversight of the New Zealand Police began in earnest in 2007 with the establishment of the Independent Police Conduct Authority. The agency is staffed by retired police officers and solicitors who investigate serious allegations reported to them and monitor the handling of minor complaints by the police (IPCA, 2013). The Independent Police Conduct Authority is an alternative dispute resolution body which has legislative and operational independence and impartiality (IPCA, 2013). However, like other oversight agencies it rarely uses a facilitated approach and does not use independent mediation to resolve complaints.

In 2016, a collaborative project between the Independent Police Conduct Authority and the Police Professional Conduct unit, called 'An Early Resolution Process' was conducted over a nine-month period in three districts in New Zealand. The pilot focused on the fair and timely completion of police complaints (Curtis-Ham, 2017). The pilot found that a Facilitated Resolution Process was only used in one district with three percent of complainants. The reasons cited for its infrequent use included lack of information on and availability of the option, complainant suspicion and police reluctance to engage in the Facilitated Resolution Process, and a belief that the process would be time consuming and still achieve the same results. A suggestion for improvement included the use of independent facilitators rather than police facilitators. Arguably, the fact that only 45 percent of complainants in this district reported that they felt the police understood their complaint, and 50 percent felt that their grievances had been addressed, supports the need for a facilitated process. A recommendation from the pilot was for further consideration to be given to the use of Facilitated Resolution Process, particularly in relation to internal police complaints (Curtis-Ham, 2017).

2.5 Perceptions and Experiences

This section explores the perceptions and experiences of complainants and the police with local resolution compared to mediation. Data **were** drawn from three international studies to support the discussion.

2.5.1 Public Opinion

Democratic principles and the Rule of Law state that everyone is equal before the law and should be treated fairly; no-one is above the law (Oppal, 1994; Walker, 1988). This means that police, like all civilians, are accountable for their actions. However, this has not always been everyone's experience of the police. The very people who should benefit from police accountability mechanisms are those who seem to miss out. Cultural difference and vulnerability bring many people to the attention of police often resulting in misunderstandings and official abuses of power (Goldsmith, 2000). Complaints may result but they are dealt with by the service with whom civilians have grievances. In Australia, general community satisfaction with the police is high, between 75% - 85% (Porter et al., 2015). However, there is also a small percentage of the community with consistently high numbers of complaints and attention to this group is needed if fairness and transparency are to be achieved. The apparent bias in the existing complaints system is the reason for their dissatisfaction and their desire for an alternative (Goodman-Delahunty et al., 2014; Prenzler et al., 2013; Young et al., 2005). Liederbach et al. (2007) call the process an "inside job" (p. 368). Placing complaints management within a government structure diminishes the public's belief that the process is impartial (Myhill & Quinton, 2011). Wells and Field (2003) discuss this problem in the context of Australian intelligence organisations and suggest that:

the contemporary complaints environment (...) offers significant potential for an increase in the use of informal dispute resolution methods such as mediation. This is because informal processes offer greater opportunities for transparency in (...)

accountability, resource savings, efficiency, flexibility, and increased participation on the part of complainants and agencies. (p. 349)

A public opinion survey in Britain in 1997 revealed that of 500 respondents, 59.4 percent supported the use of an independent body to investigate complaints against police, compared to 16.4 percent who favoured the current police system; 19.6 percent expressed support for either body and 4.6 percent held no view (Prenzler, 2016). Another survey in New York in 2000 revealed that of 1,500 respondents, 75.8 percent supported an independent body compared to 18.9 percent who preferred the police, and 5.3 percent who held no view. Periodic surveys in Queensland between 1995 and 2010 showed consistently high support, peaking at 91 percent in 2010, for independent oversight of complaints rather than the internal processes (Prenzler, 2016).

2.5.2 Complainant Experiences: Local Resolution

Local resolution had been a way to avoid unnecessary formal investigations when complainants simply seek an explanation or apology from police (Holland, 1996). The nature of the complaint and expected outcome are established and the process allows complainants an opportunity to vent their feelings; achieve a level of satisfaction that the police officer will be ‘ticked off’ by being questioned by a senior officer; and relief at not having to attend a formal hearing (Maguire & Corbett, 1991, pp. 78-80).

The process does not, however, meet the expectations and needs of the majority of complainants. Most want an opportunity to voice their grievances and be acknowledged; to receive an explanation of what happened; and for the police officer concerned to be held accountable (Prenzler, 2015; Young et al., 2005). Also, local resolution tends to be characterised by long processing timeframes; procedures devoid of impartiality and neutrality; limited provision of updates, and lost complaints (Goodman-Delahunty et al., 2014). At times, complainants feel pressured into accepting local resolution and are often confused about their

options (Maguire & Corbett, 1991). Police officers appointed to handle complaints often shape complainants' decision-making around whether to proceed with requesting a formal investigation or engaging in an informal resolution (Young et al., 2005). Complainants can be left with concerns about how seriously their issue was viewed by the police (de Guzman, 2008) and may feel overlooked, neglected or forgotten.

A Queensland study of 614 complaints, made against 808 officers by 652 complainants in 1996, found that police and complainants' views on what constituted 'minor' allegations differed. That is, what may be 'minor' to the investigator may not be 'minor' to the complainant (Goldsmith, 2000). Apologies were rarely offered by police directly to complainants and more than half of complainants said they would have preferred a face-to-face meeting, compared to only 20 percent of police officers (Holland, 1996).

In 2011, the *National Survey of Community Satisfaction with Policing* in Australia, found high levels of civilian dissatisfaction with the lack of consultation in the complaints process (Queensland Government, 2011). Some jurisdictions had attempted mediation however, the process was frequently disjointed with the facilitator acting as an intermediary liaising separately with the parties. The survey found limited evidence of reparation in the outcomes and an increase in civil litigation and private criminal prosecution against police in some jurisdictions (Trenwith, 2011).

2.5.3 Complainant Experiences: Mediation

Mediation of police complaints commonly uses the facilitative model (i.e., a third party mediates between complainant and subject officer), which is a problem-solving approach focused on the interests and needs of the parties and does not presume any ongoing relationship between the complainant and the subject police officer (Douglas, 2012). Mediation of police complaints is preferred by complainants as they become better informed of the inherent dangers in police work; the procedures that the police must follow; and the circumstances that led to the

action taken by the police (Attard, 2010). The alleged misconduct is addressed directly, concerns are validated, and the issues resolved in timely, inexpensive and productive ways (Attard, 2010). Another benefit for complainants is that mediation is privileged meaning that what is said in a session cannot be used in court (Birgden & Lopez-Varona, 2011). There are, of course, disadvantages to mediation that seem to affect complainants more so than the police. As mediation is a process that most people rarely engage in, their perceptions of what the process involves and its level of neutrality, may be vague. This can cause apprehension or rejection of the process in favour of the established complaints management process (Berger, 2000). This apprehension may also extend to fear of reprisals, should complainants proceed with mediation to resolve their disputes. Cultural differences, such as disrespect associated with complaining about an authority figure; and disadvantage or prior negative experiences with the police, can deter some civilians from pursuing their concerns. Further, some civilians view mediation as too lenient on the police, or too much effort for themselves (Bartels & Silverman, 2005; Finn, 2001). Three studies are reviewed below which explore complainant experiences with mediation **over** traditional methods of complaints resolution, including conciliation and formal investigation. Complainant satisfaction with process and outcome was the key issue explored in each study.

(i) Bartels and Silverman

The first study in the United States on complainant and police satisfaction with mediation was conducted in 2001 using the New York City Civilian Complaint Review Board mediation program as the case sample ($n = 285$). Complainants were surveyed with sixteen responses received from complainants who had attended mediation and nineteen responses from those who participated in a full investigation. Data were analysed using statistical software – frequencies, means, percentages and independent sample *t*-tests were performed. The low response rate meant that a caution was given in relation to the

generalisability of the findings. Other identified limitations to the findings were that the respondents might have been those who held extreme views and that any high opinions of the Civilian Complaints Review Board and New York City Police might have been due to prior experience with them. Nonetheless, the study found the reasons why complainants wanted to participate in mediation included having face-to-face contact with the officer; being able to discuss their concerns in a confidential environment and having a direct say in the outcome. The reasons given for not participating were not wanting to face the officer because of a poor previous encounter; unfair treatment and fear of intimidation; plans for civil action, or to seek a formal investigation into the officer's misconduct. Other reasons concerned mediation itself including not knowing about the option; a negative past experience; and a belief that mediation represented acknowledgement of the officer's innocence. The study revealed a high level of complainant satisfaction with mediation (Bartels & Silverman, 2005). However, several of these complainants also said they would not choose mediation for future complaints. The study was unable to conclude why this was the case except to identify a 'treatment of minority' issue in one response.

Overall, an average 81 percent of mediation complainants were satisfied with the discussion of their issues and having their say. Eighty-eight percent said they trusted their mediator. This was compared to an average of 33 percent of full-investigation complainants who expressed satisfaction across the same questions. This showed a statistically significant difference ($p < 0.05$). However, in relation to being listened to by the mediator, there was no significant difference between groups ($p = 0.06$).

(ii) Schaible et al.

Between 2005 and 2010, Schaible et al. (2012) conducted research into the effectiveness of the Office of the Independent Monitor in Denver, Colorado in the United States, exploring

participant satisfaction with the complaints process, perceptions of procedural fairness, and attitudes toward the Office of the Independent Monitor. Complainants and police, respectively, were matched across treatment and control conditions to determine satisfaction levels. A sample of participants, drawn from either mediation or the traditional complaints process, were surveyed using a 5-point Likert response. Multivariate models were used to test hypotheses. However, there were limitations to the study. Firstly, some personal data **were** missing from a number of the mediation surveys, including gender, age and ethnicity. Also, factors such as education, criminal history or officer length of service, were not considered with regard to satisfaction with the processes. Secondly, the allocation of participants to the experimental or control group was not random due to ethical issues, and as such there was an imbalance in the numbers assigned to either process. The types of complaints also varied between the two processes. For example, 80 percent of mediation complainants reported a discourtesy allegation compared to 66 percent of traditional complainants, whereas 28 percent of traditional complainants reported an excessive force allegation compared to only 6 percent for the mediation complainants. Nonetheless, the study found higher satisfaction with the process among complainants and police officers who participated in mediation over the traditional method. The satisfaction index was reliable for both complainants ($\alpha = .95$) and police officers ($\alpha = .88$). There were minor variations in responses to some satisfaction questions noted across different racial/ethnic (i.e., African American, Latino/Hispanic, other), gender and age groups. However, overall satisfaction with mediation over traditional methods showed a significant difference ($p < 0.05$).

In 2002, a 14-month, quasi-experimental study commenced on the effectiveness of restorative justice processes over the traditional system for handling police complaints in two police services in England. Thames Valley Police (intervention group: $n = 21$) and Hampshire Constabulary (comparison group: $n = 22$) were chosen for comparison as both operated under the statutory system for complaints management. The Thames Valley sample (with experiential experience in restorative justice principles) conducted restorative justice mediations between complainants and officers, facilitated by a police officer. Hampshire's traditional approach involved informal meetings between appointed police officers and complainants. Surveys, interviews and observations were analysed using percentage scores. The small sample size posed the following limitations to the study: varying understandings of the meaning of restorative justice, how it operates and "differing degrees of ability and willingness to think and act restoratively on the part of all participants (including facilitators)" (Young, et al., 2005, p. 310). Nonetheless, the study found that both groups of complainants had negative attitudes toward the police at the outset. However, the negativity of the intervention group decreased compared to an increase in the comparison group ($p < 0.05$). Complainants in the intervention group reported achieving "something positive" from their restorative justice experience, compared to the comparison group (Young et al., 2005, p. 304). They also felt the time taken to process their case was "well spent"; they had addressed the officers concerned; officers had been held accountable and would be unlikely to continue the behaviour complained about. The police admitted to wrongdoing in 19 percent of restorative justice mediations compared to nine percent of cases handled traditionally. They also apologised in 50 percent restorative justice cases, although these apologies were often related to complainants' perceptions and not the actual facts. However, unlike complainants, the officers' responses did not show a

clear trend. Overall, ‘choice’ of resolution method was emphasised as the feature that should be encouraged.

In relation to the three studies, the overall complainant satisfaction rates with the process and outcome for those who participated in mediation compared to traditional investigation are shown in Table 3.

Table 3: Satisfaction Rates for Mediation compared to Traditional Investigation

New York City, USA Bartels & Silverman (2005) *no data on police response to traditional process.			
	<i>N</i> =	Complainant 16/19	Police 15/*
	Process	81%/33%	33%
	Mediator	88%/32%	33%
	Outcome	69%/13%	34%
Denver, USA Schaible et al., (2012)			
	<i>n</i> =	Complainant 281/308	Police 299/368
	Process	79%/11%	81%/12%
	Outcome	63%/7%	73%/49%
Thames Valley, England Young et al., (2005)			
	<i>n</i> =	Complainant 21/22	Police 23/13
	Process	61%/33%	61%/77%
	Outcome	58%/33%	86%/54%

Thus, the findings of each of these studies were consistent, over jurisdictions and time, and showed that complainants were significantly more satisfied with mediation (process and outcome) over traditional methods of complaints resolution. The opportunity to engage freely in dialogue with police over their conflict was an important benefit of mediation – an element which is not present in most other forms of alternative dispute resolution, including conciliation.

2.5.4 Police Experiences: Local Resolution

A number of Australian police services have adopted informal or 'local resolutions' for resolving civilian complaints against the police, with some forms of mediation apparent (Porter & Prenzler, 2012). However, most police services hold the view that the internal mechanisms for handling complaints is sufficient (Prenzler & Ronken, 2001; Schaible et al., 2012). The process observes a core component of police work and that is to resolve issues that are related to offences - not something that should be removed from law enforcement (Porter & Prenzler, 2012; Schaible et al., 2012). Along with commensurate authority to deal with lawbreakers is the use of discretion. The *raison d'être* of the police is to deal with situational factors (Bittner, 1970), so discretion is expected and frequently called into use (Mastrofski, 2006). Given the nature of their work, including protecting society, the risks they take and the frequency of their exposure to those risks, many police officers view themselves as being in the best position to know right from wrong (Birgden & Lopez-Varona, 2011). As such, any complaints that challenge police practices are viewed as requiring address by the police who have the commensurate expertise, objectivity and knowledge of their services' policies and procedures (Maguire & Corbett, 1991).

Some police have little faith in the ability of other methods to adequately resolve civilian complaints. Indeed, Caplan (2003) stated that police with a number of years of service are often cynical about mediation for this reason. According to research by Sviridoff & McElroy (1989) the police already feel that the complaints process favours the complainant. However, given that most complaints not substantiated (Bavas, 2014) it could be argued that any police disquiet around complaints handling relates more to the 'inconvenience' of having to be subjected to the process than the actual issues.

2.5.5 Police Experiences: Mediation

Many police maintain that giving civilians a forum to raise trivial complaints and to criticise the police is unproductive; and that addressing minor complaints through mediation has

resource implications and poses a risk to police morale (Ericson & Haggerty, 1997; Goldsmith, 2000). Police services maintain that their screening process enables trivial complaints to be filtered out to allow for legitimate public concerns to be addressed (Buchner et al., 2007). Police want to maintain their professional autonomy and may be concerned that mediators may not be competent or experienced enough to facilitate matters involving police procedures (Perez, 1994). Further, police are conscious of their reputations and want to protect them by not exposing themselves to the public via mediations. However, as participation in the New York City mediation program shows, sessions are confidential and successful completion results in a notation of "mediated" only on a police officer's file (Birgden & Lopez-Varona, 2011, p. 12). Hence, the officer's reputation remains intact as there is no 'publication' of the mediation.

The views of many individual police officers toward mediation differ from the consensus (De Angelis & Kupchik, 2007). They see mediation as an opportunity “to express regret in a neutral, confidential setting when they may not have met their own standards” (Olson, 2008, p. 3). Mediation represents equality for the police; they are treated the same, and seen to be subject to the law, like the rest of society. Their sensitivity to issues, such as racism, and understanding and empathy for individuals can be increased as a result of a well organised mediation session (Walker et al., 2002). In order to gain a clearer understanding of police experiences with mediation over traditional methods of complaints resolution, including conciliation and formal investigation, the same studies reviewed previously in relation to complainants are reviewed below from the police perspective. Again, the key issue of satisfaction with process and outcome was explored – this time in relation to the police.

(i) Bartels and Silverman

At the time of the study, most complaints against New York City police officers were unsubstantiated (City of New York, 2003). This impacted their willingness to participate in

mediation. The motivations for participation revolved around questions of how they would benefit from the experience and whether or not to choose mediation over the Civilian Complaints Review Board full investigation process. Bartels and Silverman (2005) found firstly, that police were concerned with: avoiding departmental discipline; the inference of their guilt through participation; the objectives of the process, and a desire to educate the community about their role. Many police saw this as an opportunity to show the community, via the complainants, that they were human beings and therefore capable of making mistakes. Secondly, many of the reasons for choosing mediation echoed those of complainants. Police wanted: a face-to-face meeting ($n = 7$); an opportunity to confidentially discuss the facts ($n = 6$); and to have a say in the outcome ($n = 10$). To a lesser degree, some chose mediation: as they believed it would not affect their career ($n = 1$); to avoid disciplinary action ($n = 1$); for a quick resolution to what they believed was a minor issue ($n = 1$), and for an opportunity to tell the complainant he was wrong ($n = 1$). Participation in a successful mediation (i.e., one that reached an agreement), resulted in a notation of “mediated” on an officer’s file. The allegation was removed, and no further disciplinary action was taken. This could be viewed as an incentive to choose mediation, over any real acknowledgement of its restorative effect, however, all officers who participated indicated they would choose mediation for future complaints. Overall, the police were significantly more satisfied with mediation over Civilian Complaints Review Board full investigation. Ninety-three percent of officers felt mediation had dealt with the real issues of the complaints and that the outcome was appropriate and fair.

(ii) Schaible et al.

The demographics of police officers in the Denver study were similar to the complainants. Most police officers in the mediation process were younger, predominantly African

American, and female, compared to their counterparts in the traditional complaints process ($p < .10$). Ninety-six percent of police officers reported higher satisfaction with mediation compared with 46 percent who participated in the traditional process, and female officers were more satisfied with the process than male officers. There was little difference between races with regard to police officer satisfaction with mediation, although African American police officers reported much higher satisfaction than their counterparts in the traditional complaints process. This perhaps suggests that they prefer the structure of adjudication over resolution by discussion.

(iii) Young et al.

The attitude of police towards complainants in the Hampshire and Thames Valley study was one of indifference at the outset. Most of the police viewed complaints as part of their job and did not hold negative views about the complainants. However, at the end of the study, 25 percent of officers in the intervention group felt positive about complainants, compared to none in the comparison group. Both groups reported experiencing satisfaction but for different reasons. The intervention group reported satisfaction in relation to the experience and outcome, although some officers were concerned that they could still face a formal investigation. The comparison group were satisfied with the structure and length of time involved in the process. This may have been due to officers' familiarity with the traditional process; not having to spend time discussing issues directly with complainants; empathy shown by their appointed officers; and the fact that the process protected them from formal investigation. However, a negative aspect for this group was, given their exclusion from meetings with the complainants, they had no control over the perceived apologetic approach taken by the appointed officers towards the complainants.

In relation to what officers had learned from their experiences, more positive learning outcomes were reported by the intervention group. They recognised the value of dialogue, with 30 percent reportedly gaining a better understanding of complainants' perceptions. The learning outcomes for the comparison group, however, related to the complaints process itself with 23 percent claiming better knowledge of how it works. A further 23 percent revealed that "all they had learned was to avoid situations that had led to the complaint being generated" (Young et al., 2005, p. 307). Therefore, while it appears that restorative justice mediation provided a better experience for officers, the view expressed by them was that the process was more beneficial to complainants.

Overall, the findings in relation to police perspectives across the studies showed greater satisfaction with mediation (process and outcome) over traditional methods of complaints resolution, although the gap was narrower than for complainants (see Table 3). The level of police satisfaction with the traditional adversarial process may have been due to the fact that a small percentage of complaints result in a sustained finding (because they are often difficult to prove), so the police may have preferred the traditional process that they were most familiar with. In the Thames Valley study caution was expressed regarding restorative justice, in that it may not always operate the same across cultural and socio-political settings. However, the study revealed that "we came across no 'type' of case where the offer of restorative justice was inappropriate" (Young et al., 2005, p. 310).

2.6 A Best-Practice Principles

2.6.1 Local Resolution, Managerial Resolution or Mediation?

Evaluations of victim/offender mediation in Australia and elsewhere have revealed that once police officers experience the process first-hand (albeit as the arresting officers or

representatives), they support it (Power, 1996). This raises the question, if they accept mediation as a mechanism for dealing with conflict between other parties, then why would they not see its value for conflicts involving themselves?

Complaints clog the daily operations of police departments as they have to be receipted, investigated and adjudicated (Holland, 2000). Research outlined in this literature review suggests that the process of local resolution has failed to meet the expectations and needs of civilians, and police, around the world. Indeed, formal accountability procedures and agencies have developed as a result of failures to resolve conflict between police and civilians at the ground level (Goldsmith, 2000). The move has been towards the use of more complex and secretive methods of accountability, most of which involve police participation at some stage.

All interactions between the police and civilians have a potentially constructive or destructive effect on trust. Placing the resolution of conflict and reparation of relationships in the hands of a party to the conflict, is untenable. Therefore, a non-adversarial, independent dispute resolution process that aims not only to clarify police action and procedures but to heal police-civilian relationships is crucial.

2.6.2 Who Should Mediate Cases?

Research in alternative dispute resolution and restorative justice has revealed that a key ingredient to successful mediation is facilitation by an impartial third party. Facilitation by police officers has been shown to suggest bias and this perception runs to government oversight agencies as well (Prenzler, 2016). The rationale behind the creation of modern court systems exemplifies the need for the divide between complainants and defendants to be clear (Prenzler & Sarre, 2012). Further, that detective units add an element of separation and independence between general duties police officers and investigators. Therefore, a mediation model that uses a neutral third party, with no connection to the parties in dispute, and who possesses skills in assisting parties through dialogue and negotiation to reach an agreed outcome, offers the greatest

benefit. Research suggests that when the three ‘relational’ issues of trustworthiness, neutrality and respect for rights are upheld by a third-party there is a psychological effect on participants, which results in their belief that the procedures are fair (Sivasubramaniam & Goodman-Delahunty, 2006, p. 210). Brereton (2000) does say that most satisfaction surveys reveal that complainants are more concerned about the ‘way’ complaints are handled rather than by ‘whom’ (p. 115). However, it has been shown in restorative justice mediation the facilitator is crucial to the ‘way’ or ‘process’ of the encounter, as well as the outcome. This neutral guidance creates a ‘win-win’ potential for both civilians and police officers.

Civilian complainants consist of youth as well as adults and the neutral facilitation of complaints is no less important when youth come into contact with police, with characteristics (e.g., ethnicity and disadvantage) which can result in unconscious disparate treatment by the police. Young people can be grouped according to their salient characteristics with personality traits attributed to them resulting in stereotyping (Butcher, 2003).

The importance of neutral facilitation of complaints involving youth can be drawn from the findings of a 2002 survey of 385 adults and 445 youth from non-English-speaking backgrounds in Sydney that showed 55 percent of youth, compared to 38 percent of adults, felt that police handling of youth was ‘poor’ or ‘very poor’ (Collins et al., 2000). Similarly, studies in the United States have also shown the most African American youth hold negative attitudes toward the police (Reisig & Parks, 2000; Taylor et al., 2001). Hence, trust might affect the way in which young people function in conferences convened by police, as opposed to civilians. The moderating effects of neutral facilitators on perceptions of bias held by youth in restorative justice conferences was explored Sivasubramaniam and Goodman-Delahunty in 2006. The fairness of the facilitator (i.e., the perceived absence of prejudice or partiality and “the separation of decision-making roles from personal advocacy”) was found to be crucial to trust in the process and outcome (Sivasubramaniam & Goodman-Delahunty, 2006, p. 211). These

researchers concluded that perceptions about procedural and distributive (i.e., outcome) justice was an individual factor. However, the independence of the facilitator enabled all participants to have a 'voice' in the restorative justice process (Sivasubramaniam & Goodman-Delahunty, 2006, p. 210). Further, a 2008 study by Sivasubramaniam and Goodman-Delahunty that surveyed young university students in Sydney ($n = 1,296$), on their perceptions of racial prejudice by police, found that 59.3 percent of respondents "affirmed that police target certain racial groups of young people" (p. 393). This belief was "not held exclusively by minority group members", rather "negative views of the police among young people are more pervasive than previous research has suggested" (Sivasubramaniam & Goodman-Delahunty, 2008, p. 400). Hence, complaints would likely be better mediated by facilitators who are not police officers.

2.6.3 Assigning Cases to Mediation

So far, cases have been allocated to mediation based on suitability criteria and the agreement of the complainant and police officer to attend (Prenzler, 2016). The process should remain voluntary however, 'suitability' may need to be redefined. Police interpretation of the seriousness of a minor issue, can be considerably different to the complainant's perception. As such, independent mediation should be available for all complaints against the police that do not involve potential criminal actions. For those complaints that involve serious allegations, mediation following a formal investigation should still be an available option (Prenzler, 2016). Some studies in the United States have revealed, however, that an obstacle to assigning a case to mediation has been a police officer's history of complaints against him or her. If officers have been through mediation for similar complaints, or appear unable or unwilling to change, then mediation would not be recommended (Cohen & Howard, 2017). Nonetheless, this rarely occurs, and the majority of mediations are successfully completed.

2.6.4 Types of Outcomes

The benefits of independent restorative justice mediation are numerous. A neutral forum alleviates concerns around internal bias (Berger, 2000). The process is time and cost-effective for both parties, compared with an expensive, formal court procedure (Walker et al., 2002). Mediation provides face-to-face contact, in an environment where communication, without fear of disciplinary action for police or reprisals for complainants, can occur; where cultural dimensions can be explored and empathetic understanding developed between parties (Bartels & Silverman, 2005). Restorative justice mediation can foster constructive attitudes, defuse conflict and prevent conflicts from escalating into a general prejudice that can impact on trust in the police. It reduces repeat calls for service as the underlying issues have been addressed (Charkoudian, 2016), and it supports the general public's sentiment that moderate sanctions, if any, are imposed on the police officer. Most complainants do not want a police officer's career to be jeopardised (Bartels & Silverman, 2005; Walker & Archbold, 2000).

Mediation is a useful mechanism for reminding the police of the role that the community plays maintaining law and order. The police do not work in isolation from the rest of the community. Civilians are a source of information about crime in their area, which can be shared with the police thereby enhancing crime control and public safety (Gau, 2010). A study by Tyler and Huo (2002) found the 70 percent of civilians surveyed, regarded fairness in police decision-making to be pivotal to their acceptance of the outcome. The police are authorised to enforce the law, however, at times, tactics such as threats of punishment for law-breaking as an inducement to compliance undermine the police-community relationship and lead civilians to infer that police have malicious motives and are biased (Birgden & Lopez-Varona, 2011). Therefore, it is the quality of the contact that engenders compliance and promotes positive attitudes towards police (Bradford et al., 2009; Gau, 2010; Skogan, 2004).

2.6.5 The Place of Mediation in a Comprehensive Integrity System

The police and civilians “have no ‘exit’ opportunities in their relationships with each other” (Goldsmith, 2000, p. 38). Given the growing heterogeneous nature of communities and global focus of policing today (Andreas & Nadelmann, 2006), the two will forever need to work together toward law, order and peace. Clark (2005) suggests a victim-centred policing approach that incorporates restorative justice principles. Similarly, Tyler (2006) shows that a justice-based model of policing that gives civilians a voice, underpins best-practice, and Goodman-Delahunty (2010) shows the provision of a mechanism for complaint increases how civilians feel about the police and their compliance with the law. The future of healthy police-civilian relationships depends on open communication and understanding through mediation. Given that communication and restitution are viewed as crucial in reducing recidivism among offenders (Ervin & Schneider, 1990), the juxtaposition of dialogue and reparation in restorative justice mediation of police complaints should lead to changed behaviour (in both parties) resulting in less complaints. Therefore, an effective police integrity system is one that also improves the police experience of disciplinary systems. This can be achieved by including mediation of complaints alongside the existing early intervention systems (Porter et al., 2015) and the more punitive mechanisms of drug and alcohol testing and prosecutions.

2.7 Discussion

Over the past four decades there has been a growing convergence of opinion in Australia that independent processing of complaints against the police is a necessary step to improving civilian-police relations. From the 1980’s slogan of 'Community Policing' to the introduction of oversight agencies, to pilot complaints mediation programs – the need for civilian review and beyond that to involvement in investigation and disciplinary decisions, has been identified as crucial to the transparency and accountability of police actions. Police websites proffer tokenistic

offers of mediation, but local and internal resolution processes dominate practice. Mediation of minor allegations occurs in some Indigenous communities. However, this appears to be on an ad hoc basis. Overall, independent mediation rarely occurs and mediation that promotes restorative justice principles is conspicuous by its absence. In view of that, this thesis evaluates how well Australian police services utilise alternative dispute resolution practices in their complaint management strategies. There are a number of successful international examples of independently mediated programs against which a best-practice mediation model for Australian police services has been modelled. Following some preliminary discussions with stakeholders in the United States, the reasons why some jurisdictions have adopted mediation while others have not, was explored. Queensland and New Zealand use informal and managerial review but appear to have ignored the empirical literature on police complaints mediation and the discovery of why this is their position may lead to policy change. A better understanding of best-practice principles will allow police services in Australia to proceed from a more informed perspective and incorporate referral to independent mediation into their complaints management systems.

2.8 Research Question

The issues discussed in the Literature Review led to a series of questions which helped generate the primary research question. These research sub-questions are included at Appendix B. The primary research question was refined to: *What can police departments learn from successful agencies in adding civilian-led mediation to the mix of alternative dispute resolution in response to complaints against police?*

CHAPTER 3: RESEARCH DESIGN

3.1 Introduction and Overview

This chapter provides an overview of the qualitative case study research method utilised in this study. The literature review identified that complaints against the police have traditionally been handled through internal mechanisms and have done little to reduce the consistently high numbers of complaints in Australia and elsewhere. International examples of police complaints resolution practices that incorporate alternative dispute resolution, including civilian-led mediation, provide benchmarks for best practice and it is against these models that the following important question was researched: *What can police departments learn from successful agencies in adding civilian-led mediation to the mix of alternative dispute resolution in response to complaints against police?* The scope of the research is also outlined in this chapter and discussion is included around the following areas: research design; methodological approach; data sources and sample; procedure and analytic strategy; limitations; and ethical considerations.

3.2 Research Design

This thesis was designed as a two-phase investigation. First, via a scoping study, it researched the use of independent mediation in the resolution of civilian-police complaints in Australia and New Zealand; second, it examined implementation processes, at an institutional level, applicable to successful civilian-led mediation programs internationally. To do this, a qualitative case study approach to data collection and analysis was adopted for this thesis through the examination of public documents and via semi-structured interviews. This two-part approach to data collection was sequential, although some documents including confidential documents, were provided by case study sites at the time of the interviews. The approach allowed for a deliberative interface

between what the documents showed to be effective and/or counterproductive and what the stakeholders do in their jurisdictions.

Qualitative research considers the quality rather than the quantity of something and hence focuses on its essence and ambience (Berg & Lune, 2012). It refers to the “meanings, concepts, definitions, characteristics, metaphors, symbols, and descriptions of things”, prompts recall and captures experiences “that cannot be meaningfully expressed by numbers” (Berg & Lune, 2012, p. 3). Quantitative research does not fully address the 'why' of decision-making around program implementation or 'why' programs actually work. Qualitative research achieves this through an ethnographic lens which aims “to ‘get inside’ the way each group of people sees the world” (Kraska & Neuman, 2012; Shirish, 2013, p.53). Qualitative data are not ‘deficient’ or ‘imprecise’, as can be argued by some quantitative research proponents; rather it enables the collection and analysis of rich data on a topic, by comparing the narratives of the members of the social world under investigation (Kraska & Neuman, 2012). In terms of program evaluation, a qualitative design looks at the features of the program, the type of session, the skills of the facilitators, and the environment and culture in which it takes place (Chen & Rossi, 1983; Pawson & Tilley, 1997).

In a qualitative, evaluative research project, the researcher is not involved in the conception and development of the initiative or program. A ready-made program provides the researcher with an opportunity to postulate explanations of the internal dynamics of each community and to explore causal factors. Therefore, the researcher plays the role of “learner” to construct a realistic theory of why a program works (Pawson & Tilley, 1997). It is a theory-driven evaluation that interrogates programs to determine whether they are fundamentally “sound, plausible, durable, practical and ... valid” (Pawson & Tilley, 1997, p. 2). An understanding of how a program is structured to alleviate inequalities, right wrongs or bring about changes in behaviour such as in police-civilian complaints resolution, is crucial to its

refinement and application in another context. Pawson and Tilley (1997) propose four factors that aid in explaining and understanding programs. They describe these as follows:

1. Mechanism – resources available that enable subjects to engage in the program;
2. Context – conditions under which a program operates (including location, economic conditions, technology, types of subjects and the institutions delivering the programs);
3. Outcome pattern – intended and unintended consequences of a program that provide measures of its effectiveness; and
4. Context-mechanism-outcome pattern configuration – combination of attributes that lead to an explanation of causality (Pawson & Tilley, 1997, pp. 6-8).

An understanding of culture (through consideration of internal variation) gives insight into answering the ‘why’ programs work question (Pawson & Tilley, 1997). Program sites fall into subgroups based on their own backgrounds and experiences and this affects outcomes. No two programs or the sites that engage in them are the same. Some sites may be predisposed to the initiative or against it, which affects outcomes. Pawson and Tilley (1997) argue that subgroup analysis demonstrates the levels of success achieved within the program and the areas for improvement – factors that are revealed in more depth in ‘quality’ studies.

Qualitative research requires the researcher to be precise and to produce an analysis of the context, mechanisms and expected outcome patterns of a program that can withstand future examination utilising the same or different methods (Berg & Lune, 2012). According to Yin (2011) the features of qualitative research include:

1. Studying the meaning of people's lives, under real-world conditions;
2. Representing the views and perspectives of the people in a study;
3. Covering the contextual conditions within which people live;
4. Contributing insights into existing or emerging concepts that may help to explain human social behaviour; and

5. Striving to use multiple sources of evidence rather than relying on a single source alone (p. 8). Further, Punch (2014) contends that qualitative research is invaluable in providing “sensitivity to meaning and to context, local groundedness, the in-depth study of smaller samples, and great methodological flexibility which enhances the ability to study process and change” (p. 304).

The qualitative research approach undertaken in this study enabled a broad area of inquiry and the elicitation of meaningful responses through total immersion in the case study sites. A quantitative approach was not used, per se, as the sample size was relatively small. Direct dialogue with information rich participants (Patton, 1990) – such as senior police officers and individuals who had worked in the area of complaints management for a long time, was viewed as the best way to elicit site-specific information and to understand the phenomenon. Hence, a primary source of data were in-depth interviews with stakeholders across multiple sites that demonstrated the use of police complaints systems, using a case study approach.

The case study approach has been identified in the literature as being well suited to conducting interviews (Yin, 2011). It also provided a practical method of gathering information from a small number of units (Maxfield & Babbie, 2008). Pawson and Tilley (1997) state that a one-off evaluation of a program tests a “restricted range of the potential explanations of program impacts” (p. 116). Therefore, what was needed was a series of case studies to shed light on program anomalies and replicability. Further to that, a ‘cumulation’ approach to evaluations was required to provide answers to the ‘what works for whom in what circumstances?’ question (Pawson & Tilley, 1997, p. 125).

Four case study sites were chosen for in-depth interviews – Denver, Los Angeles, New York City and Queensland, with a summary examination of the Thames Valley and New Zealand. The aims of the case study approach were as follows:

1. examine the institutional processes of program implementation;
2. where possible, ascertain the ingredients of success;

3. determine why many police services are locked into tokenistic local resolution while other jurisdictions have embraced independently facilitated mediation programs; and
4. develop best practice policy recommendations.

To this end, a range of formative and summative evaluations were undertaken in the present study. As Cook et al. (1992) state:

the immense diversity of social life, [however], and the great welter of factors underlying any social phenomenon make it difficult, if not impossible, to derive conclusive knowledge from any single study, no matter how well designed or intelligently analysed. The causal processes that appear so essential at one time or place may prove less important in another. The program that works well with one group under certain conditions may be less effective with another group when the circumstances are a bit different. (p. vii)

Therefore, an evaluation of past and present programs that synthesises findings and detects significant patterns amongst them was required. As Young et al. (2005) state in relation to restorative justice mediation programs “it should not be assumed that restorative justice would operate similarly in different cultural and socio-political settings, and independent in-depth evaluation should thus ride in tandem with any initial experimentation” (p. 309). To this end, the primary research findings were compared with previous site research reported in the literature.

The case study approach enabled an examination of the interaction of different individuals and agencies that contributed to the focus of the enquiry. It facilitated the comparison of variables and pattern variations across the sites and utilised a “causal-process tracing” approach that enabled the process (e.g., independent mediation) to be traced from a causal factor to an outcome (Blatter & Haverland, 2014, p. 59). The causal-process tracing approach added to

answering the ‘why’ and ‘how’ questions in the case study sites through the analysis of “stories”, “observation” and “confessions” (Blatter & Haverland, 2014, p. 60).

This study centred on the collaborative partnerships and not individuals per se, that developed, implemented and improved these programs. Within each site, the researcher was able to approach stakeholders, including police services, oversight agencies and mediation providers and became fully immersed in qualitative data collection of the differing perspectives to the alternative dispute resolution processes. The examination of public record material, including policies, annual reports and program evaluations, in conjunction with semi-structured interviews provided multiple sources of evidence to validate the claims of each program. Also, the study of separate case sites provided an opportunity to ask probing questions which otherwise would not arise in surveys; and pattern matching (i.e., the convergence of theory and data) that enables the demonstration of a causal relationship between programs and outcomes (Pawson & Tilley, 1997).

The benefits of the chosen data collection methods are detailed in Table 4.

Table 4: Qualitative Data Collection Methods

Data Collection Instrument	Benefits of Method
Document Review (Content Analysis)	• Data are collected in their natural setting • Records, documents and artefacts provide contextual information and insights into "material culture" • Facilitates discovery of cultural nuances
Semi-Structured Interviews (Thematic Analysis)	• Fosters interactivity with participants • Elicits in-depth, context-rich personal accounts, perceptions, and perspectives • Data are collected in their natural setting • Interviews can be unstructured, structure, or semi-structured • Explains and describes complex interactions and processes • Facilitates discovery of nuances in culture • Notes or verbatim transcriptions are used to document the interview.

Source: Adapted from Bloomberg & Volpe, 2008

Overall, the choice of a case study method was driven, as Punch (2014) recommends, by the research question. Australia has not been alone in experiencing problems within policing such as limited public accountability, diminished public trust and public dissatisfaction with internal police complaints management processes. The phenomenon exists in many countries around the world yet only a few have addressed these problems by implementing independent mediation programs that incorporate restorative dialogue. These programs have filled gaps in the best practice policing models of these jurisdictions.

The guiding impulse was to build the relationship between complainants and police officers through alternative dispute resolution. While reducing police misconduct in the future was not specifically on the agenda for most of these programs, it may well be an outcome. Hence, as Pawson and Tilley (1997) suggest some “non-therapeutic objectives can in some cases have therapeutic outcomes” (p. 103). Anecdotal evidence, which case studies reveal, was anticipated to support these outcomes. Again, outcomes that quantitative research does not usually reveal.

3.2.1 Phase One: Australia and New Zealand

An initial scoping study was conducted to investigate the current complaints resolution processes, and the use of alternative dispute resolution including mediation, in the eight policing jurisdictions in Australia and the single jurisdiction of New Zealand. The aim was to identify the available resolution options; the mechanisms that have been trialled; and the reasons why the mechanisms have been incorporated, or not, into police practice and policy. To do this scoping study, data were collected from documentary sources and analysed. The scoping study found that civilian-led complaints mediation programs have successfully been implemented in several jurisdictions, including the United States, England and Northern Ireland, but that very little existed in the way of mediation in Australia or New Zealand. Several comparative studies of informal and formal resolution processes have been undertaken in these jurisdictions and the

findings have revealed greater satisfaction with informal resolution. The differences in mediation usage across jurisdictions raised questions about best practice and it was surmised that the Australian and New Zealand jurisdictions could benefit from a wider examination of international practices.

3.2.2 Phase Two: United States of America and United Kingdom

The qualitative analysis adopted for Phase Two of this project was separated into two parts – content analysis of relevant documents and thematic analysis of in-depth interviews with stakeholders (i.e., police officers and oversight agency employees involved in complaints management and mediation providers). The use of documentary content analysis enabled the researcher to gain knowledge of the institutional implementation of civilian-police complaints mediation, which was then used to frame the interview questions. The use of in-depth interviews, which is characteristic of a qualitative approach (Yin, 2003) meant that research participants were not limited in their responses as they might be by surveys, quasi-experiments or other quantitative methods. Participants' views and perspectives, the social, institutional and environmental conditions under which they live and work, and their interpretation of on-going events in their lives, can be captured for analysis using qualitative methods (Yin, 2011).

3.3 Methodological Approach

The qualitative approach adopted in this thesis has often been associated with an 'interpretivist' worldview or ontology. An interpretive social science approach enabled the "empathetic" study of people and text within their cultural contexts to understand the meaning they gave to the phenomenon (Kraska & Neuman, 2012, p. 54). According to Bailey (2007) "research undertaken with an interpretive paradigm in mind focuses on social relationships, as well as the mechanisms and processes through which members in a setting navigate and create their social worlds" (p. 53). The case study design provided access to the lived experience of stakeholders of existing

police complaint systems, and the opportunity to evaluate the effectiveness of existing programs in the light of principles of restorative justice.

There are three research paradigms used in the area of criminology and criminal justice research – positivist social science, critical social science and interpretive social science (Kraska & Neuman, 2012). The latter was adopted for this thesis as it provided a holistic investigation of the phenomenon. The two-part approach to documentary content analysis and thematic analysis of semi-structured interviews enabled the researcher to gain an understanding of the social and political processes that led to the construction of complaint resolution processes in the case study sites. The use of in-depth interviews enabled stakeholder (e.g., police officers) introspection and elicitation of the interpretations they placed on the purpose, suitability, successes, and failures of the complaints processes within their jurisdictions. The criteria in Pawson and Tilley's (1997) program evaluation model – 'context-mechanism-outcome pattern' was applied to extract this information.

However, opponents of qualitative research suggest that there are potential problems with the duality of meaning that may be given to the same event. The emic (internal/participants) and etic (external/researcher) perspectives represent views that often differ due to individually held value systems and personal characteristics (Yin, 2011). As a sole researcher, the risk of contaminating data by interpreting it through a personal research lens was acknowledged. To minimise this effect, methodological triangulation was employed. This approach uses multiple research instruments (i.e., interviews and document review across multiple sites) to access and analyse divergent views and cross-check evidence. Thus, triangulation provides a comprehensive understanding of the phenomenon under investigation and enhances the verification and credibility of the study (Bailey, 2007; Howe, 2012).

3.4 Data Sources and Sample

A purposive approach of critical case sampling was deemed appropriate for this study, because knowledge of the population and its elements were already known (Maxfield & Babbie, 2011). Specifically, the case study sampled are known to be currently conducting civilian-police mediation programs and are deemed to be impressive exemplars (Patton, 1990).

3.4.1 Sourced Documents

For the Phase One scoping study, documents pertinent to the complaints systems of nine police jurisdictions in Australia (i.e., New South Wales, Victoria, Tasmania, South Australia, Western Australia, Queensland, Australian Capital Territory and Northern Territory) and New Zealand, were sourced in both printed and electronic (e.g., internet) form. These included a broad range of records and documents that provided insight into the history and processes involved in the resolution of civilian-police complaints in these countries. Comparative information was also sourced, including formal evaluations of three successful mediation programs in the United States and England. Overall, approximately 50 documents over a thirty-year period were examined.

Similarly, in Part One of Phase Two, records, documents and artefacts from police jurisdictions across the globe that have considered, trialled and/or implemented alternative dispute resolution processes and mediation into their complaints systems, were sourced. Approximately 30 publicly available documents and confidential documents from the case study sites identified in section 3.4.2, were accessed and/or obtained. However, the researcher noted that some data provided by institutions may have been to present their ‘position’ on the issue of complaints management. Nonetheless, a plethora of documents including approximately 40 additional publications, primarily contemporary academic writings, were sourced to compare what had been espoused in the documents with the lived experience of stakeholders.

3.4.2 Case Study Sites

The preferred case study sites were Queensland, Australia; New Zealand; Denver and New York City in the United States, and Thames Valley, England. The agencies in these jurisdictions were approached to participate in the study and a list of possible substitutes was also developed (see Table 5). However, after the initial agreement, the New Zealand Police were unable to participate (although the Independent Police Conduct Authority in New Zealand did participate). As such, and due to increased complaints mediation activity in Los Angeles, the agencies in this city were added to the case study sites.

Table 5: Research Stakeholders

Case Study Site	Potential Research Stakeholders
National Queensland	• Mediators who have facilitated pilot programs, e.g. Dispute Resolution Centre; • State and Territory police officers responsible for conducting internal mediations of complaints; • Complaints Manager, Crime & Corruption Commission; • Other service providers and groups, e.g. Community Legal Aid Centres and Community Policing Boards.
International New Zealand Denver New York City England Los Angeles	• Independent Police Conduct Authority, New Zealand • Office of the Independent Monitor, Denver, USA • Civilian Complaint Review Board, New York City, NY, USA • Thames Valley Mediation Program, England • Dispute Resolution Program, Office of the City Attorney. Los Angeles, USA Plus: Police Services and External Oversight Agencies in each city.
Possible substitute sites San Francisco Northern Ireland	• Office of Citizen Complaints, San Francisco; including Donna Salazar, NACOLE 2017 award recipient-Achievement in Oversight • District Policing Partnership Board, Northern Ireland Plus: Police Services and External Oversight Agencies in each city.

The selection of research interviewees was driven by the literature review. The limited evidence of successful mediation programs and empirical evaluations narrowed the choice to programs in the United States, England and Northern Ireland. In addition, Queensland and New Zealand were chosen as case study sites because their police services and complaints management processes operate in very similar ways; both jurisdictions have shown indicators of mediation and both have refrained from actively utilising the mechanism. The following background information on each case study site provides the justification for their selection for the present study.

Denver, Colorado, United States of America

Denver has one of the most successful community-police complaints mediation programs (i.e., the Office of the Independent Monitor and operated by Community Mediation Concepts) operating in the United States in terms of participant satisfaction with the process and outcomes. This was measured against the number of mediated complaints and data compiled since its inception (Proctor et al., 2008). In the 2012 evaluation of the program, participant satisfaction rates were higher for those who had engaged in mediation over the traditional resolution method across all aspects of the process (Schaible et al., 2012). In 2014, the Denver program had 53 completed mediations (i.e., rate of 37 per 1,000 officers; total complaints $n = 633$); and in 2018, 37 mediations were completed with 71 percent of complainants and 98 percent of police officers satisfied with the mediation process (OIMD, 2018).

Denver is located in the mid-west region with a police service of 1,432 sworn officers. The city has a diverse ethnic population of approximately 3.1 million people, comprised of African American, Hispanic, Asian, Native American and multi-racial groups (Metro Denver, 2017). Aurora, part of the wider Denver metropolitan area, has 677 sworn officers and 11 completed mediations (i.e., rate of 16.2 per 1,000 officers) in the same period. The Office of the Independent Monitor monitors and organises mediation of complaints for the wider Denver

Police Service and Sheriffs' Department in relation to minor allegations. It also reviews Internal Affairs Bureau case screening decisions, completed informal resolutions and may actively monitor and participate in the investigation of serious complaints (OIM, 2014). Given this level of independent involvement and the ongoing success of the mediation program, the Denver police, oversight and mediation agencies were selected as research sites.

New York City, New York, United States of America

New York City is home to 8.34 million people, making it the most populous city in the country (NYC, 2019). The population, while predominantly Whites, is made up of a mix of races with a high percentage of African American and Hispanic people (USCB, 2019). It has 34,500 sworn police officers and the longest running, independent complaints management agency in the country. The Civilian Complaint Review Board is "empowered to receive, investigate, prosecute, mediate, hear, make findings, and recommend action upon complaints filed against members of the New York City Police Department" (CCRB, 2016, p. 1). In 2014, the Civilian Complaint Review Board completed the largest number of mediations ($n = 164$) in the United States (i.e., a rate of 4.8 per 1,000 officers; see Table 6). In 2015, the Civilian Complaint Review Board reported that civilian complaints against police increased by 68.5 percent ($n = 531$) representing a significant increase on the previous five years. On average 20 percent of complaints investigated by the Civilian Complaint Review Board were substantiated each month during that period (Annese & Rayman, 2016). This site was chosen as a research case study due to the substantial number of complaints it mediates, the longevity of the program and participant satisfaction rates. In 2018, over 50 percent of complaints referred to mediation were completed ($n = 463$). The number of completed complaints have grown over the five years from 2014 ($n = 390$) with continued high participant satisfaction rates with the process reported (CCRB, 2018).

Los Angeles, California, United States of America

Located in southern California on the west coast of the United States, Los Angeles is the second most populous city in the country after New York City with a population of 4 million people. Los Angeles is also a metropolis that encompasses 15 districts and covers an area of approximately 1,300 square kilometres with a total population of 18.7 million people. Greater Los Angeles has a diverse population comprising 52.43% Whites, 11.65% Asians, 8.9% African Americans; 0.74% Native American; 0.18% Native Hawaiian/Pacific Islanders and 22.5% Other (LAC, 2020). The whole area is served by approximately 10,000 sworn police officers (LAPD, 2019) and in 2017 commenced its external complaints mediation program through the independent Dispute Resolution Program located within the City Attorney's Office. The infancy of this program made Los Angeles a good case site for this research study as it provided a comparison with other programs within the United States in relation to implementation and operation. Early indications are that the program has been well received. In 2019, the City Attorney's Office expanded the program through the inclusion of police outreach. City Attorney Mike Feuer reported that "response to the program and the willingness of people to recommend it to others has been 'overwhelmingly positive'" (CNS, 2019, p. 1).

Table 6: Mediation Rates - 2014

City	Agency	Sworn Officers	Mediations Completed	Mediation Per 1,000 Officers
New York City	Civilian Complaint Review Board	34,500	164	4.8
Denver	Office of the Independent Monitor	1,432	53	37.0
San Francisco	Office of Citizen Complaints	2,119	50	23.7
Washington, D.C	Office of Police Complaints	3,945	37	9.4
Aurora	Community Mediation Concepts	677	11	16.2
Minneapolis	Civilian Police Review Authority	816	10	12.3
Kansas City	Office of the Independent Monitor	1,389	9	6.5
Portland	Independent Police Review Division	930	6	6.5

Source: Denver Office of the Independent Monitor, Annual Report 2014, p. 56

Thames Valley, England

The Thames Valley Police is one of the 46 police forces in England and Wales and is the largest non-metropolitan force. With 4,750 sworn police officers, the force serves a population of 2.34 million people across three counties – Buckinghamshire, Berkshire and Oxfordshire and an area of 5,700 square kilometres. The ethnically diverse population is largely white with 15 percent from Asian, black, and minority ethnic communities (HMICFRS, 2017). Commencing in 2000, the Thames Valley Police operated a civilian-police complaints mediation program based on restorative justice – principles which had already become part of youth justice legislation and the adult justice system in the United Kingdom (Davey, 2005). The program was evaluated in 2005. Of the 49 cases the Thames Valley Police dealt with through informal resolution, 22 cases were mediated, and a further 19 cases were concluded using a restorative justice facilitated shuttle interview process (Young et al., 2005). For complainants, mediation provided the face-to-face meeting with the subject police officer that they wanted. It also overcame the “indirect transmission of views” that occurred in informal resolution and was more conducive to an apology from the officer (Young, et al., 2005, p. 290). The success of restorative justice mediation found in the program evaluation was for this reason that the Thames Valley was considered an important case study site.

Queensland, Australia

Queensland, one of eight states and territories in Australia, with a current population of 5.1 million people and 15,000 sworn officers who serve an area of approximately 1.729 million square kilometres (Geoscience Australia, 2020; Productivity Commission, 2019), was chosen as a representative site for this study due to its history of trialling mediation programs. These programs (see Appendix E) are categorised according to their level of independence from the Queensland Police Service. The categories mirror Prenzler and Ronken’s (2001) “three-part model ... of ‘internal affairs’, ‘civilian review’ and ‘civilian control’” (p. 156). However,

‘civilian control’ has yet to be trialled. The current Crime and Corruption Commission provides the closest comparison.

The findings of these trials proffered the same recommendations; namely, that a complaints resolution mechanism, independent of police facilitation (i.e., ‘civilian control’) offers the fairest and most transparent system. Yet as control has not been relinquished to civilians, the rhetoric continues. In 2016, the Crime and Corruption Commission announced that a program to reform the police complaints and discipline system would be implemented (i.e., the Crime and Corruption Commission 2017-21 Strategic Plan). This further supported the debate that the current system has failed and as such this study strove to examine the reasons for the resistance in the face of clear calls for change. This was done in this, and in other sites, through document analysis and case study.

New Zealand

New Zealand has a population of approximately 4.5 million people with an ethnic mix of European (71.2%) and Maori (14.1% - Indigenous population), and other peoples, including Asian (11.3%) and Pacific Islander (7.6%) peoples (CIA, 2017). The country consists of two islands, but it has one police service divided into districts. The independent oversight agency, Independent Police Conduct Authority, receives approximately 2,500 complaints against the police each year and devolves the less serious allegations to the police for investigation and resolution. As identified in the literature review, the Independent Police Conduct Authority and Police Professional Conduct unit in a joint initiative in 2016, conducted a complaints Early Resolution Process pilot in three districts. Both agencies recognised that the existing system “did not provide flexibility to manage the diversity of complaints nor respond to the diversity of complainants in ways that are appropriate and proportionate to the issues” (Curtis-Ham, 2017, p. 3). The program was evaluated on timeliness and efficiency of complaints resolution. Given that the New Zealand Police have actively engaged in restorative justice practices, including family

group conferencing, for decades, and in light of the latest pilot program, this site represented an opportunity to explore the reasons why mediation has not included as a resolution approach for complaints against the police.

Possible Substitute Sites

The possibility that some of the proposed case study sites would be unable or unwilling to participate in the study was considered. A contingency plan consisting of possible substitute sites, including San Francisco and Northern Ireland was developed to ensure an adequate number of case studies for the study. San Francisco has an established and successful civilian-police mediation program in operation (DPA, 2020); and the Police Ombudsman for Northern Ireland is a completely independent organisation that investigates and adjudicates all complaints against police in Northern Ireland (PONI, 2018).

3.5 Procedure

3.5.1 Sourcing Qualitative Documents – Phase One and Part One (Phase Two)

For Phase One and Part One (Phase Two) of the project, a systematic search of public documents, both via online resources and hard copy inspections, was continually conducted (i.e., over the period February 2016 to June 2020) to determine contemporary practice in Australia, and elsewhere, around police complaints handling processes and the use of mediation as a resolution mechanism. Publicly available reports were sourced from websites, including the most recent annual reports, commissioned research, policy and practice manuals, mediation program evaluations, contemporary academic writings and other relevant documents. A list of the electronic library databases searched included Criminal Justice Abstracts, Google Scholar, Google Search, ProQuest and Research Gate. Search words used in these databases included: ‘informal resolution’, ‘managerial resolution’, ‘police complaints’, ‘police accountability’, ‘conciliation’, ‘civilian/citizen complaints’, ‘mediation’, ‘restorative justice’, ‘alternative dispute

resolution'. The publications identified within these searches and those on their reference lists were continually examined.

In relation to Australia, searches revealed perfunctory efforts by police across all jurisdictions to include complaints mediation as part of their services; with limited evidence of its usage. There was mention of the sporadic use of informal and managerial resolution processes, and a significant amount of information pertaining to the evolution of police oversight (De Angelis & Kupchik, 2007; den Heyer & Beckley, 2013, 2016; Filstad & Gottschalk, 2011; Prenzler & Ronken, 2001). However, these oversight agencies do not facilitate the mediation of police complaints and have little to no civilian involvement in their processes. The searches also provided valuable insight into the use of alternative dispute resolution and mediation for civilian-police complaints in the selected case study sites and other jurisdictions.

3.5.2 Case Study Sites – Part Two (Phase 2)

Gaining Entry to Sites

Potential challenges to gaining entry to each site was considered. Some of the agencies at the research sites such as government and police services, required the prior completion of on-line applications to conduct research with their organisation (e.g., Queensland Police Service and New Zealand Police). The individuals charged with the authority to approve or deny these applications controlled the processes and parameters of data collection (Burgess, 1991). In addition to the research focus, issues of informed consent, confidentiality and security of data were discussed.

The researcher's gender and sole researcher status were additional factors considered in relation to entering sites. For example, as a female researching male-dominated police services, it was anticipated that the reception received might not always be welcoming. However, Bailey (2007) states that this is quite common, and that research is affected by the early interactions:

"the initial period of immersion in the setting lays the groundwork for the rest of a field research project" (p. 69). Forewarned with this knowledge the field research commenced in Queensland.

Semi-Structured Interviews

Many of the questions that arose from the document content analysis could not be adequately answered by referring to the literature. Therefore, semi-structured interviews, which are the primary method for data collection in case studies, were used to measure the same phenomenon. These types of interviews fit well with the interpretive paradigm used in this thesis. The relatively informal process afforded the researcher the opportunity to engage in meaningful dialogue; change the sequence of questions; eliminate redundant questions – due to earlier responses; clarify questions posed; actively listen, probe and summarise statements; expand on areas under discussion and allow the flow of the interview to dictate the timing and/or replacement of some questions (Bailey, 2007; Lanier & Briggs, 2014). Specifically prepared open and closed-ended questions were posed which provided consistency across all sites. The flexibility of semi-structured interviews assisted to elicit reflective, in-depth and culturally relevant data. It was anticipated that interviews could yield similar and corroborating findings, such as from two individuals within the same agency (Hagan, 2006). However, divergent views were also anticipated as in-depth interviews provide a way of accessing an individual's "perceptions, meanings, definitions of situations and constructions of reality" (Punch, 2014, p. 144) which may differ from those held by other stakeholders. Nonetheless, data triangulation was used to ensure the dependability and consistency of the findings.

Each agency was contacted via their website. They were provided with a written information package that set out the purpose and an overview of the research study, including the researcher's biography for consideration. Where relevant, such as with the Queensland Police Service and the New Zealand Police, a general application was completed. Each agency was asked to nominate two people to participate in an interview, estimated to last approximately

two hours. This equated to between six and nine interviewees in each case study site; a maximum of 54 interviewees across the six sites. In instances where nominated representatives were not available, interviews were reorganised and conducted over the telephone and via email.

The selection of the number of sites and interviewees in each site has been guided by the concept of saturation. Saturation refers to the point in qualitative research where additional data does not yield additional information but instead may become repetitive and as such data frequency is not as important as the data itself (Ritchie et al., 2003). However, Strauss and Corbin (1998) state that there is always potential for new data to emerge and caution that saturation occurs when the data becomes “counter-productive” (p. 136). Clearly the sample size must be adequate to ensure that all points are addressed and defensible. Various researchers have indicated their ‘acceptable’ qualitative sample sizes, ranging from 15 to 50 participants (Green & Thorogood, 2009; Ritchie et al., 2003). However, Jette, Grover and Keck (2003) suggest that number can be reduced where participants offer a level of expertise in relation to the issue. It is on this basis (i.e., the expertise in police complaints management and/or civilian-police complaints mediation) that five case study sites (plus two possible substitute sites) each with approximately six interviewees ($n = 42$), were chosen.

Between December 2017 and February 2018, agreement was sought via email from each agency to participate in this study. Emails were exchanged confirming their support for the study and a convenient date and time for their participation in Part Two (Phase Two). Sites were provided with a list of discussion topics in preparation for the visit. They were advised that all interviews would be tape recorded and then transcribed verbatim (English is spoken in all sites). Sites were asked to sign a USC Australia consent form and advised that they would be provided with a report on the researcher's findings at the end of the study. This was outlined in the ethics application submitted to USC Australia’s Office of Research Ethics (Reference Protocol Number: S181168).

Interview Schedule of Questions

In order to answer the research question posed, a number of sub-questions were identified to guide the interviews. These included:

1. how are the programs facilitated?
2. how and by whom are cases referred to mediation?
3. what are the biggest obstacles to successful mediation programs?
4. why do the number of independently mediated complaints remain low in comparison to overall complaints made to police?
5. how has success been defined and measured?
6. what changes/improvements have been made to programs?

The approach to developing the interview questions involved the following:

- reviewing the research sub-questions (above; and see also Appendix B);
- brainstorming three or four questions around each research question;
- reflecting on possible answers to those questions in order to modify them to ensure that actual responses related directly to the primary research question.

Preliminary work revealed that a different set of protocols was required for each site and category of research interviewee. Table 7 provides interview questions for Australian research sites and Table 8 provides interview questions for international research sites (see Appendix F for Semi-Structured Interview Protocols).

It was necessary to provide the case study site participants with the semi-structured interview questions prior to the study as most requested to know what they would be asked. This was in order to nominate the appropriate personnel to be interviewed and to ensure that it was appropriate for them to answer the questions. As examples, the Queensland Police Service and

New Zealand Police modified and/or removed questions from the interview protocols as they deemed appropriate. Notwithstanding this, the semi-structured interviews allowed for, and encouraged, broader discussion on related issues.

Researcher Reflexivity and Trustworthiness

The researcher was cognisant of the potential for bias. As the sole interviewer, data reliability was acknowledged as a potential issue. Maxfield and Babbie (2011) state that “different [interviewers] get different answers from respondents as a result of their own attitudes and demeanour” (p. 137). Further, as the sole coder of the themes, the potential also existed for interpretation and bias to influence the findings. However, the protocols that were employed addressed the themes over all case studies, and as such any bias was negligible. The protocols provided specific interview questions, and these were consistently applied.

The quality criteria for qualitative research are “credibility, transferability, dependability, and confirmability” (Korstjens & Moser, 2018, p. 120). These four criteria are indicative of ‘trustworthiness’. Trustworthiness in research is concerned with researcher bias toward, effect on or interpretation of the data, and incomplete or deliberate distortion of the data (Yin, 2011). To build trust in the data, transparency of the researcher’s qualitative research methods was vital to the credibility of the work. The procedures followed for gathering and analysing data must withstand scrutiny and be readily available for inspection by persons other than the primary researcher. This was achieved through the verbatim transcription of interviews, the use of interviewee quotations and the use of a reflective journal. The latter enabled the researcher to record “experiences, ideas, fears, mistakes, confusions, breakthroughs, and problems that arise” (Spradley, 1979, p. 76).

Table 7: Semi-Structured Interview Questions (Conciliation) – Queensland & New Zealand

Interviewee	Semi-Structured Interview Questions
Police (police complaints officers responsible for internal mediation or alternative dispute resolution /conciliation)	1. The police service is focused on continuous improvement and review of its systems and processes; what brought about the inclusion of alternative dispute resolution /conciliation as a complaints resolution option? 2. How do you determine which cases are offered conciliation? 3. How are complainants made aware of the alternative dispute resolution option? 4. Even though most complaints against the police are of a 'less serious' nature, given that these amount to a high number of complaints (something the police service wants to reduce), do you think more attention should be given to healing the relationship between the police and civilians, rather than complying with procedures? 5. Does the current alternative dispute resolution option incorporate restorative justice principles? 6. How does it do that? 7. Who facilitates the alternative dispute resolution sessions? 8. Is it likely that the police service will consider independent mediation of complaints in the future? 9. Do you have any concerns that civilians might hold some bias against the police? If so, what gives you that impression? 10. What is your experience of complaints mediation or alternative dispute resolution /conciliation? Why are so many Australian police services locked into tokenistic local resolution?
External Oversight Agencies (complaints managers)	1. The <i>Crime and Misconduct Act 2001</i> (Qld) gave the CCC stronger monitoring powers in relation to police complaints. How has the monitoring of the QPS's complaints-handling processes changed since 2001? OR 2. The <i>Independent Police Conduct Authority Act 1988</i> (NZ) gives the IPCA the authority to consider complaints against the NZ police. What does the process involve? 3. How often has the CCC/IPCA used alternative resolution strategies such as mediation to resolve complaints? 4. Do you think there is a place for civilian-led mediation of civilian complaints against the police in Australia/New Zealand? If so, is that place within your organisation? 5. Are restorative justice principles factored into mediation? 6. What are the impediments to implementation of a mediation model in Australia?
Mediators (who facilitated pilot mediation programs)	1. How many civilian-police complaints mediation sessions did you facilitate? 2. Do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not? 3. Were restorative justice principles applied to mediations? 4. Why have pilot mediation programs, particularly in Queensland, not subsequently been implemented?
Other stakeholder and community organisation representatives	1. What experience have you had in mediating complaints against the police? 2. Do you see your organisation as being an appropriate body to potentially offer such as service? Why or why not?

Table 8: Semi-Structured Interview Questions (Mediation) – Denver, New York City, Los Angeles & Thames Valley

Interviewee	Semi-Structured Interview Questions
Police (police complaints officers who refer cases to external mediation)	1. Does your service offer internal mediation? 2. What has been your experience of internal mediation? 3. Have other alternative dispute resolution practices been used? If so, what? 4. What practices have been effective? 5. How has success been measured? 6. What was the impetus for the establishment of external mediation of police complaints? 7. Can you explain the process that led to the establishment of external mediation? 8. What are the criteria for referring cases to external mediation? 9. Can you explain the referral process? Who makes the referral? 10. How long has the referral process been operating? 11. Has the process been continual? 12. How many cases are referred each year? 13. Does the mediation program report on each mediation? 14. Is any further disciplinary action taken against the police officer who was the subject of the mediation? 15. Does the police service evaluate the mediation program? 16. How do you know the mediation program works? 17. How do you personally feel about civilians being involved in the resolution of complaints against the police? 18. What impact do you think referring police officers to mediation has on their future behaviour? 19. What have been the pitfalls in the development of a best practice model in complaints management?
External Oversight Agencies (complaints managers)	1. What is the current system for dealing with complaints against the police? 2. Do you mediate complaints against the police? 3. What were the institutional processes for the implementation of mediation? 4. If not, do you refer cases to mediation? 5. What does this referral process involve? 6. Does the program employ restorative justice principles? 7. How do you feel about former police officers being involved in the mediation of complaints against the police?
Mediation Co-ordinators (in civilian-led mediation programs)	1. What were the institutional processes for the implementation of the mediation program? 2. What do you feel are some of the advantages and disadvantages of having civilians mediate complaints against the police? 3. How do you incorporate restorative justice principles into mediation sessions? 4. Research indicates that both the police and complainants are highly satisfied with having a "voice" in mediation of complaints. Why then aren't more complaints referred to mediation? 5. What do you feel are the ingredients of a successful program? 6. Does the program employ restorative justice principles? 7. Does the program support restorative rather than punitive recommendations? 8. Does the program allow sufficient time for effective investigation and resolution? 9. How is this mediation program funded?

3.6 Analytic Strategy

3.6.1 Documents: Content Analysis

In qualitative content analysis, the researcher becomes immersed in documents, rather than in the field, to answer focused research questions. Qualitative content analysis is a non-reactive method of analysing documents to “make theoretical sense” of them “by analysing their cultural meaning” (Kraska & Neuman, 2012, p. 15). This means the phenomenon is studied within its cultural context to understand the meaning assigned to it by the social actors who experience its reality. It enables the researcher to decipher textual data to understand its meaning and significance and how it forms “a particular version of reality” (Bowen, 2009; Kraska & Neuman, 2012, p. 274).

As discussed in section 3.3, an interpretive social science approach to understanding documents related to civilian-police complaints resolution processes in Australia and elsewhere, was undertaken in this thesis. Approximately 80 public and confidential documents, were collected from existing case studies in Phase One and from direct case studies in Phase Two. The documents were analysed to gain knowledge of ‘successful’ complaints mediation programs by answering the question “what is really the case?” (Kraska & Neuman, 2012, p. 260). The procedure was guided by Braun and Clarke’s (2006) work whereby data contained in the documents **were** examined to identify the evolution of complaints processes, impactful events, and tracking of change and development (Kraska & Neuman, 2012). Specifically, content analysis was used to determine the impetus for the introduction of the mediation programs, the institutional processes involved in their implementation, the policies that guide the conduct of programs and the performance of programs to date. This was done through the application of a thematic content analysis (Braun & Clarke, 2006). The documents were read and then re-read in conjunction with each other to allow for themes and patterns to be identified. The politico-legal environments in which the programs operate were examined and the data were compared across

case study sites. Data were coded into topics and subthemes and then refined into the following major themes: (1) current complaints resolution process, (2) mediation trialled/used, (3) stakeholder practice issues, (4) minor and serious complaints, (5) public satisfaction with complaints process, and (6) lessons learned. These themes were further analysed with those identified from the interviews.

3.6.2 Semi-Structured Interviews: Thematic Analysis

Sixteen semi-structured interviews, involving twenty-seven interviewees, were conducted in this study. These were a combination of individual and group interviews, and they were recorded and transcribed verbatim. The semi-structured interview questions interrogated what is used, why and what lessons could Australia learn from other police jurisdictions. A thematic analysis approach was used as it analysed the “real-world authenticity” of the phenomenon as it was experienced in the case study sites (Kraska & Neuman, 2012, p. 264). Attributes such as location, economic conditions, available resources and institutions involved in police complaint resolution processes were identified as per Pawson and Tilley’s (1997) evaluation model. Narratives around daily interactions between civilians and police; informal resolution processes and trialled complaints mediation programs revealed themes and patterns across case study sites.

The interview content was analysed using a system of alphanumeric codes. Interview protocols were developed, and themes drawn from interview data were coded in order to interpret what the stakeholders understood and felt about the implementation process, policies and procedures involved in independent mediation programs. Two hundred and fourteen responses drawn from the interviews were codable. These were de-identified for analysis. Codes were inductively identified and affixed to the transcripts (Berg & Lune, 2012; Braun & Clarke, 2006). Using NVivo 12 software, documents and interviews were coded using nodes and sub-nodes to deal with emerging and evolving themes and patterns, as well as evaluation coding. A thematic analysis was conducted in each case study (Hayes, 2000). Similar words or phrases,

commonalities or disparities were identified using searches, such as text word and phrase searches (Stake, 2005). The context and quality of each coded theme was then analysed to present a coherent picture (Berg & Lune, 2012; Braun & Clarke, 2006; Kraska & Neuman, 2012).

To overcome inter-rater reliability issues, a pilot was conducted wherein the researcher asked two academics to read one randomly selected interview transcript and apply codes to the data. This tested the accuracy of the coding system and some modifications to codes were made following the process. This enabled the major themes to be refined. The results for each coded theme are included in Appendix G. To statistically test the consensus of coding, Cohen's kappa score was applied (McHugh, 2012). An acceptable percentage (0.90) was found (see Appendix H).

Lastly, the writing of the five journal articles (see Chapters 4 to 8) enabled the continuous fine-tuning of the data analysis (Korstjens & Moser, 2018). Quotations from interviewees which exemplified the themes were included in the journal articles.

3.7 Limitations of a Qualitative Case Study Approach

Data collection methods (i.e., document reviews and interviews), using a qualitative, case study design were acknowledged as posing some limitations. These included:

- The scoping study on the use of mediation or other alternative dispute resolution in Queensland revealed little data. As such, other jurisdictions including New South Wales and Victoria were included in this exercise.
 - The collection of public documents was a challenging process as it was uncertain whether the searches would be exhaustive and whether pertinent documents might be missed.
- Approximately eighteen months was allocated to Phase One and the first part of Phase

Two. However, to ensure the currency of the research, the literature was continually reviewed, and the thesis updated as appropriate.

- The possibility that not all police services or stakeholder organisations would be willing to participate in the study. For example, initial enquiries established that the Office of Professional Accountability in Seattle were reluctant to engage in the study. This was because their mediation program had been temporarily suspended in 2016 due to Collective Bargaining Agreement negotiations and only a few mediations had occurred since recommencement of the program in 2017. Similarly, pragmatic issues were anticipated to arise in relation to participation. As such, adjustments were made as the study progressed to overcome these problems, including approaches to the proposed substitute sites in order to ensure the selection was as representative as possible and to maintain an adequate number of case studies for evaluation.
- Phase Two involved some direct travel to physically attend research sites, as well as telephone interviews for some international sites. The time, cost and convenience of these aspects of the primary research were considered by the researcher. However, the research trip provided further opportunity to obtain documents not yet publicly available, to ensure the currency of those documents already in the researcher's possession and to get first-hand information from those at the coalface about alternative dispute resolution processes, including restorative justice mediation programs.
- Each case study site chosen for data collection and analysis, consisted of a number of past and present programs and an array of stakeholders. As such, it was acknowledged that the findings might not be generalisable across populations because "the program is also defined institutionally in terms of 'treatments', 'localities', 'funding levels', 'political climates' 'policy frameworks', 'implementation plans' and so on ad infinitum" (Pawson & Tilley, 1997, p. 120). However, it was believed that a case study approach would extract a

common “set of ideas” which would be transferable between jurisdictions or multiple sites of application (Pawson & Tilley, 1997; Yin, 2011).

- The semi-structured interviews were intended to be individually based. However, group interviews were scheduled in some instances in accordance with the requests from the case study sites.

3.8 Ethical Considerations

Ethics approval from the USC Australia Human Research Ethics Committee was obtained on 28 May 2018 (Number S181168) for Phase Two. Ethics approval was also sought from international agencies. There were no known or anticipated risks associated with participating in this research study. Sites were informed of the purpose and process of the research and informed consent was obtained. The aim was to do no harm to sites and as such all information gathered remains confidential. No individual is identifiable from the results. The data, with no personal identifiers, collected from this study is maintained on a password-protected computer database in a restricted access area of the university. Formal research agreements were entered into with case study sites, as required.

3.9 Conclusion

This chapter provided an overview and rationale for the use of a two-phase, qualitative investigation into the use of mediation for the resolution of civilian-police complaints, utilising documentary content analysis in both phases, and a case study approach via in-depth interviews and thematic analysis in Phase Two. Importantly, these methods were appropriate to the study for the following reasons. Firstly, the content analysis provided background information on the implementation of mediation programs, the legislative framework in which they operate, site-specific information, internal evaluations and empirical research findings on the efficacy of the

programs. Secondly, in-depth interviews enabled engagement directly with stakeholders to further explore the institutional process of implementation in each site; obtain and record personal perspectives and experiences of mediation and the use of restorative justice principles; discover the successes and challenges of the programs, and the cultural nuances that influence practice.

SECTION 2: FINDINGS

PREFACE: JOURNAL ARTICLES – CHAPTERS 4 - 8

As a PhD with publications, it was intended that the journal articles on the scoping study and case study sites would be written, published and appear in the thesis in the following order:

- (1) Australia and New Zealand (Published July 2018) (pp. 103-118)
- (2) Denver (pp. 149-178)
- (3) Los Angeles and New York City (pp. 181-206)
- (4) Thames Valley (pp. 121-129)
- (5) Queensland (pp. 131-147)

However, journal articles (2) to (5) were published out of sequence due to the following opportunities:

- Presentation of manuscript (4: Thames Valley) at the Alternative Dispute Resolution Roundtable Research Network Conference in December 2018 and publication in a special edition of the *Alternative Dispute Resolution Journal*. The Research Network and the Alternative Dispute Resolution Journal invited manuscripts that discussed the inclusion of restorative justice practices in mediation. Policing in the United Kingdom is restorative justice focused (Published September 2019).
- Submission of manuscript (5: Queensland) to the *Journal of Criminology, Criminal Justice, Law & Society* in January 2020 following a call for papers dealing with policy,

practice and pedagogical issues. The topic of the resolution of civilian complaints against the Queensland Police Service was well suited to the Journal (Published April 2020).¹

- Submission of manuscript (2: Denver) to the *Newcastle Law Review* in September 2019. The Journal invited manuscripts, for a special edition, that considered the obstacles to implementation of alternative dispute resolution processes (Published December 2020).
- Submission of manuscript (3: Los Angeles and New York City) was aimed at the *Contemporary Justice Review: Issues in Criminal, Social & Restorative Justice*, as the theme of trust in police complaints systems and restorative approaches to mediation were identified in both case sites; and these fit well with the Journal's aims and scope (Published February 2021). The chief author has also previously published in this Journal.

¹ Word Count and copyright: Four published journal articles - 1, 3, 4 and 5, have been imported into this chapter as PDFs rather than text. The combined word count for these three articles is 37287 words, including footnotes and reference lists. The total word count for the thesis, including published article 2 and appendices is 116,154 words. Permission to republish the articles as part of this thesis has been granted by the publishers; see Appendix I.

CHAPTER 4: SCOPING STUDY – AUSTRALIAN AND NEW ZEALAND

Riley, M., Prenzler, T., & McKillop, N. (2018). Alternative dispute resolution and mediation of complaints against police in Australia and New Zealand. *Police Practice and Research*. <https://doi.org/10.1080/15614263.2018.1500284>

The literature expounds complainants' needs for having an active part in the resolution of their complaints against police, and the benefits of using independent alternative dispute resolution options to achieve this end. The PhD examines the police complaints processes used in a select group of international case sites to determine the extent to which the police departments have responded to the scientific literature and what they can learn from successful agencies in adding mediation to the mix of alternative dispute resolution responses to complaints.

The following journal article aimed to assess the types and usage of alternative dispute resolution options in complaints management systems in the eight policing jurisdictions in Australia and the single jurisdiction of New Zealand. Each jurisdiction was assessed from publicly available records. The scoping study generated a set of short summary case studies, revealing that all nine jurisdictions use a type of informal dispute resolution which involves an internal conciliatory process and that most police service websites list mediation as a complaint resolution option although it is rarely used. The following journal article was the first in a series of publications on the case study sites as it provided the basis from which to explore the extent to which mediation is used elsewhere in the world and the level of success of those programs. The main findings were that while most police departments in Australia use alternative dispute resolution by way of informal resolution (i.e., 'local' or 'managerial'), they do not use mediation. However, the police departments and oversight agencies provide very little information on the public record about the use of informal resolution. Evaluations of informal

resolution pilots across some states in the late 1990s and early 2000s, revealed some stakeholder support for informal resolution with promising indicative results for mediation. Queensland and New Zealand trialled mediation programs and while stakeholder satisfaction with the process was positive, mediation was discontinued in favour of informal resolution which was suggested as cheaper and more convenient for police.

The *Police Practice and Research* journal was chosen for this article because it presents innovative police research in areas such as police policy and practice, law and order and community safety. The journal informs an audience of government and law enforcement agencies, practitioners and academics interested in the development of best-practice policing. The following journal article fits the scope of the police journal as it identifies current and innovative complaints resolution practices that contribute to a well-functioning civilian-police relationship.



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Alternative dispute resolution and mediation of complaints against police in Australia and New Zealand

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ARTICLE



Alternative dispute resolution and mediation of complaints against police in Australia and New Zealand

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ABSTRACT

This study assessed the role of alternative dispute resolution options in the complaints management systems of the eight policing jurisdictions in Australia and the single jurisdiction of New Zealand. The available literature shows that a large proportion of complainants would like to participate in mediation, and that both complainants and police who experience mediation report much higher rates of satisfaction than those experiencing traditional adversarial investigative and adjudicative processes. Experiences with informal dispute resolution or 'conciliation' options are more mixed, and they are susceptible to tokenism and misuse as a convenient administrative means of disposing of complaints. Despite this situation, the data obtained from police and oversight agency sources in this study showed that options were limited to informal resolution conducted by senior officers, with an ostensible focus on behavioral improvement but with no meaningful publicly available data on outcomes. The paper concludes by advocating for a best practice complaints management system that includes mediation within a consultative framework focused on behavioral improvement.

ARTICLE HISTORY

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KEYWORDS

Complaints against police;
mediation; alternative
dispute resolution;
conciliation; informal
resolution

Introduction

Police departments in Australia and New Zealand have grappled with complex problems of police misconduct and high volumes of citizen complaints. They have also been the sites of innovation in integrity management, including complaint profiling and early intervention, force minimization training, and civilian oversight – generating large long-term reductions in complaints in some instances (Den Heyer & Beckley, 2013; Porter, Prenzler, & Fleming, 2012; Prenzler & Briody, 2017). Alternative dispute resolution methods for managing complaints have been another area of innovation but with very little available in the way of current information about levels of practice or impacts (cf., Ede & Barnes, 2002; IPCA, 2017b; OPI, 2008). With that in mind, the researchers elected to examine available public record source material in Australia and New Zealand to identify the extent to which reported practices accord with best practices, as identified in the literature, and whether or not there were any policy recommendations to be made from the findings. Given the common problem around the world of police-citizen conflict and large numbers of citizen complaints, the findings should provide lessons for improved practice in other jurisdictions.

Literature review

Policing is a field of work that attracts large numbers of complaints that require a meaningful response from authorities. In many locations, complaints occur at high and stable or increasing

numbers (Prenzler & Briody, 2017). For example, in England and Wales, complaints averaged 33,000 per annum over the last ten years, with a slight upward trend in recent years (IPCC, 2017, p. 15). In New South Wales, Australia's most populated State, allegations against police have been fairly stable averaging 8,870 per annum over the last five years (NSWP, 2016, p. 95). In New Zealand, complaints have trended upwards, from 2,193 in 2013–14 to 2,614 in 2016–17 (IPCA, 2017a, p. 10).

Complaints against police are now widely seen as an important, if imprecise, indicator of police conduct (Hickman, 2006; Prenzler, Mihinjic, & Porter, 2013; Smith, 2013). Surveys show that most complainants are sincere about their grievances, with only a small proportion of allegations likely to be deemed trivial or vexatious. Formal complaints also represent only a small fraction of persons unhappy about an experience with police. In the past, complaints were easily dismissed as lacking objective evidence, but in recent years the availability of CCTV and mobile phone footage has added considerable credence to allegations. In traditional formal investigative complaints systems, substantiation rates were limited to ten percent or less of matters, although some systems with more committed investigative processes increased rates up to 30 and 40 percent (Porter et al., 2012).

Despite possible improvements in complaint substantiation rates, a legalistic focus on evidence and culpability is widely seen as resource intensive and often unproductive (Maguire & Corbett, 1991; Prenzler et al., 2013). Complainants are generally less interested in punishment and more interested in an explanation, apology or commitment that the conduct will not be repeated against other persons. A large proportion of complaints against police are also about less serious matters, such as incivility or rough handling, rather than assaults or corruption that usually require a formal investigation. Consequently, from about the 1980s, a number of police departments introduced alternative dispute resolution options into their complaints systems for more minor matters (Ede & Barnes, 2002; Walker, Archbold, & Herbst, 2002). Interest was buoyed by the successful growth in alternative dispute resolution options, including mediation, in civil and criminal law (Walker et al., 2002). Alternative options for police complaints generally involve either 'informal resolution' (or 'conciliation'), usually involving communication between a senior officer and a complainant, or 'mediation', involving a meeting between the complainant and subject officer managed by an independent mediator.

There are several published studies involving comparative aspects of the informal resolution of complaints against police, with mixed findings. An evaluation of an informal resolution process in Victoria, Australia, found that 72% of complainants rated the experience as unsatisfactory compared to 39% of police; although only 33% of police were satisfied (OPI, 2008, p. 47 & 50). In the United Kingdom, an evaluation of 'local resolution' programs in the Cleveland and West Mercia Forces found that 41% of complainants were satisfied and 51% dissatisfied, with 27% of police satisfied and 54% dissatisfied (May, Hough, Herrington, & Warburton, 2007, p. 23). However, an earlier study in the UK, across three unnamed forces, found that 57% of complainants were satisfied with informal resolution compared to 10% in a formal investigation group (Maguire & Corbett, 1991, p. 59).

Two studies conducted in Queensland, Australia, included both complainants and police, and compared both informal and formal response to complaints, with largely positive results. An evaluation of a pilot program found that 76% of complainants expressed satisfaction with informal resolution compared to 40% who experienced a formal investigative process (CJC, 1994, p. 60). Complainants in the informal resolution sample said they were kept better informed, and they felt they had a better opportunity to express their views. Police were even more satisfied with informal resolution: 83% compared to 76% subject to a formal investigation (p. 76). Officers who experienced informal resolution were also less stressed – 45% – than those who experienced a formal investigation: 70% (p. 75). A follow-up study of the post-pilot program found slightly lower rates of satisfaction amongst both parties, and recommended better training of police officers conducting informal resolution and reduced pressure on complainants to accept police decisions on outcomes (CJC, 1996; see also Ede & Barnes, 2002). The second study also found that informal resolution was much cheaper and quicker than formal investigations.

In these studies of informal resolution, complainant dissatisfaction related to a variety of factors including lack of communication, lack of an apology and police control of the process; with mediation presenting as an obvious means of addressing these deficits. In the Victorian study of informal resolution cited above, 51% of respondents stated that they 'would have liked to have had contact with the (police) member' (OPI, 2008, p. 47). Maguire and Corbett found that 53% of complainants who experienced informal resolution would have preferred mediation (1991, p. 85). The second study in Queensland reported that 'half of the complainants would have appreciated a face-to-face meeting' (CJC, 1996; p. 21; see also PONI, 2005; p. 29).

Police dissatisfaction with informal resolution in the above studies was largely related to alleged bias in favour of the complainant, triviality of complaints, delays and lack of communication. In the May et al. study, the officers involved who were dissatisfied felt they had not been able to explain their side of the issue effectively (May et al., 2007, p. 21). A focus group study of New York City police officers subject to complaint investigations found 'the overwhelming majority' expressed a preference for a 'face-to-face interaction' with the complainant (Sviridoff & McElroy, 1989). The reasons included the ability to counter false and malicious complaints. Maguire and Corbett reported that 40% of officers in their study would have agreed to participate in mediation (1991, p. 85).

There are three studies on mediation that compare complainant and police experiences, and also compare mediation, formal investigations and informal resolution – all showing positive results for both parties from mediation. In New York City, Bartels and Silverman (2005) surveyed complainants who either met with the officer concerned in the presence of a 'trained, neutral mediator' or had their complaint processed through a standard investigation (p. 621). Both processes were managed by the Civilian Complaint Review Board. Eighty-one percent of complainants 'felt that the real issues of their complaint were discussed in their mediation session', compared with 32% in the regular investigation group; and 73% of the mediation group felt they 'had a "say" in the complaint disposition', compared to 32% in the non-mediation group (p. 627). Ninety-three percent of officers participating in mediation agreed that the 'real issues were brought out' through mediation, and 87% felt they had a say in the outcome, although responses from the investigation group of officers were too small to be included.

In the United Kingdom, Young, Hoyle, Cooper, and Hill (2005) compared complainants' perceptions of informal resolution conducted in the Hampshire Police with 'restorative' processes involving 'a face-to-face meeting between complainant(s) and police officers(s) in the presence of a trained facilitator', carried out in the Thames Valley Police (p. 285). In most cases the facilitator was a police officer. In a few cases, complainants objected to police officers as facilitators and an external person was engaged. Sixty-one percent of complainants were satisfied with the restorative session, compared with 33% of the informal resolution sample. Twenty-eight percent of complainants in the restorative group were dissatisfied, compared to 45% of those in the informal resolution group (Young et al., 2005, p. 303). Overall, 85% of police in the restorative group were satisfied and 5% were dissatisfied, whereas 69% of the conciliation group were satisfied and 15% were dissatisfied.

Finally, a study in Denver showed very high levels of satisfaction with mediation amongst both parties, with sessions conducted by 'an independent mediation vendor' (Schaible, De Angelis, Wolf, & Rosenthal, 2012, p. 633). Seventy-nine percent of complainants were satisfied with the mediation process in contrast to 11% of the 'non-mediation' sample. Sixty-three percent of complainants experiencing mediation were satisfied with the outcome, while only 7% of the non-mediation group were satisfied. Ninety-two percent of the mediation group felt the process was fair, compared to 12% of the non-mediation group. For police, 81% were satisfied with mediation, in contrast to 12% in the non-mediation sample; and 73% were satisfied with the outcome compared to 49% with non-mediated cases. Ninety-six percent of police in the mediation group thought the process was fair, compared to 46% in the non-mediation group.

Alternative dispute resolution is primarily intended to be a more effective means of resolving a grievance than adversarial processes. In the area of police complaints it is also intended to improve officer conduct and police-community relations. Unfortunately, there do not appear to be any published studies comparing complaints against individual officers before and after formal investigations and informal resolution and/or mediation. One of the studies cited above found that complainants in the informal resolution sample had better views of police as a result of mediation than those experiencing a formal investigation, and that formal investigations had an adverse impact on complainants' views of police (CJC, 1994, p. 65). At the same time, the follow up study drew attention to a problem with officers attracting repeat complaints going back through the informal resolution process without any apparent behavioral benefit (CJC, 1996, p. 16). The Young et al. (2005) study found that none of the police who experienced conciliation felt they had learnt anything that would directly affect their behavior, whereas 30% in the restorative sample indicated they had learnt something from the complainant that might make them more careful about how they related to members of the public in the future – generally in terms of being more sympathetic (p. 300). In the first Queensland study, 83% of the officers conducting informal resolution thought that the process would help change officers' behavior, in part because the non-disciplinary approach allowed officers to be more open to guidance (CJC, 1994, p. 93).

Overall, the available literature provides strong support for a best practice model of police complaints management that includes both informal resolution and mediation options, but with mediation most likely to produce optimal outcomes in terms of reconciliation. At the same time, there is a risk that alternative dispute resolution processes simply palliate the adverse effects of inappropriate police conduct, and alternative options need to be more systematically integrated with other means of behavioral improvement.

Method

As noted in the introductory section, Australian and New Zealand police departments have been innovators in complaints management, including in alternative dispute resolution. The primary aim of the present study therefore was to assess the extent to which alternative methods have been implemented with reference to a best practice framework that prioritizes mediation over informal resolution, as described in the literature review. A secondary aim was to assess how well police departments and oversight agencies report on the use of alternative dispute resolution practices, including the publication of throughput data and outcomes.

The approach to this study is based on the assumption that police accountability requires transparency and that modern police departments should report on key integrity strategies and outcomes in their annual reports or at their websites. The absence of information suggests either that police are not engaging in a practice that should be considered standard, or are not reporting on it and therefore are deficient in accountability. The same applies to police oversight agencies, many of which have been involved in driving and reviewing alternative dispute resolution options (e.g. CJC, 1994, 1996; PONI, 2005). With this in mind, the researchers conducted searches of the annual reports for all police departments and police oversight agencies in Australia and New Zealand. This amounted to nine police departments and 16 oversight agencies. The large majority of police departments were oversighted by both an anti-corruption (or 'integrity') commission, dealing with serious matters, and an Ombudsman, dealing with intermediate and lower level matters. Three years of annual reports were accessed from agency websites covering the period 2014–15 to 2016–17. The collected reports were analyzed using keyword searches including 'alternative dispute resolution', 'complaint resolution', 'mediation', 'conciliation', 'local resolution', 'managerial resolution', 'complaints', 'allegations', 'outcomes' and 'dispositions'.

In addition, the websites for all the agencies were searched for further information, including descriptions of complaints processes and reports on complaints management and alternative dispute resolution processes. Finally, keyword combinations were used to search the legislation

database Austlii.edu.au to identify legal authorities for alternative dispute resolution of complaints against police. The systematic searches described above constituted an audit of public record source material covering recent practices. In addition, references to relevant earlier sources, such as inquiries or reviews, were pursued and the reports were accessed and analyzed for any explanatory background material. Some of the secondary sources identified in the literature review, above, were also used in this part of the study. The findings section below integrates all this material to provide contemporary and historical accounts of the place of alternative dispute resolution and mediation options in police complaints processes in each jurisdiction.

Findings

Australian Federal Police

Complaint management processes in the Australian Federal Police are based on the 2002–03 ‘Fisher Review’ of integrity management (Prenzler & Briody, 2017). The review was instigated in response to a variety of problems with the complaints system, including protracted legal cases. Fisher (2003) found that the system was overly reliant on complex and expensive investigative and adversarial processes, and ‘reactive punishment’ (p. 59). At the time, conciliation was reportedly being used for approximately 30% of complaints. The benefits of this option were described as follows (p. 45):

Conciliations are a clear move away from an adversarial and punitive process to a conflict resolution model which encourages the speedy resolution of concerns. Conciliation also provides some scope to deal constructively with honest mistakes, or minor lapses of conduct, particularly where immaturity, inexperience or unusually difficult situations impact on events. It encourages the development of people management skills and accountability by asking employees to examine their own behaviour or actions. The provision of feedback to complainants enhances and promotes the accountability of supervisors and those taking part in the conciliation process. Communication skills, such as listening, negotiation and empathy, are paramount in this process.

The report recommended greater use of ‘motivational management’, by boosting the conciliation process to focus on behavioural change (p. 59). There was a recommendation for increased use of conciliation and better training of managers in conciliation.

Reforms emanating from the Fisher Review, introduced in 2006, purportedly gave primacy to ‘managerial resolution’ at the local level (Fisher, 2003; p. 102; AFP, 2007; p. 116). Conciliation of ‘conduct issues’ by a ‘manager’ is available under Division 3 of the Australian Federal Police Act 1979. However, Federal Police annual reports, and the separate annual reports on policing in the Australian Capital Territory, do not contain any information on local or managerial resolution. Similarly, the annual reports of the two oversight bodies – the Commonwealth Ombudsman and the Australian Commission for Law Enforcement Integrity – shed no light on the process. To-date, there have been no systematic follow-up reviews to evaluate the effectiveness of the revised complaints system.

New South Wales

The NSW Police complaints system has been influenced by the large-scale Wood Commission of Inquiry, which ran from 1995 to 1997 and found enormous problems of entrenched and diverse types of misconduct. Public complaints had been managed largely in-house through a simplistic and highly deficient investigative model. An existing complaint conciliation process was condemned by Wood as ‘a form of damage control’ that failed to address behavioral problems and sometimes simply provided an opportunity for police to pressure complainants to withdraw their complaints (Wood, 1997, p. 321). The Wood Commission report noted that a number of submissions had recommended other forms of alternative dispute resolution, including one

Table 1. Complaint Dispositions, Informal Resolution, NSW Police, 2014–15 – 2016–17.

	2014–15	2015–16	2016–17
Finalized complaints	3,635	3,240	4,078
‘Resolved by police through informal resolution and oversighted by us’	1,213 (33%)	1,017 (31%)	765 (19%)

Source: Adapted from NSW Ombudsman, 2017, p. 93.

supporting ‘conferencing’ (p. 323). However, the idea was dismissed out of hand without explanation in favor of supposed improvements to the conciliation system. These amounted to little more than local Commander control, and the admissibility of statements made in the conciliation process in possible further disciplinary actions (p. 347). It appears that some form of managerial resolution has remained in operation in NSW, but with almost no information on the public record. The Police Act 1990 states that ‘a person conducting an investigation may attempt to resolve a misconduct matter (being a complaint) by means of alternative dispute management procedures’ (s. 135(4)). The 2014–15 police annual report stated that:

The NSW Police Force endeavors to resolve complaints quickly and efficiently. We have streamlined our complaints system and introduced informal processes to help resolve minor matters quickly. This reporting year more than 88% of complaints against police officers were either declined or resolved without formal investigation. We continue to focus on the release of complaint information in accordance with procedural fairness and government policy and our management systems emphasize remedial approaches to managing the conduct of police officers (NSWP, 2015, p. 93).

Despite the claim to transparency, the report contained no data on the outcomes of the 8,578 allegations that year, including the results of ‘informal processes’. There was also no evidence of improved conduct.

The police oversight agency the Police Integrity Commission published nothing in its reports related to alternative dispute resolution. According to the 2016–17 annual report of the NSW Ombudsman, ‘a managerial model of complaint handling’ is at ‘the heart of the design of the police complaints system’ (NSW Ombudsman, 2017, p. 92). However, the focus appeared to be much less on any kind of ‘resolution’ involving the complainant and much more – ostensibly at least – on local commander remediation of conduct issues entailed in the complaint (p. 92). Typical interventions included ‘official warning notices, increased supervision, coaching, counseling and restricted duties’ (p. 94). The Ombudsman’s annual report for 2016–17 contained disposition data for complaints against police, managed by the Ombudsman. Table 1 shows that informal resolution cases conducted by police decreased from one-third of finalized complaints in 2014–15 to 19% in 2016–17. No information was provided on types of cases nor participant experiences.

Victoria

Victoria Police annual reports contain very little information about the complaints process. The 2016–17 annual report referred to a ‘Management Intervention Model (MIM) and Local Management Resolution (LMR)’ but without any link to alternative dispute resolution options (Victoria Police, 2017, p. 93). The report did include some case disposition data for three years, with one matter ‘conciliated’ in 2015–16 and three in 2014–15 (p. 94). Annual reports by the oversight agency, the Independent Broad-based Anti-corruption Commission (IBAC), provide slightly greater detail but shed little light on the full array of dispositions, especially alternative dispute resolution.

Some light was shed on the absence of action in this area in a special IBAC report *Audit of Victoria Police Complaints Handling Systems at a Regional Level* published in 2016. The report did not identify any specific event that triggered the audit, but the introduction to the report indicated it may have

been related to ongoing allegations of police biases and delays in complaint investigations. The IBAC report noted that police had an option to ‘conciliate’ complaints under the Victoria Police Act 2013 (s. 170), and that the Commissioner is required to notify the IBAC of such cases and report the outcomes. The report also referred to what appeared to be an internal document containing guidelines for resolving complaints through the Management Intervention Model, including ‘conciliation and mediation’ (in IBAC, 2016, p. 57). The audit found five cases where ‘conciliation’ was initiated, but no outcomes were recorded and the IBAC was not notified (IBAC, 2016, p. 58). There did not appear to be any cases of attempted mediation. The report supported the greater use of conciliation in the following terms, while staying silent on mediation (IBAC, 2016, p. 58):

As highlighted in Victoria Police’s MIM policy, conciliation is a constructive means of resolving disputes. It provides an opportunity for all parties to express their concerns and perspectives, improve their understanding of the other parties’ points of view and ideally, reach a mutually acceptable resolution. Successful conciliation can prevent the escalation of complaints. . . The audit results suggest that conciliation is under-utilized as a means of resolving suitable complaints at the regional level.

Tasmania

The Tasmania Police employed a ‘Graduated Management Model (GMM)’ of complaint processing during the three years covered by the present audit (DPFEM, 2017, p. 23). This involved a division between more serious Class 2 matters processed centrally by the Professional Standards Command, and less serious Class 1 matters ‘usually handled at a regional level’ (Integrity Commission, 2016, p. 3). The 2016–17 police annual report included plans to replace the GMM with a new system called Abacus. The change was in response to a 2014 review of the GMM by the police and oversight agency, the Integrity Commission, which reportedly found that ‘although the GMM made progress in meeting some of the needs of modern policing, there were areas where improvements could be made such as opportunities to reduce over-investigation of minor matters and to generally improve business process outcomes’ (DPFEM, 2016, p. 34). The differences between the two systems were unclear at the time of completion of the present study, although it appeared that Abacus would include a wider range of conduct indicators, including drug and alcohol testing (DPFEM, 2017, p. 23).

The Tasmanian Integrity Commission does not appear to have an alternative dispute resolution power (Integrity Commission Act 2009). However, the Police Service Act 2003 empowers the Police Commissioner to resolve a matter by conciliation ‘at any time during an investigation of a complaint’ (s. 47). Conciliation is primarily an option for the less serious Class 1 matters. A police officer will investigate a Class 1 matter ‘unless the complainant and subject officer(s) are receptive to “conciliation”’. Conciliation alleviates the need for an investigation or a determination on whether the Code of Conduct has been breached’ (Integrity Commission, 2015, p. 8). There is limited information available on the conciliation process. Tasmania Police do not publish any complaints data in their annual reports. The Integrity Commission conducts an annual audit of police management of complaints and provides a report. In the most recently available report, for 2015, 3% of 37 sustained ‘misconduct allegations’ were ‘conciliated’ (Integrity Commission, 2016, p. 7), with no further information available. No other references were made to mediation nor to any other form of alternative dispute resolution.

Of significance is an earlier audit of conciliated complaints conducted in 2013 by the Integrity Commission (2014). The report noted that conciliation generally entails ‘an apology, direction, guidance, training and mentoring’, and that both the complainant and subject officer need to agree to the process (2014, p. 34). It was noted that all 15 complainants whose complaint was conciliated and audited had agreed to this approach. In addition, ‘the Commission was impressed with the conciliation process from the complainant’s perspective, and considers that Tasmania Police performed well in this area’ (p. 34). It noted, however, that five of the officers involved were

not consulted, and not even aware that the process had occurred or the outcome, and that this needed to be rectified in the future. The report also included an example of an ‘appropriately conciliated complaint’ that both satisfied the complainant and addressed the future behavior of the officers involved (Integrity Commission, 2014, p. 35):

A Class 1 complaint of incivility was made against two officers who had parked in the complainant’s designated parking spot. The resolving officer in this complaint first spoke to the complainant and obtained advice on the terms under which the complainant would be willing to conciliate the complaint. The resolving officer then spoke to the officers about each of the areas the complainant had listed, at the same time obtaining their agreement to conciliate the complaint. The complainant was contacted again and informed that the officers had been spoken to about the listed matters, and the conciliation was finalized. Thus, the complainant was happy that their concerns had been heard, and the officers had both received a development outcome which would improve their future conduct – not only a benefit to them and the community, but also the organization. . . (the complaint) was finalized in 17 days – well within the 28 day timeframe set for Class 1 complaints.

South Australia

The South Australian Police (Complaints and Disciplinary Proceedings) Act 1985 empowers the Police Commissioner to attempt to conciliate complaints, subject to the Police Ombudsman’s agreement (s. 22). The Act does not mention mediation. The Ombudsman can also initiate conciliation. In the three-year period covered by the present audit, SAPOL was oversighted by the Independent Commissioner Against Corruption and the Office of the Police Ombudsman. The Commission’s annual reports contained nothing of relevance to the study. The Ombudsman’s report for 2016–17 included data on conciliations for three years as a proportion of all complaints. Table 2 shows that between 45% and 51% of closed complaints were subject to conciliation. The report noted that 29% of conciliations were ‘unsuccessful’, but there were no definitions for this nor for ‘successful’ mediation (Police Ombudsman, 2017, p. 14). It was also not clear if the conciliations were conducted by the Police or the Ombudsman; and there was also no link between conciliation and other outcomes recorded, including ‘informal advice’, ‘recorded advice’, ‘managerial advice’, ‘apology’ and ‘training’ (p. 14).

Western Australia

Western Australia Police annual reports contain almost no information on complaints. Some data have been available in a periodic *Professional Standards Statistical Overview*. The 2015 report referred to ‘Local Complaint Resolution (LCR)’, described as ‘a process of resolving complaints and issues by reconciliation. This method is now encouraged for many issues that formerly were subject of full inquiry processes, for faster complaint handling and more efficient use of resources’ (WAPOL, 2015, p. 4). In 2014–15, 165 public complaints against police were dealt with by this means, amounting to 15% of 1,087 complaints. A different format without this information was used in 2016, and a 2017 edition was not available when the present study was completed in March 2018.

The WA Corruption and Crime Commission’s annual reports contained nothing on alternative dispute resolution processes. The WA Ombudsman, on the other hand, had a ‘Complaints

Table 2. Total Complaints and Conciliated Complaints, SAPOL 2014–15 – 2016–17.

	2014–15	2015–16	2016–17
Complaints received	1,116	996	858
Complaints closed (includes carry overs from previous years)	1,105	1,274	934
Complaints conciliated (% of closed complaints)	562(51%)	574(45%)	421(45%)

Source: Adapted from Police Ombudsman, 2017, pp. 13 & 14.

Resolution Team’ that promoted the ‘early’ use of informal resolution as a ‘timely’ and ‘inexpensive’ means of dealing with ‘systematic issues and creating improvements in public administration’ (Ombudsman WA, 2016, pp. 17 & 152; see Parliamentary Commissioner Act 1971 s. 19.1a). In 2015–16, the Ombudsman finalized 126 complaints against police, and 160 in 2016–17, but with no data on informal resolution (Ombudsman WA, 2016; p. 231, 2017; p. 231). Nothing could be found on mediation of complaints against police.

Northern Territory

The Northern Territory Ombudsman Act 2009 gives the Ombudsman authority to manage a complaint, including complaints against police, by ‘conciliation or mediation’ (s. 37). The Ombudsman and the Commander of the Police Professional Standards Command consult on the disposition of complaints, although the Ombudsman has an overriding authority on how cases are managed (Ombudsman NT, 2017, p. 70). A three-part classification structure covers two types of more serious complaints and more minor matters directed to a ‘Complaint Resolution Process CRP’, described as follows in the Ombudsman’s report (2017, p. 39):

CRP is an informal process undertaken by Police where early personal contact between Police officers and complainants may lead to a quick and effective resolution. A CRP may involve explaining to a person why a particular course of action was taken, the legal and practical considerations surrounding the incident or a simple apology.

Reference was also made to a separate ‘conciliation’ process, which appeared to involve more communication between the parties to a complaint, although the report also noted that ‘in practice, matters that might be resolved by this process are often dealt with as CRPs’ (Ombudsman NT, 2017, p. 41). No mention was made of mediation.

Northern Territory Police annual reports include data covering the three main complaint categories, with breakdown data for more minor matters dealt with by the informal resolution process. The outcomes reported in Table 3 show that the proportion of complaints subject to informal resolution increased from 18% in 2014–15 to 36% in 2016–17. No further data were included, such as participant experience surveys.

The Ombudsman annual reports also include a number of case studies showing how complaints were resolved. The 2015–16 report included one case demonstrating CRP in action in terms of complainant satisfaction and practical problem solving (Ombudsman NT, 2016, p. 47):

An Officer gave a presentation on road and pedestrian safety at a school assembly at the request of the School Principal. The Principal was concerned at several near misses that had occurred near the school and asked the Officer to tell the children something that would get the message through about road safety. The Officer gave a description of a traffic accident which a parent was concerned was too graphic and potentially traumatic given that children of all ages attended the assembly.

Table 3. ‘Outcomes – Complaint Resolution Process’, Northern Territory Police, 2014–15 – 2016–17.

	2014–15	2015–16	2016–17
All complaints	380	340	339
Complaints subject to ‘complaint resolution process’	68 (18%)	116 (34%)	121 (36%)
Apology by NTPFES	18	13	10
Complainant satisfied	13	26	44
Brought to attention of member	0	29	4
Remedial advice (CRP)	9	3	6
Remedial advice (administrative)	5	1	2
Apology by member	5	6	4
Reimbursement	1	0	0
No action required	14	29	26
Action or decision by police officer reasonable	3	9	25

Sources: Adapted from NTPFES 2015; pp. 162 & 163; 2016; pp. 174 & 175, 2017; pp. 164 & 165.

A Complaint Resolution Process was undertaken with the agreement of the parent. While the Principal indicated that she had received a number of positive comments from parents about the presentation, she advised that she had written an open letter to parents, apologizing for any distress the presentation may have caused.

Within a short period after the complaint, in response to a suggestion that children might feel scared of Police following the presentation, Police undertook three foot patrols and conducted community liaison during school commencement and completion time and attended the school for basketball with the children during lunchtime. Police undertook to continue to engage with children informally as often as possible. Steps were also undertaken to improve traffic facilities in the vicinity of the school and to increase the awareness of drivers regarding traffic safety around the school.

The complainant accepted the outcome of the Complaint Resolution Process and no further action was required.

Queensland

The Queensland Police website includes a complaints page that refers to ‘conciliation through our local complaint resolution process’ as one option for the treatment of complaints (QPS, 2017, p. 1). However, the annual reports and accompanying statistical reviews contained no data on the topic. The annual reports of the oversight agency, the Crime and Corruption Commission (CCC), similarly held nothing of relevance. The Queensland Ombudsman (2017) engages in informal resolution of complaints but it ‘does not have the power to investigate complaints about ... the operational actions of police’ (p. 3).

The absence of information about alternative dispute resolution and mediation in Queensland is surprising given that the QPS was the site of innovation in this area in the 1990s, immediately after the major Fitzgerald corruption inquiry (1987–89) and the establishment of a new oversight agency – initially called the Criminal Justice Commission (CJC), now the CCC. A trial of informal resolution in 1993 was initiated by the CJC with cooperation from the police (CMC, 2004, pp. 1 & 4). The 1994 and 1996 evaluation reports were summarized in the literature review for the present study, with findings generally on the positive side. Mediation was made available before this, in February 1992, soon after the establishment of the CJC in late-1989. The initiative came from the CJC, with the support and cooperation of the police. The idea apparently derived from the successful introduction of ‘community mediation’ in Queensland in 1990 for civil matters, managed by the ‘Community Justice Program (CJP)’ within the Department of Justice.

The police mediation program was run as a six-month pilot and involved 33 sessions. Meetings were managed by ‘trained, independent mediators’ from the CJP (CJC, 1994, p. ix). According to an unpublished survey of complainants and officers, summarized in the 1992–93 CJC annual report, ‘all but one (session) resulted in the parties reaching agreement’, majorities of both parties were satisfied, and complainants were more satisfied with mediation than they were with formal investigations (CJC, 1993, p. 59). Finalization of cases was also faster with mediation than an investigation. These outcomes led to the formal adoption of mediation as an ongoing option for complaints. However, the subsequent adoption of informal resolution meant that mediation was eclipsed by referrals to this simpler mechanism. The CJC (1994) reported that 73 complaints had been mediated up to July 1993 when informal resolution was introduced, but only eight mediation sessions had occurred from that time (p. 11). The later 1996 evaluation of informal resolution reported that police preferred informal resolution over mediation because it gave them ‘more control’, including the opportunity to provide guidance to the subject officer (CJC, 1996, p. 33). The report nonetheless recommended that mediation remain an option, as part of a flexible complaints process, especially where complainants felt particularly aggrieved and/or ‘expressed a wish to meet with the subject member’ (CJC, 1996, p. vii).

New Zealand

The police complaints system in New Zealand is reportedly strongly influenced by a reform program following the release in 2007 of the *Report of the Commission of Inquiry into Police Conduct* (IPCA, 2017b). The Inquiry was prompted by claims of inadequate investigations of sexual assault allegations against police, going back to 1979; and the main finding was that the complaint investigation system over the longer term had been seriously deficient (Commission of Inquiry, 2007). The report noted that the system had been complex, cumbersome, subjective and overly legalistic. Despite this, the report recommended a range of fairly conservative changes to procedures.

At the time of the Commission of Inquiry, police had been operating a form of local conciliation called 'District Complaint Resolution' (Commission of Inquiry, 2007, p. 180; see Independent Police Conduct Authority Act 1988, as at March 2017, s. 18 & 20). Based on very limited evidence, the Commission of Inquiry (2007) described the system as 'an efficient and effective means of resolving a problem arising between a member of the public and the police' (p. 180). Limited to 'non-serious' matters, the process was described in the following terms (p. 180):

Where a complaint is designated as appropriate for District Complaint Resolution it is referred to the district from which it arose for resolution. This will normally involve a senior officer talking with the complainant about their complaint and finding a mutually agreeable method of resolving it. The complainant is subsequently provided with a letter confirming what has been discussed and stating that if they are not satisfied with the result of the complaint they should write to the PCA. If a complainant is dissatisfied with the outcome, the PCA will review the police file in the same manner as it would any other complaint file.

The Inquiry was told that up to 405 complaints had been managed this way, with 'a failure rate of only about 5%' (in Commission of Inquiry, 2007, p. 181). The report noted that the police did not conduct participant experience surveys; but the Inquiry gave tacit support to the continuation of the system, with no recommendations regarding improvements.

The New Zealand Police annual reports contain very little information on the complaints process. The 2014–15 report referred to an initiative involving the police, the oversight body – the Independent Police Conduct Authority (IPCA) – and the Government Centre for Dispute Resolution to develop a set of pilot projects around an 'early resolution process for suitable complaint matters' (New Zealand Police, 2015, p. 124). The main aims were described in terms of 'better outcomes for complainants and a reduction in the amount of resource required to resolve matters' (p. 125). There was no apparent particular event that prompted the move, but it appeared as an outgrowth of an ongoing drive, emanating from the Commission of Inquiry, to improve consistency, timeliness and confidence in the complaints system (New Zealand Police, 2015, p. 115). There was no evidence of mediation as a consideration in this process.

The IPCA (2015) described the new process as involving better screening, where matters requiring formal investigation are separated out earlier from those deemed suitable for informal resolution. Three pilots were initiated in 2016 in the counties of Manukau, Eastern and Canterbury, which ran for nine months. An evaluation, published by the IPCA (2017b), concluded that there was sufficient evidence to deem the process 'successful in achieving its goals of bringing lower level complaints against Police to a more timely and efficient resolution', and generating 'more tailored resolutions and reduced stress for complainants and subject police staff' (2017b, p. 15). The report cautioned, however, that the results were not conclusive in that case completion times and participant satisfaction surveys could not be compared to other forms of complaint disposition. A total of 37 questionnaires were completed by complainants and 36 by subject police. Sixty-one percent of complainants were satisfied with time taken to finalization compared to 84% of police. Sixty-five percent of complainants felt their complaint was appropriately dealt with, and 56% thought the outcome was fair. Sixty-seven percent of police thought the process was fair. In terms of outcomes, 40 percent of matters resulted in an 'explanation', and 39 percent in an 'apology'. The survey did not ask whether or not participants would have preferred mediation. Despite the limitations of the evaluation, the 'early resolution process' was rolled out across the nation.

Discussion

The results of this study of police complaints processes in Australia and New Zealand were extremely disappointing from the perspective of the primary aim of the research: to assess the extent to which mediation was prioritized over informal resolution. In fact, it appeared that most departments simply did not even consider mediation when reviewing their systems. There was evidence, however, that all nine departments made fairly systematic use of alternative dispute resolution by way of informal resolution (or ‘conciliation’). The earliest incarnations appear to go back to the 1980s. Since then, informal resolution has evolved in the direction of ‘local’ or ‘managerial’ resolution, where a subject officer’s line supervisor liaises with complainants from their local area, engaging in forms of explanation and/or apology and, in theory, then focusing on improving the conduct of the officer where appropriate. The findings are summarized in [Table 4](#).

The secondary aim of the study was to assess how well police departments and oversight agencies report on the use of alternative dispute resolution practices, including the publication of throughput data and outcomes. However, as the findings section showed, very little information was available. The two narrative accounts of conciliation cases, from Tasmania and the Northern Territory, showed the potential for the positive resolution of citizen complaints, improved police-community relations and improved police conduct, but this did not translate into any numerical data. The study findings were limited by the method, and it is possible that police have more detailed data that they are not placing on the public record. There is certainly a dearth of recent publicly available formal evaluations of alternative dispute resolution practices. Earlier research in Queensland had shown that an initial pilot of informal resolution in the early-1990s attracted majority support from both complainants and police (CJC, 1994). There was some slippage, however, in a follow up study of the established program (CJC, 1996). Both these studies lacked direct comparisons with a concurrent mediation program. There were some promising indicative results for the mediation program, but it was discontinued. An evaluation of informal resolution in Victoria was extremely negative and provided strong support for mediation (OPI, 2008), but the implications were also ignored. The only other formal evaluation came from the 2016–17 New Zealand pilot of ‘early resolution’ (IPCA, 2017b).

The Queensland and the New Zealand evaluations of informal resolution recorded complainant satisfaction in the range two-thirds to three-quarters, providing grounds for the programs to be regarded as successful. These numbers are fairly good, especially when contrasted with available satisfaction rates for more formal adversarial systems. However, the mediation studies reviewed in the literature review section showed some complainant satisfaction ratings in the 80th percentile and even the 90th percentile. Higher rates of police satisfaction were also recorded for mediation. The wider literature review also showed that a large component of complainants want the opportunity for mediation.

Table 4. Summary Findings, Alternative Dispute Resolution Practices in Australian and New Zealand Police Departments.

	Informal Resolution?	Informal Resolution Terminology	Mediation?
Australian Federal Police	✓	‘Conciliation’, ‘Managerial Resolution’	✗
New South Wales	✓	‘Informal Resolution’, ‘Alternative Dispute Management’, ‘Managerial Model’	✗
Victoria	✓	‘Conciliation’, ‘Local Management Resolution’	✗
Tasmania	✓	‘Conciliation’	✗
South Australia	✓	‘Conciliation’	✗
Western Australia	✓	‘Local Complaint Resolution’	✗
Northern Territory	✓	‘Conciliation’, ‘Complaint Resolution Process’	✗
Queensland	✓	‘Conciliation’, ‘Local Complaint Resolution’	✗
New Zealand	✓	‘Early Resolution Process’	✗

Why is mediation not an option in police complaints systems in Australia and New Zealand? The present study identified a common failure by police and oversight agencies to engage with the scientific literature, undertake local research and adopt evidence-based practices in this area. More specifically, the available evidence suggested that informal resolution, or local resolution, is cheaper and more convenient for police. This was revealed in part through descriptions of informal resolution as a means to 'reduce over-investigation of minor matters and to generally improve business process outcomes' (DPFEM, 2016, p. 34), and 'encouraged for many issues that formerly were subject of full inquiry processes, for faster complaint handling and more efficient use of resources' (WAPOL, 2015, p. 4). However, while informal resolution might suit some complainants, for those denied mediation it substantially reduces their capacity to communicate with the officer concerned. There was also no evidence that 'local' or 'managerial' resolution helped improve police conduct – as claimed. Taking all this into account, informal resolution appears to serve largely as a convenient mechanism for police management to be seen to be responding creatively to complaints while simply generating a 'bureaucratic suppression of a dispute' (Young et al., 2005, p. 300).

This cynical interpretation of informal dispute resolution is challenged somewhat by the earlier Queensland finding that police managers felt that mediation prevented them from engaging in guidance of officers (CJC, 1996). However, this is based on a narrow 'no fault' view of mediation. Victim-offender mediation for criminal cases shows that mediation can be operationalised with variable degrees of culpability attributed to the accused person (Hayes, 2007). Mediation of complaints against police can be a flexible process that includes behavior management. Of particular note here is the successful police complaint reduction programs outlined in the literature review. These programs utilise early intervention systems that profile officers and units based on complaints and other conduct indicators, and generate tailor-made interventions. They also modify standards and procedures based on complaint pattern analysis (Prenzler & Briody, 2017).

What all this indicates quite clearly is that mediation should be one component of a complex and robust police integrity management system, and not a component confined to 'minor' complaints. The current best practice model for police complaints management asserts that complainants should be consulted about how they want their matter processed (Prenzler et al., 2013). This does not mean that authorities should give complainants total discretion over the disposition of their matter. Consideration has to be given to the nature and seriousness of each allegation; and to the likely benefits to complainants, the subject officers and the public from different dispositions. Nonetheless, canvassing and respecting the wishes of complainants and subject officers, and maintaining timely communication, is likely to be most effective in generating appropriate responses that optimise understanding and healing for both parties – while also contributing to better policing in the long run. Additional support for this approach is garnered from the 'procedural justice' literature, which shows that support for, and cooperation with police, is best achieved by activation of the principles of 'neutrality', 'respect', 'trust' and 'voice' (Tyler, 2008; p. 30; Hinds & Murphy, 2007).

Given this evidence, it can be said confidently that a state-of-the-art complaints and discipline system must have mediation available and should encourage mediation as the likely best option for many complaints. The evidence is variable about who can conduct mediation. Nonetheless, the engagement of mediators external to police is probably ideal. This could involve specialist staff in an oversight agency or a government or private sector mediation agency. A regionalised, public sector-wide, integrity commission would provide a good means of service provision were mediation to be adopted on a large scale. The wider literature on police complaints shows clearly that a large majority of the public and complainants expect allegations to be investigated and adjudicated by an independent agency (Prenzler et al., 2013). Mediation, almost by definition, satisfies this criterion with face-to-face meetings managed by an independent chairperson.

Conclusion

This study of alternative dispute resolution processes for complaints against police in Australia and New Zealand found that all agencies processed a proportion of matters through informal resolution. It was claimed in a number of instances that ‘local resolution’ or ‘managerial resolution’ was focused on behavioral improvements. However, no evidence was presented to validate this claim, and informal resolution appeared as a largely tokenistic means of disposing of minor complaints quickly and cheaply. There would seem to be a place for a well-managed informal resolution option in a model police complaints system, especially where either party to a complaint is not willing to participate in mediation. At the same time, mediation would appear to be the more desirable default option for restorative responses, especially where it is attached to other methods for improving police conduct and reducing complaints. Globally, policing remains a highly fraught occupation, with variable but often high levels of public dissatisfaction reflected in large numbers of complaints (Hickman, 2006; IPCC, 2017; Prenzler & Briody, 2017). The evidence base regarding the outcomes of different complaint dispositions, including alternative dispute resolution, needs further development with a focus on best practice methods.

Disclosure statement

No potential conflict of interest was reported by the authors.

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References

- AFP. (2007). *Annual report 2006-2007*. Canberra: Australian Federal Police.
- Bartels, E. C., & Silverman, E. B. (2005). An exploratory study of the New York City Civilian Complaint Review Board mediation program. *Policing: an International Journal of Police Strategies and Management*, 28(4), 619–630.
- CJC. (1993). *Annual report 1992-1993*. Brisbane: Criminal Justice Commission.
- CJC. (1994). *Informal complaint resolution in the Queensland Police Service: An Evaluation*. Brisbane: Criminal Justice Commission.
- CJC. (1996). *Informal complaint resolution in the Queensland Police Service: Follow-up evaluation*. Brisbane: Criminal Justice Commission.
- CMC. (2004). *Handling complaints against Queensland Police: Past, present and future*. Brisbane: Crime & Misconduct Commission.
- Commission of Inquiry. (2007). *Report of the Commission of Inquiry into Police Conduct*. Wellington: Author.
- Den Heyer, G., & Beckley, A. (2013). Police independent oversight in Australia and New Zealand. *Police Practice and Research: an International Journal*, 14(2), 130–143.
- DPFEM. (2016). *Annual report 2015-16*. Hobart: Department of Police, Fire & Emergency Management.
- DPFEM. (2017). *Annual report 2016-17*. Hobart: Department of Police, Fire & Emergency Management.
- Ede, A., & Barnes, M. (2002). Alternative strategies for resolving complaints. In T. Prenzler & J. Ransley (Eds.), *Police reform: Building integrity* (pp. 115–130). Sydney: Federation Press.

- Fisher, W. (2003). *A Review of professional standards in the Australian Federal Police*. Canberra: Australian Federal Police.
- Hayes, H. (2007). Restorative justice and re-offending. In G. Johnstone & D. Van Ness (Eds.), *Handbook of restorative justice* (pp. 426–446). Devon: Willan.
- Hickman, M. (2006). *Citizen complaints about police use of force*. Washington, DC: Bureau of Justice Statistics.
- Hinds, L., & Murphy, T. (2007). Public satisfaction with police: Using procedural justice to improve police legitimacy. *Australian and New Zealand Journal of Criminology*, 40(1), 27–42.
- IBAC. (2016). *Audit of Victoria Police complaints handling systems at a regional level*. Melbourne: Independent Broad-based Anti-Corruption Commission.
- Integrity Commission. (2014). *An Audit of Tasmania Police complaints finalised in 2016*. Hobart: Author.
- Integrity Commission. (2015). *An Audit of Tasmania Police complaints finalised in 2014*. Hobart: Author.
- Integrity Commission. (2016). *An Audit of Tasmania Police complaints finalised in 2015*. Hobart: Author.
- Integrity Commission Act 2009 (Tas).
- IPCA. (2015). *Annual report 2014-2015*. Wellington: Independent Police Conduct Authority.
- IPCA. (2017a). *Annual report 2016-2017*. Wellington: Independent Police Conduct Authority.
- IPCA. (2017b). *IPCA early resolution pilot: Evaluation report*. Wellington: Independent Police Conduct Authority.
- IPCC. (2017). *Police complaints: Statistics for England and Wales 2016-17*. London: Independent Police Complaints Commission.
- Maguire, M., & Corbett, C. (1991). *A Study of the police complaints system*. London: HMSO.
- May, T., Hough, M., Herrington, V., & Warburton, H. (2007). *Local resolution: The Views of police officers and complainants*. London: Independent Police Complaints Commission.
- New Zealand Police. (2015). *Annual report 2014-2015*. Wellington: Author.
- NSW Ombudsman. (2017). *2016-17 Annual report*. Sydney: New South Wales Ombudsman.
- NSWP. (2015). *Annual report 2014-15*. Sydney: NSW Police.
- NSWP. (2016). *Annual report 2015-16*. Sydney: NSW Police.
- NTPFES. (2015). *2014-15 Annual report*. Darwin: Northern Territory Police, Fire & Emergency Services.
- NTPFES. (2016). *2015-16 Annual report*. Darwin: Northern Territory Police, Fire & Emergency Services.
- NTPFES. (2017). *2016-17 Annual report*. Darwin: Northern Territory Police, Fire & Emergency Services.
- Ombudsman NT. (2016). *Annual report 2015/16*. Darwin: Author.
- Ombudsman NT. (2017). *Annual report 2016/17*. Darwin: Author.
- Ombudsman WA. (2016). *Annual report 2015-16*. Perth: Ombudsman Western Australia.
- OPI. (2008). *Improving Victorian policing services through effective complaint handling*. Melbourne: Office of Police Integrity.
- Police Ombudsman. (2017). *2016-17 Annual report*. Adelaide: Author.
- PONI. (2005). *An Evaluation of police-led informal resolution of police complaints in Northern Ireland: The Complainants' perspective*. Belfast: Police Ombudsman for Northern Ireland.
- Porter, L. E., Prenzler, T., & Fleming, J. (2012). Complaint reduction in the Tasmania Police. *Policing and Society*, 22(4), 426–447.
- Prenzler, T., & Briody, M. (2017). Complaint reduction in Australian federal policing in the Australian Capital Territory. *Police Practice & Research: An International Journal*, online, 1–14. doi:10.1080/15614263.2017.1387785
- Prenzler, T., Mihinjac, M., & Porter, L. E. (2013). Reconciling stakeholder interests in police complaints and discipline systems. *Police Practice and Research: an International Journal*, 14(2), 155–168.
- QPS. (2017). Queensland Police Service. Retrieved from <https://www.police.qld.gov.au/online/ComplimentsandComplaints.htm>
- Queensland Ombudsman (2017). *Annual report 2016-17*. Brisbane: Author.
- Schaible, L. M., De Angelis, J., Wolf, B., & Rosenthal, R. (2012). Denver's citizen/police complaint mediation program: Officer and complainant satisfaction. *Criminal Justice Policy Review*, 24(5), 626–650.
- Smith, G. (2013). Oversight of police and residual complaints dilemmas. *Police Practice and Research: an International Journal*, 13(4), 92–103.
- Sviridoff, M., & McElroy, J. (1989). *The Processing of complaints against police in New York City: The Perceptions and attitudes of line officers*. New York: Vera Institute of Justice.
- Tyler, T. R. (2008). Procedural justice and the courts. *Court Review*, 44(1/2), 25–31.
- Victoria Police. (2017). *Annual report 2016-2017*. Melbourne: Author.
- Walker, S., Archbold, C., & Herbst, L. (2002). *Mediating citizen complaints against police officers: A Guide for police and community leaders*. Washington, DC: Department of Justice, Office of Community Oriented Policing.
- WAPOL. (2015). *Professional standards statistical overview 2015*. Perth: Western Australia Police.
- Wood, J. (1997). *Royal Commission into the New South Wales Police Service, final report, Volume II: Reform*. Sydney: Government of NSW.
- Young, R., Hoyle, C., Cooper, K., & Hill, R. (2005). Informal resolution of the complaints against the police: A Quasi-experimental test of restorative justice. *Criminal Justice*, 5(3), 279–317.

CHAPTER 5: CASE STUDY – THAMES VALLEY, ENGLAND

Riley, M., & Douglas, S. (2019). Is there a place for restorative justice in civil mediation? *Australasian Dispute Resolution Journal* 30(14), pp. 14-22.

Disputes between the police and aggrieved civilians are essentially civil disputes within a criminal justice context. Civil mediation, which is an alternative dispute resolution process, has been used extensively in Australian and elsewhere to resolve disputes between parties without the need for litigation. However, it provides a legal solution to a dispute without addressing the harms experienced by the parties. Restorative justice has long been used in criminal justice to bring parties together, in a facilitated mediation, to discuss the aftermath of wrongdoing and to work towards healing and reconciliation.

The following journal article aimed to examine civil mediation to assess whether there is a place for restorative justice in civil dispute resolution; and explore the possible synergy between these approaches and how it may be applied to the resolution of civilian complaints against the police. The Thames Valley, England and Queensland, Australia case sites were examined in the article to determine the extent to which restoration justice mediation is used by police services. This study found that police services in England rarely use mediation now for the resolution of civilian-police complaints. Concerns about the possible use of confidential information collected in the mediation process was part of the reason for the shift in focus to informal resolution. As such, the limited information gathered from the Thames Valley agencies was incorporated into this larger review of restorative justice and mediation. Restorative justice has become part of policing practice in the United Kingdom. Police officers apply restorative justice principles to their daily interactions with the public to de-escalate disputes. The police service has also

extended restorative justice mediation to their internal complaints system to repair and strengthen workplace relationships.

The *Australasian Dispute Resolution Journal* was chosen for this article following the presentation of a paper at the *2018 ADR Research Network 7th Annual Roundtable Conference* in Queensland (Riley, 2018) and a call for submissions for a special edition. The journal covers the theory, analysis and practice of dispute resolution, including mediation, in Australasia. The journal provides a practical resource for alternative dispute resolution practitioners, teachers and academics. The following journal article fits the scope of the alternative dispute resolution journal as it identifies a gap in the current approach to civilian-police complaints resolution processes. Despite the limited current use of mediation in complaints resolution, the Thames Valley was treated as a larger case study site because it provided valuable data on the application of restorative justice principles within policing practice – a component which has not undergone any formal inclusion by the other case study sites.

Is There a Place for Restorative Justice in Civil Mediation?

Mary Riley and Susan Douglas*

This article examines the suitability and defensibility of mediation based on restorative justice principles for the resolution of civil disputes in Australia. The use of restorative justice practices in healing the harms caused by wrongdoing is not new. Countries, including England and the United States, have embraced restorative justice practices at various points throughout their criminal justice systems. In most Australian jurisdictions, legislative changes over the past three decades have resulted in the use of restorative justice principles in youth and adult justice processes. The movement toward mediation to resolve civil law disputes grew at the same time. While mediation involves negotiation toward a collaborative resolution, the relationship between parties often remains damaged. However, restorative justice principles add empathy and reparation to the process. The possible synergy between mediation and restorative justice is discussed in this article through an examination of their use in the resolution of disputes between the police and citizens.

INTRODUCTION

Throughout history, dispute resolution has traversed varying methods including violent conflict, physical punishment, retributive criminal prosecution and civil litigation to more inclusive mechanisms such as peace-making circles, conciliation, conferencing and mediation. Some of these latter alternative dispute resolution processes have become adjuncts to traditional processes in Australian civil and criminal justice over the past 30 years. This shift to alternative dispute resolution has been driven by congested courts and complainants' dissatisfaction with processes and outcomes. Mediation, which is a non-adversarial dispute resolution mechanism, has progressively gained popularity and usage in both civil and criminal justice, partly because of the involvement of parties in determining outcomes. In some instances, restorative justice principles are also employed, such as in youth justice conferencing, adult restorative justice conferencing and victim and offender mediation. The direct conflict between parties, resulting from wrongdoing, is confronted by bringing the parties together. The process enables them to discuss the personal impact of the offence, develop empathy and to reach agreement on how to move forward. The healing which often comes from these encounters fulfils a need in society that criminal prosecution does not. The movement toward using mediation to resolve civil law disputes, and avoid litigation, grew during the same period in Australia. In some instances, mediation is now mandated for civil matters, including disputes between individuals, communities, businesses and government entities, prior to these being heard in court.¹ While mediation involves negotiation toward a collaborative resolution,² the relationship between the parties often remains damaged. The receptiveness to another person's perspective and feelings and a desire to reconcile,³ are not always present in civil mediation. However, restorative justice principles add empathy and reparation to the process. Nonetheless, neither mediation nor restorative

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¹ T Sourdin, *Alternative Dispute Resolution* (Thomson Reuters, 5th ed, 2016) 295.

² D Spencer, *Principles of Dispute Resolution* (Thomson Reuters, 2nd ed, 2016) 60.

³ J Poitras, "A Study of the Emergence of Cooperation in Mediation" (2005) 4 *Negotiation Journal* 282, 281–300.



justice has common definitions, they are susceptible to different and discretionary applications. But is it a case of “never the twain shall meet”?⁴

Mediation can be facilitative, advisory or evaluative in nature and take various forms depending on the subject area (eg, family law) such as problem-solving, settlement, shuttle and therapeutic mediation.⁵ Similarly, restorative justice, which is a process most often associated with restoring lives affected by an offence or incident, in practice can vary in its focus. Three conceptions of restorative justice processes can be identified – as an encounter, a process of reparation or one of transformation.⁶ The perceived value of each process both defines it and guides its implementation. For example, if face-to-face contact, whereby parties can actively participate in decision-making around a solution, is the perceived benefit, then restorative justice would be viewed as a process of “encounter”. If changing offender behaviour and reducing recidivism are perceived benefits, then restorative justice could be viewed as a process of “reparation” and/or “transformation”. Neither mediation nor restorative justice are limited or impoverished by varying conceptions or the lack of concrete definitions but are rather flexible and able to shift focus as necessary to accommodate the needs of the parties in conflict. This article, which takes an integrative view of restorative justice conceptions, argues that in combination, mediation based on restorative justice principles offers an effective way of healing lives damaged by conflict. Civil mediation may provide a legal solution to a dispute, but civil restorative justice mediation will address the human needs to be heard, acknowledged, make decisions regarding one’s life and reconcile differences.⁷ Discussion traces the restorative justice movement and the mediation movement in Australia and provides data in support of their integration to produce best practice in police complaint systems in Australia. The authors canvass the use, in the United Kingdom and Queensland, of restorative justice mediation in the resolution of complaints against police. Disputes between the police and aggrieved citizens are essentially civil disputes within a criminal justice context. Investigation of restorative justice mediation used by police systems both locally and internationally supports the idea that a restorative justice approach can achieve greater disputant satisfaction.

RESTORATIVE JUSTICE PRINCIPLES AND PRACTICE

In Australia, restorative justice has been used almost exclusively in the criminal justice domain. It incorporates a variety of practices, including conferencing, victim-offender mediation and circle and forum sentencing.⁸ This mix of practices has (like mediation) led to some debate over its definition. The most widely accepted definition of restorative justice is that it is “a process in which the parties with a stake in an offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future”.⁹ It consists of a set of principles based on procedural fairness, accountability and reintegration of offenders into society¹⁰ and is characterised by respect and inclusion. The process consists of mediated dialogue by a skilled, independent third party wherein all parties have an opportunity to engage in narrative around the offence or incident.

A restorative justice process is victim-focused as it seeks to empower victims by providing them with an opportunity to find answers to “why” they were harmed and to prevent further wrongdoing.¹¹ The process confronts the offender with the humanity of their victim/s by giving a face and voice to the victim. This

⁴ Rudyard Kipling, *The Ballad of East and West* (1892) <<https://idioms.thefreedictionary.com/never+the+twain+shall+meet>>.

⁵ Sourdin, n 1, 77.

⁶ G Johnstone and DW Van Ness, “The Meaning of Restorative Justice” in G Johnstone (ed), *A Restorative Justice Reader* (Routledge, 2nd ed, 2013) 14–20.

⁷ Poitras, n 3, 284.

⁸ Australian Law Reform Commission, *Alternative Processes – Restorative Justice, No 11* <<https://www.alrc.gov.au/publications/11-alternative-processes/restorative-justice>>.

⁹ T Marshall, *Restorative Justice: An Overview* (Home Office, 1999) 5.

¹⁰ M Schiff, “Satisfying the Needs and Interests of Stakeholders” in G Johnstone and DW Van Ness (eds), *Handbook of Restorative Justice* (Willan, 2007) 228–245.

¹¹ Johnstone and Van Ness, n 6, 14.

narrative allows for the expression of emotions, such as hostility and fear, and discussion on the cause and effect of wrongdoing.¹² The expression, rather than suppression of emotions, such as hostility, assists parties in meeting their emotional needs.¹³ Mediated dialogue allows for the exploration of human conflict in a safe environment, where parties have an equal voice, and where the dialogue is witnessed by all stakeholders. According to Raye and Roberts,¹⁴ these features can be more important than the outcome. It enables the offender to identify the dominant story influencing their actions;¹⁵ and for the victim to regain some sense of security that they will not be re-victimised, and confidence to be able to move on from the incident.

A restorative justice process is non-judgmental (as the offender has already admitted guilt) and aims to transform the parties to a position of solidarity.¹⁶ It does this by enabling parties to discuss the personal impact of the offence or incident and encouraging empathy between the parties. It also creates an opportunity for the offender to take responsibility, show remorse and make amends. Atonement or making amends may involve the offer of an apology, which is a form of moral rather than legal reparation. The parties reach agreement on how to move forward but the remedy articulated in the agreement must not be more onerous for the offender than a court would order;¹⁷ and it is, in most instances, legally binding. The healing which often comes from this process fulfils a need in society that criminal prosecution does not, due to its focus on punitive responses for offenders. Healing is more than a psychological process and is achieved through victims' access to, and participation in, justice processes. Participation in a restorative justice process has been shown to reduce the level of post-traumatic stress symptoms experienced by many crime victims.¹⁸ The healing achieved enables victims to develop the "capabilities" to function in everyday life.¹⁹ The adversarial nature of court proceedings and rules of evidence position the state as representative of the victim and the offender as a passive observer.²⁰ This non-interactive approach is replaced in restorative justice processes by an interactive forum that hears directly from the stakeholders in a crime. It gives victims "an experience of justice" which they otherwise rarely access.²¹

The facilitator plays a key role in the success of a restorative justice process by employing restorative language, maintaining neutrality and evidencing cultural competency.²² A restorative justice facilitator is trained to guide the process by asking the offender probing questions to elicit anti-social attitudes and beliefs that have contributed to their offending, reframing and summarising disclosures and encouraging self-reflection. Neutrality and impartiality are vital elements in this transformation. The facilitator must not take sides yet ensure that the offender does not receive the wrong impression about their place in the process. The offender's actions are censured through questioning that conveys some assessment of right and wrong.²³ Nonetheless, the facilitator's neutrality ensures autonomy in relation to the outcome,

¹² DW Van Ness and KH Strong, "Encounter" in G Johnstone (ed), *A Restorative Justice Reader* (Routledge, 2nd ed, 2013) 82–95.

¹³ T Claassen and H Zehr, "VORP Organizing: A Foundation in the Church" in G Johnstone and DW Van Ness (eds), *Handbook of Restorative Justice* (Willan, 2007) 89.

¹⁴ BE Raye and AW Roberts, "Restorative processes" in G Johnstone and DW Van Ness (eds), *Handbook of Restorative Justice* (Willan, 2007) 211–227.

¹⁵ A Morgan, *What is Narrative Therapy?* (Dulwich, 2000) 7.

¹⁶ M Rossner, "Emotions and Interaction Ritual: A Micro Analysis of Restorative Justice" (2011) 51 *British Journal of Criminology* 95, 95–119.

¹⁷ Australian Institute of Criminology (AIC), *Restorative Justice in Australia* (2017) <<https://aic.gov.au/publications/rpp/rpp127/restorative-justice-australia>>.

¹⁸ LW Sherman et al, "Twelve Experiments in Restorative Justice: The Jerry Lee Program of Randomized Trials of Restorative Justice Conferences" (2015) 11 *Journal of Experimental Criminology* 503, 501–540.

¹⁹ See Chris Cunneen's book review of Elizabeth Stanley's work on torture victims in Timor-Leste, 2009, and the role of restorative justice and transitional justice in healing torture victims (2010) 43(2) *Australian and New Zealand Journal of Criminology* 377, 376–380.

²⁰ Johnstone and Van Ness, n 6, 17.

²¹ H Zehr, "Rethinking Criminal Justice: Restorative Justice", *Conference Proceedings* (Restorative Justice Conference, Auckland, 1995; unpublished 2010).

²² M Riley and H Hayes, "Youth Restorative Justice Conferencing: Facilitator's Language – Help or Hindrance? (2017) 21 *Contemporary Justice Review* 5, 1–15.

²³ AE Ivey and MB Ivey, *Essentials of Intentional Interviewing* (Thomson, 2008) 129–144.

whereby the resolution of the conflict is put in the hands of the parties.²⁴ Restorative justice values self-determination in dispute resolution. It speaks to an individual's control over decision-making on issues relating to them²⁵ and it is particularly important in Indigenous matters.²⁶ Self-determination can motivate Indigenous parties to engage in restorative justice processes. It recognises that "coercion" promotes resistance²⁷ (which Indigenous peoples within the post-colonial nation-state may perceive in their interactions with legal processes). The facilitator's awareness of self-determination assists them in guiding the parties to appropriate and meaningful outcomes. Where the offender is an Indigenous youth, the facilitator will usually ask an elder or respected person from the youth's community to attend the conference. Restorative justice processes improve understanding of diversity and disadvantage, which can have a range of benefits. The victim may achieve material and/or symbolic reparation and the process may engender feelings of self-worth, acceptance and forgiveness for the offender, which support their reintegration into society.

The restorative justice process is, however, not without limits in its ability to achieve its aims. All participants and their circumstances are unique, and the level and experience of harm differ. The process aims to assist victims and other stakeholders by fostering understanding and empathy in a safe and confidential environment. Nonetheless, there is no expectation for the victim to forgive the offender and some conflicts may not be fully resolved.²⁸ Therefore, the process cannot be routinised but rather needs to be flexible enough to offer opportunities for restoration. Hence, the lack of a definitive description of restorative justice may, in fact, be its greatest strength. It resists complacency and remains responsive to changing justice demands.²⁹

RESTORATIVE JUSTICE IN MEDIATION

The use of restorative justice practices in healing the harms caused by wrongdoing is not new. Countries, including England and Wales, and the United States, have all embraced restorative justice practices at various points within their criminal justice systems. In most Australian jurisdictions, legislative changes over the past three decades have resulted in the use of restorative justice principles in youth justice conferencing, adult restorative justice conferencing, forum sentencing and victim and offender mediation.³⁰ These processes are facilitated by police and justice agencies. However, restorative justice is increasingly being used to resolve conflict in families, schools and workplaces, such as through anti-bullying and anti-discrimination policies and procedures.³¹ In 2011, the National Justice CEOs Group in Australia developed the Restorative Justice National Guidelines to assist facilitators in the criminal justice domain, such as in youth detention centres.³² The guidelines are also useful in the other contexts mentioned. The guidelines promote consistency in usage and guidance on outcomes, program evaluations and training.³³ In the context of criminal matters, restorative justice mediation and conferencing are used

²⁴ Sourdin, n 1, 94.

²⁵ R Edney, "Indigenous Punishment in Australia: A Jurisprudence of Pain?" (2002) 30 *International Journal of the Sociology of Law* 220, 219–234.

²⁶ MS King, "Restorative Justice, Therapeutic Jurisprudence and the Rise of Emotionally Intelligent Justice" (2008) 32 *Melbourne University Law Review* 1115, 1096–1126.

²⁷ King, n 26, 1115.

²⁸ E Beck and A Wood, "Restorative Justice Practice" in E Beck, NP Kropf and PB Leonard (eds), *Social Work and Restorative Justice: Skills for Dialogue, Peacemaking, and Reconciliation* (OUP, 2011) 65–67.

²⁹ A Woolford and RS Ratner, "Disrupting the Informal-Formal Justice Complex: On the Transformative Potential of Civil Mediation, Restorative Justice and Reparations Politics" (2010) 13(1) *Contemporary Justice Review* 11, 5–17.

³⁰ AIC, n 17, 4.

³¹ Riley and Hayes, n 22, 9.

³² See Department of Child Safety, Youth and Women, *Youth Detention Centre Operational Policy* (2018) on the facilitation of restorative justice in Queensland youth detention centres <<https://www.youthjustice.qld.gov.au/resources/youthjustice/resources/1-16-restorative-practice.pdf>>.

³³ AIC, n 16, 1, Standing Council on Law and Justice (now Law, Crime and Community Safety Council) adopted the *Guidelines for Restorative Justice Processes in Criminal Cases* (2013) at a meeting on 10–11 October 2013.

for a range of offences. There are jurisdictional variations, but the processes are used in relation to youth and adults who commit minor offences, such as traffic violations and property offences, to more serious crimes, such as murder and rape.³⁴

Australian research into the effectiveness of youth and adult restorative justice processes, in terms of stakeholder satisfaction and recidivism, has revealed positive results. A 1998–1999 study that observed 89 youth conferences in South Australia and measured recidivism 8–12 months after the conference, found that recidivism was less likely when young offenders felt the agreement stage was consensual.³⁵ A two-year qualitative study of young offenders in South-east Queensland, between 2004 and 2006, found high victim satisfaction with the outcome and offender preference for the restorative justice process over the criminal justice alternative. The study also found that recidivism was less likely for young offenders who felt positive about their conferencing experience and had gained insight into the impact of their offending behaviour after hearing the victim's story.³⁶ Similarly, a 2011 survey conducted by the Queensland Department of Justice and the Attorney-General, as part of their review into the effectiveness of the adult Justice Mediation Program, found high participant satisfaction rates with the process and outcomes and indicative low offender recidivism rates.³⁷ There are, however, limitations to restorative justice mediation, associated with power imbalances, belligerent offenders and victims who fear retribution from participation.³⁸ Nonetheless, the literature is replete with evidence of the benefits of restorative justice for both victims and offenders,³⁹ and the presence of a skilled facilitator, who checks accusatory and unsupportive comments, can alleviate some of the negative aspects.⁴⁰

As Zehr suggests, restorative justice mediation “creates an arena in which people can sort out, within limits, what justice means in their situations”.⁴¹ Parties’ own constructions of what justice means to them are arguably relevant to a range of non-adjudicative processes. Restorative justice looks beyond the legal definition and proof of crimes to the breaches of trust and confidence experienced by victims of crime. Breaches of trust and confidence are also relevant to the resolution of civil matters where relationships between parties, whether ongoing or not, are fractured by failed expectations and possibly uncivil behaviour. Parties to civil disputes experience conflict and as such may also feel hurt by that conflict. The recognition of emotional components of conflict, relational dimensions of disputes and the need for a sense that justice has been done make restorative justice principles applicable to civil justice contexts. The following discussion canvasses the use of restorative justice mediation in police complaint systems in the United Kingdom and Queensland.

RESTORATIVE JUSTICE MEDIATION IN POLICE COMPLAINT SYSTEMS

Police work often involves the use of intrusive and coercive actions to enforce the law and protect the public.⁴² However, the exercise of these powers can be met with resistance and give rise to highly emotional situations.⁴³ It is inevitable that some of these interactions result in complaints against the

³⁴ AIC, n 17, 4.

³⁵ H Hayes and K Daly, “Youth Justice Conferencing and Reoffending” (2003) 20(4) *Justice Quarterly* 746, 725–764.

³⁶ H Hayes, TR McGee and M Cerruto, “Explaining Continuity and Change in Offending Behaviour after a Restorative Justice Conference” (2011) 23(2) *Current Issues in Criminal Justice* 137, 127–143.

³⁷ See AIC, n 17, 11, personal communication from the Department of Justice & Attorney-General on victim healing and reintegration, dated October 2013.

³⁸ H Hayes, “Apologies and Accounts in Youth Justice Conferencing: Reinterpreting Research Outcomes” (2006) 9(4) *Contemporary Justice Review* 371, 369–385.

³⁹ LW Sherman and H Strang, “Restorative Justice – The Evidence” in G Johnstone (ed), *A Restorative Justice Reader* (Routledge, 2nd ed, 2013) 311, 292–314.

⁴⁰ Riley and Hayes, n 22, 8.

⁴¹ H Zehr, “Evaluation and Restorative Justice Principles” in G Johnstone (ed), *A Restorative Justice Reader* (Routledge, 2nd ed, 2013) 263.

⁴² J Ransley, J Anderson and T Prenzler, “Civil Litigation against Police in Australia: Exploring Its Extent, Nature and Implications for Accountability” (2007) 40(2) *The Australian and New Zealand Journal of Criminology* 144, 143–160.

⁴³ V Berger, “Civilian Versus Police: Mediation Can Help to Bridge the Divide” (2000) 16(3) *Negotiation Journal* 211, 211.

police themselves. The conduct of some police officers requires a criminal justice response. However, most complaints relate to relatively minor issues, such as verbal abuse or intimidation. Police, like all civilians, are accountable for their actions under legislation, codes of practice and the rule of law. The rule of law provides that the public may criticise the law and its administration without fear of reprisal and may have their conflict adjudicated by an independent and impartial person.⁴⁴ As such these essentially civil disputes within a criminal justice context are increasingly being resolved using mediation and restorative justice. The use of mediation and restorative justice in operational policing and complaints management in two counties in the United Kingdom are examined below.

RESTORATIVE JUSTICE AND POLICE COMPLAINTS IN THE UNITED KINGDOM AND QUEENSLAND

The past 25 years have witnessed statutory changes in the United Kingdom that have incorporated restorative justice as a core component of policing practice. Increasing levels of crime, public dissatisfaction with police responses to crime, the bureaucratic burden placed on police officers in dealing with minor disputes and the constant need to improve community safety, have driven police reform.⁴⁵ Restorative justice in the form of restorative dialogue and mediation are now part of policing in 33 out of 43 police services in the United Kingdom.⁴⁶

The first restorative justice conferencing model was introduced in the Thames Valley, England in 1994. It mirrored the Australian police-led model running in Wagga Wagga at that time. Traditional cautions for young offenders were replaced by restorative cautioning sessions that involved all stakeholders in the offence. A cadre of restorative justice-trained police facilitators conducted victim-offender conferences. The program, which included 1,915 restorative conferences, was evaluated from 1998 to 2001, with more than half of the participants reporting that a sense of closure was gained by attending a conference.⁴⁷

A restorative-based complaints system was also introduced in the Thames Valley police district following poor public opinion of the existing process. This represented a move from the use of restorative practices in the criminal context to its use in civil disputes with the police. In 2005, a comparative study on the effectiveness of restorative justice processes over the traditional system of informal resolution of complaints (which was achieved in-house by the police service) was conducted between the Thames Valley Police (intervention group: $n = 21$) and Hampshire Constabulary (comparison group: $n = 22$).⁴⁸ The study found that both groups of complainants had negative attitudes toward the police at the outset. However, the negativity of the intervention group decreased as a result of restorative justice mediations compared to an increase in the comparison group ($p < 0.05$). Complainants in the intervention group reported achieving “something positive” from their mediation experience; that the time taken to process their complaint was “well spent”; and 19% of police officers admitted wrongdoing compared to 9% in comparison group.⁴⁹ Overall, complainants and police officers reported that the conferencing experience had allowed them to become better informed and more willing to make changes to their behaviour.⁵⁰

Research on the Thames Valley Police in early 2019 revealed significant changes since the 2005 study. The establishment of the Conflict Resolution Department within Human Resources included restorative

⁴⁴ See G de Q Walker, *The Rule of Law: Foundation of a Constitutional Democracy* (University Press, 1998) Ch 1.

⁴⁵ C Paterson and K Clamp, “Exploring Recent Developments in Restorative Policing in England and Wales” (2012) 12(5) *Criminology and Criminal Justice* 594, 593–611.

⁴⁶ Paterson and Clamp, n 45, 594.

⁴⁷ D O’Mahony and J Doak, “Restorative Justice and Police-led Cautioning” in G Johnstone (ed), *A Restorative Justice Reader* (Routledge, 2nd ed, 2013) 138.

⁴⁸ R Young et al, “Informal Resolution of Complaints against the Police: A Quasi-Experimental Test of Restorative Justice” (2005) 5(3) *Criminal Justice* 304, 279–317.

⁴⁹ Young et al, n 48, 304.

⁵⁰ Young et al, n 48, 307.

justice processes for dealing with workplace conflict.⁵¹ The force recognised that conflict may arise given the close proximity in which police/members work and that unresolved disputes negatively impact current and future work relationships. However, the use of restorative justice for resolving civilian-police complaints waned in the United Kingdom. The development of Informal Resolution procedures, whereby a senior officer, acting as an intermediary between complainant and subject officer, would resolve and finalise the dispute, led to a procedural rather than relational approach to complaints resolution. It appears that a culture of fear surrounding the possible use of confidential information (collected in the mediation process) to punish an officer, negatively impacted deference to mediation.⁵² Nonetheless, restorative justice has become the preferred method for a wide range of conflict resolution processes outside of police complaints but referred to the police, such as neighbourhood disputes. The police ask the parties if they would like to participate in a restorative justice mediation. Contracted companies, such as Restorative Solutions Organisation,⁵³ receive referrals from the police and independently facilitate these sessions.

Like the United Kingdom experience, the Queensland Police Service is increasingly using restorative justice to resolve police workplace disputes. Project Juniper, currently underway within the Queensland Police Service is “moving towards a mediated restorative justice sort of approach to the internal matters”.⁵⁴ Internal complaints are trending upwards which the Queensland Police Service considers to be positive as it suggests confidence in the system.⁵⁵ The Project is examining issues such as workplace bullying and harassment, the grievance process, and one-on-one sessions in resilience training. Consultancy teams have initially been deployed to regional areas in North Queensland. The teams consist of trained civilian mediators who have been outsourced, although police supervisors are also being trained in restorative justice-based dispute resolution.⁵⁶ There is evidence of a pilot project employing independent mediators in complaints against police dating back to the 1990s.⁵⁷ The pilot project, a collaboration between the Criminal Justice Commission (CJC) and Queensland Police Service, referred 33 complaints for restorative justice mediation to the Community Justice Program. An evaluation of this pilot found that approximately 80% of complainants and police officers who responded to the survey, preferred mediation over other available complaints resolution options. There was a high degree of satisfaction with the process and recommendations were made by the CJC to continue using independent mediation for police complaints. However, the use of mediation declined, mainly due to issues of cost and timeliness. Nonetheless, the Community Justice Program, now the Dispute Resolution Branch, provided and continues to provide, ongoing mediation training to officers of the Queensland Police Service.

CIVIL MEDIATION AND RESTORATIVE JUSTICE

Civil mediation emerged in the 1970s as an alternative to civil litigation which was, and continues to be, cost and time prohibitive, complex, adversarial and a process in which the final determination often does not provide the resolution sought by the parties.⁵⁸ This period marked an era of social change in which movements such as feminism advocated for equality before the law and better access to justice.⁵⁹ Civil mediation offered a mechanism to “bridge justice concerns” with minimal intervention from the state.⁶⁰

⁵¹ Interview on 7 January 2019 with Restorative Solutions Organisation (RSO) at Office of Police and Crime Commissioner, Kidlington, England, as part of author’s PhD research project.

⁵² RSO, n 51.

⁵³ RSO, see website <<https://www.restorativesolutions.org.uk/>>.

⁵⁴ Interview on 26 November 2018 with Queensland Police Service (QPS), Brisbane, as part of author’s PhD research project.

⁵⁵ QPS, n 54.

⁵⁶ QPS, n 54.

⁵⁷ Criminal Justice Commission, *Report on the Pilot Project for the Mediation of Complaints against Police, February – August 1992* (Legal Office, Criminal Justice Commission, Brisbane, 1992) 1–27.

⁵⁸ Sourdin, n 1, 550.

⁵⁹ N Alexander, “Global Trends in Mediation: Riding the Third Wave” in *Global Trends in Mediation* (Kluwer Law International, 2nd ed, 2006) 5.

⁶⁰ Woolford and Ratner, n 29, 6.

A defining feature of civil mediation was its voluntariness and the parties' willingness to participate was reflected in their level of positive engagement with the process. Civil mediation became characterised by independent facilitation, where parties were empowered to negotiate using constructive dialogue and guided to achieve consensus on a fair and equitable outcome, in an informal setting.⁶¹ Since then, civil mediation has proliferated across Australia as the default and, in many instances, mandatory dispute resolution mechanism⁶² for a diverse range of issues. Professional mediators structure and manage sessions, although their input or "expertise" varies according to the civil mediation model used. These models include settlement, facilitative, evaluative and transformative mediation,⁶³ and they parallel some of the restorative justice processes.

Both restorative justice and civil mediation developed as voluntary processes before being annexed to the justice system. Restorative justice has its roots in indigenous practices in North America and New Zealand in the later part of 20th century. Civil mediation grew up at a similar time in volunteer dispute resolution centres. The government and judiciary now play a part in the application of these practices. For example, in Queensland, referral to a youth justice conference can be instigated by either the police or court under the *Youth Justice Act 1992* (Qld)⁶⁴ (in all cases the youth must agree to conferencing; it remains voluntary for adults); and civil mediation parties may be referred under the *Civil Proceedings Act 2011* (Qld).⁶⁵

The role of the facilitator in restorative justice processes is analogous to that of the facilitative mediator in civil mediation. In both instances, the facilitator has charge of the process whereas the parties have charge of the outcome. Facilitators do not give advice, offer their opinion or make recommendations but rather assist the parties in finding and analysing options for resolution.⁶⁶ Both restorative justice and facilitative mediation processes involve parties and stakeholders meeting in a joint session (although shuttle mediation may occur). There are conflict situations that require the facilitator to take a more active role in restorative justice conferencing or within the negotiation phase of mediation. For example, in victim-offender mediations,⁶⁷ where the offender may still be under a court order, and in evaluative mediations, where the legal rights of the parties are considered over their interests and needs.⁶⁸ An evaluative mediator can impact the outcome by discussing the weaknesses of the case and making recommendations.⁶⁹

A strong parallel exists between restorative justice processes and the transformative and/or narrative models of mediation. Restorative justice mediations are structured with the "transition" stage following the "narrative" or "story-telling" stage.⁷⁰ The transition stage is prompted by the facilitator asking the offender whether they have anything they want to say to the victim or other stakeholders. This questioning often leads to an apology and/or a show of remorse. Some argue that facilitators orchestrate apologies,⁷¹ and that the process is therefore not strictly facilitated. Nonetheless, the narrative stage allows all stakeholders to tell their story and a transformation or change in the offender's attitudes and behaviour (indeed any stakeholders) may naturally transition from this information and understanding.

⁶¹ Spencer, n 2, 63–81.

⁶² V Waye, "Mandatory Mediation in Australia's Civil Justice System" (2016) 45(2–3) *Common Law World Review* 214, 214–235.

⁶³ L Boule, *Mediation: Principles, Process, Practice* (LexisNexis, 3rd ed, 2011) 43–48.

⁶⁴ *Youth Justice Act 1992* (Qld) ss 22, 24A, 163, 165, 175(2A).

⁶⁵ *Civil Proceedings Act 2011* (Qld) ss 39–44.

⁶⁶ Z Zumeta, *Styles of Mediation: Facilitative, Evaluative, and Transformative Mediation* <<https://www.mediate.com/articles/zumeta.cfm>>.

⁶⁷ LW Sherman and H Strang, in collaboration with G Barnes et al, *Restorative Justice: The Evidence* (Smith Institute, 2007) 33.

⁶⁸ Zumeta, n 66, 1.

⁶⁹ Zumeta, n 66, 1.

⁷⁰ See Department of Justice and Attorney-General, Queensland Government, *The Restorative Justice Convenor Accreditation Tool* (2016) describes the process of facilitation for a youth justice conference in accordance with the *Youth Justice Act 1992* (Qld).

⁷¹ J Bruce, "Understanding 'Back Stage' and 'Front Stage' Work in Restorative Justice Conferences: The Benefits of Using Ethnographic Techniques" (2013) 25(1) *Current Issues in Criminal Justice* 521, 517–526.

Similarly, mediation in civil contexts may adopt a transformative model when seeking “to remove the underlying causes of oppression and injustice”⁷² and focusing on the participants’ wellbeing over the disputed issues. Like restorative justice, the civil transformative model is based on empowering the parties to a dispute and encouraging them to recognise each other’s point of view.

While restorative justice mediation is not identical to any of the recognised models of mediation in civil contexts, it does reflect some of the core principles and processes of these models. It is arguable that restorative justice mediation has particular resonance with civil complaint systems, in which a strong focus may be given to relational concerns, for example, in employment disputes. Restorative justice principles will also be particularly relevant to complaint systems framed around alleged perpetrators and victims, for example, discrimination and sexual or workplace harassment complaints.

CONCLUSION

Civil mediation and restorative justice have coexisted for three decades and are not in competition with each other. In many instances, they espouse the same virtues and values such as the restoration or return of the status quo to relationships damaged by conflict. A civil mediation process that is informal, independent, neutral and transformative offers participants the opportunity for collaborative decision-making and agreement. A process enriched with restorative justice principles will further achieve understanding, meaningful restoration, healing and peace in the lives of participants. While this will not produce an infallible alternative to the justice system it can position the dispute back in the hands of the parties and guide them to make satisfactory and workable decisions that they can live with.

In Australia, civil mediation is now often mandatory. Youth restorative justice conferencing is legislated as a diversionary option for criminal matters in all jurisdictions and adult restorative justice mediation is available, with consent, at any stage of the criminal justice process. Given the empirical evidence reporting high participant satisfaction with criminal mediation outcomes and civilian-police complaints mediation outcomes, the inclusion of restorative justice in civil mediation could add another “holistic” layer to this process of conflict resolution. Civil mediation could further incorporate restorative justice principles that are aimed to achieve justice in a way that is sometimes thwarted by the law. The data collected from the Thames Valley and Queensland police forces demonstrate that both forces acknowledge the value of restorative justice principles and processes. Both forces have taken restorative justice principles, already established in criminal justice contexts, and applied them to internal civil complaints systems. Both have extended restorative justice mediation/conferencing to internal complaint systems, in order to repair and strengthen internal workplace relationships. Experiments using restorative justice mediation for complaints against police produced positive and promising results in the Thames Valley and in Queensland. The authors can only speculate on the reasons for police to prefer in-house informal processes of investigation and resolution, and on a lost opportunity for repairing and strengthening police and civilian relationships.

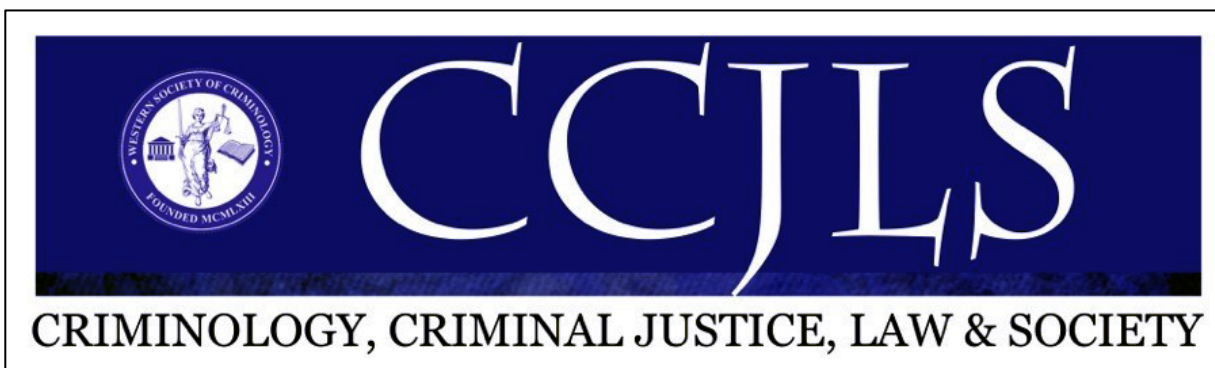
⁷² Woolford and Ratner, n 29, 10.

CHAPTER 6: CASE STUDY – QUEENSLAND, AUSTRALIA

Riley, M., & Prenzler, T. (2020). Conciliation versus mediation of complaints against police: Lessons from the Queensland experience. *Journal of Criminology, Criminal Justice, Law & Society* 21(1), pp. 22-38.

The Queensland Police Service continually strives to improve its service to the community and since the early 1990s has been proactive and innovative in the area of complaints management. The following journal article aimed to assess its use of alternative dispute resolution mechanisms in the resolution of civilian complaints against police. The literature described successful civilian-police complaints resolution programs as those that include independent facilitation and face-to-face meetings between the parties (i.e., mediation). Internal processes, such as informal resolution, maintain complainants' perceptions of biased treatment as the process involves police investigating police. The journal article examined the reasons why the Queensland Police Service chose conciliation as the default approach over mediation; the impact of this approach on complainant satisfaction with the complaints system and police behavioural improvements; and the lessons learned by the Service that could benefit other police services.

The *Journal of Criminology, Criminal Justice, Law & Society* was chosen for this article because it promotes an understanding of the institutions, principles and actors, including police and oversight agencies within the justice system and the legal and political framework under which they operate. The journal has an interest in articles that use qualitative methods and address issues in criminal justice using a social scientific lens. The journal informs an audience of academics, justice policymakers and managerial-level practitioners such as within policing, although it does have a broader readership. The following journal article fits the scope of the journal as it examines the role of conciliation and mediation in the resolution of civilian complaints against police in Queensland and provides an argument for the increased use of mediation.



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Conciliation Versus Mediation of Complaints Against Police: Lessons from the Queensland Experience

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ABSTRACT AND ARTICLE INFORMATION

Since the 1990s, alternative dispute resolution practices for dealing with citizen-initiated complaints against police, such as conciliation, have progressively been trialled and implemented in police services across Australia. The Queensland Police Service was one of the most proactive services in trialling independently facilitated complaints mediation programs – in collaboration with its oversight agency. However, despite repeated positive outcomes, the Service refrained from actively using mediation, preferring instead to use management dominated informal resolution (conciliation). This process, characterised by police investigating police, continues to limit complainant participation by denying them the opportunity to meet face-to-face with the subject officer. Yet the literature cites mediation, especially practices based on restorative principles as beneficial because it brings disputing parties together in dialogue that is educative for both parties, reparatory, and better satisfies complainants' aspirations for an inclusive and neutral complaints system, while data from mediated complaints can also be used to inform police conduct improvement strategies. Complaints mediation is available upon request within the Queensland Police Service, however, it is not widely promoted, and is internally facilitated. In view of this, an historical account of the application of mediation and conciliation to the Queensland Police Service complaints system is examined in this paper to answer the question why conciliation has become the default approach and mediation continues to be largely ignored. This is done through a qualitative analysis of publicly available documents and semi-structured interviews with key stakeholders. The findings reveal that the 1992 Mediation Pilot was very successful. However, the Queensland Police Service adopted conciliation because it was cheaper and, they claim, better aligned with managing behavioural improvements. Three decades on, there has been little evidence of this, while the literature clearly shows that mediation should be a key component of any police complaints and discipline system.

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Since the 1990's, alternative dispute resolution practices have progressively been trialled and implemented in police complaints systems across Australia (Goldsmith, 2000; Riley et al., 2018). The existing internal, full-investigation complaints process came under scrutiny in several misconduct inquiries including the Wood and Fitzgerald Inquiries. As a result, there was consensus that the process of police investigating police had to change if police legitimacy and procedural justice for complainants were to be enhanced (Goldsmith, 2000). The simultaneous alternative dispute resolution movement in the civil and criminal justice systems proffered conciliation and mediation as options to open dialogue between the police and complainants over allegations. To varying degrees, informal resolution – an internally facilitated shuttle approach to conciliating disputes between civilian complainants and police officers – replaced the traditional complaints process (Australian Law Reform Commission, 2018; Ede & Barnes, 2002) and gave complainants a more active, albeit limited, role in the process and outcome. Mediation, which typically refers to a process that brings conflicting parties together in facilitated dialogue to reach a mutual resolution, gained momentum in international police jurisdictions as an inclusive, consultative tool for resolving minor complaints to the satisfaction of all parties (Schaible et al., 2012).

The Queensland Police Service has been the most proactive of Australian police jurisdictions in trialling innovative complaints resolution approaches, such as mediation, to improve their service to the community (Riley et al., 2018). However, despite the success of the trials and the growing body of evidence on the effectiveness of mediated complaints (Bartels & Silverman, 2005; Schaible et al., 2012; Young et al., 2005), the Queensland Police Service (like other Australian police services) has refrained from actively using it, preferring rather to use an internal, conciliatory method such as informal resolution of minor complaints. This preference may be linked to the police view that they, unlike civilians, have the commensurate skill set – knowledge of the law and police procedures – to deal with complaints themselves (Maguire & Corbett, 1991). Yet, complaint trends since the 1990s have shown consistently high complaint numbers across the country (Productivity Commission, 2018), including in Queensland, suggesting that many complainants remain unsatisfied with the conciliatory approaches. Research supports the preference of complainants for face-to-face mediation (Prenzler, 2009) because direct communication reassures complainants that their concerns are taken seriously, the process is non-discriminatory, and they have a meaningful

participatory involvement in the resolution of their complaint.

The aim of this case study was to provide an in-depth analysis of policy and practice in relation to civilian-police complaints mediation in the Queensland Police Service complaints system. A review of the system from the 1989 post-Fitzgerald reform period to the present day was undertaken for this purpose.

The Fitzgerald Inquiry was established in response to community concern over police misconduct and corruption (Crime and Misconduct Commission [CMC], 2004). The Inquiry found that the Queensland Police Service Internal Investigations Section was “inept, inefficient and grossly biased in favour of police officers” (Fitzgerald, 1989, p. 82) in the conduct of investigations, and the Police Complaints Tribunal had inadequate mechanisms to respond to misconduct and corruption. Reforms included the abolition of these bodies (Fitzgerald, 1989) and a focus on community-policing (Prenzler, 2009) to rebuild trust. The police oversight body – the Criminal Justice Commission was established. However, ten years on, Prenzler (2009) noted Fitzgerald’s vision “was never implemented at the local level, and the pre-Fitzgerald model of police investigating police remains dominant” (p. 576). That approach has continued to today; however, the reasons why remain vague. Therefore, the case study seeks to identify why mediation is available but not used in favour of conciliation, what has hindered the civilianisation of the complaints system, and what overall lessons are available for improved practice in the Queensland Police and other police departments.

Literature Review

The legitimacy of a police complaints system rests on its objectivity, procedural rigor, and fairness (Sunshine & Tyler, 2003; Wells & Schafer, 2007). These features can be clouded by internally managed and adversarial systems. Police complaints systems tend to focus on police discipline and are complicated by multiple layers of overlapping decision-makers, including Internal Affairs, command staff, and in-line supervisors (De Angelis & Kupchik, 2007; Queensland Police Service [QPS], 2016). For civilian complainants, this maze of police investigating police often denies them participation in the resolution of their concerns and leaves many with the view that complaining is futile (Schulenberg et al., 2015). Yet complaints are important indicators of how well a service is performing and where improvements could be made. High-profile police corruption and civilian

deaths in custody scandals, civil rights movements, and the introduction of civilian oversight agencies have all highlighted the need for greater transparency, independence, and civilian involvement in police complaints processes.

Since the start of the alternative dispute resolution movement in the 1990s, and in response to complainants' calls for more inclusive civilian-police complaints resolution processes (Goldsmith 1990; Holland, 1996), mediation programs have been trialled and implemented in many countries. Research by Walker and colleagues (2002) of the 16 civilian complaint mediation programs in the United States showed that independently facilitated mediation offered a safe environment in which recognition, empowerment, understanding, and the potential for relationship-building can be promoted. It also found that mediation was approximately half the cost of investigations conducted by the police. The research identified obstacles faced by some mediation programs, including unwillingness to participate, power imbalances, mediator skills, and confidentiality. However, these obstacles were largely attributed to limited understanding of mediation itself. Overall, they concluded that mediation was a "promising alternative" to dealing with complaints and offered potential benefits to complainants and police, such as improved police accountability and police-community relations (Walker et al., 2002, p. 91). Three studies in the United Kingdom (Hill et al., 2003; Maguire & Corbett, 1991; Waters & Brown, 2000) considered complainant and police responsiveness to mediation over existing complaints resolution options. The findings of these studies revealed that complainants felt genuinely aggrieved by their encounter with police and expressed strong sentiments for face-to-face meetings. The main reasons for this were a "desire to talk matters through and receive an explanation" and "to extract an apology" (Maguire & Corbett, 1991, p. 16). Complainants were not motivated by a desire for severe sanctions to be imposed on the subject police officers but rather the prevention of the same behaviour in the future.

Three program evaluation studies (Bartels & Silverman, 2005; Schaible et al., 2012; Young et al., 2005) detailed below, assessed the effectiveness of the established mediation programs and found further evidence of complainants' aspirations for mediation. A 2005 evaluation of the New York City Civilian Complaint Review Board Mediation Program found that complainants who participated in mediation ($n = 16$) over a full investigation ($n = 19$) recorded higher rates for all satisfaction indicators (81% compared with 32%, respectively). These included having an opportunity to meet face-to-face with the subject

officer, having a say in the complaint disposition, and being able to discuss the complaint in a confidential space with an independent mediator (Bartels & Silverman, 2005, p. 624). Police officers who participated in mediation ($n = 15$) recorded high satisfaction rates (67%) for having a say in the complaint resolution.

A study conducted across two police districts in England in 2005 compared the restorative justice-based complaints mediation program in the Thames Valley Police with the informal resolution process used by the Hampshire Police. The Thames Valley Police approach achieved greater levels of satisfaction with the process for complainants (61% compared to 33% in Hampshire Police) and police officers (85% compared to 69%) because of the way that open communication between the parties had been promoted. Mediator emphasis on respectful language and equal time to talk generated the high satisfaction levels.

In Young and colleagues' (2005) study, 47 cases were offered face-to-face mediation during the study period, of which 22 were successfully mediated, and a further 19 cases were restoratively resolved by a facilitator who "took on the role of a genuine 'go-between' for the parties" (p. 291). The facilitators were either trained police or non-police mediators. Complainant satisfaction related to "venting of feelings, hearing the other side of the story and the development of some mutual understanding" (Young et al., 2005, p. 298). The negative aspects of informal resolution spoke equally high to the benefits of mediation. Young and colleagues (2005) found that complainants who participated in Hampshire Police's informal resolution expressed dissatisfaction with "the lack of transparency concerning what had actually been said by the appointed officer to the officer complained against (and whether or not this had amounted to a 'telling off')" (p. 302) and "any admissions of wrongful behaviour tended to become lost within the conventional informal procedure due to the lack of any flow of information back to the complainant" (p. 304).

A 2012 evaluation of the Denver Citizen/Police Complaint Mediation Program revealed that from inception in 2005, complainant and police satisfaction levels with the complaints process had increased steadily (Proctor et al., 2008). Ninety-six percent of respondents agreed that mediation, which was conducted through an independent mediation vendor, "allowed them the opportunity to explain their points" (Proctor et al., 2008, p. 23). Eighty-five percent of complainants and 87% of officers felt that mediation "was either somewhat or very effective at helping them to understand the actions of the other party" (Proctor et al., 2008, p. 23). Other benefits

identified in this study included the alleviation of bias in the neutral forum and lower cost and quicker resolution of complaints compared with formal investigations. A mix of complaint types from incivility to excessive force and racially biased policing complaints had been successfully mediated, indicating mediation's usefulness in more than minor complaints resolution.

Similarly, a 2015 report of the New Orleans Community-Police Mediation Program, after its first year of operation, found that of the 22 cases mediated, all complainants and police officers thought the process was unbiased. Ninety-two percent of police officers agreed that "mediation is a good way of resolving disputes between civilians and police officers," and all agreed that if they received a civilian complaint in the future that they would agree to a mediation (Office of the Independent Police Monitor, City of New Orleans, 2015).

The findings of these studies show that complainants want to voice their grievances directly with the subject police officer(s), preferably in the presence of a neutral third party. At the very least, complainants want the option to choose how their complaint will be resolved.

In Europe, police organisations also grapple with civilian participation in complaints resolution. Most systems are characterised by oversight agencies working at arms-length from police organisations with limited civilian involvement. In Denmark, public mistrust of the police complaints system led to the establishment of the Danish Independent Police Complaints Authority in 2011. The public viewed the complaints system as favouring the police, arguably supported by the continuously low substantiation rates (e.g., 0% in 2008 and 6% in 2016) and increased complainant dissatisfaction rates over the period 2008 to 2016 (from 58% to 74%; Holmberg, 2019).

A recent evaluation of the Independent Police Complaints Authority examined complainant satisfaction and trust in the independence of the new system. Complainants who received decisions on their complaints between August 2014 and March 2016 ($N = 1,597$) were contacted; 658 were interviewed. The research findings echoed many of the aspects found in the studies noted above. Complainants were dissatisfied with the system because they felt it lacked investigational independence from the police and was preoccupied with proving police officer wrongdoing. Most complainants (57%) wanted the police service to take organisational action to ensure the behaviour (e.g., rough handling and inappropriate language) would not happen in the future. Forty-seven percent of complainants wanted the organisation to acknowledge that wrongdoing had happened, and 43% felt that their

complaint was not taken seriously and wanted the organisation to recognise their experience of events.

The National Police of Denmark use informal resolution to resolve civilian complaints. However, the current study showed that many complainants thought their complaints had been dealt with by the Independent Police Complaints Authority. As Holmberg (2019) suggests, "some informants probably participated in a process of informal resolution without realising it" (p. 8). Complainant confusion may relate to the fact that the system has changed several times since the service was reformed in 2007 and limited information provided at the outset of the complaint. To better address complainants' needs, mediation was considered in the lead up to the establishment of the Independent Police Complaints Authority (Holmberg, 2019). However, two obstacles limited its application: By law, complainants were not prevented from lodging formal complaints if dissatisfied with mediation, and police policy meant that police officers could not rely on the confidential nature of mediation to protect them from possible disciplinary measures. Had these issues been addressed prior to the establishment of the Authority, mediation may have been adopted (Holmberg, 2019). Nonetheless, the findings support complainants' aspirations elsewhere in the literature for recognition and an opportunity to understand the police perspective on incidents.

Method

The study used a two-phase qualitative approach. This consisted of content analysis of (1) publicly available and confidential documents and (2) analysis of semi-structured interviews with key informants. The mixed-method approach occurred sequentially, although some documents were provided at the time of the interviews. The information gathered from the initial documentary collection and analysis informed the case study design, including the identification of vital agencies and individuals for interview.

To provide some perspective on the operation of the Queensland Police Service, a brief demography follows.

Research Site Demography

At the time of the pilot mediation program in 1992, the Queensland Police Service consisted of approximately 5,500 sworn officers (Australian Bureau of Statistics [ABS], 1992, p. 58) who served a population of 3.6 million (ABS, 2003). Three hundred and nineteen complaints against police were lodged with the Crime and Misconduct Commission in that

year (Criminal Justice Commission [CJC], 1992a, p. 26). However, the pilot mediation program was confined to the Brisbane Region (including the Brisbane and South East Queensland districts) where a significant proportion (currently 3.6 million) of the state's population resided and still does (Queensland Government Statistician's Office, 2020).

The Queensland Police Service currently consists of approximately 15,000 sworn officers (Productivity Commission, 2019, p. 6.3) who serve a population of 5.1 million people (Queensland Government Statistician's Office, 2020) across five police regions, divided into districts (QPS, 2019, p. 21) over a geographical area of approximately 1.729 million square kilometres (Geoscience Australia, 2020). The population is characterised by a 49% female, 51% male gender split, with approximately one fifth (1 million) of residents born overseas and a 4% Indigenous population (Queensland Government, 2020). Police service delivery across the broad Queensland landscape continues to be challenging as the regions have differing community needs. The rate of complaints against the Queensland Police Service during 2019 was 9.5 per 100 sworn (operational) staff (QPS, 2019, p. 27) but should be viewed in the context of the millions of interactions the police have with people in the community each day, which do not result in complaints (QPS, 2019, p. 79).

Two-phase Qualitative Approach

The following reports from the Queensland Police Service website were accessed: eight years of annual reports covering the period 2010-11 to 2017-18 (annual reports prior to that period were unavailable) and four years of complaints policy and strategic plan documents covering the period 2014-15 to 2017-18. The following reports from the Criminal Justice Commission website were accessed: twelve years of annual reports covering the period 1991-92 to 2003-03 and three evaluations of the informal resolution trial, from 1994 to 1996. Six years of annual reports were accessed from the Department of Justice and Attorney-General's website covering the period 2012-13 to 2017-18. Also provided was a copy of the 1992 *Report on the Pilot Project for the Mediation of Complaints Against Police*. In addition, primary sources, such as inquiry reports, and secondary sources specific to Queensland, including those identified in the literature review search (Goldsmith, 1990; Holland, 1996; Walker et al., 2002; Young et al., 2005) were searched to provide background and further information. Keyword, and keyword combination searches, including 'complaints', 'police', 'civilian', 'alternative dispute resolution', 'mediation',

'restorative justice', 'informal resolution' and 'local managerial resolution' were used.

All organisations involved in the areas of police complaints and dispute resolution in Queensland were approached and agreed to provide nominated employees for interviews. The semi-structured interviews were conducted with twelve key stakeholders (past and present employees) in the Queensland Police Service (Interviewees 1-6), Crime and Corruption Commission (previously known as Criminal Justice Commission and Crime and Misconduct Commission; Interviewees 7-9), and the Dispute Resolution Branch of the Department of Justice and Attorney General (Interviewees 10-12), over a twelve-month period from June 2018 to June 2019. Seven interviews were held, varying in duration from one to two hours. A group interview with the Queensland Police Service was held in the Brisbane headquarters with an Inspector from the Integrity & Performance Group and three uniformed professional practice managers, all of whom were involved in complaints management and police discipline. A separate interview was held with a retired Queensland Police Service officer. Interviews were also conducted with a retired member of the Research and Coordination Division of the Criminal Justice Commission, who provided background information on the driving force for change in the police complaints system, and two members of the Dispute Resolution Branch (Department of Justice & the Attorney General), who discussed the Branch's involvement in the early mediation pilots. Telephone and email interviews were also held with two retired and two current members of the Crime and Corruption Commission and one retired police officer from outside of Queensland who had first-hand knowledge of the introduction of informal resolution and mediation into the Queensland Police Service.

Given the small number of interview participants, it is acknowledged that the views expressed may not be representative of the Service or other agencies involved.

The semi-structured format was utilised to provide each interview with a basic structure and to simultaneously afford flexibility. The draft questions were developed from the findings of the Stage 1 documentary research and were focused on reasons for and against mediation in practice. The research was approved by the Queensland Police Service Research Committee. The interview questions were designed to gain individual and organisational perceptions, experiences, and use of alternative dispute resolutions and to determine any obstacles to institutional implementation of mediation. They included questions

about the pilot mediation program and the successive changes to the complaints system, to date, such as

1. The QPS website lists mediation as an option, how often is it used?
2. Is it ever independently facilitated? If not, why not?
3. If not used, what were the reasons for not taking up this option?

There were limitations associated with the interview data collection method, including the unavailability or non-recollection of facts of some interviewees and the potential effect of the group interview format on the individual participants. Also, complainants were not interviewed as part of this study. However, the seniority of the police officers and background knowledge and experience of all interviewees provided deep insight into the operation of the complaints system from an institutional perspective. The use of documentary and interview data enabled the triangulation of data sources to establish a common set of facts.

Findings 1: Documentary Sources

Analysis of the historical data enabled the evolution of the Queensland Police Service complaints system to be mapped and understood. The findings show the path from a traditional adversarial discipline-based approach in the late-1980s through mediation pilots and conciliation to the latest iteration – “local managerial resolution”.

Traditional QPS Complaints System

Prior to the Fitzgerald Inquiry, all citizen-initiated complaints were processed through a lengthy and secretive internal investigation system. However, the Fitzgerald Inquiry found that the Internal Investigations Section had “no standard operating procedures” and that the Police Complaints Tribunal lacked adjudicative powers and was “wholly dependent on the very institution into which it is[was] meant to be inquiring” (Fitzgerald, 1989, pp. 288, 290). Complainants were interrogated and pressured to change or withdraw their complaints, and substantiation rates hovered at 2%. A major overhaul of the service was recommended including the introduction of an independent civilian oversight agency. Although mediation was not specifically mentioned, the Fitzgerald Report recommended a “civilianisation” program using trained civilians in specialist positions not requiring police skills.

Criminal Justice Commission

The establishment of the permanent body, the Criminal Justice Commission in 1989, meant that an enlarged element of independence was introduced into the Queensland Police Service’s integrity management model (Prenzler, 2009). Oversight of the police was the primary responsibility of the new Commission, including reform to the complaints system. The Commission was charged with the investigation of allegations of “official misconduct” (serious conduct that could warrant dismissal or prosecution) and “police misconduct” (improper behaviour as defined in the *Police Service Administration Act 1990*; Fitzgerald, 1989) and was given “own motion” powers to decide which cases to investigate (CJC, 1993). The Review Unit within the Commission also provided oversight of the Service’s handling of minor complaints and was meant to provide advice to the Service on how to reduce complaints (CJC, 1992a).

Mediation Pilot

The idea for a mediation pilot stemmed from the positive outcome achieved by the newly formed Criminal Justice Commission in dealing with a complaint involving a plain-clothes police officer and civilians in 1991 (CJC, 1992b). Misunderstandings, sketchy suspect details, and reactive measures taken by both sides produced an incident the Commission felt would be best resolved through an alternative dispute resolution process. The innovative step led to the engagement of the state government’s Community Justice Program, skilled in family and neighbour mediations. This was reportedly the first time that mediation had been used in Australia for resolving civilian complaints against police. Mediation of this “difficult and emotionally charged dispute” achieved “an effective and satisfying agreement for all parties involved”, including an apology to the complainants (CJC, 1992b, p. 1).

The success of the mediation and the Commission’s study of alternative dispute resolution overseas led to the design and implementation of a pilot mediation project in collaboration with the Community Justice Program and the Police Service. In 1992, a six-month program for minor complaints – such as inappropriate behaviour, threats, and lack of assistance – was trialled.

The pilot involved 33 sessions co-mediated by independent, experienced mediators, with agreements reached in all but one session (CJC, 1993). Initial referrals averaged four per month, but this rose to 31 in the fifth month. Reasons cited for the spike included increased recognition of the program’s “credibility and workability” (CJC, 1992b, p. 11). A

few minor problems were experienced, such as difficulties in contacting police officers and briefing mediators on cases.

Participants were surveyed about their satisfaction at the end of the pilot, with responses from 21 complainants and 19 police officers. Ninety-nine percent of complainants valued the opportunity to discuss their views, and 80% felt that mediation was the best way to deal with complaints. Mediation was considered to be quicker, more cost effective, and more satisfying for complainants than formal investigations. Similarly, 79% of police officers responded positively to questions relating to discussion of views and expressed a preference for mediation over existing practices. In six cases, both parties “signed a written suggestion for consideration by the Police Commissioner proposing changes to police procedures” (CJC, 1992b, p. 24). These findings led to a recommendation that mediation should be available in all areas where the Community Justice Program was in operation.

Despite the pilot project’s success, the viability of mediation was later questioned on financial, logistical, confidentiality, and procedural grounds (CJC, 1996; CMC, 2004). The Community Justice Program, which had funded the pilot, had insufficient staff to operate programs across Queensland, and the Police Service was faced with meeting future costs (CJC, 1996). Further, the confidential nature of the mediations met with some resistance as it meant that neither the Police Service nor the Criminal Justice Commission could take corrective action against officers (CCC, 2019). Some complainants had been unwilling to participate, in part because of trepidation about confronting the subject officer (CJC, 1993). As a result, the Commission and the Police Service shifted focus to informal resolution. Conciliation was gaining momentum in the United Kingdom, and a police representative, Dennis Meadus, was invited to Australia to develop and present an informal resolution training program (CJC, 1994b). The Commission felt that informal resolution would be accepted by police as it was not “designed to establish culpability with consequential adverse effects on promotional prospects,” and a senior police officer would be able to unofficially discipline the officer by way of guidance (CJC, 1993, p. 61).

Informal Resolution – Queensland

Training in informal resolution was initially provided for 286 officers (known as “Authorised Members”) across the state, and the program was evaluated in 1994 after seven months of operation. The Criminal Justice Commission reported that 345 cases from 5,595 complaints have been finalised using

informal resolution (CJC, 1994b). Mediation was still an available option, but only 95 cases were mediated during this time. The mean time taken to finalise an informal resolution was 51 days. While better than the 152 days required to resolve a complaint via formal investigation, referral of cases to informal resolution was slow and complainants’ satisfaction with outcomes was unclear. Meadus provided follow-up training and made several recommendations including increased use of mediation. A completely independent process was recommended as “it is probably better for the police not to be seen as both investigators and the authority which determines whether or not a complaint is sustained” (Meadus, 1988, p. 48). However, mediation received little further attention despite the Commission stating that “the statutory basis for mediation makes it a possible alternative to both formal investigation and informal resolution, or an option to be used in situations where informal resolution fails” (CJC, 1994b, p. 3).

A follow-up evaluation of informal resolution at twelve months of operation revealed an adoption rate of 60% across police services. The evaluation found that productivity gains had been achieved through reductions in the time taken to deal with complaints (CJC, 1994a). Most Authorised Members reported satisfaction with their informal resolution role. However, a few reported “experiencing difficulty in acting as a conciliator rather than an investigator” and found the amount of paperwork involved to be problematic (CJC, 1994c, p. xiii). Their responses on whether informal resolution improved police/community relations were fairly-evenly split. However, 65% were sceptical about its success in changing officers’ behaviour. Complainants’ satisfaction was reported as high, due in part to the easing of the burden of proof required for formal investigations and the broader range of possible outcomes. However, approximately 33% of complainants said they felt pressured to accept the outcome determined by the police (CJC, 1994c). Police officers were generally more satisfied with informal resolution over formal investigation, although one-third found the informal resolution process to be stressful (CJC, 1994c). Some officers felt the process made them aware of their faults, and the confidentiality of the process helped them to be open about this. Others said it allowed some officers responsibility for their actions (CJC, 1994c). While the opinions of 23% of complainants had improved in relation to the police, 26% said the experience had “worsened their view of the police service” (CJC, 1994c, p. xi).

The Criminal Justice Commission reported that informal resolution guidelines had been amended to encourage mediation where the complaint was “of a

sensitive nature” or where there was likely to be “hostility” or an “ongoing dispute” that would be better managed by an independent party (CJC, 1994c, p. 102). However, it also noted that the Police Service considered mediation to be too costly and unnecessary for resolving minor matters, and that prevented senior officers giving guidance to an officer at fault. As a result, referrals to mediation almost completely ceased.

Evaluation of Models

A further evaluation of informal resolution in 1996 revealed reduced levels of satisfaction amongst both complainants and police (CJC, 1996). Six percent of matters involved a face-to-face meeting between a complainant and an officer, although “half of the complainants would have appreciated a face-to-face meeting” (CJC, 1996, p. vi). This preference had not changed from the 1994 evaluation, and the findings resulted in a recommendation to delete the following sentence from the police HRM manual: “The preference of the Service is to resolve the complaint informally without conducting meeting/s between the complainant and the subject member/s” (CJC, 1996, p. vi). Subsequent amendments affirmed the value of mediation where “the complaint is unrelated to the performance of the officer’s official duties and is more akin to a dispute between citizens” (CJC, 1996, p. vii). Nonetheless, it appears that mediation remained inactive.

Managerial Resolution – Queensland Police Service

In 2000, after almost a decade of informal resolution, “managerial resolution” was introduced into the Queensland Police Service. This involved the subject officer’s supervisor conducting conciliation. The process also included more serious matters that could require training or guidance. A trial, called Project Resolve, was conducted in two police regions. The findings revealed similar issues to those identified in the 1994 informal resolution evaluation, including a lack of adequate training for supervisors conciliating complaints (Webbe et al., 2011).

In 2007, the Crime and Misconduct Commission joined with the Police Service in another complaints-handling initiative, Project Verity, aimed at reducing the double handling of complaints by the Commission and the Service by devolving minor matters to the local level. The learnings from Projects Resolve and Verity were later included in a wider review of the Police Service integrity system by an independent panel (Webbe et al., 2011). The Review found that the projects reinforced the practice of police

investigating police and the focus remained on officer punishment with little regard for the complainant. The Review concluded that the Service needed to include more civilians in its governance and “incorporate solutions beyond discipline and punishment, such as a more responsive consideration of the needs of the complainant and restorative justice principles” (Webbe et al., 2011, p. 18). Mediation remained as an option on the Police Service’s website, although there is no evidence available regarding its use (CMC, 2010).

Local Managerial Resolution

In 2018, “local managerial resolution” replaced informal resolution and managerial resolution with the aim, again, of devolving minor complaints to the local level. A professional practice manager works with the subject officer to devise a strategy to prevent unprofessional behaviour recurring. The complainant may be consulted during the formulation of the plan, if deemed appropriate, but there is no evidence yet that this happens. The Complaint Resolution Guidelines describe local managerial resolution as providing “a raft of management options,” including mediation (QPS, 2018a, section 3.2). However, the Police Service website complaints information page does not include mediation. Local resolution/conciliation is mentioned, and the complaints form has provision for complainants to express their expectations (QPS, 2018b). The available options are reportedly discussed at the intake level, although there are no publicly available data on requests for mediation or its usage.

Findings 2: Semi-Structured Interviews

Many of the stakeholders involved in the implementation and early days of informal resolution and mediation in Queensland have now retired and were either uncontactable for interview or simply did not remember much about the post-Fitzgerald era and why changes to the Queensland Police Service complaints system occurred. Nonetheless, twelve past and current representatives from across the stakeholder agencies agreed to be interviewed. The findings have been incorporated under three major headings below: Crime and Corruption Commission (Interviews 1 - 3), Dispute Resolution Branch (Interviews 4 - 5), and the Queensland Police Service (Interviews 6 - 7). The interviewees from the Crime and Corruption Commission consisted of past employees from the 1990s and current employees with approximately 15 – 20 years’ experience in their current complaints’ management positions. The

interviewees from the Dispute Resolution Branch have held a variety of positions in a range of criminal justice related organisations, with one having been involved in the pilot program in 1992 and two employees with approximately 5 - 10 years' experience in their current mediation positions. The interviewees from the Queensland Police Service have all been members of the Service for 15 - 20 years, acting in their current positions, which involve dealing with complaints, for 2 - 5 years.

An interpretative framework for data analysis was used with the semi-structured interviews. The focus was on the experiences, knowledge, and opinions of the interviewees. Some interviews were conducted as group sessions, and others involved individual participants. Using QSR *NVivo* software, the interview data were analysed in conjunction with the documentary data, including coding of themes. Individual responses were labelled, and recurrent themes, such as cost, behavioural management, internal control, and trust were identified.

Crime and Corruption Commission

In the post-Fitzgerald era, the challenge for the Criminal Justice Commission was to handle the volume of official and police misconduct complaints received and to do this effectively within the new organisational structure (i.e., five divisions: Official Misconduct, Misconduct Tribunal, Research and Co-ordination, Intelligence, and Witness Protection Divisions; Fitzgerald, 1989). Data were shared amongst the Criminal Justice Commission divisions, although at times on a need to know basis (Interviewee 7: CCC Interviews 1 - 3). Internal divisional rivalry existed, with the Complaints Section averse to any type of 'soft' option for complaints management. This unit was comprised mainly of lawyers and seconded senior police officers, and neither the lawyers nor the Queensland Police Service encouraged encounters between complainants and the subject officers (Interviewee 7).

Nonetheless, the Criminal Justice Commission's powers were constrained with respect to the Queensland Police Service, being limited to making recommendations only. The agency was resource-starved and very soon the volume of complaints that it had to deal with proved to be an unmanageable workload (Interviewee 9). At this time, the internal disciplinary systems of the Queensland Police Service had reportedly become more effective, and a decision was made to pass the less serious complaints back to the Queensland Police Service for handling (Interviewee 8). However, the way that investigations of minor breaches of discipline were carried out was "in the same detailed manner as

investigations of criminal matters without achieving any greater level of complainant satisfaction (Interviewee 7). Consideration was subsequently given to improving the police complaints system through a review of alternative options, including mediation (Interviewee 8). Although, Interviewee 7 stated that police would likely resist this change "because when you go to mediation you give up control." This was assumed to mean that the parties, including an independent mediator, determine the content of discussion and the final agreement, with police management losing the final say on this. According to Interviewee 9, the pilot mediation program satisfied complainants' needs for timely resolution and direct contact, compared to formal investigations, but was problematic for the Service for reasons such as cost and behaviour management - as identified in the documentary analysis. The Service was focused on "re-engineering" the complaints system in the post-Fitzgerald era, but there was little time to "actually measure the effectiveness of different approaches" (Interviewee 7). In practice, informal resolution was considered a better fit for the police.

Dispute Resolution Branch, Queensland

Interviewee 12 (DRB Interview 4) had first-hand knowledge and experience of the pilot complaints mediation program in 1992. Interviewees 10 and 11 (DRB Interview 5) had current knowledge of the operation of the Dispute Resolution Branch and its interactions with the Queensland Police Service but relied on the *Report on the Pilot Project for the Mediation of Complaints Against Police* for historical information.

The Dispute Resolution Branch, which commenced in 1990, initially mediated neighbourhood disputes before expanding to adult offender mediation. The Branch also trained mediators, some of whom were involved in the Mediation Pilot through the Community Justice Program. At the same time as the Pilot, the Dispute Resolution Branch was proactive in bringing about institutional change in government organisations through the implementation of alternative dispute resolution processes (Interviewee 11). Following the success of the Mediation Pilot, the Branch worked collaboratively with the Queensland Police Service to implement a mediation strategy for citizen-initiated complaints. This included police officers attending mediation out of uniform (Interviewee 12) - likely to promote mediation aims of equality and minimisation of power imbalances. However, a subsequent re-focus by the Queensland Police Service on internal or conciliatory complaints resolution measures saw mediation fall into disuse. Some of the interviewees

were surprised that the Queensland Police Service had moved to conciliation “because of the lack of impartiality in that process” (Interviewee 10 and 11). They could only recall one occasion when the Queensland Police Service “inquired about a restorative justice process” for a complaint, but nothing eventuated and the reasons for that were unknown (Interviewee 10).

In 2015, the Dispute Resolution Branch again initiated conversations with the Queensland Police Service about the scope for a restorative justice process in responding to civilian complaints. According to Interviewee 10: “the police superintendent at the time was open to that,” but changes in senior police staff meant that many of those conversations did not come to fruition. However, after years of working closely with police, the interviewee sensed that the complaints system did not work effectively for the rank-and-file officers leaving many to feel stigmatised and aggrieved by the process (Interviewee 10). Police officers were reportedly frustrated that due to the nature of their work, public complaints were generated, yet the resolution mechanism did not afford them “the same kind of protections or access to this idea of being innocent until proven guilty that members of the public have (...) in their jobs” (Interviewee 10). The police officers reportedly felt that a double standard, with limited scope to defend themselves, existed under the complaints system. According to one interviewee, “most of the police I’ve encountered would be desperate for some other kind of model for dealing with public complaints” (Interviewee 10).

Recently, mediation training programs, to resolve workplace conflict, have commenced with the Queensland Police Service. The interviewees said that participating police officers are extremely satisfied with the model, view the programs as fair, and believe that the credibility of mediation resides in its independence. As mediation is the primary component of restorative justice, the Dispute Resolution Branch posit that a ‘restorative debrief model’ would enable the police “to reflect on an incident and learn lessons in a non-stigmatizing way” (Interviewee 11). They suggested that the application of restorative practices in day-to-day police interactions with the public would ease the path to a restorative debrief model of mediation. A cultural shift within policing would be required, but the Dispute Resolution Branch believe most police officers “would be quite receptive to a new [complaints] model, one that involves restorative principles” (Interviewee 10). It was added that the Dispute Resolution Branch was not averse to facilitating a civilian-police mediation program.

Queensland Police Service

The following issues were identified by the Queensland Police Service (QPS Interviews 5 and 6) as problematic in the use of independent mediation for civilian-police complaints; and the future direction for complaints resolution.

Cost and Timeliness

The Queensland Police Service interviewees challenged the efficacy of mediation in terms of cost, including resource allocation, mediation fees, and timeliness, including scheduling of sessions and diminution of the complainant concerns. As most complaints relate to minor misconduct allegations, the Queensland Police Service holds that there is little justification for taking officers off their rosters to attend mediation. Also, sessions incur a cost that the Queensland Police Service would prefer to allocate to operational work. A mediation session may occur weeks after the alleged incident, which can negatively impact the “fairly tight schedule (...) of the staff to allocation model” (Interviewee 1). Further, several Queensland Police Service interviewees stated from their experience, that many complainants “cool down” and change their minds before the initial police contact about their complaints (Interviewees 2 and 4). Hence, the need to schedule a mediation is negated.

Confidentiality

It was argued that the confidential nature of mediation poses several problems for the Queensland Police Service. Firstly, the Service is provided with very little useable information to determine whether a subject officer should be monitored, given further training, or disciplined. Secondly, the Service is concerned that police officers may feel compelled to admit to things in mediation, that they did not do, and that keeping information like that confidential, cannot be guaranteed. Thirdly, the Service is concerned with the possibility that mediation may be used by some complainants, as a forum to vent their problems and berate police officers. The Service (rightly) wants to protect its members against personal abuse. However, the interviewees reported knowing of only two incidents where mediation was considered. One involved a complainant who was adamant that she was not going to accept a resolution unless she had the opportunity to meet the subject officer personally and receive an apology. The Service declined the request on the basis that the complainant would likely vent her anger on the officer. The use of a trained independent mediator was rejected because it was felt that directing the police officer to participate in mediation would change the voluntary nature of the process and likely be unsuccessful. The other incident, which related to a

minor allegation, was facilitated by a police officer and had a positive outcome.

Diverse Complainants

The Queensland Police Service is both institutionally comprised of a spread of generational and culturally diverse staff and is policing a public with the same spread. The population mix of Generation X, Y, and Z respond differently when interacting, which can lead to complaints. The Service feels that mediation may suit some generations and not others, although this concept has not been directly explored by them. A comparison was drawn with the United States in relation to cultural issues. The view expressed was that the “serious community mistrust” issues in many states in that country are not experienced in Australia (Interviewee 1). The legalistic approach to dealing with these types of complaints (i.e., police officers immediately “union up”), can lead to mediation to avoid problems escalating, such as into riots. Australian police do not experience this level of cultural unrest (Interviewee 1).

Resistance to Independent Mediation

Queensland Police Service interviewees stated that the 1990s trial of complaints mediation “sat in the space of an organisation unprepared to have a conversation with a complainant, and this made mediation desirable” (Interviewee 1). However, progressive changes to the complaints system, including the 2018 introduction of the Complaint Reform Project, have opened-up dialogue between the Queensland Police Service and the public. The current trial of the Project requires complaints to be assessed by an internal committee, triaged and managed by one of 23 Professional Practice Managers. Hence, the Service considers that it now converses well with complainants. Mediation is an available option, but the interviewees were unable to comment on its use. Interviewee 2 said,

if it [mediation] was the best option it would be more prevalent. We would naturally lean towards it if we thought it was the best option. The fact that it hasn't obviously indicates [the Service] (...) found more cons with it.

The Service broached no opposition to the use of ‘civilian’ external mediators, provided they were skilled, but said that the preference has always been for “a QPS mediator with the option to use an independent one if required” (Interviewee 4).

More serious complaints continue to be viewed as inappropriate for mediation at any stage of the investigation. The Service has a legislative obligation to report serious conduct issues to the Crime and Corruption Commission. Therefore, the matter to be addressed is whether the police officer

should remain in the Service. From the Service's perspective, “they are not interested in a mediated outcome. (. . .) They're not aggrieved by it” (Interviewee 1).

Trust

According to the interviewees, the policing landscape has changed dramatically over the past 30 years. Accountability mechanisms have propelled law enforcement into procedural transparency and justice especially in relation to complaints management (Interviewee 3). They operate under the trust bestowed on them by the Crime and Corruption Commission to investigate conduct issues, impose disciplinary sanctions, and terminate officers, and by extension, to manage complaints (Interviewee 1). This trust was highlighted in 2018 with the introduction of the Abridged Disciplinary Process (ADP), which gave the Queensland Police Service the power to fast track minor disciplinary issues. Provided there is an immediate admission of responsibility by the subject police officer to the allegations, the matter is expedited. A written notification is issued to the complainant and the Crime and Corruption Commission waive their legislative review rights (Interviewee 7). The Crime and Corruption Commission posits that the Queensland Police Service is “too far down the track with ADP” to consider mediation as an option, and that amendments to the police legislation should “future proof” the Abridged Disciplinary Process and negate the need for mediation (Interviewee 7). In addition, the recent public satisfaction rating for police professionalism (87%) was said to be indicative of the trust the public has in the Service.

Restorative Justice

As previously mentioned, the Queensland Police Service has engaged in mediation training with an external provider to resolve workplace conflict. Project Juniper, launched recently, is focused on bullying, harassment, and resilience training. According to one interviewee, it is “a big body of work (...) [and] we're moving towards a mediated restorative justice sort of approach to the internal matters” (Interviewee 1). Workplace consultancy teams, including external mediators, are conducting programs in regional Queensland police stations with the aim of embedding mediation into best practice. There are no plans, however, to extend this to external complaints.

Discussion

The findings of this study showed a long and continual process of change to the Queensland Police

Service complaints system, aimed at improving the resolution process for the public. What was disappointing, however, was that the learnings from the evaluations of the informal resolution model and mediation pilots resulted in added complexity to the internal complaints process, rather than a simpler, more transparent system. The additional layers of managerial involvement have continued to focus on detection and prevention of misconduct and police discipline. The recent changes to the disciplinary process (including the Abridged Disciplinary Process) reflect the Service's desire to improve and modernise the system. The new discipline system has a remedial approach to officer misconduct through the application of a "professional development strategy ... in response to a complaint, as a risk mitigation strategy, to improve the officer's performance, or for any other purpose" (Police Service Administration (Discipline Reform) and Other Legislation Amendment Bill 2019, p. 4). However, this paper also argues that attention should be given to the 'needs' of civilian complainants during complaint investigations.

As outlined, mediation is typically used in situations where the actions of police do not attract disciplinary or prosecutorial responses. Yet the Queensland Police Service appear to have confounded mediation with an alternative to disciplinary processes, stating, "so once you achieve a resolution what is the purpose of mediation?" (QPS, 2018). The focus on punitive actions against officers has ignored an important element of the complaints process – that of education and reparation following conflict, for complainants and police alike. Mediation outcomes can also contribute to behavioural improvement plans for individual officers and feed into organisational improvements through modifications to policy and procedures.

Research shows that complainants want face-to-face meetings; they want to voice their concerns in a safe environment, get an explanation, and possibly elicit an apology (Bartels & Silverman, 2005; Holmberg, 2019; Schaible et al., 2012; Young et al., 2005). The Queensland Police Service quoted an 87% complainant satisfaction rate with "police professionalism" but did not refer to the 75% rate for "police treat people fairly and equally" (Productivity Commission, 2018, p. 6.16). This means that 25% of those surveyed clearly remain unhappy with their treatment, which likely includes communicating how they felt about the incident to the subject police officer. The Queensland Police Service has refrained from promoting a forum for direct communication in favour of further developing the internal conciliatory process.

The other reasons cited by the Queensland Police Service for refraining from mediation included cost, timeliness, confidentiality, and diverse

complainants. Mediation services attract a fee, and sessions take time to organise. However, consideration must also be given to the costs associated with the investigation of allegations, communication with complainants, and staff mediation training. The literature indicates that independent mediation is less expensive and a quicker option than formal investigations (Goldsmith, 1990; Holland, 1996; Walker et al., 2002). However, finding reliable data on the comparison of informal resolution and mediation is difficult. Nonetheless, given the increased complexity of the informal resolution process, mediation by skilled independent mediators may be less expensive than existing conciliation. Some international programs (e.g., Denver and New York) are funded by city ordinances, or mediators work on a pro bono basis. Both these factors warrant further exploration in relation to Queensland. The argument that the confidential nature of mediation prevents the Service from gathering relevant training data, may force inaccurate admissions, or promote venting by complainants is countered by research that says that "this misconception is largely due to a lack of understanding of what mediation is and how the process works" (Walker et al., 2002, p. 1). A recommendation by stakeholders in the research, which was supported by the literature, was to inform the parties "of the potential outcomes before they participate in mediation" (Walker et al., 2002, p. 25). Mediation, including practices based on restorative principles, are focused on repairing relationships harmed by conflict. It is akin to a diversionary process that does not punish participants but does allow them to learn new behaviours. Avoiding confrontation can lead to conflict festering, which can damage the trust between the police and the public and reinforce the findings by Schulenberg and colleagues (2015) that many people view the police complaints process as biased and complaining as futile. Finally, the claim that mediation is not required because Australian police face very low levels of racial conflict compared to the United States ignores the experiences of the disadvantaged and marginalised within Australian society who often come to the attention of police, such as ethnic minority groups and Indigenous Australians. Mediation of these complaints may help to reduce arrests and impact the high numbers of Indigenous peoples in custody.

The themes of resistance to independent mediation, trust and restorative justice, reflect the positioning of the Queensland Police Service in relation to 'control' of the resolution process for minor citizen-initiated complaints. Yet, this positioning seems more aligned with the historical obstacles to implementing mediation than with the benefits of conciliation – expressed in the interviews. As Walker

and colleagues (2002) state, a lack of top-down support, managerial fears over loss of control of the process, and a lack of incentives for complainants and police officers to participate in mediation are the main obstacles to its implementation and success. The Queensland Police Service's development of the latest local managerial resolution model of complaints demonstrates continued managerial support for the internal process that retains police control. However, this appears to be based on the assumption that mediation agreements exclude police supervisors from any further action regarding the conduct of the officer concerned, although mediation does not need to be structured in this way. While some complaints against police may not be appropriate for mediation (e.g., allegations where the 'complainant' is not an alleged victim), they may also be inappropriate for informal (conciliatory) resolution, requiring instead a formal investigation. Therefore, the opposition to processing minor complaints through an independent mechanism that addresses complainants' calls for a voice seems weak.

Other jurisdictions, such as Denver and Los Angeles, have addressed the themes raised through collaboration with external, professional mediation organisations on the development of a mediation program through the promotion and support of independent complaints mediation at senior levels of the police services and through the incorporation of mediation into police policy and practice (Los Angeles Police Department, 2018; Office of the Independent Monitor, Denver, 2018). These systems provide a model in which mediation is a key option for consideration in determining responses to complaints (Riley, et al., 2018). Foregrounding mediation, in a police integrity system based on the science, would involve specialist staff in an oversight agency or a government or private sector mediation agency. In the case of a geographically dispersed state such as Queensland, a large-scale egalitarian mediation program could be operationalised through a public sector-wide integrity commission with regional offices (Riley et al., 2018, p. 14).

Conclusion

The Queensland Police Service complaints system has undergone continuous change over the past three decades. The learnings from several trials utilising alternative dispute resolutions, including mediation, have informed best practice. However, conciliation, characterised by cycles of devolution, has prevailed as the preferred approach. The historical account of the case study has provided a road map of the developments in complaints management and the justifications for the changes. The Queensland Police

Service maintains that the position of authority held by the police, and their knowledge of the law, places them outside of the realm of individuals needing a mediated resolution to their issues. However, this view appears to be one-sided and overlooks complainant aspirations for mediation as identified in the empirical research. The introduction of informal resolution or conciliation was meant to alleviate "the sidelining of complainants which happened in full investigations (...) but seems to have crept back in" (Meadus, 1994, p. 108). The situation appears similar today. In Queensland, complainants are largely excluded from the investigation of their complaint. They are notified of the outcome, which may include an apology, but are not afforded the opportunity to directly express how they were affected by the incident or get answers to questions around why the police officer acted the way they did.

A complaints mediation option exists within police procedures, but the extent to which it is disclosed to complainants is difficult to determine. Nonetheless, despite its resistance to mediation for external complaints, the Queensland Police Service has implemented it for the resolution of internal staff complaints – suggesting the value of independent mediation as a conflict resolution tool is slowly infiltrating the Service. Yet, the difficulty in forging ahead with the development of civilian-police complaints mediation seems to lie in the dearth of studies that have evaluated existing programs. The evaluations are aged and relate to jurisdictions that differ culturally, economically, and politically from Australia. As such, the generalisability of the findings is therefore limited. More research is required to consider these factors that influence the implementation and effectiveness of programs. Nonetheless, the message that complainants view mediation as the way to have a voice in the resolution of their complaints remains loud and clear.

Community confidence and trust in the police is imperative to a service's capacity to perform its duties. Inextricably linked to this confidence and trust is the police complaints system. As Goldsmith (2000) states, "the nature of police accountability mechanisms [e.g., complaints system] is absolutely vital to broad public acceptance of the role of the police" (p. 36). From the present study, a lesson for all police services is that cycles of complaints reform that convolute the process of police investigating police rather than 'managing' complaints by actively utilising resolution options that include independent facilitation will do little to remedy public dissatisfaction and meet complainants' needs.

The Queensland Police Service has identified a challenge it faces in "maintaining community satisfaction and confidence in police in an

environment of changing expectations” (QPS, 2019, p. 13). Complaints resolution is a part of this challenge, and as other jurisdictions have experienced, internal conciliation practices fail to keep pace with civilian demands for process transparency, neutrality, equity, time and cost efficiency, and behavioural change.

References

- Australian Bureau of Statistics. (1992). *1992 year book*.
[https://www.ausstats.abs.gov.au/ausstats/free.nsf/0/2415DAD15B7F1E7FCA257AFE001471C4/\\$File/13013%20-Qld%20YrBook%20-%201992.pdf](https://www.ausstats.abs.gov.au/ausstats/free.nsf/0/2415DAD15B7F1E7FCA257AFE001471C4/$File/13013%20-Qld%20YrBook%20-%201992.pdf)
- Australian Bureau of Statistics. (2003). *Queensland population* (1387.3 - Queensland in review, 2003).
<https://www.abs.gov.au/Ausstats/abs@.nsf/Lookup/CF3424B58ECB69C8CA256CC500211FCA>
- Australian Law Reform Commission. (2018). *Police accountability* (Summary No. 14.49).
<https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/14-police-accountability/complaints-against-police/>
- Bartels, E. C., & Silverman, E. B. (2005). An exploratory study of the New York City Civilian Complaint Review Board mediation program. *Policing: An International Journal of Police Strategies and Management*, 28 (4), 619-630.
<https://doi.org/10.1108/13639510510628703>
- Crime and Corruption Commission. (2018, June 14, 28 and July 11 – Interviewees 7-9). *Semi-structured interview (telephone and in person)*. Brisbane, Queensland.
- Crime and Corruption Commission (CCC). (2019). *Accountability and leadership*.
<http://www.ccc.qld.gov.au/about-the-ccc/accountability-and-leadership/accountability-and-leadership>
- Crime and Misconduct Commission. (2004, August). *Handling complaints against Queensland police: past, present and future* (No. 2).
<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CMC/Bulletins%2Cseries-and-discussion-papers/Monitoring-integrity-in-the-queensland-police-service/Handling-complaints-against-qld-police-Report-2004.pdf>
- Consequently, Queensland should consider modifying its complaints system to prioritise mediation as a first option for most complaints, with independent mediation available across the state on a consistent basis.
- Crime and Misconduct Commission. (2010, December). *Setting the standard: A review of current processes for the management of police discipline and misconduct matters*.
<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CMC/Setting-the-standard-2010.pdf>
- Criminal Justice Commission. (1992a). *1991-1992 annual report of the Criminal Justice Commission*.
<https://www.ccc.qld.gov.au/publications/cjc-annual-report-1991-1992>
- Criminal Justice Commission. (1992b). *Report on the pilot project for the mediation of complaints against police* (February – August 1992). Legal Office, Criminal Justice Commission. Brisbane, Queensland.
- Criminal Justice Commission. (1993). *1992-1993 annual report of the Criminal Justice Commission* (Mediation – Appendix 1, and Informal resolution – Appendix 2).
<http://www.ccc.qld.gov.au/research-and-publications/research-and-publications-1>
- Criminal Justice Commission. (1994a). *1993-1994 annual report of the Criminal Justice Commission*. Processing of complaints.
<http://www.ccc.qld.gov.au/research-and-publications/research-and-publications-1>
- Criminal Justice Commission. (1994b). *Informal complaint resolution in the Queensland Police Service: A progress report* (February, 1994). Brisbane, Queensland: Criminal Justice Commission, Research and Co-ordination Division (pp. 1-14).
- Criminal Justice Commission. (1994c). *Informal complaint resolution in the Queensland Police Service: An evaluation* (November, 1994). Brisbane, Queensland: Criminal Justice Commission, Research and Co-ordination Division.
- Criminal Justice Commission. (1996). *Informal complaint resolution in the Queensland Police Service: Follow-up evaluation* (April 1996). Brisbane, Queensland: Criminal Justice

- Commission, Research and Co-ordination Division.
- De Angelis, J., & Kupchik, A. (2007). Citizen oversight, procedural justice, and officer perceptions of the complaint investigation process. *Policing: An International Journal of Police Strategies & Management*, 30(4), 656–671.
<https://doi.org/10.1108/13639510710833929>
- Dispute Resolution Branch. (2018, November 7 – Interviewees 10–11). *Semi-structured interview*. Brisbane, Queensland: Department of Justice and Attorney General.
- Dispute Resolution Branch. (2019, June 24 – Interviewee 12). *Semi-structured interview (email)*.
- Ede, A., & Barnes, M. (2002). Making the response fit the complaint: Alternative strategies for resolving complaints against police. *Research & Issues Paper Series* 1.
<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CMC/Bulletins%2Cseries-and-discussion-papers/Research-and-issues-paper-series/Research-and-Issues-Making-the-response-fit-the-complaint-2002.pdf>
- Fitzgerald, G. E. (1989). *Commission of inquiry into possible illegal activities and associated police misconduct*. Queensland, Crime and Corruption Commission.
<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/The-Fitzgerald-Inquiry-Report-1989.pdf>
- Geoscience Australia. (2020). *Area of Australia – states and territories*. Australian Government.
<https://www.ga.gov.au/scientific-topics/national-location-information/dimensions/area-of-australia-states-and-territories>.
- Goldsmith, A. J. (1990). Complaints against the police: A ‘community policing’ perspective. In S. McKillop & J. Vernon (Eds.), *The police and the community in the 1990s: Conference proceedings, 1990* (pp. 205–218). Australian Institute of Criminology, Canberra.
- Goldsmith, A. J. (2000). Informal resolution of police complaints in Australia: Building better understanding or mere bureaucratic convenience. *Law in Context*, 17(1), 34–58.
- Hampshire Police Service. (2019, January 9 – Interviewee 6). *Semi-structured interview (telephone)*. London, England.
- Hill, R., Cooper, K., Young, R. P., & Hoyle, C. (2003). *Meeting expectations: The application of restorative justice to the police complaint process*. Oxford University Centre for Criminological Research.
- Holland, R. C. (1996). Dealing with complaints against the police: The resolution process adopted by the Queensland Police Service, Australia. *Police Studies*, 19(2), 45–62.
<https://doi.org/10.1108/13639519610123172>
- Holmberg, L. (2019). In service of the truth? An evaluation of the Danish Independent Police Complaints Authority. *European Journal of Criminology*, 1–20.
<https://doi.org/10.1177/1477370819856514>
- Los Angeles Police Department. (2018). *2017 annual report of the Los Angeles Police Department*.
<http://assets.lapdonline.org/assets/pdf/2017%20Q4%20BP.pdf>
- Maguire, M., & Corbett, C. (1991). *A study of the police complaints system*. Her Majesty's Stationary Office.
- Meadus, D. (1988). *Complaints against police officers in the Commonwealth of Australia*. Hampshire Constabulary.
- Meadus, D. (1994). Informal resolution. In K. Bryett & C. Lewis (Eds.), *Un-peeling tradition: Contemporary policing* (pp. 107–122). Macmillan Education Australia.
- Office of the Independent Police Monitor, City of New Orleans. (2018). *2017 annual report: Community-police mediation program*.
<http://nolaipm.gov/annual-reports/>.
- Office of the Independent Police Monitor, Denver. (2007). *2007 annual report*. Denver, Colorado: Office of the Independent Police Monitor.
- Prenzler, T. (2009). *Police corruption: Preventing misconduct and maintaining integrity*. CRC Press/Taylor & Francis.
- Proctor, J. L., Rosenthal, R., & Clemmons, A. J. (2008). *Denver's citizen/police complaint mediation program: A comprehensive evaluation*.
- Productivity Commission. (2018). *Report on government services* (Chapter 6, Police Services, 6.16). Australian Government Productivity Commission.
<https://www.pc.gov.au/research/...government.../police.../rogs-2018-partc-chapter6.pdf>
- Productivity Commission. (2019). *Report on government services* (Chapter 6: Police Services,

- 6.3). Australian Government Productivity Commission.
<https://www.pc.gov.au/research/ongoing/report-on-government-services/2019/justice/police-services>
- Queensland Government. (2020). *Diversity figures snapshot, Census 2016*.
<https://www.dlgrma.qld.gov.au/resources/multicultural/communities/diversity-flyer.pdf>
- Queensland Government Statistician's Office. (2020). *Queensland population*.
<https://www.qgso.qld.gov.au/statistics/theme/population/population-estimates/state-territories/qld-population-counter>
- Queensland Police Service. (2016). *Complaints management policy* (2016, May 24). QPS Headquarters, Brisbane, Queensland: Queensland Police Service.
- Queensland Police Service. (2018, November 26 – Interviewees 1-4). *Semi-structured interviews*, QPS Headquarters, Brisbane, Queensland; (2019, July 27 – Interviewee 5). *Semi-structured interview*, Maroochydore, Queensland.
- Queensland Police Service. (2018a). *Complaint resolution guidelines* (Local Management Resolution Policy and Local Management Resolution Strategies – s. 3.2 General Information). QPS Headquarters, Brisbane, Queensland: Queensland Police Service.
- Queensland Police Service. (2018b). *Compliments and complaints*.
<https://www.police.qld.gov.au/online/ComplimentsandComplaints.htm>
- Queensland Police Service. (2019). *2018-2019 annual report of the Queensland Police Service*.
<https://www.police.qld.gov.au/index.php/qps-corporate-documents/reports-and-publications/annual-report-2018-2019>.
- Queensland Police Service. (2020). *Policing Queensland timeline 1864-2014*.
<https://www.police.qld.gov.au/queensland-police-museum/policing-queensland-timeline-1864-2014>.
- Riley, M., Prenzler, T., & McKillop, N. (2018). Alternative dispute resolution and mediation of complaints against police in Australia and New Zealand. *Police Practice and Research: An International Journal*, 1-15.
<https://doi.org/10.1080/15614263.2018.1500284>
- Schaible, L. M., De Angelis, J., Wolf, B., & Rosenthal, R. (2012). Denver's citizen/police complaint mediation program: Officer and complainant satisfaction. *Criminal Justice Policy Review*, 24(5), 626–650.
<https://doi.org/10.1177/0887403412455327>
- Schulenberg, J. L., Chenier, A., Buffone, S., & Wojciechowski, C. (2015). An application of procedural justice to stakeholder perspectives: Examining police legitimacy and public trust in police complaints systems. *Policing and Society*, 1-16.
<https://doi.org/10.1080/10439463.2015.1102252>
- Sunshine, J., & Tyler, T. R. (2003). The role of procedural justice in shaping public support for policing. *Law & Society Review*, 37, 513-548.
<https://doi.org/10.1111/1540-5893.3703002>
- Walker, S., Archbold, C., & Herbst, L. (2002). *Mediating citizen complaints against police officers: A guide for police and community leaders*. U.S. Department of Justice, Office of Community Oriented Policing Services.
<http://restorativejustice.org/amsite/media/mediating-citizen-complaints-against-police-officers.pdf>
- Waters, I., & Brown, K. (2000). Police complaints and the complainants' experience. *British Journal of Criminology*, 40(4), 617–638.
<https://doi.org/10.1093/bjc/40.4.617>
- Webbe, S., Williams, G., & Grayson, F. (2011). *Simple effective transparent strong: An independent review of the Queensland Police complaints, discipline and misconduct system*. Department of the Premier and Cabinet, Queensland Government, Independent Expert Panel.
<https://cabinet.qld.gov.au/documents/2011/May/Police%20Discipline%20Review/Attachments/independent-review-of-qld-police-discipline-system.pdf>
- Wells, W., & Schafer, J. A. (2007). Police scepticism of citizen oversight: Officers' attitudes toward specific functions, processes, and outcomes. *Journal of Crime and Justice*, 30(20), 1–25.
<https://doi.org/10.1080/0735648X.2007.9721233>
- Young, R., Hoyle, C., Cooper, K., & Hill, R. (2005). Informal resolution of the complaints against the police: A quasi-experimental test of restorative justice. *Criminal Justice*, 5(3), 279–317.
<https://doi.org/10.1177/14668025050558377>

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CHAPTER 7: CASE STUDY – DENVER, UNITED STATES OF AMERICA

Riley, M., & Prenzler, T. (2020). Mediation of complaints against police: Program implementation in the Denver Police Department. *Newcastle Law Review*, 15, pp. 5-34. (Published December 2020).

The following journal article examined the implementation of civilian-police complaints mediation into existing police complaints systems. The article looked specifically at the Denver case site and the lessons learned from other police jurisdictions in relation to implementation obstacles, and the steps taken to overcome them. Several key factors were identified including the importance of government and institutional support for the program, and the engagement of professional mediators trained in guiding police through the mediation process. The Denver mediation program has been viewed as a model program due to its consistently high participant satisfaction rates and program longevity.

The *Newcastle Law Review* journal was chosen for this article because it presents interdisciplinary research as well research in traditional categories of legal scholarship. The journal has published articles on mediation and restorative justice and in 2019 called for submissions for a special edition. The journal informs an audience of academics, practitioners in law and the social sciences, and university students. The journal is published by Newcastle University's Law School and offers broad outreach to those interested in the application of mediation in the criminal justice context. The following journal article fits the scope of the journal as it addresses mediation in the context of police complaints. It examines at an institutional level, the challenges to implementation of an independently facilitated complaints mediation program.

MEDIATION OF COMPLAINTS AGAINST POLICE: PROGRAM IMPLEMENTATION IN THE DENVER POLICE DEPARTMENT

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Abstract: Civilians lodge complaints against the police because they believe they have been wronged. Equally, police officers become hardened by the public negativity that goes with the job, yet rarely have an opportunity to voice their perspective. Historically, the most common method of dealing with complaints against police has been a departmental police-conducted process. However, research has found widespread stakeholder dissatisfaction with this mechanism. Some police jurisdictions have implemented an independent complaints mediation program as an alternate, non-adversarial and potentially restorative option. Complainants and police officers have the opportunity for open and frank discussion and to reach a mutual understanding on the incident that led to the conflict. Denver has been seen as a model program on some criteria, such as high participant satisfaction rates and program longevity. This paper examines the Denver civilian-police complaints mediation program to determine the reasons for and the challenges faced in implementation and the strengths that underpin its continuity. This has been done through a qualitative analysis of publicly available documents and semi-structured interviews with key stakeholders, including the Denver Police Department, the Office of the Independent Monitor and Community Mediation Concepts. The findings indicate that civilian-police complaints mediation programs are most effective when well supported at the highest levels of governance and specifically designed for the locality. These findings add to the growing body of literature on mediation of police complaints and provide lessons for police services considering implementation.

Keywords: civilian complaints, police, oversight, mediation, implementation

INTRODUCTION

The fact that civilians lodge complaints against the police is indicative of their beliefs that they have been wronged and that they will receive a meaningful resolution.¹ However, the traditional complaints processes in many countries, which involve internal investigation, have left many complainants dissatisfied. The main criticism of traditional complaints processes has been that they are potentially biased.² Police officers often feel traditional complaints processes favour civilians.³ Many feel angry about having a complaint made against them while performing their duties and frustrated by the absence of an opportunity to explain their actions to civilians. However, police officers also have a vested interest in the service and therefore, naturally, want the service to be seen in the best light. Equally, the service may consider what is in the public's interest as secondary to risk management.⁴ However, over the past thirty years, the gradual introduction of non-adversarial complaints resolution processes, such as conciliation and mediation, have gone a long way to providing disputants with more options that better meet their needs.⁵ Mediation – which is a voluntary and confidential process that brings together people in conflict with a neutral third party to discuss their differences - has been implemented in some police jurisdictions to fill the 'face-to-face encounter' gap between complainants and police officers, in existing processes.⁶ Since the start of the mediation movement in the United States, approximately sixteen civilian-police complaints mediation programs have been implemented⁷. Many continue to grow and share their approaches with other police jurisdictions, while some have started but fallen into disuse.

¹ Andrew Faull, 'Monitoring the Performance of Police Oversight Agencies' (2013) *APCOF Policy Paper* (African Policing Civilian Oversight Forum, September 2013) 3.

² Ian Waters and Katie Brown, 'Police Complaints and the Complainants' Experience' (2000) 40 *British Journal of Criminology* 624, 638.

³ Lonnie Schaible, Joseph De Angelis, Brian Wolf and Richard Rosenthal, 'Denver's Citizen/Police Complaint Mediation Program: Officer and Complainant Satisfaction' (2012) 24(5) *Criminal Justice Policy Review* 628, 650; Michele Sviridoff and Jerome McElroy, *Processing Complaints Against Police: The Civilian Complaint Review Board* (Vera Institute of Justice, New York, 1988) 9.

⁴ Richard Ericson and Kevin Haggerty, *Policing the Risk Society* (University of Toronto Press, 1997) 49.

⁵ David Brereton, 'Evaluating the performance of external oversight bodies' in Andrew Goldsmith and Colleen Lewis (eds), *Civilian Oversight of Policing: Governance, Democracy and Human Rights* (Hart, 2000) 106.

⁶ AJ Clemmons and Richard Rosenthal, 'Mediating Citizen Complaints: The Denver Program' (2008) 75(8) *The Police Chief* 32, 36.

⁷ Samuel Walker and Carol Archbold, 'Mediating Citizen Complaints Against the Police: An Exploratory Study' (2000) 2000(2) *Journal of Dispute Resolution* 236, 244.

The Denver civilian-police mediation program has been operating since 2005. It has been seen as a model program on some criteria, including high participant satisfaction rates,⁸ timeliness and civilian-police relationship building.⁹ However, the Denver program deserves to be investigated in-depth to identify areas that might usefully be replicated by other police departments and areas where improvements could be made. This paper starts with a thematic review of the literature on the implementation of civilian-police complaints mediation programs. It then examines the Denver mediation program through an analysis of its conception, impediments to implementation, and the strengths that underpin its continuity, such as stakeholder support and local design. This has been done through a qualitative analysis of publicly available documents and semi-structured interviews with key stakeholders, including the Denver Police Department, the Office of the Independent Monitor and Community Mediation Concepts.

THEORETICAL PERSPECTIVE ON MEDIATION OF COMPLAINTS AGAINST POLICE

Until the latter part of the twentieth century, the standard police approach to dealing with complaints involved formal, internal investigations.¹⁰ The traditional processes adopted adversarial characteristics which resulted in blame being assigned and a win-lose outcome. However, growing public dissatisfaction with perceived ‘biased’ complaints processes and low substantiation rates; increased public mistrust of the police; and consequent threats to the public’s compliance with the law, in some jurisdictions;¹¹ prompted the overhaul of complaints systems to better provide outcomes aligned with public expectations.

The introduction of alternative dispute resolution processes in civil law¹² provided a benchmark for police initiatives. Mediation proffered a specific form of alternative dispute resolution through the face-to-face meeting of those in conflict, under the guidance of a trained mediator.

⁸ Schaible et al, (n 3) 643.

⁹ Clemmons and Rosenthal (n 6) 32.

¹⁰ Frank Harris, ‘Holding Police Accountability Theory to Account’ (2012) 6(3) *Policing: A Journal of Policy and Practice* 241, 249.

¹¹ Samuel Walker, Carol Archbold and Leigh Herbst, ‘Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders’ (Washington, DC: Government Printing Office, 2002) 71, 111.

¹² Tania Sourdin, *Alternative Dispute Resolution* (Thomson Reuters, 5th ed, 2016) 294.

The independence, neutrality and confidentiality of the mediation process provided parties with an opportunity for mutual understanding and conflict resolution through dialogue.¹³ The focus of the process was on the outcome sought by the parties and not on a determination of right or wrong, or penalty.¹⁴ In the context of police complaints, that transposed to complainants having the opportunity to express how the incident affected them; gain knowledge of police procedures; and retain some control over how their grievance was addressed. For police officers, that meant gaining an understanding of the impact of their actions, learning how to self-correct, if necessary, and avoiding future complaints.¹⁵ Therefore, mediation was viewed as providing a mechanism to increase outcome satisfaction, improve civilian-police relations through increased trust, and ultimately achieve community protection.

Civilian-police complaints mediation exemplifies restorative justice theory. Restorative justice, understood as a theory of relational justice,¹⁶ focuses, in this context, on healing the harms caused by police wrongdoing (e.g., abusive, discriminatory or unfair treatment) by taking a “needs-based” approach.¹⁷ Complainants’ needs and expectations are met through voicing their perspective, being listened to, acknowledged and respected in a safe, third-party facilitated encounter with the subject police officer.¹⁸ Through open and honest dialogue complainants and police officers are given the opportunity to collaboratively work toward a better understanding of each other and reconciliation.¹⁹ Restorative justice adds a dimension to mediation that rarely exists in civil mediation. It moves beyond resolution of the issue in dispute to addressing the personal harm that is caused by conflict. At its core, restorative justice holds that “empathy and consideration for others is crucial to the health and wellbeing of us all” and that feelings inform

¹³ Ibid 295.

¹⁴ Police Training and Standards Commission, Maryland (PTSC), ‘Community Member – Police Complaint Mediation Program (2017) *Reference Guide* 4, 99.

¹⁵ Jon Proctor, AJ Clemmons and Richard Rosenthal, ‘Discourteous Cops and Unruly Citizens: Mediation Can Help’ (2009) 2(3) *Community Policing Dispatch*, e-newsletter.

¹⁶ John Braithwaite, ‘Restorative Justice and Responsive Regulation: The Question of Evidence’. (2016). *Working Paper No. 51*, School of Regulation and Global Governance (RegNet); and Jianhong Liu, *Culture and Criminal Justice - An Asian Paradigm Theory* (2014, June) Presidential Address at the Asian Criminological Society Annual Meeting. Osaka, Japan.

¹⁷ Dennis Sullivan and Larry Tifft, ‘Needs-Based Justice as Restorative’ in Gerry Johnstone (ed), *A Restorative Justice Reader*, 2nd ed (Routledge, New York, 2013) 208.

¹⁸ Ibid 213.

¹⁹ Ibid 214.

behaviour.²⁰ Therefore, restorative justice mediation transforms negative emotions such as fear and hostility into “positive feelings of solidarity”.²¹ As such, mediation underpinned by restorative justice principles in the context of complaints, offers reparation to the important civilian-police relationship.

The implementation of civilian-police complaints mediation programs, however, has not been a seamless process. Several themes have been identified, including dissatisfaction with traditional method of complaints resolution; necessity for implementation; establishment of civilian oversight agency; commitment to program; eligibility for referral of complaints; use of independent mediators; and obstacles to program success.

The traditional, internal, investigative police complaints process has long been considered by many police services as sufficient for resolving civilian complaints against the police.²² However, public perceptions of the process being an “inside job”,²³ and therefore biased;²⁴ complainant frustration with the bureaucratic process and the time taken to resolve complaints;²⁵ and the exclusion of complainants from a process which directly affects them has led to consideration of alternative approaches.²⁶ Mediation, at times based on restorative justice theory, has been implemented in a small but growing number of police jurisdictions around the world²⁷ in response to the research.

In the United States, some mediation programs were formed in response to changes in local

²⁰ Belinda Hopkins, ‘From Restorative Justice to Restorative Culture’ (2015) 14 (4) *Social Work Review* 25. ²¹ Meredith Rossner, ‘Emotions and Interaction Ritual: A Micro Analysis of Restorative Justice’ (2011) 51 *British Journal of Criminology* 95.

²² Timothy Prenzler and Carol Ronken, ‘Models of Police Oversight: A Critique’ (2001) 11(2) *Policing and Society* 155, 180.

²³ John Liederbach, Lorenzo Boyd and Robert Taylor, ‘Is it an Inside Job?’ (2007) 18(4) *Criminal Justice Policy Review* 368, 377.

²⁴ Waters and Brown (n 2) 624.

²⁵ Mike Maguire, Claire Corbett and Great Britain, Home Office, *A Study of the Police Complaints System* (London: Her Majesty’s Stationery Office: 1991).

²⁶ Schaible et al, (n 3) 643.

²⁷ Elizabeth Bartels and Eli Silverman, ‘An Exploratory Study of the New York City Civilian Complaint Review Board Mediation Program’ (2005) 28(4) *Policing: An International Journal of Police Strategies & Management* 619-630; Lars Holmberg, ‘In service of the truth? An evaluation of the Danish Independent Police Complaints Authority’ (2019) *European Journal of Criminology* 1-20; Richard Young, Carolyn Hoyle, Karen Cooper and Roderick Hill, ‘Informal Resolution of Complaints Against the Police’ (2005) 5(3) *Criminal Justice* 279-317.

laws; following policy evaluations by the United States Department of Justice; or following judgments imposed by the courts.²⁸ Generally, three types of civilian-police complaint mediation programs exist – those administered directly by law enforcement agencies, which engage a local mediation service; those administered by an independent civilian oversight agency or civilian police-review panel established by a local ordinance; and those co-administered by a law enforcement agency and a civilian police-review panel.²⁹

Some programs have been extensions of pre-existing neighbourhood justice mediation programs, such as the Portland program³⁰; others have been extensions of existing police complaints procedures, such as Maryland³¹ and Minneapolis;³² but most have originated from, and are funded under, the ordinances that created the local civilian oversight agencies, such as New Orleans.³³ In many instances, civilian oversight agencies were introduced because of the belief that “police were unable to effectively investigate themselves”.³⁴ The oversight agencies worked in partnership with police services to develop mediation programs demonstrably independent from the police. For example, in 1997, the Civilian Complaint Review Board in New York, comprised solely of civilians, was authorised to investigate complaints, determine which complaints were appropriate for mediation, conduct mediations and make recommendations to the police regarding allegations of police misconduct.³⁵ In 2010, the Calvert County Sheriff's Office launched the state's first police mediation program – *Operation True Perspectives*.³⁶ The program had statewide impact and in 2016 the Baltimore Police Department in partnership with the Civilian Review Board and Community Mediation Maryland, developed their own mediation process based on Calvert's work. Research by the Maryland Police Training Commission into mediation programs found that the development of one policy or program would not suit the specific needs of every law enforcement agency

²⁸ PTSC (n 14) 7.

²⁹ Ibid 7.

³⁰ Office of the Independent Monitor, Denver (OIM), *Annual Report 2005* 6.2, 188.

³¹ PTSC (n 14) 7.

³² Department of Civil Rights, Minneapolis, ‘Office of the Police Conduct Review’ (2018), <http://www.minneapolismn.gov/civilrights/police-review>.

³³ Office of the Independent Police Monitor, New Orleans, *Annual Report 2017* 5, 38.

³⁴ William Terrill and Jason Ingram, ‘Citizen Complaints Against the Police: An Eight City Examination’ (2016) 19(2) *Police Quarterly* 154, 179.

³⁵ Bartels and Silverman (n 27) 620.

³⁶ PTSC (n 14) 8.

across the state and that programs needed to be locality specific. In 2014, the New Orleans Police Department and the Office of the Independent Police Monitor commenced the Community-Police Mediation Program – mandated under the modified Consent Decree.³⁷ The Monitor had sole oversight responsibility of the Police Department. Prior to the introduction of the program, there were no alternatives to the traditional adversarial investigation process and the ‘health’ of the civilian-police relationship had suffered due to civil rights violations and inappropriate complaints handling.³⁸ Mediation was viewed as a promising mechanism for addressing police accountability issues and improving civilian-police relations “while often creating systemic social change and impacting officers’ work in the long term”.³⁹

Similar implementation processes occurred in the United Kingdom. In 2000, the Thames Valley Police Department in England implemented restorative justice mediation/conferencing for the resolution of civilian complaints against police due to poor public confidence in the internal complaints handling process. The establishment of the Independent Police Complaints Commission followed the growing global trend for ‘external’ review of complaints.⁴⁰ In Northern Ireland, following years of politico-religious conflict – that included paramilitary-style policing, high numbers of civilian complaints and very low substantiation rates, the Office of the Police Ombudsman in Northern Ireland was established in 2000. As a non-departmental public body of the Department of Justice, accountable directly to the Northern Ireland Assembly,⁴¹ it was completely impartial and independent.⁴² Unlike other complaints systems across the globe, it reflected a pure “civilian control model”⁴³ that dealt with *all* complaints against police. The Ombudsman was initially well received by complainants and the police,⁴⁴ but did not offer mediation until 2017 following a government review. The newly formed complaints team, with in-house, trained mediators, offered mediation, underpinned by restorative justice principles, for minor complaints. The

³⁷ OIPM (n 33) 4.

³⁸ Ibid 4.

³⁹ Ibid 8.

⁴⁰ Young et al, (n 27) 280.

⁴¹ Police Ombudsman of Northern Ireland (PONI), *Annual Report & Accounts 2017*, 10, 92.

⁴² Police Ombudsman of Northern Ireland, (PONI), *Pilot Mediation Project Report, September 2008 – March 2009*, 5, 28.

⁴³ Prenzler and Ronken (n 22) 156.

⁴⁴ Police Ombudsman of Northern Ireland (PONI), *Annual Report & Account 2009*, 5, 80.

Ombudsman believes that “many more complaints can be resolved through this approach”.⁴⁵

A significant obstacle to the implementation and development of some programs, regardless of their origin, has been the absence of a “key local official who fully understands and is committed to the mediation program”.⁴⁶ For example, in 2002, Portland, Oregon, followed the national trend of implementing independent mediation to resolve civilian-police complaints. However, the pilot program experienced problems such as a “lack of dedicated staff and funding, as well as unclear expectations and performance measures. There was no clear-cut criteria for selecting cases, and mediation was used rarely enough that the procedure was unclear”.⁴⁷ Subsequently, mediation was included as a resolution option within the Portland Police Bureau. However, its use diminished in favour of other internal processes, with only 1% of complaints mediated in 2018.⁴⁸ Other programs have struggled from insufficient promotion, including the Pasadena mediation program. An evaluation after its first year of operation revealed that only 19 percent of citizens were aware of its existence.⁴⁹ However, in Northern Ireland, the Police Ombudsman actively conducts public education meetings across the country to raise awareness of the mediation program.⁵⁰ In Minneapolis, the independently operated Citizen- Police Mediation Program was established in 2012 with the full support of the City Council. Mediation was widely promoted and complainants were made aware that they can request a civilian to investigate their case.⁵¹ This approach has given them “significant control over police misconduct investigations (...) and the ability to have a strong voice in case outcomes and shaping the MPD police and procedure”.⁵² Similarly, in San Francisco, the well-established Office of Citizen Complaints

⁴⁵ PONI (n 42) 8.

⁴⁶ Walker et al, (n 11) 44.

⁴⁷ Independent Police Review, Portland, Oregon, *Annual Report 2002*, Mediation Chapter, <https://www.portlandoregon.gov/IPR/article/26982>.

⁴⁸ Independent Police Review, Portland, Oregon, *Annual Report 2018*, 11.

⁴⁹ Schaible et al, (n 3) 631.

⁵⁰ PONI (n 42) 8.

⁵¹ Minneapolis City Council (MCC), ‘Scope of Authority of the Office of Police Conduct Review’, 2012, September 21, Public Hearing, Chapter 172.20, 732, <http://www.minneapolismn.gov/www/groups/public/%40council/documents/proceedings/wcms1p-098903.pdf>.

⁵² Office of Police Conduct Review (OPCR), 2017, *Factsheet*, <http://www.minneapolismn.gov/www/groups/public/@civilrights/documents/agenda/wcmsp-205658.pdf>.

Mediation Program was invigorated in 2015 with a police-focused promotional drive, which carried the endorsement of the Chief of Police.⁵³

The types of police complaints for mediation have often been ‘carefully selected’,⁵⁴ low level misconduct allegations and procedural issues, such as misunderstandings and perceptions of rudeness and discourtesy. Many complaints are rejected at intake as being “unfounded and malicious”⁵⁵ and not considered for mediation – which could be problematic as some may be “genuine and justified”.⁵⁶ However, there is some consensus of opinion in the literature that not all civilian complaints should be mediated.⁵⁷ Complaints that involve serious misconduct, or disciplinary issues that would result in dismissal, demotion or suspension, have typically been excluded from mediation.⁵⁸ Yet, in Minneapolis the Office of Police Conduct Review has the responsibility of handling all internal and external complaints made against the Minneapolis Police Department, except human resources complaints.⁵⁹ Complaints can be referred to mandatory mediation at any time during investigation and sessions are conducted by trained mediators with no affiliation to any police or government agency.⁶⁰

There are significant differences between the mediation of complaints against police and other types of mediation. In the case of disputes, such as neighbourhood disputes, the parties have already acknowledged that a problem exists between them and they seek a resolution. This is generally not the case with police and complainants. Police officers usually learn about a complaint through internal notification, and a request to address the allegations through mediation can evoke concerns and frustration.⁶¹ Mediation is a foreign concept to many police and the informality of the mediation process does not fit well with the

⁵³ San Francisco Police Department Professional Standards & Principled Policing Bureau, Department of Justice Compliance, 2017, February 3, *Report*, Recommendation Number 29.4, <https://www.sanfranciscopolice.org/sites/default/files/2018-11/SFPD-response-DOJ-COPS-Recommendation-29.4.pdf>.

⁵⁴ PTSC (n 14) 8.

⁵⁵ Waters and Brown (n 2) 635.

⁵⁶ Ibid 635.

⁵⁷ Walker et al, (n 11) vii.

⁵⁸ Schaible et al, (n 3) 633.

⁵⁹ OPCR (n 52) 1.

⁶⁰ MCC (n 51) 732.

⁶¹ Police Ombudsman of Northern Ireland (PONI) *Annual Report & Accounts 2014*, 23, 92.

regulated nature of police work.⁶² Some police officers do not believe that civilian mediators hold the commensurate knowledge of police policy and procedures to facilitate a mediation.⁶³

In addition to the preceding themes, four common obstacles to the implementation and ongoing use of mediation programs were identified in a study by Walker et al., in 2000. These included: police officer and police union opposition; lack of understanding of mediation by both police officers and civilians; inadequate resourcing of mediation programs; and insufficient incentives for police officers and civilians to participate.⁶⁴

The legislative framework that surrounds policing gives officers the commensurate authority to act in ways that preserve law and order. As such, when civilian complaints arise, most police services view the internal management of the allegations as appropriate.⁶⁵ Police and police unions often resist placing officers “on an equal footing with complainants”;⁶⁶ and in situations where the officers may feel forced to admit to things they did not do.⁶⁷ They view that as “compromising their status”,⁶⁸ and hold that the internal disciplinary and training processes are the mechanisms for correcting behaviour and improving performance; and conciliatory processes, such as informal resolution, are sufficient for resolving complainants’ concerns.⁶⁹

A lack of understanding of the purpose, process and outcomes of mediation by the public and police has led to some implementation obstacles. Studies in the US and England⁷⁰ have revealed that complainants with negative past experiences of police viewed mediation with scepticism. Specific concerns that reduced complainant receptiveness included: intimidation; fear of future mistreatment or disadvantage; lenience of the process and its acknowledgement

⁶² Ibid 92.

⁶³ R W Patterson, ‘Resolving Civilian-Police Complaints in New York City: Reflections on Mediation in the Real World’ (2006) 22(1) *Ohio State Journal on Dispute Resolution* 190, 226.

⁶⁴ Walker and Archbold (n 7) 236.

⁶⁵ Schaible et al, (n 3) 627.

⁶⁶ Ibid 630.

⁶⁷ Walker et al, (n 11) vii.

⁶⁸ Ibid 27.

⁶⁹ Ibid.

⁷⁰ Bartels and Silverman (n 27) 641; Young et al, (n 27) 279.

of officer innocence; process complexity and effort required.⁷¹ For the police, the notion of engaging in mediation without a legal representative and responding to a mediator's effort to "coach and empower",⁷² have raised opposition to the process. Additionally, there has been a concern that some police officers could use mediation to avoid investigation and disciplinary action "as opposed to seeking authentic reconciliation with the complainant".⁷³ These challenges have been compounded by a lack of sufficient planning and inadequate resourcing which undermine mediation implementation and practice.⁷⁴ The number of mediated complaints across programs has remained low,⁷⁵ despite the fact that traditional complaints investigations are generally more costly and time consuming.⁷⁶

The polarized nature of civilian complaints against police (i.e., 'he said/she said') has affected the willingness of some parties to mediate. As substantiation rates have consistently been low, the police have little incentive to participate;⁷⁷ and complainants often view the pursuit of their grievance as futile. However, unresolved conflict with the police threatens public trust in the service and compliance with the law.⁷⁸ A 2005 study of New York's mediation program found that complainants who went through mediation were more likely to trust police in the future than those who went through the traditional complaints process.⁷⁹ For police officers, incentive existed in the form of removal of the allegation, a notation of "mediated" and no further disciplinary action on their service file, following completion of mediation.

The success of mediation programs has close links with behavioural improvements and the reduction in complaints against police. In 2017, a formative evaluation of the Los Angeles

⁷¹ Schaible et al, (n 3) 630.

⁷² Vivian Berger, 'Civilians Versus Police: Mediation Can Help to Bridge the Divide' (2000) 16(3) *Negotiation Journal* 213, 235.

⁷³ Schaible et al, (n 3) 630; Walker et al., (n 11) 24.

⁷⁴ Walker et al, (n 11) 55.

⁷⁵ Bartels and Silverman (n 27) 621; Schaible et al, (n 3) 6; Walker et al, (n 11) 42.

⁷⁶ Walker et al, (n 11) 47.

⁷⁷ Walker and Archbold (n 7) 238.

⁷⁸ Jane Goodman-Delahunty, 'Four Ingredients: New Recipes for Procedural Justice in Australian Policing' (2010) 4(4) *Policing: An International Journal of Police Strategies & Management* 405, 419.

⁷⁹ Bartels and Silverman (n 27) 627.

Police Department's Biased Policing Complaint Mediation Program⁸⁰ revealed that 50 cases were mediated in that year (an increase of 22 cases on 2016).⁸¹ Exit questionnaires were provided to participants and additional interviews were conducted with a small group of police officers, complainants, mediators and program managers. Overall, the findings indicated that complainant and police satisfaction rates with the process were high, and the majority of participants reported that they would recommend mediation to friends and colleagues. The interviews revealed promising findings on attitudinal and behavioural change, including one mediator's observation that a complainant's anger was significantly reduced during mediation when the police officer "offered different procedural choices that he would be willing to consider for future situations".⁸² The mediation had a transformative effect on the participants which aligns with restorative justice theory that posits that change is possible through the willing exploration of another person's perspective and emotions.⁸³

The outcome of stakeholder satisfaction supports a reduction in future complaints. However, improved complaints processes have also been found to increase complaint numbers as civilians gain confidence in the system.⁸⁴ Since the New York program began, the number of annual mediated complaints have increased steadily, making the program the largest civilian-police mediation program in the United States (e.g., 32 in 2001; 91 in 2003).⁸⁵ Statistics for 2017 revealed that 417 complaints were referred to mediation, of which 204 were mediated and 213 were attempted.⁸⁶ The program has continued to operate with the Board reporting the unavailability of complainants as the main reason mediations do not take place.⁸⁷

⁸⁰ Howard P. Greenwald, Professor, Sol Price, School of Public Policy, University of Southern California, and Charlie Beck, Chief of Police, Los Angeles Police Department, 'Bringing Sides Together: Community-Based Complaint Mediation' (2017) *Police Chief Magazine*, International Association of Chiefs of Police, <https://www.policchiefmagazine.org/bringing-sides-together/?ref=7e7204767b0ac016b78ddc36cbb613a8>.

⁸¹ Los Angeles Police Department 'Evaluation of the Biased Policing Complaint Mediation Pilot Program' (2017, January 30), Internal Affairs Group, Los Angeles Police Department, California.

⁸² Greenwald et al, (n 82).

⁸³ Josephine Dobry, *Restorative Justice and Police Complaints: A Report by the Independent Police Complaints Authority* (2001, March), The Police Complaints Authority, London, 41.

⁸⁴ John Worrall, 'If You Build It, They Will Come: Consequences of Improved Citizen Complaint Review Procedures' (2002) 48(3) *Crime & Delinquency* (Sage Publications: 2002) 362, 379.

⁸⁵ Bartels and Silverman (n 27) 621.

⁸⁶ Civilian Complaints Review Board, *Annual Report 2017*, 37, 68.

⁸⁷ Civilian Complaints Review Board, Executive Director's Monthly Report, (October 2017) 38, http://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/monthly_stats/2017/20171108_monthlystats.pdf.

The literature has established that civilian-police complaints mediation programs provide complainants and police officers with an independent and substantially satisfying alternative to traditional complaints resolution processes. However, there are more lessons to be learned about sustainability and the Denver Mediation Program provides some of these lessons.

DENVER MEDIATION PROGRAM

In 2005, the Office of the Independent Monitor in Denver was established. It was given the responsibility of monitoring the Denver Police Department and the Denver Sheriff Department, and the establishment of the community-police complaint mediation program. The Office has been pivotal to the longevity of the mediation program through its promotion of external mediation to the public via community meetings, police education, such as during academy training sessions, and the maintenance of senior police support through collaborative discussion over behavioural improvements.

The mediation program has been formally evaluated on two occasions. In 2009, an evaluation by Proctor et al., considered the effect of mediation on police behaviour by measuring variables such as discourtesy, force and improper procedure allegations.⁸⁸ The evaluation found significant decreases in these variables for police officers who had engaged in mediation over the traditional process. Mediation had proved to be more effective in assisting police officers avoid future complaints and helped them learn how and why to self-correct their own behaviour.

A 2012 evaluation by Schaible et al., analysed complainant and police officer satisfaction in relation to “mediation, perceptions of procedural fairness, and demographic information”.⁸⁹ The study found that between 2005 and 2008, 126 civilian-police complaints

⁸⁸ Jon Proctor, Richard Rosenthal and AJ Clemmons, ‘Denver’s Citizen/Police Complaint Mediation Program: A Comprehensive Evaluation’ (2009) 3, 34.

⁸⁹ Schaible et al., (n 3) 8.

mediations, involving 328 participants took place,⁹⁰ (since then an average of 50 mediations per year have been conducted).⁹¹ The findings revealed an overall preference for mediation over the traditional complaints process; higher levels of satisfaction for Latino and African American complainants than for whites, and higher levels of satisfaction for female and Latino police officers with mediation over their white and African American colleagues.⁹² This supports the dispute resolution literature on “cultural preferences for interpersonal interaction”⁹³ and provides guidance for program implementation in culturally diverse communities. The findings also identified areas for improvement such as public education on external mediation. Some complainants reported confusion about the independence and neutrality of mediation over the traditional complaint process.⁹⁴ However, the Denver mediation program uses the professional services of a local mediation vendor, which specifically trains mediators in civilian-police complaints resolution and allocates them to those cases. The skilled mediators assist complainants through the inherent power differential to express their concerns and hear the police viewpoint and “help sensitize officers to community perspectives”.⁹⁵

Limited empirical studies of civilian-police complaints mediation programs have been undertaken to date, yet the Denver program continues to deliver a program that meets participants’ expectations. Further investigation of the program was required to identify why it is a model program; the implementation learnings that could be replicated by other police departments; and the areas where improvements could be made. This study used a two-phase qualitative approach which consisted of (1) content analysis of publicly available and confidential documentation and (2) analysis of semi-structured interviews with eight key informants. The following reports provided by or accessed from the Office of the Independent Monitor’s website were analysed: annual reports covering the period 2005 to 2018 and case

⁹⁰ Denver Police Department (DPD), *Denver Discipline Handbook: Conduct Principles and Disciplinary Guide, Community Law Enforcement Mediation Program – Protocols – Office of Independent Monitor City and County of Denver*, (2012), 39.

⁹¹ Office of the Independent Monitor (OIM), Denver, *Annual Report 2014*, 60, 168.

⁹² Schaible et al., (n 3) 14.

⁹³ Jennifer Holt and Cynthia DeVore, ‘Culture, Gender, Organisational Role, and Styles of Conflict Resolution’ (2005) 29 *International Journal of Intercultural Relations*, 166, 196.

⁹⁴ Schaible et al, (n 3) 629.

⁹⁵ Schaible et al, (n 3) 634.

handling policy documents; also, annual data on the Denver Police Department which are reported in the annual reports of the Monitor's Office. In addition, primary sources such as the program evaluation and secondary sources specific to Denver, including those identified in the literature review search ⁹⁶ were searched to provide further information. Keyword, and keyword combination searches, including 'complaints', 'police', 'civilian', 'oversight', 'mediation' 'program' and 'implementation' were used.

The semi-structured interviews were conducted with key stakeholders in the Denver Police Department (Interviewees 1-2), Office of the Independent Monitor (Interviewees 3-6 from the Policy, Monitors and Community Outreach Departments) and Community Mediation Concepts (Interviewees 7-8). The interviews took place over a four-day period from 18 December 2019 to 21 December 2019. The group interview with the Denver Police Department was held in the Denver City Police Headquarters with two sergeants who had been members of the service for approximately 19 years and worked for the past two years in Internal Affairs and/or Conduct Review. The group interview with the Office of the Independent Monitor was held in their Denver offices with four interviewees, all of which held senior positions in the organisation. One of the interviewees who had been with the organisation since its establishment, provided background information; the other interviewees held various roles with extensive experience in policy direction and case management. The group interview with Community Mediation Concepts, included discussions with the foundational member of the mediation program and an experienced civilian-police complaints mediator. Interviewees were provided with copies of the interview questions prior to the interviews. The questions were designed to gain individual and organisational perceptions and experiences regarding the implementation of the mediation program, its current status and the lessons learned.

⁹⁶ Schaible et al, (n 3) 643; Walker and Archbold (n 7) 236; Walker et al, (n 11) 71.

FINDINGS

The findings are analysed under two separate sections: documentary analysis and semi-structured interviews. The findings show that the success of the Denver mediation program has been due to the comprehensive approach to the implementation of the program; the commitment of several key individuals over time and the local focus of the program. These areas of success also had the converse effect of highlighting areas where improvements can be made.

Findings 1: Documentary Sources

1. Denver Police Department

In 2003, the complaints policy of the Denver Police Department underwent a major review. The existing system did not clearly distinguish complaints containing serious misconduct issues from minor allegations,⁹⁷ and a full investigation of all complaints was the practice. This was to avoid criticism “for ignoring complaints and potentially failing to hold officers accountable for misconduct”.⁹⁸ However, ‘timeliness’ became problematic. The delay between the time complaints were lodged and disciplinary recommendations made, had often “been years instead of months”.⁹⁹ The Denver Police Department, like other departments across the country, had faced challenging economic and political conditions¹⁰⁰ and controversy over incidents involving police officers. For example, the 2005 shooting death of an armed robbery suspect “exemplified gaps in the existing internal and external processes and department viewpoints; growing public concern about safety; and the need for investigations to be monitored”.¹⁰¹ The Denver Police Department had done work on modernising operations and methods but the complaints process was flawed and the concept of informally handling complaints was in its preliminary stage.¹⁰² As noted in the literature review, the implementation of a civilian-police mediation program was often preceded by the establishment of a civilian oversight agency. That was true for Denver.

⁹⁷ DPD (n 97, rev ed 2019) 39.

⁹⁸ OIM (n 30) 1-5.

⁹⁹ Ibid 9-10.

¹⁰⁰ Ibid Appendix E.

¹⁰¹ Ibid 5-6.

¹⁰² Ibid 9-15.

Since the establishment of the Office of the Independent Monitor and the mediation program, complaints against police have trended downward. For example, from 2015 to 2018, the number of complaints decreased by 21 percent from 403 to 323.¹⁰³ Although, a significant number of civilian complaints (69%) were declined after the intake investigation. Of the remainder, 11 percent were mediated, 8 percent were resolved informally, and 12 percent were sustained.¹⁰⁴ The Denver Police Department has developed practices and programs to maintain this trend and support the disciplinary system. The strategies may “assist officers in modifying behaviours without the imposition of disciplinary sanctions”.¹⁰⁵ Mediation is one of the behavioural improvement strategies in the police Discipline Handbook and is “strongly endorsed and encouraged by the Department”.¹⁰⁶ The Department views mediation as providing a system of ‘lessons learnt’. Mediation provides officers with an opportunity to educate the community on Department policy and police perspective; and the opportunity, in lieu of an internal investigation, to understand the effects of their behaviour on the public,¹⁰⁷ and to modify that behaviour to avoid future complaints.

A total of 585 mediations have been completed since 2006. The rate has been consistent although in 2018 it decreased to 32. The decrease was reportedly “due, in part, to the overall decrease in community complaints”.¹⁰⁸ However, the complainant and police officer mediation satisfaction rates, for the four years to 2018, remained high at between 71-82 percent, and 95-98 percent, respectively. Mediation has also contributed to a reduction in complaints workload and improved efficiencies. From 2017 to 2018, the processing time for full investigations decreased by 11 days and 5 days for IAB cases.¹⁰⁹ The Denver Police Department maintains the authority to discipline police officers. However, the Office of the Independent Monitor is tasked with reporting findings and complaints patterns to the public, thereby ensuring transparency and accountability in the complaints process.¹¹⁰

¹⁰³ Office of the Independent Monitor (OIM), Denver, *Annual Report 2018*, 11, 112.

¹⁰⁴ *Ibid* 16.

¹⁰⁵ DPD (n 97) 6.

¹⁰⁶ *Ibid* 7.

¹⁰⁷ *Ibid*.

¹⁰⁸ OIM (n 103) 11.

¹⁰⁹ *Ibid* 16.

¹¹⁰ Schaible et al, (n 3) 632.

2. Office of the Independent Monitor

In 2005, the Mayor of Denver with the support of the Denver City Council established the Office of the Independent Monitor (OIM) – an organisation with the key role of providing oversight of investigations into allegations of police misconduct. A new city ordinance was enacted which replaced the existing Public Safety Review Commission with the Office of the Independent Monitor. The new Monitor's Office was viewed as adding "civilian eyes and voices into investigatory and disciplinary proceedings"¹¹¹ in relation to the police. The first Monitor, Richard Rosenthal, was selected by the Mayor and the Office of the Independent Monitor commenced operations in August of that year.¹¹² Rosenthal had come from Portland, Oregon where he had been instrumental in establishing a civilian oversight agency and complaints mediation program. Immediately, insight into the successes and challenges faced by other oversight agencies was sought; the Monitor's Office became a member of the National Association for Civilian Oversight of Law Enforcement (NACOLE). Satisfaction surveys were conducted with previous complainants and police officers, which revealed that seventy-five percent of complainants and sixty-four percent of police officers were dissatisfied with the existing complaints process.¹¹³ Other tasks undertaken by the Monitor's Office included the finalisation of a contract with the Los Angeles-based Police Assessment Resource Centre (PARC) which had reviewed officer-involved shootings from a policy, training and tactics viewpoint;¹¹⁴ and gained access to the Denver Police Department's administrative investigation database.¹¹⁵

By the end of 2005, the Office of the Independent Monitor had been embedded into police policy. This included the establishment of a civilian-police complaints mediation program.¹¹⁶ The program was designed to be voluntary – which meant that parties could not be forced to admit to anything; and confidential – which required participants to sign a legally binding

¹¹¹ OIM (n 30) 1-2.

¹¹² Ibid.

¹¹³ Office of the Independent Monitor (OIM), Denver, *Annual Report 2007*, 7-3, 7-11.

¹¹⁴ OIM (n 30) 5.

¹¹⁵ Ibid ii.

¹¹⁶ Ibid 1-4.

confidentiality agreement prior to mediation. The agreement was to allay any fears that comments made in mediation could be used against a party in litigation. Additional concerns about potential unpleasantness during mediation or use of the session to berate the police officer, were negated by the engagement of a professional mediation vendor. The Office of the Independent Monitor also addressed issues raised during the program implementation planning stage, such as resistance to participation and lack of incentives. The Monitor's Office provided education on mediation, including a training video, to the Denver Police Department. Presentations were routinely made at police roll call and academy events. As an incentive for police officer participation, they (and the public) were informed that 'good faith' participation in mediation would mean no Internal Affairs investigation or disciplinary action, and case closure upon completion of mediation.¹¹⁷

Community Mediation Concepts, a non-profit organisation in Denver, was contracted to provide mediation services. A cadre of eleven mediators were given specific training on mediation involving police officers.¹¹⁸ Two professional mediators from Portland "who together had mediated more community-police mediations than any other mediators in the country" conducted the training; and several police officers volunteered to participate in the role plays.¹¹⁹ This was the first civilian-police mediation training program of its kind in the country.

Mediations were scheduled by the mediation vendor and held in various locations around the city. Brochures on the mediation process and how to mediate constructively, were provided. The aim of the Monitor's Office was to mediate within a few weeks of a complainant's agreement – the median timeframe in 2007 was 40 days. Timeliness, which has continued to improve since then, was crucial for two reasons:¹²⁰

"First, having fresh memories of the incident promotes more constructive dialogue. Second, the quick resolution adds to both parties' satisfaction with the process."

The Monitor's Office and the Internal Affairs Bureau of the Denver Police Department worked collaboratively to filter complaints and assign those requiring informal handling to mediation

¹¹⁷ OIM (n 113) 7-4.

¹¹⁸ OIM (n 30) 1-12.

¹¹⁹ Ibid.

¹²⁰ OIM (n 113) 7-4.

– with the first civilian-police mediation in late 2005.¹²¹ The filtering process did not, however, strictly prevent more serious misconduct matters from mediation. While participants had to agree to mediation, it was possible for serious cases to proceed with the agreement of the “Manager of Safety, the Chief of Police and the Monitor”.¹²² Unlike many other jurisdictions, the Denver Office of the Independent Monitor encouraged consideration of a wide range of cases for mediation, such as use of force. Their philosophy was that the:¹²³

“[C]ategorical exclusion of cases means losing valuable opportunities for community members and police to better understand each other’s perspective, to explore how they might prevent similar problems in the future, and to reach a satisfying resolution.”

The Office of the Independent Monitor and Denver Police Department would not, however, allow for serious issues of corruption or misconduct to “disappear into the confidential process of mediation”.¹²⁴ The screening and intake processes were regularly reviewed by the Monitor’s Office, which also created ‘Case Monitoring Guidelines’ (based on the Portland model) to ensure the case assignment decisions of the Denver Police Department met the criteria.¹²⁵ The Monitor’s Office acknowledged that the guidelines were not “mechanical rules”¹²⁶ and that no two complaints were identical, but they provided the principles to enable “informed judgments that are rational, independent, consistent and transparent”.¹²⁷ The Monitor’s Office also acknowledged that while the swift and certain resolution of complaints benefits all parties, they have an obligation to “use public resources wisely, which means making choices about priorities”.¹²⁸ Cases were therefore approved for mediation on the basis that they would likely¹²⁹: (1) Result in greater complainant satisfaction; (2) Result in improved officer conduct; and/or (3) contribute to community policing goals of improved community-police relations.

¹²¹ OIM (n 30) 5.

¹²² Ibid 1.

¹²³ OIM (n 113) 7-2.

¹²⁴ Ibid 7-3.

¹²⁵ OIM (n 30) 1-5.

¹²⁶ DPD (n 97) 7.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ OIM (n 113) 7-3.

The guidelines, as well as the case-selection protocols and mediation operation procedures,¹³⁰ were placed on the Monitor's website for public access. A Community Relations Ombudsman was also appointed to educate the public and to meet with police to discuss their issues, the guidelines and protocols.¹³¹ To ensure the efficacy of the mediation program the staff of the Monitor's Office regularly observed mediations during the first nine months of operation. The appropriateness of case selection and the conduct of mediators were examined; and participants and mediators were asked to complete evaluation surveys. Monthly meetings involving the Monitor, police and mediation vendor were organised for the purpose of improving and expanding the program.¹³²

The collaborative approach of stakeholders resulted in the following management of complaints in the first year of operation: 997 complaints were investigated by the Denver Police Department, of which 689 involved formal investigation and 308 were classified as informal complaints. Of these, 593 were civilian complaints (18% sustained; 28% not sustained; 24% unfounded) and 13 were referred to mediation. Four of these were completed by the end of December 2005 and virtually all complainants and police reported 100 percent satisfaction with the process.¹³³ In 2007, the Office of the Independent Monitor reported that 91 percent of police officers had accepted complainants' requests to mediate. Police officer willingness to participate was not generated by a desire to avoid discipline but rather as a service to the community. Further, due to mediation, dissatisfaction rates had "plummeted" to ten percent for complainants and four percent for police officers.¹³⁴ By 2017, the annual figure for completed civilian-police complaints mediations had reached 53, which represented a 43 percent increase from 2016.¹³⁵

¹³⁰ Office of the Independent Monitor, Denver, *Office of the Independent Monitor & Community Mediation Concepts – Standard Operating Procedures* (2005), 1-7.

¹³¹ OIM (n 30) 8-2.

¹³² OIM (n 113) 7-10.

¹³³ OIM (n 30) vi.

¹³⁴ OIM (n 113) 7-3.

¹³⁵ Office of the Independent Monitor, Denver, *Annual Report 2017*, 26, 68.

*Findings 2: Semi-Structured Interviews**1. Denver Police Department*

The two police officers interviewed ¹³⁶ were not in senior positions at the time mediation was introduced and admitted to knowing very little about its implementation. Additionally, neither has been involved in a mediation. However, they were able to discuss the civilian complaints process and how mediation has been ‘sold’ to and received by police officers.

Interviewee 1 advised that complainants have three options available for the resolution of a complaint – formal investigation, informal resolution or mediation. However, it was emphasised that “once you commit to one, that’s the option”. Complainants do not have the option of attempting another course of action if they are dissatisfied with the initial outcome. Mediation has a restorative value because “the outcome of that, like any relationship or any conversation is going to be a positive thing”.

Mediation was stated as being an accepted part of police procedure. Although, Interviewee 1 noted that police “hate change” and were likely sceptical of the role of the new Monitor’s Office and mediation program. Nonetheless, crucial to the program’s acceptance has been the way in which mediation has been ‘sold’ to police officers. Interviewee 1 said:

“if you sell it as ‘it’s something else you have to do, you have to go and listen to this person complain’ ... then it’s a negative thing, but ... if officers understand that if it goes to mediation then that’s where it ends, it’s probably the best benefit for it.”

Mediation was not viewed a “safe route” for officers to avoid discipline because under the Monitor’s protocols, the complaint would not proceed to mediation. If mediation was appropriate and the police officer refused to attend, a conversation between Internal Affairs staff and the officer would take place to help the officer “understand why it is beneficial to you”. However, as the process is voluntary, police officers are never directed to attend mediation.

Interviewee 2 discussed the significance of the intake process as a step toward mediation. An up-front apology to the complainant – that they had a negative experience with police, was reported to “soften the complainants up for mediation.”

¹³⁶ Conversation with Interviewees 1 and 2 (Denver Police Department (DPD), Denver Police Department Headquarters, Semi-Structured Interview, 20 December 2018).

Complainants reportedly become more responsive to the idea of mediation and investigators are spared the volume of work involved in investigations. Police promote mediation because “the number [of complaints] that go to mediation equates to the speed at which things are resolved”.

The independence of the mediation process posed no concern to the interviewees. Police officers are informed that mediations are conducted by a third party contracted company “so there is no bias from the Department”. In fact, the feeling was that the absence of a police presence was beneficial to both parties – the complainant would not feel as though the process favoured the officer; and the officer could “be honest in their answers” without the fear that there would be repercussions at work.

Police officers report back informally to Internal Affairs Bureau after mediation sessions. Many officers have reported that they gained an understanding of why the complainant was upset, and that after they explained their actions “we left shaking hands and seeing eye to eye”. There were, however, some reported incidents of complainants simply yelling at the officers. Overall, the interviewees held the view – “it’s not for everybody but it benefits everybody for cases to go to mediation”.

2. Office of the Independent Monitor

The background to the establishment of the Office of the Independent Monitor was discussed by Interviewee 3,¹³⁷ who had longevity with the agency. It was reported that during the early 2000s, the United States Department of Justice had been prepared to intervene in Denver following a string of controversial police shootings. The city responded with a proposed moratorium while they implemented the Monitor’s Office. The comprehensive approach to its implementation, including the establishment of the civilian-police mediation program; contracted mediation vendor; and full support of the Denver police union – the Police Protective Association, prevented the need for further federal government action. The program was ‘sold’ to the Denver Police Department as an outreach process.

¹³⁷ Conversation with Interviewees 3 to 6 (Office of the Independent Monitor (OIM), Denver, Semi-Structured Interview, 19 December 2018).

Interviewee 4 said that is “how we like them to view it ... this is your [police] chance to make a friend in the community”.

The mediation of civilian-police complaints was described as a jurisdictional matter. Interviewee 3, who had discussed the Denver mediation program with NACOLE members, said that some programs were “so specific to their jurisdiction that ...it wouldn’t be something that would transpose pretty easily”. The Denver mediation program has, however, been adopted by other jurisdictions.

The importance of the Monitor’s Office support for the continuity of the mediation program was raised by Interviewees 5 and 6. Mediation continues to be covered by the city ordinance, but without promotion by the Monitor’s Office it could disappear. The ongoing efforts by the Monitor’s Office to build the program have, at times, required some “pushing on the police department”. It was reported that mediation may not always be offered by the police because “sometimes they want to handle things internally because its more convenient”. The challenge for the Monitor’s Office has been the varying attitudes towards mediation over time by those in command at the police service. The aim of the Monitor’s Office has been to mediate “at least 10 percent of complaints”. Interviewee 6 said the reason the figure is not higher, rests with the voluntary nature of mediation. However, for those that are referred “it is fairly rare that a mediation is not successful and is sent back for investigation”.

The mediation referral process has been streamlined over time with the Denver Police Department referring cases directly to the mediation vendor. The Monitor’s Office is then notified and retains the right to decline mediation for some cases. Interviewee 3 advised that on rare occasions in the past, cases had been referred to mediation following completion of the investigation. Those cases usually involved children and the belief was that mediation would provide “a chance for the police department to do outreach, or it may be a high-profile thing – but rare now as the police chief wants matters closed”.

The Interviewees concurred that the Monitor’s Office constantly investigates ways to improve the complaints mediation process. Data are collected from the surveys completed by all participants at the end of mediations and satisfaction rates are tracked – which were

reportedly still very high. The Monitor's Office strives to "speed up the process ... [and] get more people into that pipeline, so we just fix things as we go along, if it turns out to be an issue, we will consider changing it".

3. Community Mediation Concepts

Community Mediation Concepts conduct between 700 and 800 complaints per year. Approximately 50 of these are complaints against the police. The Interviewees¹³⁸ advised that the program has been well received with 98 percent police officer participation. The challenge has been getting complainants to commit to participation. The Interviewees have found that "the more people who talk to the complainant on the police side, the less likely they [complainants] are to go to mediation". Complainants become frustrated by having multiple conversations and lose trust in the police service and the complaints process. Also, the longer the time period between the incident and mediation, the more difficult it becomes for the mediator to get complainants "to the table." Community Mediation Concepts have expedited the process, through "trial and error". They have taken the Office of the Independent Monitor "out of the loop" and now get 75 percent of referrals directly from the police. The process from lodgement to mediator contact averages 2-3 days – down from the previous 30-45 days; with mediation scheduled in 7 to 10 days. Interviewee 8 added that seven to eight percent of complaints are now mediated on the phone: "some people lodge complaints at the airport and then return to their hometowns and want to mediate – so it's done over the phone".

Community Mediation Concepts has a small but skilled group of mediators who conduct civilian-police complaints mediations. The mediators work very hard to build personal connections with the police because as one Interviewee summed up:

"within the police culture they're only going to trust you if you take charge over them, just like their supervisors, it's one of those weird nuances that we've learned over time. You have to be nice, you have to be benevolently in charge, but if you don't establish that authority right up front, they're not going to respect you, they're not going to listen to you ('...')."

¹³⁸ Conversation with Interviewees 7 and 8 (Community Mediation Concepts (CMC), Denver, Semi-Structured Interview, 21 December 2018).

Restorative elements are at the core of mediation, however, Interviewee 7 said: “we don’t mediate an outcome, we mediate a level of communication, understanding and empathy”. The process is structured to “facilitate apologies or transformation or learning, but we don’t ever expect that”.

The use of civilian mediators has been well received by police officers in Denver. Interviewee 7 said “there’s a sense of relief that you [mediators] are not internal”. Interviewee 8 felt that police officers could not “adequately mediate these kinds of situations, not because they lack the skills, it’s because of perception”. Police officers are stoic; they attend mediation in uniform, wearing Kevlar vests and carrying a gun – because that is how the public encounters them. However, for mediation to be effective, mediators help police shift from “I’m a police officer, into a mom, a dad, a human – we call it giving them a human face”. Nonetheless, police officers are not used to having an individual question their authority. Therefore, civilian-police complaints mediations take no more than one hour and “get straight to the point”.

Mediation sessions are confidential which creates a “safe place” for all participants. The Interviewees advised that under Denver law, neither mediators nor their notes can be subpoenaed in court. Community Mediation Concepts requires participants to sign a mediation agreement which forbids the electronic or digital recording of sessions, and police officer must remove their body-worn cameras during mediation.

Community Mediation Concepts provides mediation education to officers at the police academy before graduation and “lateral training sessions” when officers face promotion, to reinforce its presence and role. The Interviewees agreed that a successful, ongoing civilian-police complaints mediation program must have the enthusiastic support of the police Chief, command staff and police unions. Police officers rely on those higher in the police hierarchy to convince them of the benefits of mediation. Therefore, education and promotion, as well as program development, remain constant because as Interviewee 7 said, mediation programs “dry up if you don’t take care of them”.

CONCLUSIONS

The results of this study of the Denver civilian-police complaints mediation program were insightful from the perspective that the institutional implementation and ongoing ‘care’ of the program are at the core of its success. The interview findings largely support the documentary evidence that the Denver program has both achieved milestones and requires ongoing work.

The investigation of the Denver program revealed that from adversity comes success. The difficult politico-economic-social environment of the early 2000s, led to the establishment of a solid structure around police complaints that would provide better transparency and accountability of police practices and better community involvement in the resolution of issues directly affecting them. The establishment of the Office of the Independent Monitor; support from the Chief of Denver Police Department and various police unions; and the engagement of Community Mediation Concepts were integral steps in the implementation of a complaints program likely to endure.

The Denver program has encountered the obstacles identified in the literature review during its fourteen years of operation. However, an experiential approach has been taken whereby lessons have been learned and improvements made. Police and community awareness and education on mediation, and specifically mediation of civilian-police complaints, has grown significantly over the past twenty years. Therefore, the ‘lack of understanding’ obstacle, as noted by Walker and Archbold,¹³⁹ has become negligible. The Office of the Independent Monitor and Community Mediation Concepts constantly promote mediation to the police from new recruits to senior staff. They also advertise mediation guidelines on their websites for the benefit of the public. Police opposition to mediation has lessened to the extent that officers are often more willing to participate than complainants. The incentive for them is that the matter is finalised after mediation and no record of the complaint appears on their service record.¹⁴⁰ Mediation has improved the timeliness of complaints resolution – “the removal of minor complaints to mediation has freed up time for the more serious complaints requiring

¹³⁹ Walker and Archbold (n 7) 236.

¹⁴⁰ Walker et al, (n 11) 34.

formal investigation.”¹⁴¹ Also, the range of complaint types mediated has addressed specific issues faced in Denver, which emphasises the fact that mediation programs benefit from a local focus.¹⁴² For example, the mediation of racial bias complaints has improved the civilian-police relationship as complainants have reportedly been satisfied that the matter has not been covered up and police officers have appreciated the opportunity to discuss the allegations.¹⁴³ In some instances, police union opposition has been identified as a major deterrent to police officer participation in mediation.¹⁴⁴ However, the unions in Denver continue to support the program due to the routine communication of survey data by the mediation vendor and Monitor’s Office. Finally, the contracted availability of professional mediators¹⁴⁵ and funding under the city ordinance has alleviated the issue of resources.¹⁴⁶ The replication of any of these areas could be useful in other police jurisdictions.

There are, however, areas of the Denver model where improvements could be made. Some doubt was expressed about the purpose of the Monitor’s Office and its goal in implementing the mediation program. There was concern that the aim of the Monitor’s Office was to scrutinize the police to find fault and that mediation was the mechanism for this. The impact was the varying attitudes towards mediation over time by those in command at the police department. As noted by Walker et al.,¹⁴⁷ this level of support is vital to the success of any mediation program. As such, improved communication between all stakeholders would provide reassurance that the confidential, non-adversarial nature of mediation enables complainants and police officers to better understand each other, not to impose a sanction.¹⁴⁸ This is particularly important as the professionalisation of police over time has brought with it an impersonal style of policing,¹⁴⁹ something which can lead to misunderstandings and loss of community trust. Interestingly, there was some variation in views between police and mediators around intake

¹⁴¹ OIM (n 91) 60.

¹⁴² Young et al, (n 27) 309.

¹⁴³ OIM (n 113) 7-3.

¹⁴⁴ Walker and Archbold (n 7) 236.

¹⁴⁵ Schaible et al, (n 3) 629.

¹⁴⁶ Walker et al, (n 11) 55.

¹⁴⁷ Ibid 44.

¹⁴⁸ Proctor et al, (n 95) 3.

¹⁴⁹ Walker and Archbold (n 7) 241.

discussions with complainants. The police felt they ‘softened’ complainants in preparation for mediation while mediators suggested that too much talking by police can be detrimental to getting a complainant to mediation. Further discussion between the stakeholders would refine this aspect and help to address the significantly high number of complaints (69%) that are rejected at intake. Some of these complaints may contain legitimate grievances which could be addressed through mediation.¹⁵⁰ Changing the investigative mindset of intake officers may also help reveal what complainants want as an outcome (e.g. a face-to-face encounter to voice their grievance; ¹⁵¹ have it acknowledged and receive an apology.¹⁵²) Mediation sessions that are conducted by trained mediators with knowledge of police culture can break down the ‘us and them’ barrier. The further inclusion of restorative justice principles in mediation that strive for reparation through healing would benefit civilian-police relations through the increased satisfaction of both parties. As noted by Young et al., civilians and police officers who participated in restorative justice mediations “felt they had learned something and were likely to change”.¹⁵³

The issue of complaints reduction and police behavioural improvements are crucial elements to the success of the mediation program, as the legitimacy of mediation is undermined if problematic behaviour behind complaints continues. The level of complaints against police in Denver have continued a downward trend since the commencement of the program. This has occurred while the number of uniformed police officers has remained at 700. ¹⁵⁴ The changes to police disciplinary processes; development of mediation guidelines and protocols; ongoing information sessions for police on the benefits of mediation; better transparency of the police complaints process through greater public awareness strategies; and refinements to expedite complaints to mediation; have arguably had a positive impact on complaint numbers.

¹⁵⁰ Waters and Brown (n 2) 635.

¹⁵¹ Patterson (n 63) 197.

¹⁵² Prenzler and Ronken (n 22) 171.

¹⁵³ Schaible et al, (n 3) 630.

¹⁵⁴ DPD (n 145).

The evaluation of the Denver mediation program is somewhat old and a new evaluation is recommended to analyse current data on complainant and police officer satisfaction levels. This would provide further insight into the program's responses to challenges that have arisen. Nonetheless, the areas for improvement identified in this study will not only benefit Denver but other police jurisdictions.

CHAPTER 8: CASE STUDY – LOS ANGELES AND NEW YORK CITY, UNITED STATES OF AMERICA

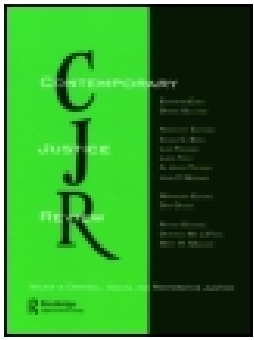
Riley, M., Prenzler, T., Douglas, S. (2020). Mediation of complaints against police: A review of programs in Los Angeles and New York City. *Contemporary Justice Review: Issues in Criminal, Social & Restorative Justice*. <https://doi.org/10.1080/10282580.2021.1884978> (Published February 2021).

The following journal article aimed to review new and existing mediation programs to determine how well the programs were operating in response to community needs. Issues of community trust and confidence in police complaints systems were explored as they underpin the civilian-police relationship which is important to law, order and peace. The structure of the Los Angeles and New York City mediation programs differ, so the article explores the efficacy of the approaches.

The main findings from the primary research study of the Los Angeles mediation program were that face-to-face mediation in a safe space was “invaluable” for both participants; and the independence of the program provided complainants with “an alternate experience from what they have been imbued with”. The findings from New York City were that the mediation program continues to mediate the largest number of cases in the country but obstacles to its usage relate to perceptions the public and police hold of the process. The location of the program within an agency that also has a punitive mission has made stakeholders cautious. However, once they participate in the program, their satisfaction levels are reportedly high. Both the Los Angeles and New York City programs mediate biased policing allegations – which represent a large component of the complaints received, indicating their focus on building civilian-police relations.

The manuscript entitled ‘Potential Cost of Failing to Heal Civilian-Police Relations’ – from which the following article was developed, was presented at the 8th *Annual Alternative Dispute Resolution Roundtable Research Network Conference* in December 2019 in Melbourne, Victoria (Riley, 2019).

The *Contemporary Justice Review* journal was chosen for this article for two reasons. Firstly, the author has previously published in the journal and achieved a satisfying level of citations. Secondly, the journal presents research from different countries and perspectives on social and restorative justice work, including conflict resolution methods that aim to find solutions to needs-denying, power-based social arrangements; fostering justice in daily life; and critiques of criminal justice institutions and law. The journal informs a global audience of government and law enforcement agencies, practitioners, academics and anyone devoted to the concepts of humanism and restoration. The following journal article fits the scope of the journal as it identifies issues that affect the civilian-police relationship and just responses such as independent mediation that can address stakeholders’ needs and rebuild relations.



Contemporary Justice Review

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Mediation of complaints against police: a review of programs in Los Angeles and New York City

Mary Riley , Timothy Prenzler & Susan Douglas

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ARTICLE



Mediation of complaints against police: a review of programs in Los Angeles and New York City

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ABSTRACT

The investigation of complaints against the police is important to law, order and justice. The public expects high ethical standards from its police service and when breaches occur, complaints often follow. How the police respond to complaints can influence the trust and confidence that underpins the civilian-police relationship. This paper examines some of the key issues faced by police services in the management of complaints and reviews the effectiveness of mediation as a measure to rebuild relations. The Los Angeles and New York City Police Departments were selected for the study because there are very few civilian-police complaints mediation programs in operation and these sites had reports on the public record that indicated some success. A qualitative case study approach was used, incorporating public source material and interviews with key informants. The findings show that the inclusion of external mediation in police complaints systems offers complainants a transparent, impartial and often restorative mechanism to resolve complaints. However, any perceived conflict surrounding the independence and equity of the mediation vendor can engender police and complainant mistrust in the process. As such, ongoing public and police education on the aims, process and benefits of mediation is required to sustain its use.

ARTICLE HISTORY

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Civilian; police; complaints; relations; trust; mediation; restorative justice

Introduction

Police services are mandated to uphold the law, detect and prevent crime and bring violators to justice. The exercise of these powers can be met with resistance and give rise to highly emotional situations (Berger, 2000). Nonetheless, the police are expected to exercise high ethical standards and when breaches occur, their relationship with the public can be harmed. The police and civilians ‘have no “exit” opportunities in their relationships with each other’ (Goldsmith, 2000, p. 38). This means the two will forever need to work together toward law, order and peace. Successful policing depends on the public’s deference to the law and support of police (Tyler, 2006; Birgden & Lopez-Varona, 2011). Damage to the civilian-police relationship frays the cooperation needed to achieve this.

Over the past three decades, in response to calls for improved transparency and accountability in policing (Goldsmith, 2000), police oversight agencies and alternative dispute resolution processes for dealing with complaints have been established in many

jurisdictions. Internally managed informal and non-adversarial approaches have been used which represent a move away from the traditional full investigative method (Walker et al., 2002). However, the police maintain 'ownership' of the conflict resolution process. The perceived bias in the approach often creates doubt over its objectivity and tests complainants' trust – as senior police are believed to side with the subject police officers (Liederbach et al., 2007). Further, the process does not accommodate discussion over the personal impact of the incident on the complainant. The potential costs of failing to meet complainants' needs include mistrust and a break-down in the civilian-police relationship, which can manifest as doubt about police legitimacy, non-compliance with the law, friction between ethnic groups and the police, reluctance to alert police to crimes or cooperate with investigations (Murphy & Cherney, 2012; Proctor et al., 2008; Schulenberg et al., 2015; Tyler, 2006). Some police departments have responded to meeting complainants' needs by implementing mediation as a complaint resolution option. The Los Angeles Police Department (LAPD) offers internally and externally facilitated mediation options and the New York City Police Department (NYPD) offers the external mediation option. Both Departments use external mediation to deal with two high complaint rate areas – racially biased policing and discourtesy. These sites were chosen for this study in view of the high rates of complaints processed and the fact that there are only a small number of external civilian-police complaints mediation programs in existence; and that reports on the public record indicate that both Police Departments have had some success with external mediation of complaints.

Literature review

Trust, in the context of policing, is the belief that the authority will act in the best interests of the community (Birgden & Lopez Varona, 2011). Trust in policing is an issue for civilians' confidence in members of the police and confidence in police systems, including complaint systems. As a relational concept, trust is typically linked to police behaviour and the treatment of civilians (i.e., whether reliable, honest and effective or unethical and possibly abusive). In addition, trust in the police and police systems is arguably a function of procedural justice, about which there is a plethora of research (Jackson et al., 2012; Schulenberg et al., 2015; Skogan, 2004). The relevance of trust to procedural fairness is considered below, followed by an examination of trust under the 'four principal stages of processing complaints against police' (i.e. 'making', 'recording', 'investigation' and 'response' to complaints) (Goldsmith, 2000, p. 207). Trust is then examined as a core component of ethical practice in mediation; mediation being the complaint resolution process adopted by police systems.

Procedural justice deals with the 'interpersonal dynamics between the public and police' (Goodman-Delahunty et al., 2013, p. 84) and focuses on interaction rather than the outcome. It embodies elements that are important to all civilians, such as impartiality, respect, the opportunity to be heard and taken seriously, and having a role in decision-making with police officers and the service (Goodman-Delahunty et al., 2013; Schulenberg et al., 2015; Sunshine & Tyler, 2003; Tyler et al., 2015). Trust occurs when police officers model these elements (Birgden & Lopez Varona, 2011) and the level of trust has the potential to affect the public's views of police legitimacy and compliance with the law (Tyler et al., 2015). Police legitimacy pertains to the public's 'acceptance of, and respect

for, the authority of the police' (Goodman-Delahunty et al., 2013, p. 84). This results from the public's perceptions and experiences of the exercise of power by the police. Fair and respectful treatment and transparent decision-making by police encourage law-abiding behaviour (Tyler et al., 2015).

A 2009 study in the United Kingdom, examined a procedural justice model of compliance with the law (Jackson et al., 2012). The study differentiated between two compliance motivators – 'obligation' and 'shared moral values' between police and the public. The term 'obligation' referred to the public's obedience of police and the law, secured by the presence of sanctions; while 'shared moral values' referred to the public's obedience which stemmed from the belief that obeying the law 'is the right thing to do' (Jackson et al., 2012, p. 1052). Trust was examined under the category of shared moral values as a motivator by asking participants questions related to police friendliness, fairness, informed decision-making and whether police took the time to explain their actions (Jackson et al., 2012, p. 1067). The study found that:

procedural fairness is a strong predictor of moral alignment with the police, and a moderate predictor of obligation to obey the police ... When police provide individuals with appropriate status information (through fair procedures and respectful personal treatment), they seem more likely to perceive the police to be legitimate. They are also more likely to comply with the law, with the effect flowing largely through moral alignment (...) if the police are seen to act in ways in conflict with social norms around fair treatment and decision making, this generates a powerful cynicism: 'If the police can behave unfairly, so can I'. (p. 1061)

In addition, the Jackson et al. (2012) study found that appropriate treatment generated a shared sense of understanding about right and wrong. It engendered notions of reliability, consistency, confidence and a moral alignment or trust in the police, which positively affect compliance. Arguably, inappropriate treatment can lead to mistrust and unwillingness to obey the police. Similarly, negative contact can diminish the legitimacy of the police in the eyes of the public and potentially affect the reporting of grievances and increase crime. In that regard, complaints are considered important indicators of police-civilian relations and as such should be encouraged – as lessons can be learned from every complaint, even if they are not substantiated (Faull, 2013). However, mistrust of police complaints systems can occur at any of Goldsmith's (2000) four complaint processing stages, making, recording, investigation and response to complaints, and involve all players connected to the complaints process – police officers, police service, oversight agencies and other complaint resolution organisations.

Firstly, civilians will avoid making complaints due to a lack of trust in the police. Civilians develop mistrust for police officers when they experience physical or verbal abuse, unfair treatment or discrimination from perceived cultural differences. Consequently, complainants often view lodgement of complaints as futile due to mistrust of the investigation process and fear of police reprisals (Goldsmith, 2000; Schulenberg et al., 2015); and the triviality with which many complaints are viewed – especially complaints by youth, disadvantaged or marginalised groups (Pettersson, 2014). As Goldsmith (2000) reports, civilians are less likely to make a complaint to police 'when public confidence in the police is low; in other words when there is most need for complaints to be gathered and analysed systematically' (p. 208).

Secondly, not all complaints against police are recorded. At intake, complaint reception protocols affect whether complaints proceed to investigation. Decisions around the credibility of complaints are made and some matters are finalised without apparent need for further inquiry or action. However, most people who make a complaint believe they have a legitimate grievance. It follows then that many of these complainants are dissatisfied when their concerns are taken no further (Porter & Prenzler, 2016); although it may also be the case that some complaints are vexatious or lodged to delay or avoid legal proceedings. Nonetheless, for many complainants, they cannot 'feel identified with officials whom they regard as unresponsive to their problems and unwilling to help and protect them' (Tyler, 2003, p. 164), and this view extends to the complaints process.

Thirdly, most civilian complaints against police are resolved by way of internal police investigation. However, the lack of independence in the process has exacerbated some of the existing trust issues with police. In the United Kingdom, Brown (1988) found that informal resolution had no deterrent effect for police officers; Maguire and Corbett (1991) found it failed to gain the public's confidence; and Waters and Brown (2000) found that 75% of complainants had lost confidence in the police after lodging their complaint as they felt their case had been unfairly handled. A later review revealed the process had continued to show the same problems – mistrust from the public and a lack of operational police officer understanding and support (Warburton et al., 2003). Similar problems have been found in other jurisdictions, such as in Australia, where Goldsmith (1996) found that informal resolution did little to improve public trust, and that the link between the motives for complaints and range of responses, needed to be explored (see also Porter & Prenzler, 2016). That is, a better understanding of complainants' needs would lead to more focused resolution options.

Lastly, complainants develop mistrust when they are dissatisfied with the way their complaint has been dealt with by the police service, oversight agency or other organisation viewed as related to the police (Goldsmith, 1996, p. 38). Perceived bias towards police compounds poor treatment during the complaints process, and inadequate resolution can impact complainants' sense of self-worth (Jackson et al., 2012). This can lead them to question whether the police service is 'in a position to dictate proper conduct' (Jackson et al., 2012, p. 1053). One agency that has deviated from this tendency and achieved positive results in civilian-police complaint resolution is the Police Ombudsman of Northern Ireland. This oversight agency, which is statutorily independent of the government, hence the Police Service, was established in 2000 to 'earn the confidence' of the public and the police themselves (Police Ombudsman for Northern Ireland (PONI), 2018, p. 9). Unlike most agencies, the Police Ombudsman of Northern Ireland investigates all complaints made against police, using their own specialist investigators empowered to 'secure incident scenes and seize documentation and property' (PONI, 2018, p. 9). The agency has the power to recommend prosecution, discipline and training for police officers and procedural improvements for the police service (PONI, 2019). Complainants and subject police officers have an opportunity to engage in informal resolution arranged with the Police Service of Northern Ireland's Improvement Department to resolve their conflict (PONI, 2019). A mediation pilot was trialled from September 2008 to March 2009, but the number of mediations conducted was insufficient to draw conclusions about its usefulness (PONI, 2010). However, the independence and control that the Police Ombudsman of Northern Ireland has over the investigation and handling of all complaints

continues to meet the public's expectations – as reported in the 1997 Hayes Report. The public wanted investigations 'to be independent and to be seen to be independent' (PONI, 2019, p. 7). More than two decades on, the Police Ombudsman of Northern Ireland's aim to achieve above an 80% target for 'public awareness' of the Office and its 'independence', 'public confidence' in its 'impartiality', and complainants' experiences of 'fairness', continues to be achieved (PONI, 2019, p. 9). The Office's success makes it a model system of complaints management.

Elsewhere, external mediation has been used to 'improve civilian-police relationships one case at a time' (Proctor et al., 2009, p. 1). Mediation has been found to benefit complainants through open discussion of their experience of an incident with the subject officer in a 'controlled setting calculated to increase mutual understanding and bring closure to painful incidents' (Police Training Commission (PTSC), 2017, p. 4). For example, the external police complaints mediation program introduced in Baltimore in 2016, following the death in custody of African American, Freddy Gray, and subsequent riots, provided the community with an opportunity to 'talk about race in a very painful but constructive way' (Charkoudian, 2016, p. 1). It offered a pathway to justice and reparation of the civilian-police relationship which had not previously existed.

The Los Angeles Police Department has also been progressive in addressing the needs of its community through the use of mediation. The Department introduced an internally facilitated mediation program in 2002 in response to growing biased policing complaints but took a further step in 2017 to introduce external mediation to better address these and other types of minor complaints. The Department surveyed other agencies that were maintaining successful external mediation programs (e.g., New Orleans and Denver) to learn from their implementation and practice experiences (LAPD, 2017b). A promotional video on external mediation was developed which included interviews with complainants and police officers outlining the benefits of the independent process.

The success of mediation depends on the participants' trust in the process and the mediator (Boulle, 2011; Poitras, 2009). Trust is related to mediation's core principles of ethical practice (Douglas, 2017a, 2017b). The classic model of mediation is the facilitative model in which mediators have control over the process of mediation but not its content or outcome (Boulle, 2011). Mediators assist participants to deal with a dispute by identifying interests, exploring options and reaching agreement. Mediators assist participants to 'understand the underlying issues, deal with stereotypes and misperceptions, and overcome any perceptual barriers' (Community Oriented Policing Services (COPS), 2008, p. 6). The neutrality and impartiality of the mediator have been defining principles of mediation (Boulle, 2011). They remain core principles in overseas jurisdictions (e.g., Waldman, 2011). However, mediator neutrality has been questioned by Crowe (2015) in the Australian context in favour of alternative systems of ethical practice (see also Astor, 2000; Field, 2011), but evidence from well-managed sessions by professional mediators indicates that potential biases can be overcome. Nonetheless, impartiality of the mediator is a key differential between external and internal police complaint systems. The possible bias of an internal police investigator towards the respondent police officer, has the potential to erode the complainant's trust that the process will be fair and the outcome just.

Douglas (2017a) has proposed the relationship of trust between mediator and participants as the central organising principle for ethical practice in mediation. She identifies that relationship of trust as dependent upon the impartiality of the mediator (amongst

other things) (Douglas, 2017a). Trust, she argues, is engendered by the impartiality of the mediator and his/her ability to express empathic understanding. Crowe (2017) articulates a 'practice model' of mediation which is based on ethical standards that emerge in response to scenarios in actual practice (p. 149). This is particularly important to civilian-police complaints mediation that should be 'situational' rather than 'rule-oriented' and develop through 'organic' guidelines rather than timeless rules (Crowe, 2017, pp. 154, 160). A relationship of trust with the mediator assists participants to engage with the process and to leave the mediation satisfied that they have been 'heard' and procedural justice has been achieved. Complaints against police are 'essentially civil disputes within a criminal justice context' (Riley & Douglas, 2019, p. 15). As such, mediations of these complaints involve addressing issues of responsibility for the substance of the complaint. This in turn demands a clear and transparent ethical framework for the process. Internal police complaints systems cannot be fully independent of the vested interests of the police service and individual members involved. The intrusion of bias in favour of the police is a realistic concern for complainants.

Mediation facilitated by police officers differs in several ways from mediation that is institutionally independent of the police. Police officers are skilled in investigation but often have limited knowledge of mediation. Unlike an investigation, mediation 'is far less concerned with facts, and focuses not on the past but on the future, with the central figure mediator making no determinations on anything at all' (Patterson, 2006, p. 206). External mediators often train police officers for inhouse mediation yet issues of neutrality and impartiality, being heard, fairness, and improving police behaviour remain for complainants. Mediators who facilitate civilian-police mediations are professionally trained to be impartial, and use active listening, problem-solving and transformative conversation skills (that often reflect restorative justice principles) (Volpe, 2016). They often have a basic knowledge of police culture and procedures that enable them to guide the parties to mutual understanding. The use of these skills by external mediators helps to allay many complainant and police officer concerns. External mediation also 'creates an opportunity for mediators to play a role in bridging the divide and re-imagining police-community relations' (Volpe, 2016, p. 1).

The effect of external mediation on the civilian-police relationship has been examined in a limited number of jurisdictions through mediation program evaluations and reviews, including the 2005 evaluation of the Civilian Complaint Review Board-facilitated New York civilian-police mediation program (Bartels & Silverman, 2005). The evaluation survey considered several indicators of satisfaction including the level of trust in the Civilian Complaint Review Board mediator. Eighty-eight percent of complainants ($n = 16$) and 87% of police officers ($n = 15$) said they trusted the mediator and felt listened to in the process (Bartels & Silverman, 2005, p. 627). In the same year, a police-facilitated, pilot restorative justice complaints conferencing process in the Thames Valley was compared with a traditional approach to complaint resolution in Hampshire, England. While the pilot did not consider trust specifically, it did measure levels of 'restorativeness' between complainants and police officers in meetings where wrongdoing was not disputed. The evaluation found that complainants' negative attitudes toward police at the outset dropped from 65% to 52% for those who attended conferencing compared to an increase from 71% to 88% for those who had their complaint dealt with via the traditional process (Young, et al., 2005, p. 300). Also, there was a 52% ($n = 16$) 'positive movement or mutual

understanding between complainant and officer expressed in words' and 52% of officers made a 'spontaneous apology' to the complainant (Young, et al., 2005, p. 300). The 2014 review of the Community-Police Mediation Program in New Orleans revealed that external mediation is 'powerful' because open dialogue enables the behaviour of each person to be 'put into a new context that is more understandable' and this can 'lead to forgiveness and healing' (Furman & McCrary, 2015, p. 193). The 2012 evaluation of the Denver Citizen/Police Complaint Mediation Program that considered the interaction effects between mediation and race, Latino and African American complainants reported high levels of trust in the process as they related well to the dialogue-based resolution approach (Schaible et al., 2012). Overall, satisfaction rates with participation in mediation were high, with complainants showing 'significantly improved satisfaction, even after performing multiple imputation and controlling for selection bias through case matching' (Schaible et al., 2012, p. 642). Interestingly, police reported higher levels of satisfaction on this question than complainants; and these results have continued. Anonymous exit interviews (at the end of mediation sessions) in 2019 revealed high satisfaction rates with the process (85% for complainants and police) and complainants felt 'they were heard, that they impacted the officers' future behavior and that they achieved closure through the process' (Office of the Independent Monitor (OIM), 2020, p. 13). These results make the Denver mediation program another example of a model system.

As noted in the introduction, the present study follows up on positive indicators in the Los Angeles and New York City Police Department complaints mediation systems to explore how the systems match up with the model systems identified in the literature.

Method

The study aimed to add to the research base on the mechanisms, including mediation, used by police departments to resolve complaints; and the importance of independent programs in meeting complainants' needs to be heard and police behavioural improvements. The Northern Ireland and Denver Police Departments are impressive exemplars of independent police complaints programs as they have consistently achieved positive results in the area of complainant and police satisfaction with the processes and outcomes. These Departments have faced similar complaint allegations (e.g., excessive force and discrimination by police) to their Los Angeles and New York City counterparts and been successful, over almost two decades, in independently mediating resolutions. As such, the Los Angeles and New York City Police Departments were chosen for this study because they represent departments that have engaged in external mediation for various lengths of time and have publicly reported some success. The study sought to examine their processes to determine where these Departments fit in best practice police complaints management.

The Los Angeles Police Department and New York City Police Department are amongst the most high-profile, controversial and scandal-plagued police departments in the world. For example, since the start of 20th century, the two departments have been at the centre of police corruption inquiries related to prostitution, gambling, bribery, extortion and organised crime, including through the following Commissions: Curren (2013), Seabury (2013), Knapp (1972), Christopher (1991) and Mollen (1993) (Potter, 2013). The Rodney King beating and riots in Los Angeles, and the Tompkins Square Park incident in

New York, prompted the Christopher Commission and the Knapp Commission which examined the use of excessive force, racism and bias; and corruption, respectively, and made recommendations that resulted not only in discipline reforms but also procedural changes to the complaints systems.

The Los Angeles and New York City Police Departments are large organisations, in populous cities, that have high rates of daily contact with members of the public, and deal with the myriad issues that arise due to those interactions. Consequently, these jurisdictions generate high complaint numbers pertaining to treatment allegations. Both Police Departments have responded to the Commissions' recommendations and the changing needs of their communities through the implementation of external mediation of civilian complaints.

Since 1993, the New York City Police Department has continuously used external mediation to resolve civilian complaints. The longevity of the program, consistent high volume of complaints closed by mediation and the positive feedback from complainants about the process, indicate the value of the program. The Los Angeles Police Department moved to external mediation of complaints with a three-year trial from 2014. The program was subsequently implemented and while it has yet to be independently evaluated, it has the full support of the Police Commander – an important element to a program's success (Mather, 2015).

The study used a two-phase qualitative approach which consisted of content analysis of publicly available documents followed by analyses of semi-structured interviews with key stakeholders involved in the management of complaints against the Los Angeles and New York City Police Departments. The interview schedule was based in part on the findings from the initial documentary studies.

The following publicly available reports were accessed via the internet from the Los Angeles Police Department, Los Angeles City Attorney's Office, New York City Police Department and Civilian Complaint Review Board websites: Los Angeles Police Department Annual Reports covering the period 2015 to 2018; the New York City Police Commissioner's Report covering the period 2017 to 2018 and New York Civilian Complaints Review Board Annual Reports from 2001 to 2018. Further, program implementation plans and program evaluations, government reports and secondary sources specific to each jurisdiction were searched via the internet using the following keyword, and keyword combinations: 'civilian', 'police', 'complaints', 'relations', 'trust', 'restorative justice', 'mediation', 'informal resolution' and 'alternative dispute resolution'. In addition, internal and confidential documents, as well as documents that were previously in the public domain, were given to the researcher by the stakeholders at the time of the interviews. These included the following documents from the Los Angeles case study site: Los Angeles Police Department intra-departmental correspondence regarding implementation of the mediation program; *Community – Employee Mediation Pilot Program Implementation Plan* and the 2017 evaluation of the Pilot; 2018 *Biased Policing and Mediation Update*; pre and post mediation forms including the responsivity tool and exit questionnaires; an Internal Affairs mediation documentary video and the 2002 *Alternate Complaint Resolution Guide*. The documents provided by the New York City case study site included: *Memorandum of Understanding between the Civilian Complaints Review Board and the New York City Police Department concerning the processing of substantiated complaints*; *Rules of the Civilian Complaints Review Board*; *Civilian*

Complaints Review Board Guide to Mediation; 2017–18th annual report of the NYC Commission to Combat Police Corruption and the 2018 report on Discipline in the New York City Police Department.

The semi-structured interviews were organised via email over the period June to October 2018 and were conducted over 2 days on 27 December 2018 and 3 January 2019, which likely impacted participation. Only four participants from across the two sites were ultimately available for interview: two senior members from the Los Angeles Police Department (Interviewees 1–2) and one representative from the City Attorney’s Dispute Resolution Program (Interviewee 3) and, in New York, one representative from the Civilian Complaint Review Board (Interviewee 4). Representatives from the New York City Police Department were unavailable for interview. Complainants were not interviewed and their attitudes to mediation were obtained from program evaluations.

A group interview with members of the Los Angeles Police Department and the mediation vendor – the Dispute Resolution Program in the Los Angeles City Attorney’s Office – was held in the Police Department’s Headquarters. It included a senior officer from a neighbouring precinct, who had been a member of the service for approximately 23 years and provided background information on the establishment of the Alternate Complaint Resolution program – a process involving a complainant and subject police officer in a face-to-face meeting facilitated by a senior police officer. The other officer had considerable experience in the police service including the past ten years in Internal Affairs dealing with complaints. The representative from the mediation vendor, who had been with the organisation for five years as a mediator and trainer, was well placed to discuss its establishment, development and the mediation of complaints. The representative from the Civilian Complaint Review Board in New York City held a senior position in the organisation and had extensive knowledge of policy and program issues.

Interviewees were provided with copies of the interview questions prior to the meetings. The questions were designed to gain individual and organisational perspectives and experiences regarding the use of alternative dispute resolution processes. A sample of those questions included the following:

- (1) Can you explain the process that led to the establishment of external mediation?
- (2) Were there impediments to the implementation of an independent mediation program?
- (3) To what extent does the current ADR option incorporate restorative justice principles?
- (4) Why do the number of independently mediated complaints remain low in comparison to overall complaints made to police?

While the number of available interviewees was small, the seniority of those interviewed lent a degree of credibility to their contributions. The interviews allowed for a more nuanced understanding of the relationship between complainants and the police and the value of mediation. At the same time, the small number of interviewees was also a partial limitation of the study. The interviewees had a vested interest in conveying a positive image of their respective agency and their complaints systems. Their views might not have been representative of all those working in the area of civilian-police complaints. Further, in relation to the Los Angeles case site, negative comments were

limited which might have been linked to the group nature of the interview and a desire to present a united front. Similarly, the official and confidential documents provided at the time of the interviews were internally generated and therefore posed issues related to data breadth and the transparency of the process through which the documents were produced. Hence, readers are cautioned in relation to interpreting the findings. However, the mixed-method approach of content analysis of publicly available as well as confidential documents, and semi-structured interviews, when taken together, adds validity to the findings and conclusions drawn in this study.

Findings

The findings are analysed under two separate sections: documentary analysis and semi-structured interviews for each case site, respectively.

Findings 1: documentary sources and semi-structured interviews

Los Angeles police department

Documentary Sources

In 1991, public outcry over the Rodney King beating and the 'demand for evaluation and reform of police procedures' led to the creation of the Independent Commission on the Los Angeles Police Department (i.e., The Christopher Commission) (Independent Commission on the Los Angeles Police Department (Christopher Commission) (ICLAPD), 1991, p. vii). The Commission recognised the 'national character' of police violence and aimed to effect change that would ensure the King incident would not be repeated in Los Angeles or elsewhere (ICLAPD, 1991, p. i). To this end, the Commission conducted a comprehensive review of the Los Angeles Police Department including issues of excessive force, racist and biased policing, and complaints procedures which had failed the public at each step from 'initiation, investigation and classification of complaints' (ICLAPD, 1991, p. 153).

The Commission's comment that police should not ignore minor complaints led the Internal Affairs Group of the Los Angeles Police Department in 2002 to implement an internal complaints facilitation program (called the Alternate Complaint Resolution program). The program had community and union support, and training and coordination assistance from the Dispute Resolution Program. The term 'facilitation', rather than 'mediation', was used to avoid confusion with external mediation as the process was run by trained senior police officers. The aims of the process were understanding, problem-solving and reconciliation, with the latter defined as 'reaching some agreement that the two parties have listened and gained a better understanding of what brought about the complaint' (LAPD, 2002, p. 3). Both parties were required to agree to facilitation and the process dealt with 'non-disciplinary' complaints such as biased policing and discourtesy complaints (LAPD, 2002, p. 3).

These types of complaints against police largely related to traffic enforcement and patrol matters (LAPD, 2017b). However, complaints were not classified by allegation type until investigations were completed, which meant that issues such as race, language difference, and gender were not adequately recognised or appropriately addressed. From

2010, the Department started to review the intake process for early detection of biased policing allegations. At the same time, it considered an independent mechanism for dealing with these types of complaints that would remove any perceived favouritism toward police and show the Department's concerns over the seriousness of these grievances, which are often difficult to prove (LAPD, 2017a). The Police Commission was troubled with the lack of substantiated complaints from the 1,356 biased policing allegations lodged between 2012 and 2014 (Mather, 2015). The Commissioner was quoted in the Los Angeles Times as saying that 'it strains credibility to suggest that (...) there were zero instances of biased policing' and that 'it should not be surprising that there is diminished trust in the LAPD given these results' (Saltzman, 2015 as cited in Mather, 2015, p. 1).

Improvement to civilian-police relations was given high priority through the subsequent three-year trial (January 2014 to December 2016) of the Biased Policing Complaint Mediation Pilot Program. The program was undertaken with the collaborative efforts of several entities, including the Dispute Resolution Program. Mediators were provided with training 'for overview of law enforcement and police procedure' (LAPD, 2018a, p. 8). During the trial, all biased policing, including discriminatory conduct and biases, discourtesy and other minor complaints were dealt with through the independent mediation vendor – the Dispute Resolution Program (LAPD, 2013). In 2016, following changes to the California Penal Code, additional bias categories were included in the trial. These were 'age, gender identity, religion (...) physical disability and mental disability' (LAPD, 2017b, p. 7). Race/ethnicity was identified as the basis for most complaints of discriminatory conduct. Over the trial period, a total of 708 complaints were referred to external mediation, of which 363 complaints were deemed eligible. However, 263 complaints were reassigned, mainly due to complainant or police officer unavailability or unwillingness to participate. Overall, 73 complaints were deemed successfully mediated (i.e., completed) (LAPD, 2018a, p. 2).

A major goal of the program was to strengthen community relations and trust. The merits of face-to-face mediation in a safe space were reported in the pilot program evaluation as 'invaluable' for both participants (LAPD, 2018a). One hundred and eighty-five complainants and police officers responded to the evaluation survey which measured 'satisfaction with the process', 'fairness of the process', 'understanding of the other party' and 'likelihood of recommending [mediation] to others' (LAPD, 2018a, p. 4). Overall, '155 participants (83.8%) were either "very satisfied" or "somewhat satisfied" with the mediation process' (LAPD, 2018a, p. 4). The survey revealed that mediation changed the perspectives of many complainant respondents about police, with one complainant who had viewed officers as 'oppressor[s] who unfairly targeted Latino men' stating 'it was a liberating experience' and his 'feeling of being constantly targeted was lifted' (LAPD, 2018a, p. 8). Another story which illustrated the potential of mediation to restore trust involved a female complainant who felt intimidated and harshly treated by a police officer during a traffic incident, believing the treatment related to her gender. Her view of police diminished. However, the mediation experience changed her attitude. The officer apologised for his tone toward her, said he would be more careful in future and asked her 'to look beyond the incident'. Forgiveness and a renewed sense of safety in calling the police for assistance in the future were expressed by the complainant (LAPD, 2018a, p. 8).

After the pilot, approval was given to make external mediation a permanent part of the Los Angeles Police Department's complaint resolution process (LAPD, 2018a, p. 1). The scope and goals of the program were expanded, with a program name change to Community Police Unification Program. External mediation for the resolution of biased policing and discourtesy complaints was promoted, internally through an e-learning course and externally through the media and at advisory council and community forums (LAPD, 2013). In 2017, 285 complaints were referred for mediation, 171 complaints were deemed eligible although 130 of these were reassigned to full investigation. Forty percent of reassignment was due to complainants declining participation. The reasons given included: 'lack of trust in police' (15%), 'wanted full investigation' (35%) and 'too much bother' (25%) (LAPD, 2018a, p. 14). Overall, 29 complaints were closed with mediation. From the 2017 mediation survey responses, all complainants (100%) and most officers (97.4%) felt the process was 'somewhat fair' or 'completely fair' (p. 15). The process was also viewed as quicker and more cost-effective for the Department (LAPD, 2018a).

The Department reviewed the lessons learned from the external mediation trial including its potential to prevent future complaints and improve police behaviour (LAPD, 2017b). It found that the external mediation experience enabled officers to realise 'they could have handled some situations differently', and to recognise when to 'de-escalate tone and body language' and adopt a 'community education rather than enforcement' approach (LAPD, 2017b, p. 9). It was reported that the lessons 'could be integrated into roll-call briefings or in-service training' (LAPD, 2017b, p. 9).

Overall, however, external mediation was limited to biased policing and discourtesy complaints 'with no additional allegations of misconduct' (LAPD, 2018a). More serious complaints continue to be internally investigated.

Semi-structured interviews

The group interview with members of the Los Angeles Police Department (Interviewee 1 and 2) and City Attorney's Dispute Resolution Program (Interviewee 3) provided background information on the establishment of the mediation processes and the issues that underpinned the action.

Interviewee 1 confirmed that, following the Christopher Commission and the creation of the Office of the Inspector General to deal with cases of alleged excessive force, such as the Rodney King case, trust in and within the police service and its handling of complaints was poor. Threatened with a Federal Government Consent Decree (potential legal action against an agency deemed to have failed in its treatment of the public) the Los Angeles Police Department overhauled its complaints system, including how complaints were taken and adjudicated, and introduced a numbering system which ensured the tracking of all complaints. The feeling within the Department had been:

if they [complainants?] don't like the police, if they don't trust the police, and you [police] treat them wrongly, all you are doing is feeding the perception again of why they don't trust you and with their friends (...) believe that the cops are corrupt.

As such, the idea of internal mediation was developed over time as a means for the public to gain a different perspective on police by allowing complainants to meet with the officers concerned. The introduction of the internally facilitated Alternate Complaint Resolution process provided an adjunct to existing informal procedures for addressing

public complaints. The meaning of ‘misconduct’, which had previously related to serious complaints only, was clarified to include poor police behaviour reported in minor complaints. This meant that the recording and investigation of all complaints improved. The internal mediation process brought complainants and police officers together in face-to-face contact and removed the anonymity of police officers as names were shared. Interviewee 3 said it was difficult to get police to engage in mediation in the beginning as they did not trust that the process was safe. Interviewee 1 added that police officers had experienced the Department’s ‘gotcha’ approach that was focused on finding fault and taking punitive action. Police officers felt that this was another information-gathering exercise which the Department could use against them. However, the incentive that a non-disciplinary complaint would be noted on their record as ‘mediated’ and finalised following their attendance at mediation encouraged participation. Complainants reportedly felt heard; however, the credibility of the police still suffered from the fact that police were processing complaints against police.

The civilian-police mediation program, conducted by the Dispute Resolution Program in the Office of the City Attorney, was developed in 2017 as an independent option. Interviewee 2 said the Los Angeles Police Department recognised that ‘there were three things we were still not doing right and one of them was racial profiling or biased policing complaints’ – which amounted to approximately 200 complaints per year. No complaints based on racially biased policing had been sustained. Interviewee 1 said the issue for the police service was ‘how do you get into the mind of the officer to know that there is bad faith on his part, unless he comes out and admits it’. The use of skilled independent mediators to open dialogue between complainants and police officers on discriminatory issues was regarded as an option. Senior police acknowledged that ‘people just want to be heard’ and misunderstandings resolved. With the Consent Decree still in their minds, the Los Angeles Police Department in collaboration with the Dispute Resolution Program instigated an external mediation trial.

Mediators from the Dispute Resolution Program initiated contact with complainants and introduced themselves as a neutral third party. Interviewee 3 stated that mediation ‘started really clinically’ – which meant that it followed the standard format used for all mediations they conducted. However, it soon changed to a ‘human relationship’ approach as civilian-police complaints were recognised as ‘different to the typical mediations’. The need to adapt mediation to the unique context of civilian-police complaints which do not involve an offender, was acknowledged. The mediation process was modified to commence with a participant discussion about ‘who they are as people’ which humanised the police officers. For complainants, the feeling of ‘two on one’ that existed in police internal processes was removed and it gave them the opportunity to be heard and to walk away ‘feeling much better’ (Interviewee 1). The mediation encounter and conversation were regarded as restorative, although that was not a specific aim. Still, Interviewee 3 said that some officers possess a higher level of emotional intelligence and know that an explanation and offer of apology, such as ‘you know what, I didn’t mean to make you feel that way’, can placate complainants. Interviewee 3 also added that it was not uncommon for participants to shake hands and exchange information at the end of mediation sessions and to make statements such as ‘I am going to stay in contact with you in the community’.

Police officer concerns about equity and security were expressed in relation to external mediation. Interviewee 1 emphasised that the 'due process rights' of officers could not be foregone in external mediation but added that the police service was focused on 'how simple can we make this process' while addressing all of the issues. The removal of any file notation or future action against officers following mediation attendance made the option attractive to the police. The fact that police officers are requested to attend mediation in plain clothes was viewed as important to enable a focus on the 'human' aspect of participants and their relationships (Interviewee 3).

Los Angeles City authorities viewed independent mediation as important as complainants were able to 'see an alternate experience from what they have been imbued with' (Interviewee 1). This was particularly true in relation to complaints related to race – which all Interviewees regarded as 'serious' given the potential for increased damage to the civilian-police relationship amongst different ethnic groups in the community. Further, the significance of independent mediation as part of the police complaints system was explained to complainants, and as Interviewee 3 said, 'when people think they are part of a bigger change or bigger process then they will get out of bed'. By giving complainants a voice and an active part in the process, they 'went away happy'.

Despite the positive results from external mediation, the number of cases referrals has remained at around 10% of total complaints (i.e., 300 complaints per year). Interviewee 1 added that the police preference was still to resolve many of the minor complaints themselves.

Findings 2: documentary sources and semi-structured interviews

New York police department

Documentary Sources

The New York City Charter (1993) established the Civilian Complaint Review Board, an independent, civilian-run Board, tasked to investigate complaints against New York City police officers, categorised as 'force', 'abuse of authority', 'discourtesy' or 'offensive language'; and to make recommendations and administratively prosecute substantiated complaints (OMNY, 1993, Chapter 18A). The Civilian Complaint Review Board was also empowered to establish a complaints mediation program, which was inaugurated in late 1997 with two complaints mediated in that year. However, the development of mediation was slow (Berger, 2000).

Relations between the New York City Police Department and the Board had a tense history. Hence, encouraging police officers to participate in mediation was difficult. All police officers had a 'CCRB record' (as the agency also had the responsibility of record keeping) which included the number of complaints against them (Patterson, 2006, p. 200). A police officer's CCRB record was referenced when reviews and promotion were considered. Therefore, two incentives for police officers were that successfully mediated cases (i.e., completed) would not appear on their records, and the confidential process meant there would be no reprisals from the Department (Patterson, 2006).

The Board's administrative team also faced challenges with the implementation of mediation. Complainants were provided with as much information as possible so they

could ‘make the most informed choice possible when deciding how to resolve the complaint’ (Berger, 2000, p. 200). The two external mediators engaged – who had very little experience in mediating civilian-police complaints, spent some time with the police learning ‘cop speak’, and police were encouraged to wear civilian clothes to mediation ‘to level the playing field psychologically’ (Berger, 2000, pp. 214–215).

The stakeholder responses to the initial mediations were positive and this led to the suspension of the ‘conciliation’ program within the Police Department for 6 months – so that the focus could be placed on external mediation. The results continued to be positive with the behaviour of the adversaries at the outset changing to ‘mannered behaviour’ at the end of the mediation (Patterson, 2006, p. 205). Each party was able to re-evaluate the other’s position in the dispute; complainants were even satisfied with ‘agreeing to disagree’ with the subject officer; and courtesies were shown that ‘within the milieu of a CCRB complaint (...) can only be considered as a sea change in a person’s behaviour’ (Patterson, 2006, pp. 205–206).

By 2000, the Board had closed 61 of 62 cases referred to mediation. However, this represented a very low number of complaints compared to the total number (Berger, 2000). Board investigators, inexperienced in offering mediation, were required to decide which complaints would be suitable for mediation. They also had difficulty ‘dealing with complainants’ objections’ to attending mediation (Patterson, 2006, p. 198). As such, ‘supplemental training regarding the benefits of mediation from the complainants’ perspective’ was developed for investigators and the number of cases transferred to mediation increased (Civilian Complaint Review Board (CCRB), 2009, p. 21).

The 2005 evaluation of the Civilian Complaint Review Board by Bartels and Silverman found that from the 16 ($N = 50$) complainant surveys returned (5-point Likert scale: 5 = most positive rating) ‘the most popular reason for complainants to choose mediation was the opportunity to face the officer in person’ (p. 624). The majority of complainants wanted to receive an explanation and understand the officer’s actions, to express their view and possibly receive an apology. Also highly scored were complainant responses to questions about trust in the mediator and respect for their rights (4.5) and being heard (4.4) (Bartels & Silverman, 2005, p. 624). Police officers stated that accepting participation in mediation over traditional investigation was because ‘mediation showed the civilian that we (police) are human beings. That we make mistakes’ (Bartels & Silverman, 2005, p. 627).

Issues of racially biased policing and discourtesy allegations pervaded complaints over the ensuing years. In 2002, 25% of New York city’s population were African American and approximately fifty percent of complaints (total: 4,616) were from young black men (CCRB, 2002). Complaint numbers peaked in 2009 at 7,660 with a consistent percentage of complaints from black and Hispanic civilians. Consequently, concerted efforts were made to strengthen the mediation program through internal promotion, a press release, informational presentations to police officers and the public (CCRB, 2009).

Completed mediations grew from 74 in 2002 to 231 (out of 250 mediations conducted) in 2018, representing a 93% success rate (CCRB, 2018, p. 45). Also in 2018, an additional 232 cases were closed as ‘mediation attempted’ (CCRB, 2018, p. 42). These cases involved agreement by both the complainant or police officer to mediate but the complainant failed to ‘appear twice for the scheduled mediation session’ or failed to ‘respond to attempts to schedule a mediation session’ and did not ‘request that the investigation

resume' (CCRB, 2018, p. 42). Some of the reasons for complainant non-attendance at mediation included: not wanting to face the subject officer; the belief that the complaint will likely be unsubstantiated; and being too busy to attend (Patterson, 2006).

The 2019 Police Commissioner's Report for New York City did not reference complaints or resolution mechanisms but outlined the launch of the Neighbourhood Policing strategy aimed at anchoring police officers in small areas of precincts to establish a 'go-to-cop' attitude among residents and rebuild trust (Police Commissioner's Report (NYPD), 2019, p. 14). Also in 2019, a symposium, entitled *CCRB, John Jay Symposium on Oversight of Law Enforcement* aimed at 'building confidence' in the police complaints process was held in New York. Multiple agencies met to address the aim and it was noted that 'the mere presence of an all-civilian entity like the Civilian Complaint Review Board makes a difference in the perception of justice' (CCRB Media Release, 2019). The level of collaboration between the two agencies however was vague.

Semi-structured interviews. As indicated, the New York City Police Department eventually declined participation in the study without stating a reason, although a few police officers had shown interest in being interviewed in response to initial enquiries. Nonetheless, Interviewee 4 from the Civilian Complaint Review Board provided in-depth information about the agency, working with police and the mediation program since its inception. The Interviewee said that 'as an all-civilian agency, with investigators who have no law enforcement histories, the Board suffers from the police view that it has a punitive mission'. As mediation is housed within the agency, its value has been diminished due to police questions of trust for an organisation that both punishes and purports to heal relationships. Despite the City's original acknowledgement of the need for independent oversight, the New York City Police Department has maintained an 'antagonistic perspective' towards the Civilian Complaint Review Board. The police are 'guarded and cautious (...) distrustful and resentful'. The Board has learned this through police officers who have returned to mediation. The negativity surrounding mediation has meant that some police officers have refused to participate for fear of further disciplinary action, and most do not discuss their experiences with other officers even if those experiences have been positive. The Interviewee commented that 'we are not particularly liked' and that sentiment appears to be increasing:

it is potentially more true than it was before, I think that there is a climate of officers reporting feeling like they are the target of public disdain, in many places in the US, and I think that associated with that is the sense that the public doesn't understand what they do or how hard their jobs are, and we are sort of emblematic of that.

Yet civilian complainants are serious about their grievances and want appropriate steps taken to address their complaints. Under the City's Charter, when complainants file complaints against the New York City Police Department they are required to provide a 'sworn statement or external evidence in order to proceed (...) so complainants who sign are obviously wanting a meaningful outcome'. However, many complainants are unaware of the mediation option until after the lodgement, interview and Mediation Unit's complaint review process has been completed. If mediation is considered appropriate, then the Civilian Complaint Review Board makes contact with the complainants and police officers to advise them of the option. Most complainants are unaware 'that the

process is that intensive and so we sort of lose them along the way'. The Interviewee believed that 'if they knew that there might be a chance to interact with that officer and hear what the officer was thinking (...) that might help us to retain some folks in that process'. Nonetheless, complainant acceptance of a mediation invitation was 41% in 2017. Many police officers also remain unaware of mediation 'unless they have been here before', although the response rate to mediation 'is upwards of 90%' when police are presented with the option. This may be related to a sense of procedural duty rather than a willingness to attend. It was suggested that additional public and police education on mediation would make it 'a more productive process'.

In 2017, 417 complaints were directed to mediation of which 226 were 'successfully completed' (Interviewee 4). Mediation was regarded as 'successful' if both the officer and complainant attended mediation and indicated in the follow-up survey that they were satisfied with the process. Survey questions included: 'do you feel like you've gotten what you came here for?' It was quickly added that: 'overwhelmingly they say yes'. However, participant surveys were discontinued around that time. As such, there were no current data on participant satisfaction available, although Interviewee 4 added 'it's probably something we should start again to be honest'.

Mediation has continued to be independently facilitated and 'entirely complainant driven' in New York to give complainants a voice in a process 'that otherwise alienates them'. The Civilian Complaints Review Board regards the process as restorative and from the Interviewee's observations of mediation sessions, complainants and police officers do achieve the benefits consistently reported in the literature: complainants are heard 'even if there is no remedy or outcome that is tangible' and police officers have 'an opportunity to speak their minds and to tell the person what they were thinking, how they were feeling, and in some cases apologise'. Police officers reportedly have a 'more positive perspective' of mediation as a result of their experiences.

Discussion

The Literature Review highlighted the fact that when civilians are treated with respect and courtesy by police, their assessment of, attitudes towards and satisfaction with police are likely to be positive. Conversely, when civilians 'feel denigrated, embarrassed, or abused by police [they] infer from their experiences that officers are biased or have malicious motives' (Gau, 2010, p. 239). These sentiments relate to all contact with the police including the handling of complaints. Several themes related to the civilian-police relationship, including trust, unfair treatment, voice, restorativeness and efficacy of mediation as a complaint resolution mechanism, were identified in the examination of the Los Angeles and New York City Police Departments.

The benefits of bringing civilians and police together to discuss their differences, understand each other's perspectives and attempt to heal the relationship damaged by conflict (Bartels & Silverman, 2005; Proctor et al., 2008; Schaible et al., 2012) was acknowledged and prioritised by the Interviewees in the current study. It was anticipated that the findings from the examination of complaints mediation programs in both case sites would match what has been found in the literature. This was evident from the official evaluation report of the New York City program in terms of high levels of complainant and police satisfaction with mediation compared to those cases that

were fully investigated. Despite the fact that the Los Angeles mediation program has not yet been formally evaluated, the complainant themes are consistent with the literature including the positive reception of mediation by civilians and police. However, the findings from the semi-structured interviews also showed some disparities in relation to the New York case site.

A limitation of this study was that the views of complainants and operational police officers were not obtained to confirm the interviewees comments. The findings from those interviewed are discussed here under identified themes.

Trust in complaints process

Los Angeles

The initial steps taken by the Los Angeles Police Department to add internal mediation to their complaints system aided in identifying complainant grievances related to race, language difference and gender (e.g., through improvements to the intake process). The Department's realisation that best practice required an even more transparent, accountable and independent complaint resolution process to deal with the growing number of racially biased policing complaints, led to the implementation of external mediation. The availability of external mediation signalled to the community that their concerns were being taken seriously by the police and would be dealt with appropriately by an independent agency. Police officers accepted mediation as an additional complaints mechanism as it was incorporated into police policy. The 'human relationship' approach adopted in the mediation process engendered equity and understanding as the open dialogue enabled sensitive issues such as perceived racially discriminatory treatment to be addressed. The positive feedback suggested renewed trust and confidence in the civilian-police relationship and improved police behaviour have been achieved. The success of the program, as shown by the adoption of external mediation for biased policing complaints as a permanent alternative to traditional police complaint investigations, also led to the broadening of complaint types to be mediated. They now include any perceived biased policing (e.g., based on race, gender, age, religion) and/or discourtesy complaints.

New York

Police trust in the longstanding New York City Police Department's mediation program has been overshadowed by the conflicting punitive and restorative roles of the Civilian Complaints Review Board. The program has not been actively promoted within the Police Department and when police officers have been contacted regarding mediation, the process has been viewed with suspicion even though a mediated complaint does not appear on their disciplinary records. The complexity around mediation has also appeared to have left complainants mistrustful of the process. However, when mediation has been undertaken, the Board has received encouraging feedback. As reported by Interviewee 4, police officers have expressed surprise at the program's fairness and that the mediators are independent of the Board; and complainants have reported high levels of satisfaction related to confronting the subject police officer face-to-face. However, as attending mediation has continued to be viewed poorly by the police overall, police officers do not relay their experiences to their fellow officers or the public.

Data continue to be gathered on satisfaction levels such as trust. However, as there has not been a formal evaluation of the program since Bartels and Silverman's 2005 study, and the views of the police were not directly gained in this study due to their unavailability for interview, the positive impact of mediation on the civilian-police relationship in New York City is speculative. The study's positive findings appear to hold true for those who participate, although getting complainants and police officers to the mediation table in the first instance appears as is the main current challenge.

Complainant's voice in complaints process

Los Angeles

The desire to direct questions to the subject police officer about their behaviour, why they treated the complainant disrespectfully or in a discriminatory way because of their ethnicity, gender, age or other factors, was expressed as a key issue for complainants. Complaints involving 'biased' policing were rarely sustained in the past, but the introduction of external mediation was said to give complainants a 'voice' and equalise any power differential.

New York

While a complainant's right to have a voice in the resolution of their complaint is contained in the City Charter, most complainants are not made aware by the police or the initial investigating officer from the Civilian Complaints Review Board that they can meet the subject officer in mediation. Also, due to the complexity of the complaints process (i.e., completion of a sworn statement and the provision of evidence to support their allegations) many complainants decline mediation so the opportunity to have their say is foregone.

Effectiveness of mediation

Los Angeles

The offer of internal and external mediation to complainants in Los Angeles provides them with choice. External mediation further provides complainants with an independent forum which overcomes the problem identified in many jurisdictions of police investigating police. The independence of the Los Angeles program responds to Crowe's (2017) point that mediation cannot be a static practice. His warning that mediation's use will fall into disuse regardless of whether it appears in policies or is imposed by governments (Crowe, 2017) has been averted by the use of the external mediation vendor. The Community Police Unification Program operates under a program of review following each mediation to improve best practice and ensure its credibility. Mediation is a relational process that must be adapted to its situation and a select group of mediators in the Dispute Resolution Program are trained specifically to mediate complaints against police. However, due to the lack of comprehensive impact data on the public record caution should be used when generalising the claims made by the Interviewees.

New York

Complaint types and the number of cases mediated in New York City are determined by the Civilian Complaints Review Board. Since mediation was introduced, there has been a steady increase in the number of mediation completions; and overall complaint numbers have decreased since 2009 following the Board's move to bolster public and police mediation awareness. The Board's 2018 report, which revealed that the majority of conducted mediations were successfully completed, indicated that the face-to-face process worked well for those who participated. However, as half of the complaints referred to mediation in that year were not conducted, the 'effectiveness' of the program appears limited. For complainants, the independence offered by external complaints mediation has been overshadowed by the complexity of the Board's investigative, prosecutorial and mediation roles. A separate agency has been suggested as a way forward for mediation which would likely reduce the confusion over the fairness and neutrality of the process.

Restorativeness of mediation

External mediation in the Los Angeles Police Department developed out of a recognition that the needs of the community are not static and the mechanisms to deal with conflict require ongoing attention. The mediation program was modelled on the Denver mediation program which employs a restorative approach. Mediators with an understanding of police work and experience in 'handling' police (who are not accustomed to justifying their actions to civilians) were matched with dispute types. Restorative factors such as respect and responsivity were incorporated into mediation to ensure complainants had a voice, were treated the same as the police officer and both parties were supported towards achieving mutual agreement at the conclusion. All interviewees felt that mediation had a restorative effect on participants and the civilian-police relationship even though the agencies had not specifically labelled their processes that way. The perspective that mediation has restorative qualities was evidenced in the annual reports of the oversight agencies and police departments, and in the literature (CCRB, 2017; LAPD, 2018b; Patterson, 2006; Schaible et al., 2012; Young, et al., 2005). However, there were no available current survey data to support this perspective.

Conclusion

At times, the interactions between civilians and police result in complaints. These complaints might relate to the civilian's immediate experience and/or be symptomatic of a larger issue, such as mistrust of police. The widely used police internal practice of complaints handling has been shown to exacerbate many of these issues. However, independently facilitated mediation has been found to be effective as a mechanism for resolving civilian-police complaints in many jurisdictions. In view of this, an examination of its usage was undertaken in the Los Angeles and New York City Police Departments, but the findings yielded mixed results. In both case sites, external mediation is complainant-focused and appears to provide an appropriate and effective forum for the open discussion of sensitive issues such as discriminatory treatment and discourtesy by police. The process meets complainants' needs for a safe space in which participants can be authentic and discuss their perspectives face-to-face. It was reported that complainant

and police officer satisfaction with the mediation process and outcomes remains high in each case study site. In Los Angeles, external mediation enjoys the support of the Police Department. The use of skilled mediators encourages understanding between participants and this is viewed as ultimately strengthening community relations. It was claimed that the process is also more time and cost-efficient than traditional investigation in resolving biased policing and discourtesy complaints. However, in New York City, obstacles to its usage relate to perceptions the public and police hold of the process. Adequate education on mediation and the positioning of mediation services within completely independent agencies, such as in the Northern Ireland case, would contribute to its development and application in other police sites.

Despite these mixed findings from the Los Angeles and New York City case studies, external mediation – as shown in the literature review – offers a viable mechanism for improving civilian-police relations through mutual dialogue over the contested issues, concerns and/or hurts resulting from their interaction. However, the main obstacle to the wider success of external mediation in the case study sites lies in the low number of complaints referred to mediation and completed mediations. External mediation is used so infrequently that the bigger impact that is hoped for remains curtailed. In order for procedural justice to take hold and promote general community trust, external mediation needs to be used on a much larger scale.

Disclosure statement

No potential conflict of interest was reported by the authors.

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ReferencesReferences

- Astor, H. (2000). Rethinking neutrality: A theory to inform practice – Part 1. *Australian Dispute Resolution Journal*, 11, 73–154. https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/document?src=document&docguid=l6ba5f70ecf1011e08eefa443f89988a0&epos=2&snippets=true&startChunk=1&endChunk=1&nstid=std-anz-highlight&nlds=AUNZ_AU_JLDISPRES&isTocNav=true&tocDs=AUNZ_AU_JOURNALS_TOC&parentinfo=#https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/document?src=document&docguid=l6ba5f70ecf1011e08eefa443f89988a0&epos=2&snippets=true&startChunk=1&endChunk=1&nstid=std-anz-highlight&nlds=AUNZ_AU_JLDISPRES&isTocNav=true&tocDs=AUNZ_AU_JOURNALS_TOC&parentinfo=#
- Bartels, E. C., & Silverman, E. B. (2005). An exploratory study of the New York City civilian complaint review board mediation program. *Policing: An International Journal of Police Strategies and Management*, 28(4), 619–630. <https://doi.org/10.1108/13639510510628703>
- Berger, V. (2000). Civilian versus police: Mediation can help to bridge the divide. *Negotiation Journal*, 16(3), 211. <https://doi.org/10.1111/j.1571-9979.2000.tb00215.x>.
- Birgden, A. & Lopez-Varona, J. (2011). *Community-police complaint mediation project: A review paper*. <https://www.researchgate.net/publication/268293646>
- Boulle, L. (2011). *Mediation: Principles, process, practice* (3rd ed., pp. 43–48). Butterworths.
- Brown, D. (1988). The police complaints procedure: A “consumer” view. *The Howard Journal*, 27(3), 161–171. ISSN 0275-5527. https://heinonline-org.ezproxy.usc.edu.au/HOL/Page?public=true&handle=hein.journals/hjc27&div=21&start_page=161&collection=journals&set_as_cursor=63&men_tab=srchresults
- Charkoudian, L. (2016, February 1). *Baltimore to launch mediation program for citizen complaints against police*. Baltimore Sun, 1. <https://www.baltimoresun.com/news/crime/bs-md-ci-police-mediation-20160131-story.html>.
- Civilian Complaint Review Board (CCRB). (2002). *Annual report 2002*. Civilian Complaint Review Board. https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2002_annual.pdf.
- Civilian Complaint Review Board (CCRB). (2009). *Annual report 2009*. Civilian Complaint Review Board. https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2009_annual.pdf.
- Civilian Complaint Review Board (CCRB). (2017). *Annual report 2017*. Civilian Complaint Review Board. https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2017_annual.pdf

- Civilian Complaint Review Board (CCRB). (2018). *Annual report 2018*. Civilian Complaint Review Board. https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2018CCRB_AnnualReport.pdf.
- Civilian Complaint Review Board (CCRB Media Release). (2019). *CCRB, John Jay host symposium on oversight of law enforcement*. Civilian Complaint Review Board. Media Release.
- Community Oriented Policing Services (COPS). (2008). *The Pasadena police community mediation and dialog program – Evaluation of a pilot community policing program*. US Department of Justice – COPS Office and the Police Assessment Resource Centre. 6-7. <https://static1.squarespace.com/static/5498b74ce4b01fe317ef2575/t/54ba6a68e4b0c2baff90886c/1421503080651/e070825154.pdf>
- Crowe, J. (2015). Ethics and the mediation community. *Australasian Dispute Resolution Journal*, 26 (20), 20–25. <https://ssrn.com/abstract=2633354>
- Crowe, J. (2017). Two models of mediation ethics. *Sydney Law Review*, 39(2), 147–166. <https://ssrn.com/abstract=3090546https://ssrn.com/abstract=3090546>
- Douglas, S. (2017a). Ethics in mediation: Centralising relationships of trust. *Law in Context*, 35(2), 44–63. <https://journals.latrobe.edu.au/index.php/law-in-context/article/view/31>
- Douglas, S. (2017b). Constructions of impartiality in mediation. *Journal of Judicial Administration*, 26 (4), 232–247. https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/document?&src=search&docguid=Ide58ad5f9c3611e79c6392f7a6424d52&epos=7&snippets=true&fcwh=true&startChunk=1&endChunk=1&nstid=std-anz-highlight&nstds=AUNZ_JOURNALS&isTocNav=true&tocDs=AUNZ_AU_JOURNALS_TOC&context=7&extLink=false&searchFromLinkHome=true&details=most&originates-from-link-before=fals
- Faull, A. (2013, September 3). *Monitoring the performance of police oversight agencies*. [APCOF Policy paper presentation] African Policing Civilian Oversight Forum. <http://www.apcof.org/wp-content/uploads/2016/05/No-8-Monitoring-Performance-of-Police-Oversight-Agencies-Andrew-Faull.pdf>
- Field, R. (2011). Rethinking mediation ethics: A contextual method to support party self-determination. *Australian Dispute Resolution Journal*, 22(1), 8–9. https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/document?&src=search&docguid=I44164c73cfe411e08ee443f89988a0&epos=2&snippets=true&fcwh=true&startChunk=1&endChunk=1&nstid=std-anz-highlight&nstds=AUNZ_JOURNALS&isTocNav=true&tocDs=AUNZ_AU_JOURNALS_TOC&context=36&extLink=false&searchFromLinkHome=true&details=most&originates-from-link-before=false
- Furman, L., & McCrary, A. R. (2015). Building trust in law enforcement - community-police mediation program in New Orleans. *Louisiana Bar Journal* 6(3), 192–194. <http://files.lsba.org/documents/publications/BarJournal/Feature2-Furman-McCrary-LBJ-OctNov2015.pdf>
- Gau, J. M. (2010). A longitudinal analysis of citizens' attitudes about police. *Policing: An International Journal of Police Strategies & Management*, 33(2), 236–252. <https://doi.org/10.1108/13639511011044867>
- Goldsmith, A. (1996). What's wrong with complaint investigations? The case for dealing with difference differently. *Criminal Justice Ethics*, 15(1), 36–55. <https://doi.org/10.1080/0731129X.1996.9992005>
- Goldsmith, A. J. (2000). Informal resolution of police complaints in Australia: Building better understanding or mere bureaucratic convenience. In A. J. Goldsmith & M. Israel (Eds.), *Criminal justice in diverse communities* (pp. 34–56). Federation Press.
- 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, 83–98. https://heinonline-org.ezproxy.usc.edu.au/HOL/Page?collection=journals&handle=hein.journals/jjis13&id=97&men_tab=srchresults
- Independent Commission on the Los Angeles Police Department (Christopher Commission) (ICLAPD). (1991). *Independent commission on the Los Angeles police department* [Report]. Independent Commission on the Los Angeles Police Department. <https://archive.org/details/ChristopherCommissionLAPD/page/n9/mode/2up>.

- Jackson, J., Bradford, B., Hough, M., Myhill, A., Quinton, P., & Tyler, T. R. (2012). Why do people comply with the law? Legitimacy and the influence of legal institutions. *British Journal of Criminology*, 52(6), 1051–1071. <https://doi.org/10.1093/bjc/azs032>
- Liederbach, J., Boyd, L. M., & Taylor, R. W. (2007). Is it an inside job? An examination of internal affairs complaint investigation files and the production of non-sustained findings. *Criminal Justice Policy Review*, 18(4), 353–377. <https://doi.org/10.1177/0887403407303799>
- Los Angeles Police Department (LAPD). (2013). *Community-employee mediation pilot program: Implementation plan*. Internal Affairs Group, Los Angeles Police Department. (internal source).
- Los Angeles Police Department (LAPD). (2017a). Annual report 2017. Los Angeles Police Department.
- Los Angeles Police Department (LAPD). (2017b). *Evaluation of the biased policing complaint mediation pilot program January 30, 2017*. Internal Affairs Group, Los Angeles Police Department.
- Los Angeles Police Department (LAPD). (2018a). *Biased policing and mediation update – 2017 Annual report, March 1, 2018*. Los Angeles Police Department (internal source).
- Los Angeles Police Department (LAPD). (2018b, 6 – 9 October). *Community police unification program* [video]. Presented at the 125th IACP Annual Conference & Exposition, Orlando, Florida (internal source).
- Los Angeles Police Department. (LAPD). (2002). *Alternate complaint resolution guide*. Internal Affairs Group, Los Angeles Police Department. (internal source).
- Maguire, M., & Corbett, C. (1991). A study of the police complaints system. Her Majesty's Stationary Office. ISBN 0113410077.
- Mather, K. (2015, December 15). *LAPD found no bias in all 1,356 complaints filed against officers*. Los Angeles Times. Centre for Policing Equity. <https://policingequity.org/newsroom/blog/lapd-found-no-bias-in-all-1-356-complaints-filed-against-officers>
- Murphy, K., & Cherney, A. (2012). Understanding cooperation with police in a diverse society. *British Journal of Criminology*, 52(1), 181–201. <https://doi.org/10.1093/bjc/azr065>
- Office of the Independent Monitor (OIM). (2020). *Annual report 2020*. Office of the Independent Monitor.
- Office of the Mayor, New York City, New York. (OMNY). (1993). *New York City charter*. Office of the Mayor. Civilian Complaint Review Board (Chapter 18-A).
- Patterson, R. W. (2006). Resolving civilian-police complaints in New York City: Reflections on mediation in the real world. *Ohio State Journal on Dispute Resolution*, 22(1), 189–226. <https://scholars.law.unlv.edu/facpub/493>
- Pettersson, T. (2014). Complaints as opportunity for change in encounters between youths and police officers. *Social Inclusion*, 2(3), 102–112. <https://doi.org/10.17645/si.v2i3.44>
- Poitras, J. (2009). What makes parties trust mediators? *Negotiation Journal*, 21(3), 307–321. <https://doi.org/10.1111/j.1571-9979.2009.00228.x>
- Police Commissioner's Report (NYPD). (2019). *2019 annual report*. New York City Police Department. <https://cloud.3dissue.com/167796/168091/212990/2019PCReport/index.html?r=68>.
- Police Ombudsman for Northern Ireland (PONI). (2010). *Developments in police complaints – Ten years on overview of trends and patterns in police complaints, November 2000 – March 2010*. Research Report (November 2010). Office of the Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2018). *The police complaints system in Northern Ireland*. Office of the Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2019). *Annual report 2019*. Office of the Police Ombudsman for Northern Ireland.
- Police Training Commission (PTSC). (2017). *Community member – police complaint mediation program reference guide*. Police Training Commission. https://mdle.net/pdf/Mediation_Reference_Guide_April2017.pdf
- Porter, L. E., & Prenzler, T. (2016). Complainants' views on police complaints and discipline systems: The Gap between aspiration and experience. In T. Prenzler & G. den Heyer (Eds.), *Civilian oversight of police: Advancing accountability in law enforcement* (pp. 73–93). CRC Press – Taylor & Francis.
- Potter, G. (2013). *The history of policing in the United States*. Eastern Kentucky University, Policing Studies Online. <https://plsonline.eku.edu/insidelook/history-policing-united-states-part-1>.

- Proctor, J. L., Clemmons, A. J., & Rosenthal, R. (2009). Discourteous cops and unruly citizens: Mediation can help. *Community Policing Dispatch*, 2(3), 1-4. Office of Community Oriented Policing Services, U.S. Department of Justice. <http://www.cops.usdoj.gov/html/dispatch/>
- Proctor, J. L., Rosenthal, R., & Clemmons, A. J. (2008). *Denver's citizen/police complaint mediation program: A comprehensive evaluation* [Unpublished manuscript].
- Riley, M., & Douglas, S. (2019). Is there a place for restorative justice in civil mediation? *Australasian Dispute Resolution Journal*, 30(14), 14-22. <https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/search/exec>
- Schaible, L., De Angelis, J., Wolf, B., & Rosenthal, R. (2012). Denver's citizen/police complaint mediation program: Officer and complainant satisfaction. *Criminal Justice Policy Review*, 24(5), 628-650. <https://doi.org/10.1177/0887403412455327>
- Schulenberg, J. L., Chenier, A., Buffone, S., & Wojciechowski, C. (2015). An application of procedural justice to stakeholder perspectives: Examining police legitimacy and public trust in police complaints systems. *Policing and Society*, 27(7), 779-796. <https://doi.org/10.1080/10439463.2015.1102252>
- Skogan, W. G. (2004, May). Preface. *The Annals of the American Academy of Political and Social Science*, 593(1), 6-14. <https://doi.org/10.1177/0002716204264097>
- Sunshine, J., & Tyler, T. R. (2003). The role of procedural justice and legitimacy in shaping public support for policing. *Law and Society Review*, 37(3), 513-548. <https://doi.org/10.1111/1540-5893.3703002>
- Tyler, T. R. (2003). Procedural justice, legitimacy, and the effective rule of law. *Crime and Justice: A Review of Research*, 30, 283-357. <http://www.jstor.org/stable/1147701>
- Tyler, T. R. (2006). *Why people obey the law* (2nd ed.). Princeton University Press.
- Tyler, T. R., Goff, P. A., & MacCoun, R. J. (2015). The impact of psychological science on policing in the United States: Procedural justice, legitimacy, and effective law enforcement. *Psychological Science in the Public Interest*, 16(3), 75. <https://doi.org/10.1177/1529100615617791>
- Volpe, M. (2016). *Mediation in the future of policing*. Mediation.com. Retrieved September 11, 2016. <https://www.mediate.com/articles/VolpeFutures.cfm>
- Waldman, E. (Ed.). (2011). Values, models, and codes. *Mediation ethics: Cases and commentaries*. Wiley.
- Walker, S., Archbold, C., & Herbst, L. (2002). *Mediating citizen complaints against police officers: A guide for police and community leaders*. . Office of Community Oriented Policing Services, U.S. Department of Justice. <http://restorativejustice.org/am-site/media/mediating-citizen-complaints-against-police-officers.pdf>
- Warburton, H., May, T., & Hough, M. (2003). *Opposite sides of the same coin: Police perspectives on informally resolved complaints*. Police Foundation.
- Waters, I., & Brown, K. (2000). Police complaints and the complainants' experience. *British Journal of Criminology*, 40(4), 617-638. <https://doi.org/10.1093/bjc/40.4.617>
- Young, R., Hoyle, C., Cooper, K., & Hill, R. (2005). Informal resolution of complaints against the police: A quasi-experimental test of restorative justice. *Criminal Justice*, 5(3), 279-317. <https://doi.org/10.1177/1466802505055837>

SECTION 3: DISCUSSION, RECOMMENDATIONS AND CONCLUSION

CHAPTER 9: DISCUSSION ON KEY FINDINGS, RECOMMENDATIONS AND CONCLUSION

9.1 Introduction

This chapter synthesises the research findings disseminated via the five journal articles that form chapters 4 to 8 of this thesis, to answer the principal research question: *What can police departments learn from successful agencies in adding civilian-led mediation to the mix of alternative dispute resolution in response to complaints against police?* A two-phase investigation was undertaken in this study. Through an initial scoping study of nine sites (New Zealand, Queensland, New South Wales, Victoria, Tasmania, South Australia, Western Australia, Northern Territory and the Australian Federal Police) and an extensive examination and analysis of four case study sites (Denver, Los Angeles, New York City and Queensland) and a summary examination and analysis of the Thames Valley and New Zealand case study sites, the study provides a comprehensive mapping of what constitutes, or limits, a ‘successful’ complaints mediation program; thereby providing a mediation implementation guide for jurisdictions currently not using the model (e.g., Australia and New Zealand). The study investigates apparently successful mediation programs guided by Pawson and Tilley’s (1997) evaluation framework – context-mechanism-outcome patterns including the environment and culture in which programs operate, the features of programs, the types of mediation sessions, and the skills of the facilitators. It also investigates outcomes by using select criteria of ‘success’ including high uptake of mediation over non-mediation; high stakeholder satisfaction rates with process, including the use of independent mediators and face-to-face encounter dialogue; high satisfaction rates with outcomes; sustainability of satisfaction rates over time, and longevity of programs. As much data as possible were captured and reported throughout chapters 4 to 8, in

order to fully benefit from this unique opportunity to examine mediation as a mechanism for complaints against police in this level of detail.

9.2 Background

The interface between civilians and police often results in complaints. In most police jurisdictions in Australia, and around the world, these complaints are investigated and adjudicated by the police themselves. The apparent bias in this internal process has engendered widespread community dissatisfaction and diminished public trust and confidence in the police. Since the 1980s, alternative dispute resolution has increasingly been used to resolve civil disputes and address the harms caused by criminal wrongdoing. Some police jurisdictions have adopted a conciliatory approach to civilian complaints resolution, but the internal nature of this strategy has left issues of police accountability and procedural justice unresolved for many in the community. Consistently high levels of complaints across jurisdictions have indicated that existing approaches are failing. A more responsive mechanism is warranted that meets complainants' needs for inclusivity in the complaints resolution process and provides opportunities for learning and improvement at both the organisational and police officer levels.

This thesis investigated the extent to which mediation, as an alternative dispute resolution process, is used in police complaints systems for the resolution of civilian complaints against police. The literature review for this thesis identified some evidence of a successful mediation trial in Australia in the 1990s and mediation programs implemented elsewhere in the world over the following decade. A comparison of formal investigation processes and mediation programs has shown mediation to be very successful in achieving high levels of complainant (and police) satisfaction with the process and associated outcomes. This was evidenced in the evaluations of Denver, New York City and Thames Valley mediation programs. In Denver, complainants who participated in mediation ($n = 281$) over traditional processes ($n = 308$) reported significantly

higher levels of satisfaction with the process (79% /11%) and outcomes (63% /7%). In New York City, complainant satisfaction rates in each group ($n = 16$ and 19) for the same variables were very high (81% /33% and 69% /13% respectively) even though the response rate was small. Similarly, in the Thames Valley, restorative justice mediation over traditional investigation ($n = 21$ and 22) also yielded high complainant satisfaction rates for the process (61% /33%) and outcome (58% /33%).

Despite findings of stakeholder satisfaction in these early programs, Australia and New Zealand have no operating *independent* mediation model – revealing a gap in police best-practice procedures. Further, there has been limited evaluation data on the growth and efficacy of mediation programs overseas – simultaneously representing a significant knowledge and practice gap. The purpose of this thesis was to fill these identified gaps. Hence, in addition to the principal research question, several sub-questions (which were incorporated into the interview questions) were developed to explore the use of mediation for civilian complaints against police (see Table 9). The research sub-questions were informed by the fact that very few researchers have examined the use of mediation from the viewpoint of civilian-police complaints resolution in Australia.

These research sub-questions led to an initial scoping study of Australian and New Zealand complaints systems, using documentary analysis, which resulted in the first journal article (see Chapter 4). Next, this thesis adopted a qualitative, case study approach using Pawson and Tilley's (1997) context-mechanism-outcome framework to examine mediation programs overseas in order to: (1) identify the institutional processes of program implementation; (2) where possible, ascertain the 'ingredients' of successful programs; (3) determine why many police services are locked into tokenistic local resolution while others have embraced independently facilitated mediation programs; and (4) develop best-practice policy recommendations.

Table 9: Research Sub-Questions

No.	Research Sub-Questions
1	To what extent are non-adversarial processes used internationally in the resolution of civilian complaints against the police?
2	What are the 'ingredients' of a successful program? a. How are the programs facilitated? b. How and by whom are cases referred to mediation? c. What are the biggest obstacles to successful mediation programs? d. Why do the number of independently mediated complaints remain low in comparison to overall complaints made to police? e. How has success been defined and measured?
3	What changes/improvements have been made to programs?
4	What are the institutional processes of implementation?
5	Does the program include investigation of complaints? a. Does the program allow sufficient time for effective investigation and resolution?
6	Does the program employ restorative justice principles?
7	Does the program support restorative rather than punitive recommendations?
8	What have been the 'pitfalls' in the development of a best-practice model?
9	Why are so many Australian police services locked into tokenistic local resolution?
10	Why have pilot mediation programs, particularly in Queensland, not subsequently been implemented?
11	What are the impediments to implementation of a mediation model in Australia?

The study involved content analysis of approximately 80 public and confidential documents and 16 semi-structured interviews with various stakeholders (police, oversight agency representatives and mediation providers) in six case study sites – Queensland, Denver, Los Angeles, New York City, Thames Valley and New Zealand. The case study sites were provided with the semi-structured interview questions (as requested) prior to the commencement of the study. Some sites provided their nominated interviewees with the questions, others did not – which was confirmed during the interviews. The semi-structured interview questions provided a framework for discussion. The questions enabled interviewees to broaden their discussion on topics; indicate their knowledge of key concepts such as alternative dispute resolution, mediation and restorative justice; discuss local issues; contribute real life examples of their personal and organisations' experiences trialling the approaches; discuss the obstacles encountered in implementing changes in their complaints systems as well as the strengths and limitations.

For research consistency, reliability and validity, the researcher followed the interview questions. However, many interviewees voluntarily initiated discussion about their respective complaints processes and experiences without prompting from the researcher. The interview questions were all weighted the same and were included/numbered in a logical order. Codable responses were recorded in NVivo 12 for analysis. Tentative/sub-themes were assigned to codes and refined as major themes emerged. The findings from the semi-structured interviews largely supported the documentary evidence on mediation, although some limitations of the sample were identified and are discussed at 9.3. The findings support and update many of the findings from earlier studies (e.g., HMICS, 2004). The same issues have recurred over time across many jurisdictions and were found to be current at the time of the PhD research (i.e., lack of face-to-face dialogue and independence of process), which supports the argument made that existing internal methods of civilian-police complaints resolution frequently do not meet the needs of complainants and that alternative methods, such as mediation, should be included in the mix of available options.

The findings yielded eleven major thematic issues which link to Pawson and Tilley's (1997) program evaluation factors (e.g., resources, institutions delivering the programs, location, economic, political and cultural environment) that assist in explaining and understanding why programs do or do not work. The major themes are: (1) program design; (2) program support; (3) program success; (4) procedural justice and trust; (5) complainants' voice in complaints process; (6) diverse complainants; (7) finality of the complaint for police officers; (8) police behavioural improvement; (9) mediator skills and process independence; (10) types of complaints for mediation; and (11) restorative justice. These major themes (and sub themes) - analysed separately in the initial scoping study journal article (1: Australia and New Zealand), and subsequent four journal articles (2: Thames Valley; 3: Queensland; 4: Denver; and 5: Los Angeles and New York City; see Table 10) – are synthesised in the discussion below.

This synthesis is followed by a discussion of recommendations, including a potential best-practice mediation model of police complaints management, and considerations for future research.

Table 10: Journal Articles

1	Riley, M., Prenzler, T., & McKillop, N. (2018). Alternative dispute resolution and mediation of complaints against police in Australia and New Zealand. <i>Police Practice and Research</i> . https://doi.org/10.1080/15614263.2018.1500284	Published July 2018
2	Riley, M., & Douglas, S. (2019). Is there a place for restorative justice in civil mediation? <i>Australasian Dispute Resolution Journal</i> , 30(14), pp. 14-22.	Published September 2019
3	Riley, M., & Prenzler, T. (2020). Conciliation versus mediation of complaints against police: Lessons from the Queensland experience. <i>Journal of Criminology, Criminal Justice, Law & Society</i> , 21(1), pp. 22-38.	Published April 2020
4	Riley, M., & Prenzler, T. (2020). Mediation of complaints against police: Program implementation in the Denver Police Department. <i>Newcastle Law Review</i> , 15, pp. 5-34.	Published December 2020
5	Riley, M., Prenzler, T., Douglas, S. (2021). Mediation of complaints against police: A review of programs in Los Angeles and New York City. <i>Contemporary Justice Review: Issues in Criminal, Social & Restorative Justice</i> . https://doi.org/10.1080/10282580.2021.1884978	Published February 2021

9.3 Limitations

The documentary data sources used in this study (including police service annual reports, policy and procedures documents, agency records and reviews, government websites, parliamentary inquiries, mediation program evaluations and surveys and confidential documents) provided insight into the reasons for, impediments to and lessons learned from the implementation of mediation programs in police complaint systems from an institutional perspective. Further empirical data were gathered and analysed from interviews with stakeholders at the six case

study sites noted above. The number of case study sites was limited by the small number of established programs and limits placed upon access to stakeholders (e.g., New Zealand Police and New York City Police refrained from participating in interviews). The original list of case study sites was modified prior to the primary data collection because some sites had temporarily discontinued their mediation programs (e.g., Seattle) while others had introduced new programs (e.g., Los Angeles). New data became available on other programs, including Denmark; Minneapolis and New Orleans in the United States; and Northern Ireland. However, due to time and financial constraints the researcher was unable to include these sites in the case study; relying instead on relevant publicly available documentation.

Findings presume the accuracy of publicly available documents. At the same time, semi-structured interview answers, while largely complementary, at times revealed inconsistencies with the documentary evidence, which are noted in the findings. Inconsistencies are likely to be largely functions of a lapse of time between the creation of documentary evidence and actual interviews with stakeholders and changes in the socio-political and economic climates. The published formal evaluations of mediation programs are dated and sparse, and police hegemony in the area of complaints management is reactive to political, social, economic and other influences and therefore varies over time.

The study gained valuable insights from stakeholders through semi-structured interviews. Those stakeholders included police departments, oversight agencies and mediation providers. The study did not directly investigate the perspectives of complainants or police officers as to their levels of satisfaction with the structure and delivery of the various programs. Access to participants in existing mediation programs was significantly limited by the confidentiality of the process and institutional barriers. The findings nonetheless clearly evidence benefits in the use of mediation in police complaint systems and suggest value in further research of participants' experience. Qualitative feedback could be readily gathered by mediation providers via surveying

participants at the end of each session. Analysis of this data could identify areas of improvement for the communities served by the mediation programs as well as inform police policy and practice.

9.4 Synthesis of Key Findings

The police provide an invaluable service to the community by maintaining law and order and upholding community safety. Yet, through the milieu of daily interactions between them and members of the community, complaints arise over issues ranging from customer service breaches to serious misconduct and corruption. Police services have grappled with complaints management, but some have been more successful than others in resolving complaints to the satisfaction of all stakeholders. Over the past thirty years, police services around the world have examined the civil mediation and restorative justice literature in order to understand the practical application and benefits of restorative justice and mediation in resolving disputes with the public.

The chosen case study sites represent jurisdictions that have responded to the growing need for police transparency and accountability, and complainant involvement in the complaints process. The case study sites were identified from the literature because they have all trialled and/or implemented independent complaints mediation programs. Despite evidence of the temporary suspension of some programs, and local challenges (e.g., in New York City and Thames Valley) around maintaining police support for mediation, independent civilian-police complaints mediation has gained momentum in many police jurisdictions.

In all of the case study sites canvassed, improvements to complaints management have been largely due to ongoing attempts to address issues of police misconduct and public dissatisfaction with the way complaints are handled. Media coverage of alleged police corruption, use of force incidents, accidents and injuries and discriminatory treatment, as well as

persistently high complaint numbers and complainant calls for active involvement in the resolution of their complaints, have led to government inquiries and parliamentary, police and external reviews of police services in all case study sites. The result has been the inclusion of a mix of alternative dispute resolution processes, including various incarnations of conciliation by senior officers (incorporating informal resolution and supposed ‘managerial resolution’) and external independently facilitated mediation programs, aimed at resolving complaints that do not attract serious disciplinary or prosecutorial action. As identified in the journal articles produced as part of this thesis, external mediation provides a significant benefit to complainants over other approaches. In particular, it removes the complication of police investigating police and gives participants an opportunity to discuss the complaint through open and honest dialogue. It is a conclusion of this project that providing for external or independent mediation as an option in the resolution of complaints against police is an imperative for police complaints systems. It is further argued that the option of external mediation is advanced and enriched by the inclusion of restorative justice principles. The emergent significance of mediation conducted according to restorative justice principles in police complaints is evidenced in themes from the data considered below.

9.4.1 Program Design: Use of Mediation

The literature on police complaints establishes that complainants want an independently facilitated, face-to-face process and that mediation satisfies this criterion (Prenzler et al., 2013). While the case study sites evidenced adoption of mediation, findings reported in the journal articles demonstrate that the mediation pilots and programs studied have been implemented with varying, and at times limited, levels of planning and program design. This shows the importance of mechanisms, such as adequate funding, that contribute to a program’s strength and continuity (Pawson & Tilley, 1997). The New York City program, operated by the Civilian Complaints Review Board, was implemented in response to government and public pressure for a civilian-

led body to address complaints including alleged civil rights abuse cases. This has led to progressive program development, modification and “civilianisation” of complaints management, so that the New York City program now has the status of mediating the highest number of complaints annually in the country. The Los Angeles program, operated by the Dispute Resolution Program, within the City Attorney’s Office, faced similar public demands, but as a relatively new program has benefitted from the lessons of other jurisdictions, such as Denver. The Los Angeles external mediation program developed from the internal police-facilitated process to a completely independent process that includes pre-mediation outreach initiated by the mediation provider to address issues such as complainant and police resistance and expectations.

Similarly, the Denver and Thames Valley journal articles reveal the underlying reasons why their programs were established. In Denver, independent mediation, facilitated by Community Mediation Concepts, was introduced by a proponent who had acquired skills following the successful implementation of a program elsewhere. The program design aimed to avoid federal government action to control the handling of complaints, following a high-profile incident involving police that left the community distrustful of law enforcement. The mediation program is now one of the longest running programs in the United States. The Thames Valley mediation program stemmed from public calls for impartial adjudication of complaints and resulted from a successful pilot program conducted across several districts. Its design was based on restorative justice principles that now permeate policing practice generally in England. Mediation services are provided by Restorative Solutions Organisation, which holds the current government contract, although mediation of police complaints rarely occurs now.

Regardless of the impetus for the implementation of mediation programs (i.e., necessary or planned), each case study site has deviated from fulfilling all aspects of a model police complaints management system. For example, while the New York City and Denver case study

sites operate independent mediation programs, the involvement of oversight agencies in complaints management has added a layer of complexity to the process that has likely affected case selection, including the limitation of mediation referrals to cases that contain minor complaints.

The New York City mediation program operates under the Civilian Complaints Review Board that provides both oversight of police conduct (including investigations and prosecution) and determines which complaints are suitable for mediation. Complaints are then mediated within the Board's offices obscuring the independence of the process and the mediator. The Denver mediation program operates via an oversight agency – the Office of the Independent Monitor. However, the referral of cases to mediation has recently circumvented the Monitor with the selection of cases now determined by the police and mediation provider in consultation. This has reportedly been changed for efficiency purposes, with a mediation interviewee commenting:

So, what we've done over trial and error (...) is we actually now get probably 75% of our referrals directly from internal affairs. So, we used to get them from the independent monitor but that was at a minimum of two-week time gap (...) and so we could expedite the process. The other thing is, it took one more person out of the loop.

The newest program amongst the case study sites – the Los Angeles mediation program, operates directly between the Los Angeles Police Department and the mediation provider – the Dispute Resolution Program. The Dispute Resolution Program immediately contacts complainants after identifying complaints, or receiving referrals from the Police Department, which they believe could benefit from mediation. This approach removes the bureaucracy from the process and overcomes issues for complainants such as program independence and legitimacy. This approach has also paved the way for more serious complaints, such as racial and

biased policing allegations to be mediated and addresses several of the sub-questions related to how programs can be successfully operated.

In Queensland, following the Fitzgerald Inquiry and recommendations to overhaul the police complaints system, a mediation pilot was developed and trialled with direct program design assistance from the Thames Valley Police. Despite being viewed as innovative in Australia and offering a model for the other states and territories, mediation quickly fell into disuse. Informal resolution was believed to be a simpler process for resolving minor complaints, with formal investigation utilised for serious complaints – monitored by the Crime and Corruption Commission. This model has continued to be viewed as the most appropriate for police complaints management in Queensland, although projects that have included mediation (e.g., Project Verity and Project Juniper) have been run over the past decade.

Similarly, despite the successful Early Resolution Process pilot in New Zealand, that emanated from an Inquiry highlighting the need for improvements to the police complaints system, internal facilitation of complaints has been pursued. Neither Queensland nor New Zealand has excluded mediation as a complaint resolution option, but it must be requested by complainants, and with limited publicly available information on mediation, it has rarely been used and never for serious complaints. As such, these two jurisdictions, along with the Thames Valley, have ignored the findings in the literature which advocate civilian-led, independent mediation of complaints.

9.4.2 Program Support: Accessing External Mediation Services

The findings from this study affirm the literature that indicates that successful external mediation programs are those that have the full support of police services and police unions (Walker & Archbold, 2000). This support exists in the form of institutional support, funding and

policy implementation and are key contextual factors associated with success (Pawson & Tilley, 1997).

In the United States, support for external mediation has been varied and incremental over time and place depending on the players in the chain of command. In Denver, the Community-Police Complaint Mediation Program has the support of the Office of the Independent Monitor which in collaboration with the Denver Police Department has promoted external mediation to the public via community meetings, police education and training. The mediation program has also been strongly endorsed by the Chief of Police, command staff and police unions. The New York City Civilian Complaints Review Board mediation program has the support of the City Mayor, but interview evidence suggested that there is limited support from the New York Police Department due to misperceptions of the purpose of the program within an organisation now viewed by some to be focused on punitive police disciplinary measures. The Los Angeles Community-Police Unification Program has the support of the Board of Police Commissioners, police unions, including the Los Angeles Police Protective League, and the City Attorney's Office. Widespread support is also evident in other United States jurisdictions, including the Minneapolis Citizen-Police Mediation Program which has the full support of the City Council, and mediation is widely promoted to the community; and the San Francisco Citizen Complaints Mediation Program which has the endorsement of the Chief of Police and was invigorated in 2015 with a police-focused promotional drive.

Support for the Thames Valley Police complaints mediation program was strong during the 1990s under the Chief Constable of Police. The existing management of complaints had been very bureaucratic, and mediation based on restorative justice principles was a change welcomed by the public. However, with subsequent staff changes and new force priorities, support for mediation waned and complaints resolution has been devolved to the local level. The current approach across England is focused on police officer training in restorative justice techniques

which they utilise in their daily work. However, for complainants, this lacks independent adjudication, especially where interactions involve significant grievances. Interestingly, reforms to London's Metropolitan Police *Fairness at Work* framework (2017) have resulted in the inclusion of mediation as an option for internal complaints. Hence, there is evidence of support for mediation but less so in the context of civilian complaints against police.

In Queensland, support for mediation was evident in its formal adoption of the process following the completion of the successful mediation trial in 1992. However, while the trial had been funded by an external mediation provider, the Queensland Police Service struggled to fund the ongoing program and shifted its focus to building its internal conciliatory approach with the support of the oversight agency. Other Australian police jurisdictions have adopted a similar stance. This suggests that funding rather than a rejection of mediation is the main issue. The New Zealand Police is funded by the New Zealand government and continues to resolve complaints using informal resolution with no obvious plans to include external mediation in the mix.

The study findings confirm what is espoused in the literature, that all mechanisms for the resolution of complaints against police attract costs and resource needs and can be time-consuming for police services. However, the Denver, Los Angeles and New York City programs are funded under city charters which allow funds to be specifically allocated for external complaints mediation and do not place a burden on existing police budgets – this is not the case for Queensland or the Thames Valley. The stakeholders at the United States case study sites were of the view that mediation was less costly and time-consuming than traditional investigative methods, and it removed the need for the police to resolve complaints, allowing them to concentrate on other aspects of law enforcement. This view is no doubt coloured by the availability of funding outside police budgets.

In relation to Queensland, the findings reported in the Queensland journal article reveal concerns by the Queensland Police Service that the cost and time issues related to getting complainants and subject police officers to external mediation for minor complaints was difficult to justify, especially as the funds could be better allocated to operational work. Additionally, shift adjustments to attend mediation posed problems as work schedules are developed weeks in advance. Interestingly, the concerns expressed by an interviewee from the Thames Valley Police related to the difficulty the Department had in quantifying and hence justifying expenditure on informal resolution. The interviewee shared details of an internal review that examined the cost and time associated with dealing with low level complaints compared to major crime files, such as homicides. The review found that many of the minor complaint files took longer to close than the major crime files. The impact of the complaint on the complainant was not denied but the resource allocation to informal resolution, let alone mediation, was reportedly difficult to support. Arguably, both jurisdictions would be in positions to utilise mediation if the funding source was outside of the police services' budgets and the programs were run by mediators other than police officers. This is an important point as the literature states that a lack of sustainable funding is a core issue in the failure of mediation programs around the world (Furman & McCrary, 2015).

Findings from this study also resonate with the literature on police officer attitudes to external scrutiny. The literature has indicated that where mediation has been incorporated into policy, police officers have had to change their thinking about traditional methods of resolution and overcome their defensive attitudes to non-police involvement in complaints resolution (Alarid, 2012). Policy changes in the Denver and Los Angeles Police Departments have resulted in police officers taking external mediation 'in their stride'. In New York City, generally police officers only become aware of external mediation once a complaint has been lodged against them. However, according to an interviewee from the Civilian Complaints Review Board, once

police officers have engaged in mediation, they view the process positively and report high satisfaction rates. Conversely, in Queensland, police interviewees maintained that the recent introduction of the Abridged Disciplinary Process and the Complaint Reform Project negated the need for mediation. However, the Complaint Reform Project, characterised by internal complaints management, has overlooked the key component of independence advocated in the literature. At the same time, anecdotal evidence gathered from a few interviewees suggested a desire by police officers for another process that would better meet their needs. For example, an interviewee from the Dispute Resolution Branch commented that “most of the police I’d encountered would be desperate for some other kind of model for dealing with public complaints”. The recent introduction of a mediation pilot for internal complaints (i.e., Project Juniper) has reportedly been well received across staff levels and if successful, could provide the impetus for civilian-police complaints mediation. A further comment by the Dispute Resolution Branch interviewee that “they [police officers] really love the model for their in-house workplace mediations” added strength to this argument.

9.4.3 Program Success: Areas for Improvement

The literature refers to several mediation programs, including Denver and New York City programs as ‘successful’. While they have been successful on a number of measures, including complainant satisfaction with process and outcome, providing a face-to-face meeting, and neutral mediator, some areas where practices could be improved have been identified – and these provide a measure of a program’s effectiveness (Pawson & Tilley, 1997). For example, New York City mediates the highest number of cases in the United States. However, the case study site revealed a climate of public negativity toward the police generally, and toward mediation by the police department. As mentioned in the journal article, this reportedly stemmed from the fact that the Civilian Complaints Review Board mediates complaints but also acts in a punitive capacity against police officers for alleged misconduct. The early findings in the literature from a

New York City focus group study that revealed an ‘overwhelming’ preference for ‘face-to-face interaction’ with complainants (Sviridoff & McElroy, 1989) have been overshadowed by the dual role of the Board. An interviewee opined “having the same agency conduct investigations and prosecutions and also mediate – where is the line for officers? In a way, they are just not going to feel comfortable, no matter what”. A clear delineation of the two roles would assist in generating clarity of purpose and confidence in the complaint mediation program.

9.4.4 Procedural Justice and Trust: The Importance of Independence

All interviewees across case study sites held the view that treating the public fairly, respectfully and without discrimination, engendered trust and confidence in the police and that procedural justice extended to the way in which complainants should be treated in the complaints process. The literature indicated that complainants view procedural justice as including “voice, validation and voluntariness” in the complaint resolution process (Ronner, 2002, p. 94). However, a sticking-point for the police has been the belief that their knowledge of police policy, procedures and the law, positions them as the best equipped to resolve complaints involving police officers and members of the public. Yet, the practice of police investigating police through informal resolution, blocks the inclusivity, impartiality, fair treatment and behavioural change that many complainants seek in the resolution of their complaints (McLaughlin & Johansen, 2002). Without these contextual components, the success of a program is limited (Pawson & Tilley, 1997). Some police participants acknowledged the benefits of mediation in adding to complainants’ feelings of procedural justice, but still showed some resistance to outside involvement in the complaint resolution process, especially in relation to serious complaints. They viewed serious complaints as requiring a disciplinary response, which they are authorised to do. However, this point has overlooked the needs of complainants to get answers to pressing personal questions such as why the incident occurred. Mediation has challenged the autonomy that the police have had in this area of police work. Some of the

strengths of mediation are that it can satisfy the aims of procedural justice by offering all individuals a mechanism for face-to-face dialogue with the subject police officer; provide an opportunity for the expression of personal perspectives and feelings, and the possible receipt of an apology. Some case sites acknowledged that issues such as racially biased policing, which they regard as serious, are best dealt with through mediation because of the deep harm and potential for division. Overall, many of the non-police interviewees agreed that professionally run external, and hence independent, mediation programs allow for constructive scrutiny of police work which can lead to improvements in police officer behaviour and strengthen the civilian-police relationship. For example, a Denver interviewee commented that “a lot of relief occurs, when they can sit and say ‘I saw it this way’; ‘no, I saw it this way’”.

9.4.5 Complainants’ Voice in the Complaints Process: Independence and ‘Equalising’ Voice

“Voice” is also an important element of procedural justice with some research indicating that individuals affiliate and derive feelings of self-worth from their membership of groups (Lind & Tyler, 1988). Therefore, for complainants – as members of society, the ability to be heard in a procedurally just forum, such as mediation, can contribute to their sense of dignity within the group (Sivasubramaniam & Goodman-Delahunty, 2006, p. 210). As complainant participation (i.e., having the chance to discuss their standpoint and being taken seriously in an equitable process) was identified as a significant issue in the study, ‘voice’ was coded as a separate theme.

The evidence that complainants’ want to be heard and get answers to why police officers acted in allegedly harmful ways, has not changed over time. The early evidence in mediation program evaluations (e.g., Denver, New York City, Thames Valley, Queensland) and current mediation participant surveys (e.g., Los Angeles and New Orleans) all emphasise the importance of having a voice. Anecdotal evidence from some case study sites revealed high levels of complainant and police officer satisfaction with the external mediation process and outcomes

because it enables both parties to voice their concerns. Although there are no recent formal evaluations of programs, and the evidence did not translate into numerical data, the experiential knowledge conveyed by the case site mediators confirmed this crucial element in complaints resolution. Being given a voice is the ‘equaliser’ in the interaction between complainants and police. Complainants view being offered an opportunity to speak directly with the subject police officer as a sign that their complaint has been taken seriously, and they are able to make a choice about how they want their complaint dealt with; subject police officers are also given equal opportunity to participate and state their perspective – factors conducive to providing benefits to both parties. Therefore, a missing element in all the case study sites is the continuous evaluation of participant experiences – an important outcome component (Pawson & Tilley, 1997). An interviewee in the New York City case study site acknowledged that this is a practice they should recommence. Denver collects survey data, but this has not been formally analysed for some time, and the same is true for Los Angeles.

9.4.6 Diverse Complainants: Issues of Discrimination

The policing landscape has undergone considerable change since the early days of the alternative dispute resolution movement. Population growth, demographic and technological changes, advancements in civil rights, attitudinal shifts across generations toward authority, equal employment opportunities both within and outside of policing, and a greater public awareness of police policy and procedure have resulted in the public wanting to be involved in how complaints they lodge against police are dealt with. In many instances, internally facilitated complaints processes have not kept pace with the needs of the diverse communities which police departments serve. Allegations of mistreatment and discrimination related to race, culture, gender and age underpin a large percentage of complaints against police in the United States. Interviewees from the Denver, Los Angeles and New York City case study sites agreed that mediation accommodates discussion over the personal impact of an incident and can overcome

misunderstandings between complainants and police officers. The Thames Valley case site confirmed similar issues with its diverse community but have focused on an upfront restorative justice approach to resolving disputes as they occur. At this point, Australia and New Zealand, with much smaller populations, have reported that they do not experience the same problems as the United States and the United Kingdom. However, Australia and New Zealand have ethnic minority groups and Indigenous populations who experience high contact rates with the police. As such the potential for race-based discriminatory treatment by police exists. This highlights the importance of adjusting a program to meet the diverse needs of the location in which the program operates (Pawson & Tilley, 1997). As the literature on restorative justice indicates, cultural sensitivity and self-determination are incorporated into practice and as such restorative justice mediation presents an appropriate approach to resolving complaints lodged by individuals from diverse backgrounds.

9.4.7 Participation in Mediation Finalises a Complaint: Excluding Disciplinary Action

The journal articles on Denver, Los Angeles and New York City, show that police participation in external mediation has the effect of obviating a complaint notation from a police officer's service record, and it finalises the matter. The practice has made mediation an attractive option for police officers who also benefit from the assurance of no further disciplinary action against them by the service. This is an important contextual component to a program's success because without an incentive, or potential benefit, individuals would not participate in a program, and it would likely fall into disuse (Pawson & Tilley, 1997). However, some police organisations across the case study sites also expressed reservations regarding the limitation this approach has posed to warranted police officer discipline, retraining and monitoring. The Queensland Police Service interviewees argued that the confidential nature of mediation has limited the useable information they receive to address these important aspects of police conduct. They questioned how the content of mediations could be kept confidential, whether

police officers might be berated by complainants and/or feel compelled to admit to doing things which they did not do. This was similar to the Denmark experience reported in the literature, where concerns were raised regarding a lack of confidentiality in the mediation process that might expose police officers to potential self-incrimination and subsequent disciplinary action by the service (Holmberg, 2019).

The Queensland Police Service ostensibly shut down their external mediation program for this reason. The risk that mediation could disguise the seriousness of some police conduct remained a concern. Consequently, informal resolution has continued to operate as it maintains the control police prefer in relation to police discipline. Yet complaints mediation does not have to be viewed in opposition to existing internal processes but rather as an adjunct to them. External mediation may be more appealing to police organisations if, for example, a successful mediation session could be considered in a disciplinary hearing; or even stave off a possible criminal charge, depending on how the complainant responds; or run parallel in a multi-track system. Hence, mediation offers an additional mechanism that could be utilised by police to assist with behaviour management. This argument is presented in the literature review and first journal article. Some case study site interviewees noted that they had not considered the use of mediation in this way but expressed no opposition to the idea – with one interviewee from the Los Angeles case study site saying “maybe mediation could be an adjunct component. I mean, that would be interesting to do”.

The literature review did not reveal any published studies comparing complaints against individual police officers pre- and post-participation in any of the resolution processes. However, the majority of police officers in the 1994 Queensland informal resolution study reported that the non-disciplinary element allowed them to be open to guidance, training and monitoring. In comparison, police officers who participated in informal resolution in the 2005 study by Young and colleagues, reportedly learned nothing from participation. However,

approximately a third of police officers who participated in restorative justice mediation felt that process allowed them to be more mindful of their interactions and the impact of their behaviour on the public.

9.4.8 Police Behavioural Improvement: Self-Reflection Through an External Lens

Most complaints against the police are concerned with verbal and physical treatment by police and/or actions police have taken. Few complaints contain calls for punitive responses. This is consistent with the literature that has revealed that most complainants want police officers to refrain from repeating behaviour – not lose their jobs (Landau, 1994; Prenzler & Ronken, 2001). Individual police officer accountability remains the focus in many police organisations (CCRB, 2018; OIMD, 2018; QPS, 2019). Yet systemic change may also be warranted if real change is to occur. Complainants reportedly want police services “to recognize their experience and to acknowledge that what happened was wrong” (Holmberg, 2019, p. 13). However, sometimes complaints cannot be proven because of limited supporting evidence. This leaves complainants without the recognition they seek from either the service or the subject officer. The view of participants, across the case study sites that offer external mediation, was that mediation provides a forum for stakeholders to state their version of events. The ‘human’ factor, with its strengths and fragility, is brought to the room in mediation. Police officers discuss their actions and behaviour directly with the person who has felt wronged by their actions. It was observed by some interviewees that this interaction can prompt suggestions from police officers around possible areas for behavioural improvement – something complainants remain ignorant of when complaints are dealt with internally.

Certainly, disciplinary action taken against police officers represents an attempt by police departments to mitigate future behavioural issues. However, there is potential for the process to contribute to improved police conduct, reduced complaints and improved police-community relations if the content of the mediated complaints and outcomes of mediation are fed into a

larger data-driven policing improvement program. To date, measuring the success of complaints mediation has been limited to participant satisfaction, a broader approach would provide a rich source of data for analysis that would ultimately benefit both complainants and police departments. This is an important outcome component as the success of a program is measured by more than the satisfaction of one party to a dispute (Pawson & Tilley, 1997).

9.4.9 Mediator Skills and Process Independence

The establishment of external mediation programs was the first step in the ‘civilianisation’ of police complaint systems. Police interviewees were largely accepting of professional mediation service providers as suitable for mediating civilian-police complaints. They expressed no opposition to civilian-led rather than police-controlled programs, especially in relation to minor complaints, provided mediators were appropriately trained. In the United States, mediation providers select and train experienced mediators in civilian-police complaints mediation. The training provides mediators with an overview of law enforcement and police procedure, and intake and mediation selection criteria. Mediators, equipped with knowledge of police culture, can skilfully bring individuals from different backgrounds and perspectives together in an equitably conducted mediation. All case study sites acknowledged that the independence inherent in external programs can satisfy complainant questions of impartiality and minimise perceptions of bias that favour police officers. All these points are consistent with the literature that emphasises the objectivity of independent service provision (Savage, 2012; Sivasubramaniam & Goodman-Delahunty, 2006; Volpe, 2014); and identifies the challenges police mediators face in remaining neutral given their training to take control and act as problem solvers in their policing roles (Alarid & Montemayor, 2012).

9.4.10 Types of Complaints for Mediation

The research findings have identified complaint types (i.e., minor and serious) as an area of police complaints management that fails to engage with the wider mediation and restorative

justice literature. In Australia and overseas, the literature shows that restorative justice mediation and conferencing are used within criminal justice systems for a range of offences committed by adults and youth, from minor offences to the most serious crimes, such as murder (AIC, 2017). However, many mediation programs associated with police complaint systems are frequently advertised as being limited to minor complaints. Yet this thesis has argued that there is a place for external mediation in the resolution of all kinds of alleged abuse by police. This can be seen in the New York City and Los Angeles case study sites that mediate a high volume of complaints containing racially and biased policing allegations. Both case study sites regard these types of complaints as ‘pretty serious’ which suggests an opportunity for all types of complaints to be resolved through mediation. The literature in relation to the Northern Ireland system supports this. The Police Ombudsman of Northern Ireland is an independent agency that reviews all complaints, even the most serious, and this jurisdiction offers lessons to other jurisdictions on addressing complainants needs and police disciplinary or prosecutorial measures. As in section 9.4.11 below, the flexibility of a program to adapt to changing conditions and needs, and the evaluation of these improvements is important to a program’s success and continuity (Pawson & Tilley, 1997).

9.4.11 Restorative Justice: Facilitated by Mediation

The last theme to be discussed is restorative justice. This is deliberate as many of the findings from case study sites evidence an undertone of restorative justice principles. The Denver mediation program encourages a restorative approach, and Los Angeles and New York City believe their programs are restorative in nature although they have not labelled them as such. In the Thames Valley, police officers are trained in restorative justice techniques to de-escalate conflict when incidents occur. However, without a mediated resolution process the proper application of restorative justice may become arbitrary or wane completely.

According to the literature, restorative justice is operationalised through mediation and emphasises values, expectations and roles that are different from traditional police practices and thinking (Alarid, 2012). The internal practice in the Thames Valley is an example of practice that is inconsistent with restorative justice principles and where elements that are important to satisfactory conflict resolution are lacking. The findings reported in the Thames Valley case study journal article show the return by police services across the United Kingdom to a procedural rather than relational approach to complaints resolution. As such, a complainant's encounter on the street with a uniformed police officer removes any equity they may have in the situation. Also, under these conditions, the time available to complainants to fully discuss their grievances is constrained and with the absence of an impartial referee, the 'resolution' may be unfair. The practice has also ignored the findings by Young and colleagues in a study conducted in the region in 2005, that complainants and police officers were significantly more satisfied with restorative, face-to-face meetings mediated by a trained facilitator than with the existing informal resolution process. There was some concern expressed in the Thames Valley and in other case study sites that police officers are viewed as the 'harmers' (i.e., the sole cause of the conflict) in mediation. Participants considered this labelling as unfair where police officers were 'simply following procedures'. While hurt or harm may be felt by complainants, the mediation literature proposes that the notion of blame can be negated by mediators who elicit non-adversarial narratives around painful incidents (Sourdin, 2016). These narratives can encourage respect and empathy and may lead to an apology, forgiveness and healing (Sullivan & Tifft, 2013).

The journal article on the Thames Valley case study conveys the importance of broadening the use of restorative justice for all types of dispute resolution. The impact of negative interactions with the police is one such area of dispute resolution necessitating a healing, restorative approach. The Denver mediation program evaluation found evidence of apologies

being given by police officers during mediation (Schaible et al., 2012). Apologies from police were also found in the Thames Valley study by Young and colleagues in 2005 where a ‘spontaneous apology’ was offered by more than half the police officers in a restorative justice mediation group. Apologies have been identified as healing opportunities in the restorative justice and mediation literature (Bottoms, 2013; Braithwaite, 1999; Tavuchis, 1991).

These findings indicate implicit benefits of a restorative justice mediation model. Firstly, the independence, equity, open and honest dialogue offered by restorative justice mediation promotes police transparency, integrity and accountability which likely results in greater community confidence in the police. Secondly, the reparative nature of restorative justice mediation often elicits an apology from the police officer and results in complainants leaving sessions feeling satisfied that they have been heard and their complaint taken seriously. Thirdly, restorative justice mediation enables a better understanding of perspectives between the police and complainants often resulting in police contributing ideas for how they may better handle similar situations in the future. The traditional approaches to complaints resolution prevent this interaction and outcome.

9.5 Recommendations

This study has made a meaningful contribution to the body of existing literature across a number of disciplines, including criminology, policing and law. It has done this by utilising a qualitative approach to investigating the role of external mediation in the resolution of civilian complaints against police. Through a two-part approach of documentary analysis and semi-structured interviews, the methodology provided a wealth of relevant data. The documentary evidence provided foundational knowledge and the semi-structured interviews provided insights into the lived experience of those working in the area of civilian-police complaints.

These findings, as demonstrated throughout the journal articles, have implications for police policy. The implementation of external mediation will benefit police services through its potential to free up resources; enable police officers to reflect on actions taken by them; inform the community of police policy and procedures; improve police behaviour; increase police officer and complainant satisfaction – thereby improving the civilian-police relationship. What remains is for police services, particularly in Australia and New Zealand, to seriously consider the evidence and include external complaints mediation programs, incorporating restorative justice principles, into police policy so that they keep pace with best-practices in police integrity management. As such, it is important that external complaints mediation should be a feature of police complaint resolution options.

This thesis set out to answer the question, *what can police departments learn from successful agencies in adding civilian-led mediation to the mix of alternative dispute resolution in response to complaints against police?* This thesis highlights that independently facilitated mediation is a necessary component in the repertoire of police complaint resolution mechanisms. It proposes that external, civilian-led mediation provides complainants with a voice and choice in the way their grievance is dealt with by the police. Informal and managerial resolution processes address the facts in dispute but not the individual harms that can result from incidents with police. In an age where police integrity is emphasised and accountability is monitored in constant policy reform; and there are changing public expectations around appropriate police behaviour, complaints management must be transparent, neutral, fair and conducive to healing. Therefore, external mediation should be an available option for complainants. Further, the characteristics of complainant exclusion and marginalisation from the complaints process, inherent in traditional and informal resolution processes, are remedied by the inclusion of restorative justice mediation as a resolution option. Thus, the healing benefits of restorative justice mediation will also contribute to strengthening the civilian-police relationship.

Four recommendations can be drawn from the thesis findings: (1) the addition of civilian-led, independent mediation as a complaint resolution option; (2) the development of a model that can be adopted to meet regional needs and resources; (3) the inclusion of restorative justice principles in the complaints mediation process; and (4) the use of external mediation for minor and serious complaints. The recommendations are discussed in more detail below.

9.5.1 Recommendation 1: The addition of civilian-led, independent mediation as a complaint resolution option to existing alternative dispute resolution options

The inclusion of external mediation to the mix of existing alternative dispute resolution options is recommended for a best-practice model of police complaints management in Australia and overseas. Ideally, the program should consist of civilian-led complaints mediation sessions, completely independent of the police that utilise professional mediators trained in police culture and who mediate the full range of complaints and are monitored by a civilian-led oversight agency. While police officers may be trained to facilitate complaints, for complainants an element of doubt will always exist in relation to impartiality, and police accountability and behavioural improvement given the secrecy around disciplinary action. The independence of the umpire is paramount in engendering trust – which can assist in strengthening the civilian-police relationship. Well-designed programs, such as in Denver, that use professional mediators who are trained in conducting mediations with police, are well positioned to mediate all types of complaints. This is consistent with the mediation literature (Charlton & Dewdney, 2014, Sourdin, 2016; Spencer, 2016) and mediation should be available at any time during the complaint resolution process. The value of including independent mediation is evidenced by such long running programs as those in Denver and New York City, which have influenced the implementation of external, independent mediation programs in other cities in the United States including New Orleans, Minneapolis, Maryland, Washington and San Francisco.

9.5.2 Recommendation 2: The development of a model that can be adopted to meet regional needs and resources

The study identified unique features across police regions stemming from demographic, cultural, political and economic conditions. For example, police regions with large mixed-race populations experienced high numbers of racially biased treatment allegations. Whereas other regions with issues such as high youth crime rates, experienced complaints related to heavy handed tactics and false arrest. Consistent with these findings, it is recommended that mediation programs should be tailored to respond to diversity and local issues and take into consideration the individual constraints on police jurisdictions, such as funding and resources. Mediation should be offered early in a dispute to minimise escalation and at any other stage of the conflict. Lodged complaints should be scheduled for mediation within a reasonable time such as three weeks, as proposed by existing programs (e.g., Denver, Los Angeles, New Orleans). Also, mediation should be provided at no cost to the participants. Given the recognition by various governments of the public benefits of police complaints mediation programs (e.g., recommendations from various inquiries and parliamentary committees, including in Queensland), a funding allocation, separate to police budgets, is recommended.

A provision in funding is recommended for the development of best-practice guidelines for the police; advertising; and community education resources. This is to overcome the mediation knowledge gap that currently exists in some jurisdictions. Dispute resolution branches (usually attached to Justice Departments) already offer mediation services for civil and criminal matters and are recommended as appropriate suppliers of civilian-police complaints mediation. The extension of existing service under this option may also contribute to cost minimisation and allow for the ongoing education, training and evaluation of mediators.

9.5.3 Recommendation 3: The inclusion of restorative justice principles in the complaint mediation process

Mediation that employs restorative justice principles provides a holistic approach to complaints resolution by encouraging understanding, apology, forgiveness and healing. Most complainants believe they have legitimate grievances and seek a meaningful resolution. Restorative justice mediation is recommended for the resolution of civilian-police complaints as it brings parties together to unpack and work through the personal toll that results from alleged police wrongdoing and focuses on responsibility-taking by police (where appropriate) for any harm done to the complainant. The literature identifies responsibility-taking or making amends by one party for harm/wrongdoing as a key feature of restorative justice mediation (see Brookes & McDonough, 2006; Menkel-Meadow, 2007; Radzik, 2007; Sullivan & Tifft, 2013; Zehr, 1990). This is not a common feature in most other forms of alternate dispute resolution.

It is restoration, more so than a resolution, that engenders satisfaction and can lead to reduced complaints in the future. Restorative justice was evident in most mediation programs studied and advocated by governments for inclusion in police complaints management systems. Mediators will require restorative justice training, but this will serve to enrich their practice. As such, further steps to include restorative justice in a civilian-police complaints mediation framework is recommended.

9.5.4 Recommendation 4: Mediation of minor and serious complaints

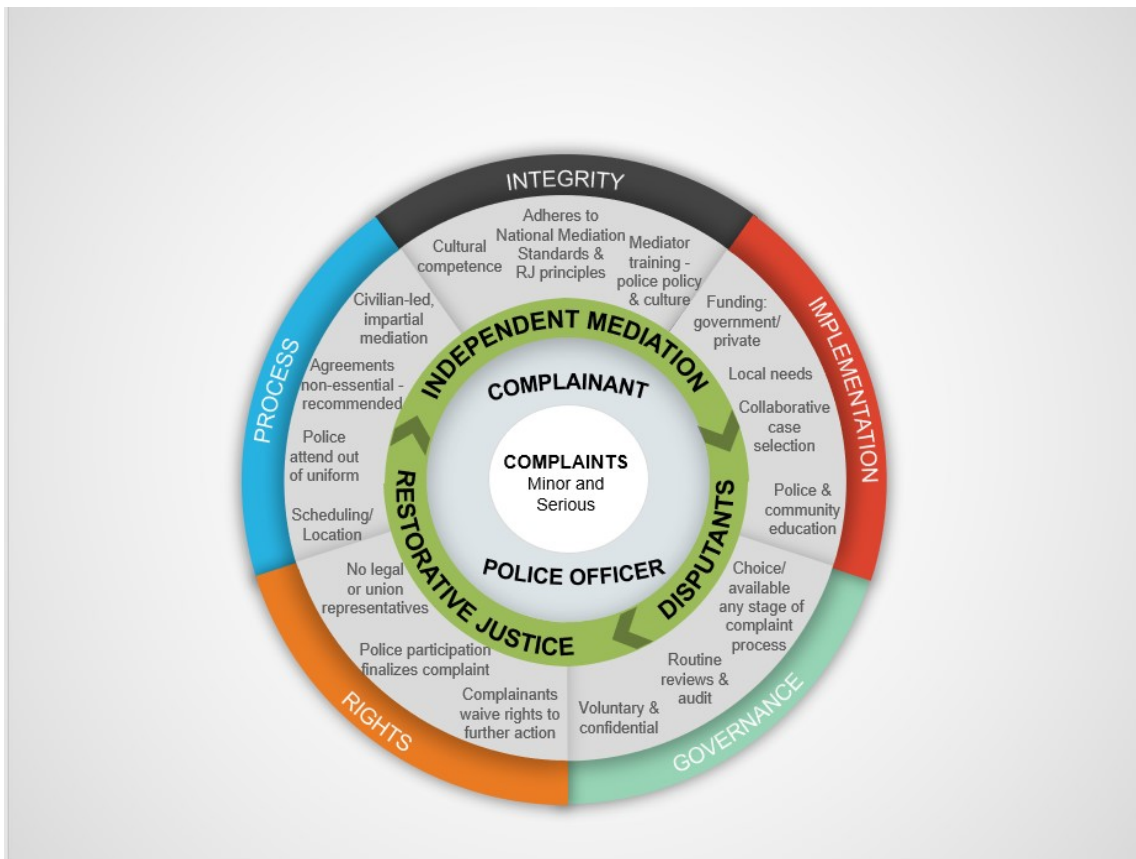
Mediation is the likely best option for many types of complaints as it can engender reconciliation. It is therefore recommended that external mediation programs not be confined to minor complaints, but rather extended to deal with serious complaints. This could allow for a more nuanced discussion about the experiences of complainants and the impact of harm caused by serious police misconduct. Given that serious incidents can result in more deeply felt harms, the need for an independently mediated meeting is a necessity. Some jurisdictions have ventured

into this area by including racially biased policing and excessive force in the types of complaints mediated (e.g., Los Angeles and New York City). However, significant restorative benefits may be gained by complainants (and this extends to multiple complainants in communities) who want to dialogue serious incidents such as assaults or deaths in custody.

9.6 Best-Practice Mediation Model

A best-practice mediation model (see Figure 9.1) has been developed from a combination of the extant literature and the present thesis findings. It represents a minimum standard that all police departments could consider adopting. It provides a guide for practitioners and policy makers to redesign or restructure future police complaints management practices. The model synthesises findings and recommendations to articulate a potential best-practice mediation model. The model is proposed as a necessary component of a wider, more complex and robust police integrity management system. The informal resolution option retains a place for stakeholders who do not wish to participate in mediation. External mediation offers a default option for restorative justice responses, especially where it is attached to other approaches for improving police conduct and reducing complaints.

Figure 9.1: Civilian-Police Complaints Mediation – Potential Best-Practice Mediation Model



The mediation model above should be read in association with the following points, that guide the model's application from its core (i.e., complaints) in an outward direction through its circular structure:

- Central to the process are civilian complaints. Both minor and serious complaints (i.e., the major theme of types of complaints) can be dealt with using the model (with bifurcation of allegations, i.e., mediation of eligible allegations within multiple allegation complaints);
- The parties to the complaint are single or multiple complainants, and police officers;
- The ring surrounding the parties indicates the use of independent or external restorative justice mediation for the resolution of complaints between them;
- The outer ring consists of five headings that incorporate the remaining ten major themes that emerged from the findings. These are:

1. Implementation – program design, support and success;
 2. Governance – procedural justice and trust; and complainants voice in the complaints process;
 3. Rights – police participation in mediation finalises a complaint;
 4. Process – diverse complainants and issues of bias; and police behavioural improvement;
 5. Integrity – mediator skills and process independence; and restorative justice;
- The sub-themes that emerged from these major themes are mapped under each of the five headings. The sub-themes are the ‘ingredients’ recommended in a best-practice mediation model. The ‘ingredients’ are:
 1. Implementation:
 - Mediation funding is provided by either government or a private agency, that is outside of the police budget;
 - The mediation program is responsive to the diverse needs of the community;
 - The police and mediation provider collaborate on the selection of cases for mediation – the mediation provider should therefore have access to the police complaints database so that they have real-time complaints data. The independent monitoring of all complaints would improve the complaints triage process, potentially reducing the number of unsubstantiated complaints; and
 - Mediation education is publicly available through the police and mediation provider’s websites, brochures and information sessions; and incorporated into police training.
 2. Governance:
 - Mediation is available to complainants at any stage of the complaints process and is voluntary and confidential for all participants;

- Routine reviews and auditing enable feedback and improvements to the program.
3. Rights:
- The expectations regarding complainant and police officer participation in mediation are articulated prior to sessions. These are: participants do not bring legal or union representatives to mediation; by agreeing to participate in mediation, complainants waive their rights to further action against the subject police officer/s, even if dissatisfied with the mediation process and/or outcome; good faith participation by police officers to result in no complaint record or further disciplinary action.
4. Process:
- This consists of facilitation, location and equity in the process and outcomes. Therefore, the mediation process must be civilian-led and impartial; scheduled (i.e., consent; mediation date and time) as soon as practicable for participants after receipt of the complaint, and facilitated in the mediation provider's premises or in a community venue; police attend mediation in civilian clothes to limit any perceived power differential; and as the participants have autonomy over the outcome, agreements are recommended but not essential.
5. Integrity:
- Mediation to be underpinned by restorative justice principles; high practice standards and skills are required of mediation providers, including knowledge of police policy and culture, and cultural competence, to ensure the legitimacy of the program; mediation sessions may be co-convened.

9.7 Considerations for Future Research

Future researchers may wish to consider several potential areas for investigation, outlined below:

- (1) The use of restorative justice mediation to address grievances by multiple complainants.
The recent death in custody events in the United States highlight the needs of communities to address issues, such as racial profiling, that have far-reaching effects.
- (2) The use of restorative justice mediation in the resolution of complaints by Aboriginal and Torres Strait Islander complainants against police. There is some evidence of third-party complaints mediation programs facilitated in collaboration with Elders in some remote Aboriginal and Torres Strait Islander communities (KPMG, 2010). However, Aboriginal and Torres Strait Islander complainants in city and regional areas could benefit from this practice.
- (3) There are no comparative evaluations that have examined external mediation programs against informal and local managerial resolution processes. This would provide useful data on potential areas for improvement in triage and case selection for an external mediation process.

9.8 Conclusion

The strength of the civilian-police relationship is indicative of how well a community functions. Strong relations are characterised by law-abiding behaviour, order and peace while the converse is imbued with wrongful behaviour, fear and harm. Both sides have a part to play in maintaining their social contract. The police have immense responsibility to act within legislated powers to protect the community and civilians are expected to abide by the law. However, their interaction can result in civilian complaints. The police may view these complaints as problematic, but they also create unexpected opportunities to improve and strengthen civilian-police relationships. External mediation has been shown in the literature to be a highly effective means of satisfying complainants' needs for face-to-face contact with the subject police officer to have their grievances heard, in a fair and equitable forum. The present thesis fills the gap in research on the

views, policies and procedures of those organisations directly involved in the decision-making about whether and how external mediation is implemented. To varying degrees, all six case sites studied include mediation in their mix of complaint resolution options.

9.9 Closing Words

The goal in conducting this research has been to strengthen the relationship between the police and the communities they serve. Civilian complaints against police provide an instrument for continuous police improvement. Existing conciliatory complaints methods fail to provide bias-free resolution. However, external restorative justice mediation, when implemented properly removes the notion of fault, heals lives and builds trust. It therefore offers substantial advantages over conventional processes and is generalisable across police jurisdictions.

REFERENCES

- Alarid, L. F., & Montemayor, C. D. (2012). Implementing restorative justice in police departments. *Police Practice and Research*, 13(5), 450-463.
<https://doi.org/10.1080/15614263.2011.607654>
- Alexander, N. (2006). Global trends in mediation: Riding the third wave. *ADR Bulletin* 6(3), Article 1. <http://epublications.bond.edu.au/adr/vol6/iss3/1>
- Andreas, P., & Nadelmann, E. (2006). *Policing the globe: Criminalisation and crime control in international relations*. New York, NY: Oxford University Press.
- Annese, J., & Rayman, G. (2016, January 15). *Review board substantiates 30% of civilian complaints against NYPD officers in December with video evidence*. New York Daily News. <http://www.nydailynews.com/new-york/30-civilian-complaints-nypd-substantiated-article-1.2497121>
- Astor, H. (2000). Rethinking neutrality: A theory to inform practice – Part 1. *Australian Dispute Resolution Journal*, 11, 73-154. https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/document?src=document&docguid=I6ba5f70ecf1011e08eefa443f89988a0&epos=2&snippets=true&startChunk=1&endChunk=1&nstid=std-anz-highlight&nsts=AUNZ_AU_JLDISPRES&isTocNav=true&tocDs=AUNZ_AU_JOURNALS_TOC&parentinfo=#
- Attard, B. (2010). Oversight of law enforcement is beneficial and needed – both inside and out. *Pace Law Review*, 30, 1548-1561.
<https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1755&context=plr>
- Australian Bureau of Statistics. (1992). *1992 year book*.
[https://www.ausstats.abs.gov.au/ausstats/free.nsf/0/2415DAD15B7F1E7FCA257AFE001471C4/\\$File/13013%20-Qld%20YrBook%20-%201992.pdf](https://www.ausstats.abs.gov.au/ausstats/free.nsf/0/2415DAD15B7F1E7FCA257AFE001471C4/$File/13013%20-Qld%20YrBook%20-%201992.pdf)
- Australian Bureau of Statistics. (2003). *Queensland population* (1387.3 - Queensland in review, 2003).
<https://www.abs.gov.au/Ausstats/abs@.nsf/Lookup/CF3424B58ECB69C8CA256CC500211FCA>
- Australian Dispute Resolution Advisory Council (ADRAC). (2016). *Dispute resolution: Model provisions* (Consultation Paper 18). New South Wales Law Reform Commission.
<http://www.lawreform.justice.nsw.gov.au/Documents/Current-projects/ADR/Submissions/DR19.pdf>

- Australian Dispute Resolution Advisory Council (ADRAC). (2017). *Conciliation*, authored by David Bryson. https://f77b663a-db93-4dd8-823d-909937839d69.filesusr.com/ugd/34f2d0_50f7e879f10e427b8f9ec23d19108f3b.pdf
- Australian Disputes Centre. (2015). Arbitration and conciliation. <https://www.disputescentre.com.au/arbitration/>
- Australian Federal Police (AFP). (2007). *Annual report 2006-2007*. Canberra: Australian Federal Police. <https://www.righttoknow.org.au/request/4043/response/10686/attach/5/afp%20annual%20report%202006%202007.pdf>
- Australian Federal Police (AFP). (2015). *Australian Federal Police service charter for the Australian community*. <http://www.afp.gov.au/about-the-afp/service-charters/afp-service-charter>
- Australian Federal Police (AFP). (2016). *Annual report 2015-2016*. <https://www.afp.gov.au/sites/default/files/PDF/Reports/afp-annual-report-2015-2016.pdf>
- Australian Institute of Criminology (AIC). (2017). *Restorative justice in Australia*. <https://aic.gov.au/publications/rpp/rpp127/restorative-justice-australia>
- Australian Law Reform Commission. (2018). *Alternative processes – restorative justice* (Summary No. 11). <https://www.alrc.gov.au/publications/11-alternative-processes/restorative-justice>
- Bailey, C. A. (2007). *A guide to qualitative field research* (2nd ed.). Thousand Oaks, California: Pine Forge Press. ISBN 1412936500.
- Bartels, E. C., & Silverman, E. B. (2005). An exploratory study of the New York City Civilian Complaint Review Board mediation program. *Policing: An International Journal of Police Strategies & Management*, 28(4), 619-630. <https://doi.org/10.1108/13639510510628703>
- Baruch Bush, R. A., & Ganong Pope, S. (2002). Changing the quality of conflict interaction: The principles and practice of transformative mediation. *Pepperdine Dispute Resolution Law Journal*, 3(1). <https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1170&context=drlj>
- Bavas, J. (2014, August 15). *Queensland Police Service doing secret review of officer discipline process, civil libertarians say*. ABC News. <http://www.abc.net.au/news/2014-08-15/qld-police-accused-of-doing-secret-review-of-officer-discipline/5674484>
- Bazemore, G. (2000). Community justice and a vision of collective efficacy: The case of restorative conferencing. *Criminal Justice* 2000, 3, 225–297.

- <https://nij.ojp.gov/library/publications/community-justice-and-vision-collective-efficacy-case-restorative-conferencing>
- Beck, E., & Wood, A. (2011). Restorative justice practice. In E. Beck, N. P. Kropf and P. B. Leonard (Eds.), *Social work and restorative justice: Skills for dialogue, peacemaking, and reconciliation* (pp. 65-67). OUP.
- <https://doi.org/10.1093/acprof:oso/9780195394641.003.0004>
- Berg, B. L., & Lune, H. (2012). *Qualitative research methods for the social sciences* (8th ed.). Upper Saddle River, NJ: Pearson.
- Berger, V. (2000). Civilian versus police: Mediation can help to bridge the divide. *Negotiation Journal*, 16(3), 211. <https://doi.org/10.1111/j.1571-9979.2000.tb00215.x>
- Birgden, A. & Lopez-Varona, J. (2011). *Community-police complaint mediation project: A review paper*. <https://www.researchgate.net/publication/268293646>
- Bittner, E. (1970). The functions of the police in modern society: A review of background factors, current practices, and possible role models. *Public Health Service Publication No. 2059*. Washington, DC: Government Printing Office.
- <https://www.ncjrs.gov/pdffiles1/Digitization/147822NCJRS.pdf>
- Blatter, J. & Haverland, M. 2014. Case studies and (causal-) process tracing. In I. Engeli and C. Rothmayr Allison (Eds.), *Comparative policy studies: Conceptual and methodological challenges* (pp. 59-84). Palgrave Macmillan. https://doi.org/10.1057/9781137314154_4.
- Bloomberg, L. D., & Volpe, M. (2008). *Completing your qualitative dissertation: A roadmap from beginning to end*. Thousand Oaks, California: Sage Publications.
- Bottoms, A. (2013). Some sociological reflections on restorative justice. In G. Johnstone (Ed.), *A restorative justice reader* (2nd ed.). (pp. 36-46). Oxon, UK: Routledge.
- Bottoms, A., & Tankebe, J. (2012). Beyond procedural justice: A dialogic approach to legitimacy in criminal justice. *Journal of Criminal Law and Criminology*, 102(1), 119-170. <https://scholarlycommons.law.northwestern.edu/jclc/vol102/iss1/4>
- Boulle, L. (2011). *Mediation: Principles, process, practice* (3rd ed.). (pp. 42-48). Chatswood, NSW: Butterworths.
- Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2), 27-40. <https://doi.org/10.3316/QRJ0902027>
- Bradford, B., Jackson, J., & Stanko, E. A. (2009). Contact and confidence: Revisiting the impact of public encounters with the police. *Policing and Society*, 19(1), 20-46. <https://doi.org/10.1080/10439460802457594>

- Braithwaite, J. (1989). *Crime, shame and reintegration*. Cambridge, UK: Cambridge University Press.
- Braithwaite, J. (1999). Restorative justice: Assessing optimistic and pessimistic accounts. *Crime and Justice: A Review of Research*, 25, 1-127. https://heinonline-org.ezproxy.usc.edu.au/HOL/Page?collection=journals&handle=hein.journals/cjrr25&id=7&men_tab=srchresults
- Braithwaite, J. (2016). Restorative justice and responsive regulation: The question of evidence. *Working Paper No. 51*, School of Regulation and Global Governance. RegNet Research Papers. http://regnet.anu.edu.au/sites/default/files/uploads/2016-10/SSRN_2016_updated_Braithwaite%20J.pdf
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3, 77-101. <https://doi.org/10.1191/1478088706qp063oa>
- Brereton, D. (2000). Evaluating the performance of external oversight bodies. In A. Goldsmith and C. Lewis (Eds.), *Civilian Oversight of Policing* (pp. 105-124). Oxford, UK: Hart Publishing.
- Brooks Dollar, C. (2020). Therapeutically (un)just interactions in Family Court proceedings. *Criminal Justice Policy Review* 31(2), 262-286. <https://doi.org/10.1177/0887403418812170>
- Brookes, D. & McDonough, I. (2006, November). The differences between mediation and restorative justice/practice. https://www.researchgate.net/publication/335704100_The_Differences_between_Mediation_and_Restorative_JusticePractice
- Brown, D. (1988). The police complaints procedure: A “consumer” view. *The Howard Journal*, 27(3), 114-167. ISSN 0275-5527. https://heinonline-org.ezproxy.usc.edu.au/HOL/Page?public=true&handle=hein.journals/hjcj27&div=21&start_page=161&collection=journals&set_as_cursor=63&men_tab=srchresults
- Bruce, J. (2013). Understanding ‘back stage’ and ‘front stage’ work in restorative justice conferences: The benefits of using ethnographic techniques. *Current Issues in Criminal Justice*, 25(1), 517-526. <https://doi.org/10.1080/10345329.2013.12035978>
- Buchner, B., Bobb, M., Root, O., & Barge, M. (2007). *Evaluation of a pilot community policing program: The Pasadena police-community mediation and dialog program*. Washington, DC: U.S. Department of Justice. <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=246485>

- Buffone, S., Chenier, A., Schulenberg, J. L., & Sycz, D. (2016). Improving the police complaints system: Stakeholder collaboration as a vehicle for systems change. *American Journal of Criminal Justice*, 42, 293–313. <https://doi.org/10.1007/s12103-016-9360-8>
- Burgess, R. G. (1991). Sponsors, gatekeepers, members, and friends: Access in educational settings. In W. Shaffir & R. Stebbins (Eds.), *Experiencing field-work: An inside view of qualitative research* (pp. 43-52). New York: St. Martin's Press.
- Burton, J. (1997). Conflict resolution: Towards problem solving. *Peace and Conflict Studies*, 4(2). Article 2. <https://nsuworks.nova.edu/pes/vol4/iss2/2>
- Butcher, M. (2003). Using mediation to remedy civil rights violations when the defendant is not an intentional perpetrator: The problems of unconscious disparate treatment and unjustified disparate impacts. *Hamline Journal of Public Law & Policy*, 24(2), 225-292.
- Campeau, H. (2015). 'Police Culture' at work: Making sense of police oversight. *British Journal of Criminology*, 55, 669-687. <https://doi.org/10.1093/bjc/azu093>
- Cant, R., & Downie, R. (1998). *Evaluation of the Young Offenders Act (1994) and the juvenile justice teams*. Perth: Social Systems and Evaluation.
- Caplan, J. (2003). Police cynicism: Police survival tool? *The Police Journal: Theory, Practice and Principles*, 76(4), 304-313. <https://doi.org/10.1350/pojo.76.4.304.25821>
- Carter, T. J. (2006). Police use of discretion: A participant observation study of game wardens. *Deviant Behaviour*, 27, 591-627. <https://doi.org/10.1080/01639620600781555>
- Central Intelligence Agency (CIA). (2017). *The world factbook*. Australia-Oceania: New Zealand. <https://www.cia.gov/library/publications/the-world-factbook/geos/nz.html>
- Charkoudian, L. (2016, February 1). *Baltimore to launch mediation program for citizen complaints against police*. Baltimore Sun, 1. <https://www.baltimoresun.com/news/crime/bs-md-ci-police-mediation-20160131-story.html>
- Charlton, R., & Dewdney, M. (2014). *The mediator's handbook: Skills and strategies for practitioners* (3rd ed.). Pyrmont, NSW: Thomson Reuters.
- Chen, H. T., & Rossi, P. H. (1983). Evaluating with sense: The theory-driven approach. *Evaluation Review*, 7(3), 283-302. <https://doi.org/10.1177/0193841X8300700301>
- Choi, J. J., & Gilbert, M. J. (2010). 'Joe everyday, people off the street': A qualitative study on mediators' roles in victim-offender mediation. *Contemporary Justice Review: Issues in Criminal, Social and Restorative Justice*, 13, 207-227. <https://doi.org/10.1080/10282581003748305>

City News Service (CNS). (2019, September 24). L.A. city attorney to expand dispute resolution program with police outreach [Radio broadcast transcript]. In *KFI Local News*. KJI AM 640. <https://kfiam640.iheart.com/content/2019-09-23-la-city-attorney-to-expand-dispute-resolution-program-with-police-outreach/>

City of New York. (2003). *Civilian complaint review board: Status report*. New York, NY: City of New York.

Civil Proceedings Act 2011 (Qld), ss 39-44

Civilian Complaint Review Board (CCRB). (2002). *Annual report 2002*. New York, NY: Civilian Complaint Review Board.
https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2002_annual.pdf

Civilian Complaint Review Board (CCRB). (2009). *Annual report 2009*. New York, NY: Civilian Complaint Review Board.
https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2009_annual.pdf

Civilian Complaint Review Board (CCRB). (2016). *Annual report 2016*. New York, NY: Civilian Complaint Review Board. <http://nyf.issueclab.org/resources/28102/28102.pdf>

Civilian Complaint Review Board (CCRB). (2017). *Annual report 2017*. New York, NY: Civilian Complaint Review Board.
https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2017_annual.pdf

Civilian Complaint Review Board (CCRB). (2017). *Executive director's monthly report*. Statistics for October 2017. Civilian Complaint Review Board.
http://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/monthly_stats/2017/20171108_monthlystats.pdf

Civilian Complaint Review Board (CCRB). (2018). *Annual report 2018*. New York, NY: Civilian Complaint Review Board.
https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/2018CCRB_AnnualReport.pdf

Civilian Complaint Review Board (CCRB). (2019, March 18). *CCRB, John Jay host symposium on oversight of law enforcement* [Press release]. New York, NY: Civilian Complaint Review Board. https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/news/press-releases/2019/20190318_release_symposium.pdf

- Claassen, T., & Zehr, H. (2007). VORP organising: A foundation in the church. In G. Johnstone & D. Van Ness (Eds.), *Handbook of restorative justice* (p. 89). Devon, UK: Willan.
- Clark, M. (2005). The importance of a new philosophy to the post modern policing environment. *Policing: An International Journal of Police Strategies and Management*, 28, 642-652.
<https://doi.org/10.1108/13639510510628721>
- Clarke, G. R., & Davies, I. T. (1991). ADR – Argument for and against use of the mediation process particularly in family and neighbourhood disputes. *Queensland University of Technology Law Journal* (81)7. <https://lr.law.qut.edu.au/issue/view/31>
- Clemmons, A., & Rosenthal, R. (2008). Mediating citizen complaints: The Denver program. *The Police Chief*, 75(8), 32-36. <https://www.policechiefmagazine.org/mediating-citizen-complaints-the-denver-program/>
- Cohen, L. G. & Howard, R. (Hosts) (2017-present). *Strategies for a successful mediation program* [Audio podcast]. National Association for Civilian Oversight of Law Enforcement (NACOLE) Webinar Series. March 29, 2017.
<https://global.gotowebinar.com/join/3718566298532116482/391162390>
- Collins, J., Noble, G., Poynting, S., & Tabar, P. (2000). *Kebabs, kids, cops and crime: Youth, ethnicity and crime*. Sydney: Pluto Press.
- Commission for Public Complaints Against the RCMP. (2009). *Police investigating police: Final public report*. Ottawa, Canada. <https://www.crcc-ccetp.gc.ca/en/police-investigating-police-finalpublic-report>
- Commission of Inquiry. (2007). *Report of the Commission of Inquiry into Police Conduct*. Wellington, NZ: Commission of Inquiry.
- Commonwealth and Law Enforcement Ombudsman. (2009). *Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity*.
http://www.ombudsman.gov.au/__data/assets/pdf_file/0020/33725/inquiry_into_the_operation_of_the_law_enforcement_integrity_commissioner_act_2006.pdf
- Commonwealth of Australia. (2011). *Australian administrative law policy guide*. Attorney-General's Department, Canberra: Commonwealth of Australia.
- Community Oriented Policing Services (COPS). (2008). The Pasadena police community mediation and dialog program – Evaluation of a pilot community policing program. US Department of Justice – *COPS Office and the Police Assessment Resource Centre*. 6-7.
<https://static1.squarespace.com/static/5498b74ce4b01fe317ef2575/t/54ba6a68e4b0c2baff90886c/1421503080651/e070825154.pdf>

- Cook, T., Cooper, H., Cordrawy, D., Hartman, H., Hedges, L., Light, R., Louis, T. & Mosteller, F. (1992). *Meta-analysis for explanation: A casebook*. New York: Russell Sage Foundation. ISBN-13: 978-0871542281.
- Corbo Crehan, A. & Goodman-Delahunty, J. (2019). Procedural justice and complaints about police. *Salus Journal* 7(1), 58-87.
- Corruption and Crime Commission (CCC). (2015). *Reporting serious misconduct*. Fact Sheet No. 3, July 2015, Government of Western Australia. <https://www.ccc.wa.gov.au>
- Crime and Corruption Commission (CCC). (2018, May). The potential cost of failing to perform duties as a police officer. *Prevention in focus*. Brisbane, Queensland: Crime and Corruption Commission. <https://www.ccc.qld.gov.au/publications/potential-cost-failing-perform-duties-police-officer>
- Crime and Corruption Commission (CCC). (2019). *Accountability and leadership*. Brisbane, Queensland. <http://www.ccc.qld.gov.au/about-the-ccc/accountability-and-leadership/accountability-and-leadership>
- Crime and Misconduct Commission (CMC). (2004). *Handling complaints against Queensland Police: Past, present and future*. Brisbane, Queensland: Crime and Misconduct Commission. <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CMC/Bulletins%2Cseries-and-discussion-papers/Monitoring-integrity-in-the-queensland-police-service/Handling-complaints-against-qld-police-Report-2004.pdf>
- Crime and Misconduct Commission (CMC). (2010, December). *Setting the standard: A review of current processes for the management of police discipline and misconduct matters*. Brisbane, Queensland: Crime and Misconduct Commission. <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CMC/Setting-the-standard-2010.pdf>
- Criminal Justice Commission (CJC). (1992a). *Annual report 1991-1992*. Brisbane, Queensland: Criminal Justice Commission. <https://www.ccc.qld.gov.au/publications/cjc-annual-report-1991-1992>
- Criminal Justice Commission (CJC). (1992b). *Report on the pilot project for the mediation of complaints against police* (February – August 1992). Legal Office. Brisbane, Queensland: Criminal Justice Commission.

- Criminal Justice Commission (CJC). (1993). *Annual report 1992-1993*. Brisbane, Queensland: Criminal Justice Commission. www.ccc.qld.gov.au/research.../cjc-annual-report-1992-93-part-4.pdf
- Criminal Justice Commission (CJC). (1994a). *Annual report 1993-1994*. Processing of complaints. Brisbane, Queensland: Criminal Justice Commission. <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CJC/CJC-Annual-Report-1993-1994.pdf>
- Criminal Justice Commission (CJC). (1994b). *Informal complaint resolution in the Queensland Police Service: A progress report* (1994, February). Brisbane, Queensland: Criminal Justice Commission, Research and Co-ordination Division.
- Criminal Justice Commission. (1994c). *Informal complaint resolution in the Queensland Police Service: An evaluation* (1994, November). Brisbane, Queensland: Criminal Justice Commission, Research and Co-ordination Division.
- Criminal Justice Commission (CJC). (1996). *Informal complaint resolution in the Queensland Police Service: Follow-up evaluation* (1996, April). Brisbane, Queensland: Criminal Justice Commission, Research and Co-ordination Division.
- Crowe, J. (2015). Ethics and the mediation community. *Australasian Dispute Resolution Journal* 26(20), 20-25. <https://ssrn.com/abstract=2633354>
- Crowe, J. (2017). Two models of mediation ethics. *Sydney Law Review* 39(2), 147-166. <https://ssrn.com/abstract=3090546>
- Cunneen, C. (2009). [Review of the book *Torture, truth and justice: The case of Timor-Leste* by E. Stanley. Abingdon: Routledge]. *Australian & New Zealand Journal of Criminology*, 43(2), 376-380. <https://doi.org/10.1375/acri.43.2.376>
- Cunneen, C., Worrall, A., Wickes, R., Duncanson, K., Fishwick, E., McCulloch, J., & Maurashat, A. (2010, August 1). [Review of the book *Justice in transition: Community restorative justice in Northern Ireland* by A. Eriksson. Uffculme: Willan]. *Australian & New Zealand Journal of Criminology*, 43(2), 376-380. <https://doi.org/10.1375/acri.43.2.376>
- Curtis-Ham, S. (2017). *IPCA early resolution pilot evaluation 2017*. Research and Evaluation, Strategy Group, April 2017. New Zealand Government: Author.
- Daly, K. (2001). Conferencing in Australia and New Zealand: Variations, research findings, and prospects. In A. Morris & G. Maxwell (Eds.), *Restoring justice for juveniles: Conferencing, mediation and circles*. Oxford, UK: Hart Publishing.

- Daly, K. (2016). What is restorative justice? Fresh answers to a vexed question. *Victims & Offenders*, 11(1), 9–29. <https://doi.org/10.1080/15564886.2015.1107797>
- Davey, L. (2005, March 3-5). *The development of restorative justice in the United Kingdom: A personal perspective* [Plenary Speaker]. Building a global alliance for restorative practices and family empowerment. Sixth International Institute for Restorative Practices Conference. Penrith, New South Wales, Australia.
- De Angelis, J., & Kupchik, A. (2007). Citizen oversight, procedural justice, and officer perceptions of the complaint investigation process. *Policing: An International Journal of Police Strategies & Management*, 30(4), 651 – 671. <https://doi.org/10.1108/13639510710833929>
- de Guzman, M. C. (2008). ‘Complainants’ views about civilian review of the police: A study of the Philippines. *Asian Journal of Criminology* 3(2), 117-138. <https://doi.org/10.1007/s11417-008-9047-2>
- den Heyer, G., & Beckley, A. (2013). Police independent oversight in Australia and New Zealand. *Police Practice and Research: An International Journal*, 14 (2), 130-143, <https://doi.org/10.1080/15614263.2013.767093>
- den Heyer, G., & Beckley, A. (2016). Police independent oversight in Australia and New Zealand. In T. Prenzler & G. den Heyer (Eds.), *Civilian oversight of police: Advancing accountability in law enforcement* (pp. 205-221). Boca Raton, Fl: CRC Press.
- Denver Police Department (DPD). (2012). *Denver discipline handbook: Conduct principles and disciplinary guide* (pp. 38-39). Denver, USA: Denver Police Department. https://www.denvergov.org/content/dam/denvergov/Portals/744/documents/handbooks/DPD_Handbook_Revised_9-6-2012.pdf
- Department of Child Safety, Youth and Women. (2018). *Youth detention centre operational policy*. <https://www.youthjustice.qld.gov.au/resources/youthjustice/resources/1-16-restorative-practice.pdf>
- Department of Civil Rights, Minneapolis. (2018). *Office of the police conduct review*. <http://www.minneapolismn.gov/civilrights/policereview>
- Department of Justice and Attorney-General, Queensland (DJAG). (2016). *Youth justice*. <http://www.justice.qld.gov.au/corporate/business-areas/youth-justice>
- Department of Justice and Attorney-General, Queensland (DJAG). (2016b). *The restorative justice convenor accreditation tool*. Brisbane: Department of Justice and Attorney-General.

- Department of Police Accountability, San Francisco (DPA). (2020). *DPA mediations*. City and County of San Francisco. <https://sfgov.org/dpa/>
- Department of Police, Fire & Emergency Management (DPFEM). (2016). *Annual report 2015-2016*. Hobart: Department of Police, Fire & Emergency Management.
- Department of Police, Fire & Emergency Management (DPFEM). (2017). *Annual report 2016-2017*. Hobart: Department of Police, Fire & Emergency Management.
- Department of the Premier and Cabinet. (2011). *Independent review of the Queensland Police complaints, discipline and misconduct system*. Brisbane: Queensland Government Publications. <http://www.premiers.qld.gov.au/publications/categories/reviews/qps-complaints.aspx>
- Dispute Resolution Centres Act 1990* (Qld).
- Dobry, J. (2001, March). *Restorative justice and police complaints* [Independent Police Complaints Commission Report]. London, UK: Police Complaints Authority. http://www.parliament.act.gov.au/__data/assets/pdf_file/0011/681761/Exhibit-No.3-Mr-Terry-OConnell.pdf
- Douglas, S. (2012). Neutrality, self-determination, fairness and differing models of mediation. *James Cook University Law Review* 19, 1-22.
- Douglas, S. (2017a). Ethics in mediation: Centralising relationships of trust. *Law in Context* 35(2), 44-63. <https://journals.latrobe.edu.au/index.php/law-in-context/article/view/31>
- Douglas, S. (2017b). Constructions of impartiality in mediation. *Journal of Judicial Administration* 26(4), 232-247. https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/document?&src=search&docguid=Ide58ad5f9c3611e79c6392f7a6424d52&epos=7&snippets=true&fcwh=true&startChunk=1&endChunk=1&nstd=std-anz-highlight&nstds=AUNZ_JOURNALS&isTocNav=true&tocDs=AUNZ_AU_JOURNALS_TOC&context=7&extLink=false&searchFromLinkHome=true&details=most&originates-from-link-before=false
- Drew, J., & Prenzler, T. (2015). Evolution of policing. *Contemporary Police Practice*. South Melbourne, Victoria: Oxford University Press.
- Ede, A., & Barnes, M. (2002). Making the response fit the complaint: Alternative strategies for resolving complaints against police. In T. Prenzler and J. Ransley (Eds.), *Police reform: Building integrity* (pp. 115-130). Sydney: Federation Press.

- Edney, R. (2002). Indigenous punishment in Australia: A jurisprudence of pain? *International Journal of the Sociology of Law*, 30(3), 219-234. [https://doi.org/10.1016/S0194-6595\(02\)00026-6](https://doi.org/10.1016/S0194-6595(02)00026-6)
- Erez, E. (1991, September). *Victim impact statements* (Trends & issues No. 33). Canberra: Australian Institute of Criminology.
http://aic.gov.au/media_library/publications/tandi_pdf/tandi033.pdf
- Ericson, R. V., & Haggerty, K. D. (1997). *Policing the risk society*. Toronto: University of Toronto Press. ISBN 0-8020-7967-9.
- Ervin, L., & Schneider, A. (1990). Explaining the effects of restitution on offenders: Results from a national experiment in juvenile courts. In B. Galaway and J. Hudson (Eds.), *Criminal justice, restitution, and reconciliation*. Monsey, NY: Criminal Justice Press, 183-206.
- Equal Opportunity Commission (EOC). (2013). *Complaints process*. Perth: Government of Western Australia. <https://www.eoc.wa.gov.au>
- European Commission (EU). (2017). *Conflict resolution, mediation and restorative justice and the policing of ethnic minorities in Germany, Austria, and Hungary* (Final Report Summary – Corepol, July 23, 2015. Project ID: 285166). Germany: Research and Innovation.
<https://cordis.europa.eu/project/id/285166/reporting>
- Faull, A. (2013, September 3). *Monitoring the performance of police oversight agencies*. [APCOF Policy paper presentation] African Policing Civilian Oversight Forum. Pretoria, South Africa. <http://www.apcof.org/wp-content/uploads/2016/05/No-8-Monitoring-Performance-of-Police-Oversight-Agencies-Andrew-Faull.pdf>
- Ferdik, F. V., Rojek, J., & Alpert, G. P. (2013). Citizen oversight in the United States and Canada: An overview. *Police Practice and Research*, 14(2), 104-116.
<https://doi.org/10.1080/15614263.2013.767089>
- Field, R. (2011). Rethinking mediation ethics: A contextual method to support party self-determination. *Australasian Dispute Resolution Journal* 22(1), 8-9. https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/document?&src=search&docguid=I44164c73cfe411e08eefa443f89988a0&epos=2&snippets=true&fcwh=true&startChunk=1&endChunk=1&nstd=std-anz-highlight&nstds=AUNZ_JOURNALS&isTocNav=true&tocDs=AUNZ_AU_JOURNALS_TOC&context=36&extLink=false&searchFromLinkHome=true&details=most&originates-from-link-before=false

- Filstad, C., & Gottschalk, P. (2011). Performance evaluation of police oversight agencies. *Policing and Society*, 21(1), 102-104. <https://doi.org/10.1080/10439463.2010.540653>
- Finn, P. (2001). Citizen review of police: Approaches and implementation. *National Institute of Justice: Issues and Practices*. Washington, DC: Government Printing Office.
<https://www.ncjrs.gov/pdffiles1/nij/184430.pdf>
- Fisher, W. (2003). *A review of professional standards in the Australian Federal Police*. Canberra, ACT: Australian Federal Police.
- Fitzgerald, G. E. (1989). *Commission of inquiry into possible illegal activities and associated police misconduct*. Queensland, Crime and Corruption Commission.
<https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/The-Fitzgerald-Inquiry-Report-1989.pdf>
- Freckelton, I. (1996). Suing the police: the moral of the disappointing morsel. *Alternative Law Journal*, 21(4), 173-77, 190.
<https://search.informit.com.au/documentSummary;dn=970403559;res=IELAPA>
- Furman, L., & McCrary, A. R. (2015). Building trust in law enforcement - community-police mediation program in New Orleans. *Louisiana Bar Journal* 6(3), 192-194.
<http://files.lsba.org/documents/publications/BarJournal/Feature2-Furman-McCrary-LBJ-OctNov2015.pdf>
- Gardner, J. (1990). *Victims and criminal justice* (Research report). Adelaide: Office of Crime Statistics, Attorney-General's Department, South Australia.
- Garkawe, S. (1999, July 22-23). *Restorative justice from the perspective of crime victims*. [Paper presentation]. Restorative Justice Conference. Brisbane.
- Gau, J. M. (2010). A longitudinal analysis of citizens' attitudes about police. *Policing: An International Journal of Police Strategies & Management* 33(2), 236-252.
<https://doi.org/10.1108/13639511011044867>
- Geoscience Australia. (2020). *Area of Australia – states and territories*. Canberra: Australian Government. <https://www.ga.gov.au/scientific-topics/national-location-information/dimensions/area-of-australia-states-and-territories>
- Goldsmith, A. J. (1990). Complaints against the police: A 'community policing' perspective. In S. McKillop & J. Vernon (Eds.), *The police and the community in the 1990s: Conference proceedings, 1990* (pp. 205–218). Canberra: Australian Institute of Criminology.

- Goldsmith, A. J. (1996) What's wrong with complaint investigations? The case for dealing with difference differently', *Criminal Justice Ethics* 15(1), 36-55.
<https://doi.org/10.1080/0731129X.1996.9992005>
- Goldsmith, A. J. (2000). Informal resolution of police complaints in Australia: Building better understanding or mere bureaucratic convenience. In A.J. Goldsmith & M. Israel (Eds.), *Criminal justice in diverse communities*, 34-56. Annandale, Australia: Federation Press.
- Goodman-Delahunty, J. (2010). Four ingredients: New recipes for procedural justice in Australian policing. *Policing: An International Journal of Police Strategies & Management*, 4(4), 403-419. <https://doi.org/10.1093/police/paq041>
- Goodman-Delahunty, J., Beckley, A., & Martin, M. (2014). Complaints against the New South Wales Police Force: Analysis of risks and rights in reported police conduct. *Australian Journal of Human Rights*, 20(2), 81-105. <https://doi.org/10.1080/1323-238X.2014.11882151>
- 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.
https://heinonline-org.ezproxy.usc.edu.au/HOL/Page?collection=journals&handle=hein.journals/jjis13&id=97&men_tab=srchresults
- 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). <https://doi.org/10.1177/1077801215613854>
- Green, J., & Thorogood, N. (2009). *Qualitative methods for health research* (2nd ed.). Thousand Oaks, CA: Sage.
- Greenwald, H. P. & Beck, C. (2017). Bringing sides together: Community-based complaint mediation. *Police Chief Magazine*. International Association of Chiefs of Police.
<https://www.policechiefmagazine.org/bringing-sides-together/?ref=7e7204767b0ac016b78ddc36cbb613a8>
- Gunning, I. (1995). Diversity issues in mediation: Controlling negative cultural myths. *Journal of Dispute Resolution* 55, pp. 92-93.
- Hagan, F. E. (2006). *Research methods in criminal justice and criminology* (7th ed.). Boston: Pearson Education.
- Harris, F. (2012). Holding police accountability theory to account. *Policing: A Journal of Policy and Practice* 6(3), 240-249. <https://doi.org/10.1093/police/pas003>

- Hayes, H. (2006). Apologies and accounts in youth justice conferencing: Reinterpreting research outcomes. *Contemporary Justice Review*, 9(4), 369-385.
<https://doi.org/10.1080/10282580601014292>
- Hayes, H. (2007). Restorative justice and re-offending. In G. Johnstone & D. Van Ness (Eds.), *Handbook of restorative justice* (pp. 426-446). Devon, UK: Willan.
- Hayes, H., & Daly, K. (2003). Youth justice conferencing and reoffending. *Justice Quarterly* 20(4), 725-764. <https://doi.org/10.1080/07418820300095681>
- Hayes, H., McGee, T. R., & Cerruto, M. (2011). Explaining continuity and change in offending behaviour after a restorative justice conference. *Current Issues in Criminal Justice*, 23(2), 127-143. <https://doi.org/10.1080/10345329.2011.12035915>
- Hayes, H., Prenzler, T. & Wortley, R. (1998). *Making amends: Final evaluation of the Queensland community conferencing pilot*. Centre for Crime Policy and Public Safety, Brisbane: Griffith University.
- Hayes, M. (1997). *A police ombudsman for Northern Ireland?* Belfast: Home Office Stationery Office. <https://www.policeombudsman.org/Utility/Links/Policing>.
- Hayes, N. (2000). *Doing psychological research: Gathering and analysing data*. Buckingham, UK: Open University Press.
- Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS). (2017). *Thames Valley Police*. <https://www.justiceinspectors.gov.uk/hmicfrs/peel-assessments/peel-2016/thames-valley/more-about-this-area/>
- Hickman, M. (2006). *Citizen complaints about police use of force*. Washington, DC: Bureau of Justice Statistics.
- Hill, R., Cooper, K., Young, R. P., & Hoyle, C. (2003). *Meeting expectations: The application of restorative justice to the police complaint process*. Oxford University Centre for Criminological Research.
- Hinds, L., & Murphy, T. (2007). Public satisfaction with police: Using procedural justice to improve police legitimacy. *Australian and New Zealand Journal of Criminology*, 40(1), 27-42. <https://doi.org/10.1375/acri.40.1.27>
- HM Inspectorate of Constabulary for Scotland (HMICS). (2004). *Quality of service: A review of the investigation of complaints against the police in Scotland*. Scottish Executive, Edinburgh. ISBN 0-7559-4209-4.

- Holbrook, J. R., & Gray, L. M. (1995). Court-annexed alternative dispute resolution. *Journal of Contemporary Law* 21(1), 1-20.
<https://heinonline.org/HOL/P?h=hein.journals/jcontemlaw21&i=5>
- Holland, R. C. (1996). Dealing with complaints against the police: The resolution process adopted by the Queensland Police Service, Australia. *Police Studies*, 19(2), 45–62.
<https://doi.org/10.1108/13639519610123172>
- Holland, R. C. (2000). Citizen complaints against police: The volume received, and the complaints classification system used by the Queensland police service, Australia, *International Journal of Comparative and Applied Criminal Justice*, 24(1), 31-41.
<https://doi.org/10.1080/01924036.2000.9678651>
- Holmberg, L. (2019). In service of the truth? An evaluation of the Danish independent police complaints authority. *European Journal of Criminology*, 1-20.
<https://doi.org/10.1177/1477370819856514>
- Holt, J. L., & DeVore, C. J. (2005). Culture, gender, organisational role, and styles of conflict resolution. *International Journal of Intercultural Relations* 29(2), 166-196.
<https://doi.org/10.1016/j.ijintrel.2005.06.002>
- Hopkins, B. (2015). From restorative justice to restorative culture. *Social Work Review* 14(4), 25.
https://www.iirp.edu/images/pdf/DOPHTU_From_Restorative_Justice_to_Restorative_Culture.pdf
- Hopkins, T. (2009). *An effective system for investigating complaints against police: A study of human rights compliance in police complaint models in the US, Canada, UK, Northern Ireland and Australia*. Victoria Law Foundation.
http://www.communitylaw.org.au/flemingtonkensington/cb_pages/files/VLF%20REPORT%20-Effective%20Investigation.pdf
- Howe, K. R. (2012). Mixed methods, triangulation, and causal explanation. *Journal of Mixed Methods Research* 6(2). <https://doi-org.ezproxy.usc.edu.au/10.1177/1558689812437187>
- Independent Broad-Based Anti-Corruption Commission Victoria (IBAC). (2015). *Special report concerning police oversight*. August 2015, ISBN 978-0-9941911-7-5.
- Independent Broad-Based Anti-Corruption Commission Victoria (IBAC). (2016). *Audit of Victoria Police complaints handling systems at a regional level*. Melbourne: Independent Broad-based Anti-Corruption Commission. <https://www.ibac.vic.gov.au/docs/default->

- source/reports/audit-of-victoria-police-complaints-handling-systems-at-regional-level.pdf?sfvrsn=5
- Independent Commission Against Corruption New South Wales (ICAC). (2015). *ICAC*.
<https://www.icac.nsw.gov.au/about-the-icac>
- Independent Commission Against Corruption South Australia (ICAC). (2014). *What happens to complaints or reports?*
<http://www.icac.sa.gov.au/content/what-happens-complaints-or-reports>
- Independent Commission on the Los Angeles Police Department (Christopher Commission) (ICLAPD). (1991). *Independent commission on the Los Angeles police department* [Report]. Los Angeles, California: Independent Commission on the Los Angeles Police Department.
<https://archive.org/details/ChristopherCommissionLAPD/page/n9/mode/2up>
- Independent Police Complaints Commission (IPCC). (2017). *Police complaints: Statistics for England and Wales 2016-2017*. London: Independent Police Complaints Commission.
- Independent Police Conduct Authority (IPCA). (2015). *Annual report 2014-2015*. Wellington: Independent Police Conduct Authority.
<https://www.ipca.govt.nz/tools/search.aspx?sect=Site&Search=%27Annual%20Report%202015%27>
- Independent Police Conduct Authority (IPCA). (2017a). *Annual report 2016-2017*. Wellington: Independent Police Conduct Authority.
<https://www.ipca.govt.nz/tools/search.aspx?sect=Site&Search=%27Annual%20Report%202017%27>
- Independent Police Conduct Authority (IPCA). (2017b). *IPCA early resolution pilot: Evaluation report*. Wellington: Independent Police Conduct Authority.
- Independent Police Review, Portland (IPR). (2002) *Annual report 2002*. Mediation chapter.
<https://www.portlandoregon.gov/IPR/article/26982>
- Indermaur, D. (1990). *Perceptions of crime seriousness and sentencing: A comparison of court practice and the perceptions of a sample of the public and judges* (Criminology Research Council of Australia Report). Canberra: Australian Institute of Criminology.
- Integrity Commission. (2014). *An audit of Tasmania Police complaints finalised in 2013* (No. 2 of 2014).
http://www.integrity.tas.gov.au/__data/assets/pdf_file/0004/298543/Integrity_Commission,_Report_No_2_of_2014,_An_~_of_Tasmania_Police_complaints_finalised_in_2013.pdf

- Integrity Commission. (2015). *An audit of Tasmania Police complaints finalised in 2014*. Hobart: Integrity Commission Tasmania.
- Integrity Commission. (2016a). *Complaints and investigations*.
http://www.integrity.tas.gov.au/report_misconduct/how_to_report.
- Integrity Commission. (2016b). *An audit of Tasmania Police complaints finalised in 2015*. Hobart: Integrity Commission Tasmania.
- Integrity Commission Act 2009* (Tas).
- International Institute for Restorative Practices. (2015). *What is restorative practices?*
<https://www.iirp.edu/restorative-practices/what-is-restorative-practices>
- Ivey, A. E., & Ivey, M. B. (2008). *Essentials of intentional interviewing*. (pp. 129-144). South Melbourne: Cengage.
- Jackson, J., Bradford, B., Hough, M., Myhill, A., Quinton, P., & Tyler, T. R. (2012). Why do people comply with the law? Legitimacy and the influence of legal institutions, *British Journal of Criminology* 52, 1051-1071. <https://doi.org/10.1093/bjc/azs032>
- Jette, D. J., Grover, L., & Keck, C. P. (2003). A qualitative study of clinical decision making in recommending discharge placement from the acute care setting. *Physical Therapy*, 83(3), 224-236. PMID: 12620087
- Johnstone, G., & Van Ness, D. W. (Eds.). (2007). *Handbook of restorative justice*. Devon, UK: Willan.
- Johnstone, G., & Van Ness, D. W. (2013). The meaning of restorative justice. In G. Johnstone (Ed.). *A restorative justice reader* (2nd ed.). (pp.12-22). Oxon, UK: Routledge.
- Justices Act 1886* (Qld).
- King, M. S. (2008). Restorative justice, therapeutic jurisprudence and the rise of emotionally intelligent justice. *Melbourne University Law Review*, 32, 1097-1126.
<http://www.austlii.edu.au/au/journals/MelbULawRw/2008/34.html>
- King, M. S. (2014, February). Using restorative justice and therapeutic jurisprudence in courts: A case study [online]. *Brief*, 41(1), 14-15. <https://search-informit-com-au.ezproxy.usc.edu.au/documentSummary;dn=302106179615062;res=IELAPA>> ISSN: 0312-5831
- Korstjens, I., & Moser, A. (2018). Series: Practice guidance to qualitative research. Part 4: Trustworthiness and publishing. *European Journal of General Practice*, 24(1), 120-124.
<https://doi.org/10.1080/13814788.2017.1375092>

- KPMG. (2010, November). *Evaluation of the community justice group program* (Final Report No. 111110). Department of Justice and Attorney-General, Queensland.
https://www.justice.qld.gov.au/__data/assets/pdf_file/0003/88905/evaluation-of-the-community-justice-group-program.pdf
- Kraska, P. B., & Neuman, W. L. (2012). *Criminal justice and criminology research methods* (2nd ed.). Upper Saddle River, New Jersey: Pearson.
- Krieger, L. (2002, October). *Naturalizing disparate treatment doctrine: Why so little progress in the courts?* (unpublished).
- Landau, T. (1994). *Public complaints against the police: A view from complainants*. Toronto: Centre of Criminology, University of Toronto. ISBN 0919584772.
- Landau, T. (1996). When police investigate police: A view from complainants. *Canadian Journal of Criminology* 38, 291. <https://doi.org/10.3138/cjcrim.38.3.291>
- Langdon, J., & Wilson, P. (2005). When justice fails: a follow-up examination of serious criminal cases since 1985. *Current Issues in Criminal Justice* 17(2).
<http://classic.austlii.edu.au/au/journals/CICrimJust/2005/26.pdf>
- Lanier, M., & Briggs, L. (2014). *Research methods in criminal justice and criminology: A mixed methods approach*. New York: Oxford University Press.
- Latimer, J., Dowden, C., & Muise, D. (2005). The effectiveness of restorative justice practices: A meta-analysis. *The Prison Journal*, 85(2), 127-144.
<https://doi.org/10.1177/0032885505276969>
- Lawther, C. (2014). *Truth, denial and transition: Northern Ireland and the contested past*. Abingdon: Routledge.
- Legal Aid New South Wales. (2014, July). Dispute resolution: frameworks in NSW. Legal Aid NSW submission to the NSW Law Reform Commission.
<https://www.legalaid.nsw.gov.au/what-we-do/law-reform/2014-submissions>
- Lewis, C., & Prenzler, T. (1999). Civilian oversight of police in Australia. *Trends & issues in crime and criminal justice*. No. 141. Canberra: Australian Institute of Criminology.
<https://www.aic.gov.au/publications/tandi/tandi141>
- Liederbach, J., Boyd, L. M., & Taylor, R. W. (2007). Is it an inside job? An examination of internal affairs complaint investigation files and the production of non-sustained findings. *Criminal Justice Policy Review* 18(4), 353-377. <https://doi.org/10.1177/0887403407303799>
- Lind, E. A., & Tyler, T. R. (1988). *The social psychology of procedural justice*. New York, NY: Plenum Press.

- Liu, J. (2014, June). *Culture and criminal justice - An Asian paradigm theory* [Presidential address]. Asian Criminological Society, 6th Annual Conference 2014, Osaka, Japan.
- Llewellyn, J., & Howse, R. (1998). *Restorative justice: A conceptual framework*. Ottawa, ON: Law Commission Canada. https://digitalcommons.schulichlaw.dal.ca/scholarly_works/418/
- Law Council of Australia. (2017). *Policy agenda: Rule of law*. <https://www.lawcouncil.asn.au/policy-agenda/international-law/rule-of-law>
- Los Angeles County (LAC, 2020). *Cities and communities*. <https://lacounty.gov/government/geography-statistics/cities-and-communities/>
- Los Angeles Police Department (LAPD). (2002). *Alternate complaint resolution guide*. Internal Affairs Group. Los Angeles, California: Los Angeles Police Department.
- Los Angeles Police Department (LAPD). (2013). *Community-employee mediation pilot program: Implementation plan*. Internal Affairs Group. Los Angeles, California: Los Angeles Police Department.
- Los Angeles Police Department (LAPD). (2017a). *Annual report 2017*. Los Angeles, California: Los Angeles Police Department.
- Los Angeles Police Department (LAPD). (2017b). *Biased policing and mediation update*. Los Angeles, California: Los Angeles Police Department.
- Los Angeles Police Department (LAPD). (2017c). *Evaluation of the biased policing complaint mediation pilot program, January 30, 2017*. Internal Affairs Group. Los Angeles, California: Los Angeles Police Department.
- Los Angeles Police Department (LAPD). (2018, October 6- 9). *Community police unification program* [video]. 125th International Association of Chiefs of Police Annual Conference & Exposition, Orlando Florida.
- Los Angeles Police Department (LAPD). (2019). *LAPD command staff*. Los Angeles, USA: Los Angeles Police Department. http://www.lapdonline.org/lapd_command_staff
- Mack, K. (2003). *Court referral to ADR: Criteria and research*. Australian Institute of Judicial Administration and the National Alternative Dispute Resolution Advisory Council, Melbourne. ISBN 1875527451.
- Maguire, M., & Corbett, C. (1991). *A study of the police complaints system*. London: Her Majesty's Stationary Office. ISBN 0113410077.
- Mastrofski, S. D. (2004, May). Controlling street-level police discretion. *The annals of the American Academy of Political & Social Science*, 593, 100-118. <https://doi.org/10.1177/0002716203262584>

- Marshall, T. (1999). *Restorative justice: An overview*. Home Office: Research Development and Statistics Directorate. London, UK. <http://www.homeoffice.gov.uk/rds/pdfs/occ-resjus.pdf>
- Mather, K. (2015, December 15). *LAPD found no bias in all 1,356 complaints filed against officers*. Los Angeles Times. Centre for Policing Equity. <https://policingequity.org/newsroom/blog/lapd-found-no-bias-in-all-1-356-complaints-filed-against-officers>
- Maxfield, M. G., & Babbie, E. R. (2011). *Research methods for criminal justice and criminology* (6th ed.). Belmont, CA: Wadsworth.
- Maxwell, G., & Hayes, H. (2006). Restorative justice developments in the Pacific region: A comprehensive survey. *Contemporary Justice Review*, 9(2), 127-154. <https://doi.org/10.1080/10282580600784929>
- Maxwell, G., & Morris, A. (1996). Research on family group conferences with young people in New Zealand. In J. Hudson, A. Morris, G. Maxwell and B. Galaway (Eds.), *Family group conferences: Perspectives on policy and practice*. Sydney, NSW: Federation Press.
- Maxwell, G., & Morris, A. (2001). Family group conferences and reoffending. In A. Morris & G. Maxwell (Eds.), *Restorative justice for juveniles: Conferencing, mediation and circles*, 243-263. Oxford, UK: Hart Publishing.
- May, T., Hough, M., Herrington, V., & Warburton, H. (2007). *Local resolution: The views of police officers and complainants*. London: Independent Police Complaints Commission.
- Mazerolle, L., Bennett, S., Davis, J., Sargeant, E., & Manning, M. (2013). Procedural justice and police legitimacy: A systematic review of the research evidence. *Journal of Experimental Criminology*, 9(3), 245-274. <https://doi.org/10.1007/s11292-013-9175-2>
- McLaughlin, E., & Johansen, A., (2002). A force for change? Prospects for applying restorative justice to citizen complaints against the police in England and Wales. *British Journal of Criminology*, 42, 635-653. <https://doi.org/10.1093/bjc/42.3.635>
- McCold, P., & Wachtel, B. (1998). *Restorative policing experiment: The Bethlehem, Pennsylvania police family group conferencing project*. Pipersville, PA: Community Service Foundation. <https://www.iirp.edu/pdf/BPD.pdf>
- McCulloch, J., & Palmer, D. (2005). *Civil litigation by citizens against Australian police between 1994 and 2002* (Report to the Criminology Research Council). <https://pdfs.semanticscholar.org/9fc2/5f54cb05c9aa109aef0dfebba9825e2d1288.pdf>
- McEvoy, K., & Mika, H. (2002). Restorative justice and the critique of informalism in Northern Ireland. *British Journal of Criminology*, 42 (3), 534-562. <https://doi.org/10.1093/bjc/42.3.534>

- McHugh, M. L. (2012). Interrater reliability: the kappa statistic. *Biochemia Medica*, 22(3), 276-282. <http://www.biochemia-medica.com/>
- Meadus, D. (1988). *Complaints against police officers in the Commonwealth of Australia*. Hampshire Constabulary, England.
- Meadus, D. (1994). Informal resolution. In K. Bryett & C. Lewis (Eds.), *Un-peeling tradition: Contemporary policing* (pp. 107–122). South Yarra: Macmillan Education Australia.
- Menkel-Meadow, C. (2007). Restorative justice: What is it and does it work? *Annual Review of Law and Social Science*, 3, 161-187. <https://scholarship.law.georgetown.edu/facpub/583>
- Metro Denver Economic Development Corporation (Metro Denver). (2017). *Demographics*. <http://www.metrodenver.org/do-business/demographics/>
- Metropolitan Police Service. (2017). Inclusion and diversity strategy 2017 - 2021. Metropolitan Police Service, London. England. <https://www.met.police.uk/SysSiteAssets/foi-media/metropolitan-police/policies/inclusion-strategy-2017-2021.pdf>
- Minneapolis City Council (MCC). (2012, September 21). Scope of authority of the office of police conduct review. [Public hearing]. Chapter 172.20. Minneapolis, USA. <http://www.minneapolismn.gov/www/groups/public/%40council/documents/proceedings/wcms1p-098903.pdf>
- Morgan, A. (2000). *What is narrative therapy?* Adelaide: Dulwich.
- Morris, A. (2002). Critiquing the critics – A brief response to critics of restorative justice. *British Journal of Criminology*, 42, 596-615. [http://www.98griffith.edu.au/Critiquing the Critics A Brief Response to Critics of Restorative Justice.pdf](http://www.98griffith.edu.au/Critiquing%20the%20Critics%20A%20Brief%20Response%20to%20Critics%20of%20Restorative%20Justice.pdf)
- Murphy, K., & Cherney, A. (2012). Understanding cooperation with police in a diverse society. *British Journal of Criminology*, 52(1), 181-201. <https://doi.org/10.1093/bjc/azr065f>
- Myhill, A., & Quinton, P. (2011). *It's a fair cop? Police legitimacy, public cooperation, and crime reduction: An interpretative evidence commentary*. London, UK: National Policing Improvement Agency. https://whatworks.college.police.uk/Research/Documents/Fair_cop_Full_Report.pdf
- National Association for Civilian Oversight of Law Enforcement (NACOLE). (2015, January 9). *Building legitimacy and public trust through civilian oversight* [Paper presentation]. Written Testimony for the President's Task Force on 21st Century Policing. <https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/115/attachments/original/1458135958/NACOLE-Written-Testimony-for-the-Presidents-Task-Force-on-21st-Century-Policing-Final1.pdf?1458135958>

National Justice CEOs Group. (2011). *National guidelines or principles for restorative justice programs and processes for criminal matters* [Discussion paper]. Sydney: Secretariat of the Standing Committee of Attorneys-General, NSW Department of Justice and Attorney General. http://www.sclj.gov.au/agdbasev7wr/sclj/documents/pdf/restorative_justice_national_guidelines_discussion_paper.pdf

New South Wales Law Reform Commission (NSWLRC). (2016, December). *Dispute resolution: Model provisions*. Consultation Paper 18. Sydney: NSW Government. <https://www.lawreform.justice.nsw.gov.au>

New South Wales Law Reform Commission (NSWLRC). (2018, June). *Dispute Resolution*. Report 146. Sydney: NSW Government. <https://www.lawreform.justice.nsw.gov.au/Documents/Publications/Reports/Report%20146.pdf>

New South Wales Ombudsman. (2017). *Annual report 2016-17*. Sydney: New South Wales Ombudsman.

New South Wales Police Force (NSWPF). (2015). *Annual report 2014-15*. Sydney: NSW Police.

New South Wales Police Force (NSWPF). (2016). *Annual report 2015-16*. Sydney: NSW Police.

New South Wales Police Force (NSWPF). (2017). *Annual report 2016-17*. Sydney: NSW Police.

New South Wales Police Force (NSWPF). (2018). *Annual report 2017-18*. Sydney: NSW Police.

New York City Government (NYC). (2019). *NYC Population*. Department of City Planning. <http://www1.nyc.gov/site/planning/data-maps/nyc-population/population-facts.page>

New Zealand Police (NZP). (2015). *Annual report 2014-2015*. Wellington: NZ Police.

Nolan, C. (1993). ADR in Aboriginal and Islander Communities: The CJP's experience. 2 *Qld ADR Review* 8. Queensland Department of Justice and Attorney General.

Northern Territory Police, Fire & Emergency Services (NTPFES). (2015a). *Customer service charter*. <http://www.pfes.nt.gov.au/Police/Publications-and-forms.aspx>

Northern Territory Police, Fire & Emergency Services (NTPFES). (2015b). *Annual report 2014-15*. Darwin: Northern Territory Police, Fire & Emergency Services.

Northern Territory Police, Fire & Emergency Services (NTPFES). (2016). *Annual report 2015-16*. Darwin: Northern Territory Police, Fire & Emergency Services.

Northern Territory Police, Fire & Emergency Services (NTPFES). (2017). *Annual report 2016-17*. Darwin: Northern Territory Police, Fire & Emergency Services.

Office of the Independent Police Monitor, City of New Orleans (OIPM). (2017). Community-police mediation program. *Annual report 2017*. <http://nolaipm.gov/annual-reports/>

- Office of the Independent Monitor, Denver (OIMD). (2005a). *Annual report 2005*. Section 6.2. Denver, Colorado: Office of the Independent Police Monitor.
- Office of the Independent Monitor, Denver (OIMD). (2005b). *Office of the Independent Monitor & Community Mediation Concepts – Standard operating procedures*. (pp. 1-7). Denver, Colorado: Office of the Independent Monitor.
- Office of the Independent Monitor, Denver (OIMD). (2007). *Annual report 2007*. Denver, Colorado: Office of the Independent Police Monitor.
- Office of the Independent Monitor, Denver (OIMD). (2014). *Annual report 2014*. Denver, Colorado: Office of the Independent Police Monitor.
- Office of the Independent Monitor, Denver (OIMD). (2017). *Annual report 2017*. Denver, Colorado: Office of the Independent Police Monitor.
- Office of the Independent Monitor, Denver (OIMD). (2018). *Annual report 2018*. Denver, Colorado: Office of the Independent Police Monitor.
- Office of the Independent Monitor, Denver (OIMD). (2020). *Annual report 2020*. Denver, Colorado: Office of the Independent Monitor.
- Office of the Independent Police Review Director (OIPRD). (2016). *Annual Report 2015-2016*, Ontario, Canada.
- Office of the Mayor, New York City, New York. (OMNY). (1993). *New York City charter*. Civilian Complaint Review Board (Chapter 18-A). New York City, New York: Office of the Mayor.
- Office of Police Conduct Review, Minneapolis (OPCR). (2017). *Factsheet*.
<http://www.minneapolismn.gov/www/groups/public/@civilrights/documents/agenda/wcmstp-205658.pdf>
- Office of Police Integrity (OPI). (2008). *Improving Victorian policing services through effective complaint handling*. Melbourne: Office of Police Integrity.
- Olson, K. (2008). *Review of the OPA mediation program*. Office of Professional Accountability, Seattle Police Department.
- O'Mahony, D., & Doak, J. (2013). Restorative justice and police-led cautioning. In G. Johnstone (Ed.), *A restorative justice reader* (2nd ed.). (p. 138). Oxon, UK: Routledge.
- Ombudsman Act 1974* (NSW).
- Ombudsman Northern Territory. (2016). *Annual report 2015-16*. Darwin: Ombudsman Northern Territory.

- Ombudsman Northern Territory. (2017). *Annual report 2016-17*. Darwin: Ombudsman Northern Territory.
- Ombudsman Western Australia. (2015). *How to make a complaint*.
http://www.ombudsman.wa.gov.au/Complaints/Making_complaints.htm
- Ombudsman Western Australia. (2016). *Annual report 2015-16*. Perth: Ombudsman Western Australia.
- Oppal, W. (1994). *Closing the gap: Policing and the community*. Victoria: Policing in British Columbia Commission of Inquiry. https://opcc.bc.ca/wp-content/uploads/2017/04/Closing_The_Gap-Recommendations.pdf
- Paterson, C., & Clamp, K. (2012). Exploring recent developments in restorative policing in England and Wales. *Criminology and Criminal Justice*, 12(5), 593-611.
<https://doi.org/10.1177/1748895812441933>
- Patterson, R. W. (2006). Resolving civilian-police complaints in New York City: Reflections on mediation in the real world. *Ohio State Journal on Dispute Resolution*, 22(1), 189-226.
<https://scholars.law.unlv.edu/facpub/493>
- Patton, M. (1990). *Qualitative evaluation and research methods* (pp. 169-186). Beverly Hills, CA: Sage.
- Pawson, R., & Tilley, N. (1997). *Realistic evaluation*. London: Sage.
- Perez, D. W. (1994). *Common sense about police review*. Philadelphia: Temple University Press.
- Pettersson, T. (2014). Complaints as opportunity for change in encounters between youths and police officers. *Social Inclusion*, 2(3), 102-112. <https://doi.org/10.17645/si.v2i3.44>
- Poitras, J. (2005). A study of the emergence of cooperation in mediation. *Negotiation Journal*, 4, 281-300. <https://doi.org/10.1111/j.1571-9979.2005.00064.x>
- Poitras, J. (2009). What makes parties trust mediators? *Negotiation Journal*, 21(3), 307-321.
<https://doi.org/10.1111/j.1571-9979.2009.00228.x>
- Police Act 1990* (NSW), s. 144
- Police Commissioner's Report (NYPD). (2019). *Annual report 2019*. New York City Police Department, New York.
<https://cloud.3dissue.com/167796/168091/212990/2019PCReport/index.html?r=68>.
- Police Complaints Commissioner for Scotland (PCCS). (2010). *Statutory guidance: From sanctions to solutions*. https://pirc.scot/media/1211/pccs_statutory_guidance_web.pdf.
- Police Ombudsman. (2015). *Complaints*. Adelaide, South Australia.
<http://www.policeombudsman.sa.gov.au>

- Police Ombudsman. (2017). *Annual report 2016-17*. Adelaide, South Australia: Police Ombudsman.
- Police Ombudsman for Northern Ireland (PONI). (2005). *An evaluation of police-led informal resolution of police complaints in Northern Ireland: The complainants' perspective*. Belfast: Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2009a). *Pilot mediation project report, September 2008 – March 2009* (pp. 5-28). Belfast: Office of the Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2009b). *Annual report & account 2009*. Belfast: Office of the Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2010). *Developments in police complaints – Ten years on overview of trends and patterns in police complaints, November 2000 – March 2010* (Research Report - November 2010). Belfast: Office of the Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2014). *Annual report & account 2014*. Belfast: Office of the Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2017). *Annual report 2017*. Belfast: Office of the Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2018). *The police complaints system in Northern Ireland*. Belfast: Office of the Police Ombudsman for Northern Ireland.
- Police Ombudsman for Northern Ireland (PONI). (2019). *Annual report 2019*. Belfast: Office of the Police Ombudsman for Northern Ireland.
- Police Service Administration Act 1990* (Qld).
- Police Training and Standards Commission (PTSC). (2017). Community member – police complaint mediation program. *Reference Guide 4* (p. 99). Baltimore, Maryland.
<https://mdle.net/standards.htm>
- Policing & Community Safety Partnership (PCSP). (2016). *Annual report: August 2015 to March 2016*. <https://www.pcsp.org/publications/pcsp-inpartnership-august-2015>
- Popa, T. (2015). All the way with ADR: Further endorsement of ADR in litigation. *Alternative Dispute Resolution Journal*, 26, 218. ISSN 1441-7847.
- Porter, L. E. & Prenzler, T. (2012). *Police integrity management in Australia: Global lessons for combating police misconduct*. CRC Press, Boca Raton.

- Porter, L. E., & Prenzler, T. (2016). Complainants' views on police complaints and discipline systems: The gap between aspiration and experience. In T. Prenzler & G. den Heyer (Eds.), *Civilian oversight of police: Advancing accountability in law enforcement* (pp. 73-93). Boca Raton: CRC Press – Taylor & Francis.
- Porter, L. E., Prenzler, T., & Fleming, J. (2012). Complaint reduction in the Tasmania Police. *Policing and Society*, 22(4), 426-447. <https://doi.org/10.1080/10439463.2011.641548>
- Porter, L. E., Prenzler, T., & Hine, K. (2015). Police integrity in Australia. In S. Kutnjak Ivkovic and M.R. Haberfeld (Eds.), *Measuring police integrity across the world: Studies from established democracies and countries in transition* (pp. 67-94). East Lansing, MI: Springer.
- Potter, G. (2013). *The history of policing in the United States*. Eastern Kentucky University, Policing Studies Online. <https://plsonline.eku.edu/insidelook/history-policing-united-states-part-1>
- Power, P. (1996). An evaluation of community youth conferencing in New South Wales. Attorney-General's Department, Sydney, NSW. <https://www.bocsar.nsw.gov.au/Publications/Legislative/116.pdf>
- Pranis, K. (2007). Restorative values. In G. Johnstone and D.W. Van Ness (Eds.), *Handbook of restorative justice* (pp. 59-74). Devon, UK: Willan.
- Pranis, K., Stuart, B., & Wedge, M. (2003). *Peacemaking circles – From crime to community*. St Pauls, MN: Living Justice Press.
- Prenzler, T. (2009). *Police corruption: Preventing misconduct and maintaining integrity*. Boca Raton, FL: CRC Press-Taylor and Francis.
- Prenzler, T. (2015, November 17). *Independent broad-based anti-corruption commission committee* [Closed proceedings address]. Brisbane, Queensland. https://www.parliament.vic.gov.au/images/stories/committees/IBACC/Transcripts/IBACC_transcripts_Tim_Prenzler.pdf
- Prenzler, T. (2016). Democratic policing, public opinion, and external oversight. In T. Prenzler & G. den Heyer (Eds.), *Civilian oversight of police: Advancing accountability in law enforcement*, (pp. 51-72). Boca Raton, FL: CRC Press-Taylor and Francis.
- Prenzler, T., & Briody, M. (2017). Complaint reduction in Australian federal policing in the Australian Capital Territory. *Police Practice & Research: An International Journal*. Online publication. <https://doi.org/10.1080/15614263.2017.1387785>
- Prenzler, T., & den Heyer, G. (2016). *Civilian oversight of police: Advancing accountability in law enforcement*. CRC Press: Boca Raton, FL.

- Prenzler, T., & Hayes, H. (1999). Victim-offender mediation and the gatekeeping role of the police. *International Journal of Police Science & Management*, 2(1), 17-32.
<https://doi.org/10.1177/146135570000200103>
- Prenzler, T., Mihinjic, M., & Porter, L. (2013). Reconciling stakeholder interests in police complaints and discipline systems. *Police Practice and Research: An International Journal*, 14(2), 155-168. <https://doi.org/10.1080/15614263.2013.767095>
- Prenzler, T., & Ronken, C. (2001). Models of police oversight: A critique. *Policing and Society*, 11(2), 151-180. <https://doi.org/10.1080/10439463.2001.9964860>
- Prenzler, T., & Sarre, R. (2015). The police. In H. Hayes & T. Prenzler (Eds.), *An introduction to crime & criminology* (pp. 272-292). Melbourne: Pearson Australia.
- Proctor, J., Clemmons, A. J., & Rosenthal, R. (2009). Discourteous cops and unruly citizens: Mediation can help. *Community Policing Dispatch*, 2(3). Washington: Department of Justice. Office of Community Oriented Policing Services.
<http://www.cops.usdoj.gov/html/dispatch/>
- Proctor, J., Rosenthal, R., & Clemmons, A. J. (2008). *Denver's citizen/police complaint mediation program: A comprehensive evaluation*. [Unpublished manuscript].
- Productivity Commission. (1997-2017). Report on government services – Police. Canberra: Australian Government Productivity Commission.
- Productivity Commission. (2018). *Report on government services* (Chapter 6, Police Services, 6.16). Australian Government Productivity Commission.
<https://www.pc.gov.au/research/...government.../police.../rogs-2018-partc-chapter6.pdf>
- Productivity Commission. (2019). *Report on government services* (Chapter 6: Police Services, 6.3). Australian Government Productivity Commission.
<https://www.pc.gov.au/research/ongoing/report-on-government-services/2019/justice/police-services>
- Punch, K. (2014). *Introduction to social research: Quantitative & qualitative approaches*. Thousand Oaks, CA: Sage Publications.
- Queensland Government. (2011, August). *Government response to the independent review of the Queensland police complaints, discipline and misconduct system*.
<http://www.premiers.qld.gov.au/publications/categories/reviews/assets/government-response-police-complaints-review.pdf>
- Queensland Government. (2020). *Diversity figures snapshot, Census 2016*.
<https://www.dlgrma.qld.gov.au/resources/multicultural/communities/diversity-flyer.pdf>

- Queensland Government Statistician's Office. (2020). *Queensland population*.
<https://www.qgso.qld.gov.au/statistics/theme/population/population-estimates/state-territories/qld-population-counter>
- Queensland Ombudsman. (2015). *Effective complaints management* (Fact Sheet 14: External Review). Brisbane: Queensland Government. <http://www.ombudsman.qld.gov.au>
- Queensland Ombudsman. (2017). *Annual report 2016-17*. Brisbane: Queensland Ombudsman.
- Queensland Police Service (QPS). (2016). *Complaints management policy* (2016, May 24). QPS Headquarters, Brisbane, Queensland: Queensland Police Service.
- Queensland Police Service (QPS). (2017a). *Annual report 2016-17*.
<https://www.police.qld.gov.au>.
- Queensland Police Service (QPS). (2017b). *Compliments and complaints*.
<https://www.police.qld.gov.au/online/ComplimentsandComplaints.htm>.
- Queensland Police Service (QPS). (2018a). *Complaint resolution guidelines* (Local Management Resolution Policy and Local Management Resolution Strategies – s. 3.2 General Information). QPS Headquarters, Brisbane, Queensland: Queensland Police Service.
- Queensland Police Service (QPS). (2018b). *Compliments and complaints*.
<https://www.police.qld.gov.au/online/ComplimentsandComplaints.htm>.
- Queensland Police Service (QPS). (2018c). *Customer complaints recording 2017-2018*. Brisbane, Queensland: Queensland Police Service.
- Queensland Police Service (QPS). (2019). *Annual report 2018-2019*.
<https://www.police.qld.gov.au/index.php/qps-corporate-documents/reports-and-publications/annual-report-2018-2019>
- Queensland Police Service (QPS). (2020). *Policing Queensland timeline 1864-2014*.
<https://www.police.qld.gov.au/queensland-police-museum/policing-queensland-timeline-1864-2014>.
- Radzik, L. (2007). Offenders, the making of amends and the state. In G. Johnstone & D.W. Van Ness (Eds.), *Handbook of restorative justice*. Devon, UK: Willan.
- Ransley, J., Anderson, J., & Prenzler, T. (2007). Civil litigation against police in Australia: Exploring its extent, nature and implications for accountability. *The Australian and New Zealand Journal of Criminology*, 40(2), 143-160. <https://doi.org/10.1375/acri.40.2.143>
- Raye, B. E., & Roberts, A. W. (2007). Restorative processes. In G. Johnstone and D. W. Van Ness (Eds.), *Handbook of restorative justice* (pp. 211-227). Devon, UK: Willan.

- Reisig, M. D., & Parks, R. B. (2000). Experience, quality of life, and neighbourhood context: A hierarchical analysis of satisfaction with police. *Justice Quarterly*, 17(3), 607-630. <https://doi.org/10.1080/07418820000094681>
- Reiss, M. B. (2004, March 16). *Human rights and police reform in Northern Ireland* [Testimony]. US Helsinki Commission, Washington, DC. <https://2001-2009.state.gov/s/p/rem/30467.htm>
- Resolution Institute. (2021). Mediator accreditation in Australia. [https://www.resolution.institute/accreditations/mediation-australia#:~:text=Advanced%20Mediator%20Accreditation-,National%20Mediator%20Accreditation%20Standards%20\(NMAS\),been%20widely%20adopted%20across%20Australia](https://www.resolution.institute/accreditations/mediation-australia#:~:text=Advanced%20Mediator%20Accreditation-,National%20Mediator%20Accreditation%20Standards%20(NMAS),been%20widely%20adopted%20across%20Australia)
- Retzinger, S. M., & Scheff, T. J. (2013). Strategy for community conferences: Emotions and social bonds. In G. Johnstone (Ed.), *A restorative justice reader* (2nd ed.). (pp. 103-116). Oxon, UK: Routledge.
- Richards, K. (2014). A promise and a possibility: The limitations of the traditional criminal justice system as an explanation for the emergence of restorative justice. *Restorative Justice*, 2(2), 124-141. <https://doi.org/10.5235/20504721.2.2.124>
- Riley, M. (2018, December). *Is there a place for restorative justice in civil mediation?* [Paper presentation]. Alternative Dispute Resolution Research Network 7th Annual Roundtable Conference 2018, Sippy Downs, Queensland. <https://adrresearch.net>
- Riley, M. (2019, December). *Potential cost of failing to heal civilian-police relations* [Paper presentation]. Alternative Dispute Resolution Research Network 8th Annual Roundtable Conference 2019, Melbourne, Victoria. <https://adrresearch.net>
- Riley, M., & Douglas, S. (2019). Is there a place for restorative justice in civil mediation? *Australasian Dispute Resolution Journal*, 30(14), 14-22. <https://www-westlaw-com-au.ezproxy.usc.edu.au/maf/wlau/app/search/exec>
- Riley, M., & Hayes, H. (2017). Youth restorative justice conferencing: Facilitator's language – help or hindrance? *Contemporary Justice Review*, 21(5), 1-15. 10.1080/10282580.2017.1413358
- Riley, M., Prenzler, T., & McKillop, N. (2018). Alternative dispute resolution and mediation of complaints against police in Australia and New Zealand. *Police Practice and Research: An International Journal*, 21(1), 1-15. <https://doi.org/10.1080/15614263.2018.1500284>

- Ritchie, J., Lewis, J., & Elam, G. (2003). Designing and selecting samples. In J. Ritchie & J. Lewis (Eds.), *Qualitative research practice. A guide for social science students and researchers* (pp. 77-108) Thousand Oaks, CA: Sage.
- Robins, S. (2009). Restorative approaches to criminal justice in Africa. The case of Uganda. *African Human Security Initiative Monograph 161*. Institute for Security Studies.
<https://issafrica.s3.amazonaws.com/site/uploads/M161C4.PDF>
- Roche, D. (2003). *Accountability in restorative justice*. Oxford, UK: Oxford University Press.
- Ronner, A.D. (2002). Songs of Validation, Voice, and Voluntary participation: Therapeutic Jurisprudence, Miranda and Juveniles. *University of Cincinnati Law Review*, 89, 94-95.
- Rossner, M. (2011). Emotions and interaction ritual: A micro analysis of restorative justice. *British Journal of Criminology*, 51, 95. <https://doi.org/10.1093/bjc/azq075>
- Rossner, M. (2012). Emotion across the lifecourse: The case for restorative justice with adults. In J. Bolitho, J. Bruce & G. Mason (Eds.), *Restorative justice: Adults and emerging practice*. The Institute of Criminology Monograph Series no. 30. Sydney: The Federation Press. ISBN 9781742102894.
- Roth, L. (2015). *External oversight of police conduct* (Briefing paper no 6/2015). NSW Parliamentary Research Service. ISSN 1325-5142.
- Russell, M., & Light, L. (2006). Police and victim perspectives on empowerment of domestic violence victims. *Police Quarterly*, 9, 375–396. <https://doi.org/10.1177/1098611104264495>
- San Francisco Police Department Professional Standards & Principled Policing Bureau. (2017, February 3). *Recommendation number 29.4*. Department of Justice Compliance.
<https://www.sanfranciscopolice.org/sites/default/files/2018-11/SFPD-response-DOJ-COPS-Recommendation-29.4.pdf>
- Savage, S. P. (2012). Seeking ‘civilianness’ – Police complaints and the civilian control model of oversight. *British Journal of Criminology*, 53, 886-904.
<https://doi.org/10.1093/bjc/azt033>
- Schaible, L. M., De Angelis, J., Wolf, B., & Rosenthal, R., (2012). Denver’s citizen/police complaint mediation program: Officer and complainant satisfaction. *Criminal Justice Policy Review*, 24(5), 626-650. <https://doi.org/10.1177/0887403412455327>
- Scheff, T., & Retzinger, S. (1991). *Emotions and violence*. Lexington, MA: Lexington Books.
- Schiff, M. (1998). Satisfying the needs and interests of stakeholders. In G. Johnstone & D.W. Van Ness (Eds.), *Handbook of restorative justice* (pp. 228-245). Devon, UK: Willan.

- Schulenberg, J. L., Chenier, A., Buffone, S., & Wojciechowski, C. (2015). An application of procedural justice to stakeholder perspectives: Examining police legitimacy and public trust in police complaints systems. *Policing and Society*, 27(7), 779-796.
<https://doi.org/10.1080/10439463.2015.1102252>
- Scott, D., & Flynn, N. (2014). *Prison & punishment: The essentials*. London: Sage.
- Sheen, R., & Gregory, P. (2012, September 3). *Building an evidence-base for the civil justice system* (Report for the Australian Government's Attorney-General's Department). Civil justice system framework and literature review. Shina Consulting.
<https://www.semanticscholar.org/paper/Building-an-evidence-base-for-the-Civil-Justice-Sheen-Gregory/eb11ab31e22c5dbc08d3466b5672c2d2e1e766ca>
- Sherman, L. W., & Strang, H. (2013). Restorative justice – The evidence. In G. Johnstone (Ed.), *A restorative justice reader* (2nd ed.). (pp. 292-314). Oxon, UK: Routledge.
- Sherman, L. W., Strang, H., Barnes, G., Woods, D. J., Bennett, S., Inkpen, N., Newbury-Birch, D., Rossner, M., Angel, C., Mearns, M., & Slowthower, M. (2015). Twelve experiments in restorative justice: The Jerry Lee program of randomised trials of restorative justice conferences. *Journal of Experimental Criminology*, 11, 501-540.
- Shirish, T. S. (2013). *Research methodology in education*. USA: Lulu Publication. ISBN 9781312093744.
- Sivasubramaniam, D., & Goodman-Delahunty, J. (2006). Trust and power-distance: A psychological perspective on fairness in restorative justice conferences. *Psychiatry, Psychology and Law*, 13(2), 203-219.
- Sivasubramaniam, D., & Goodman-Delahunty, J. (2008). Ethnicity and trust: Perceptions of police bias. *International Journal of Police Science and Management*, 10(4), 388-401.
- Skogan, W. G. (2004, May). Preface. *The Annals of the American Academy of Political and Social Science*, 593, 6-14. <https://doi.org/10.1177/0002716204264097>
- Skolnick, J. (2002). Corruption and the blue code of silence. *Police Practice and Research: An International Journal*, 3(1), pp. 7-10. <https://doi.org/10.1080/15614260290011309>
- Smith, G. (2013). Oversight of police and residual complaints dilemmas. *Police Practice and Research: An International Journal*, 14(2), 92-103.
<https://doi.org/10.1080/15614263.2013.767088>
- Smith, G. (2014). Every complaint matters: Human rights commissioner's opinion concerning independent and effective determination of complaints against the police. *International Journal of Law, Crime and Justice*, 38, 59. <https://doi.org/10.1016/j.ijlcj.2010.03.001>

- Sourdin, T. (2016). *Alternative dispute resolution* (5th ed.). Pyrmont, NSW: Thomson Reuters.
- Sourdin, T., & Balvin, N. (2009). Mediation styles and their impact: Lessons from the supreme and county courts of Victoria research project. *Australasian Dispute Resolution Journal*, 142. <https://ssrn.com/abstract=2995340>
- South Australia Police. (2015). *Service charters*. <https://www.police.sa.gov.au/about-us/service-charters>
- Spencer, D. (2016). *Principles of dispute resolution* (2nd ed.). Pyrmont, NSW: Thomson Reuters.
- Spradley, J. P. (1979). *The ethnographic interview*. New York: Holt, Rinehart & Winston.
- Stake, R. E., (2005). Qualitative case studies. In N. K. Denzin and Y. S. Lincoln (Eds.), *The Sage handbook of qualitative research* (p. 443-466). Thousand Oaks, CA: Sage.
- Strang, H. (2002). *Repair or revenge: Victims and restorative justice*. Oxford, UK: Clarendon Press.
- Strang, H., Sherman, L. W., Mayo-Wilson, E., Woods, D., & Ariel, B. (2013). Restorative justice conferencing using face-to-face meetings of offenders and victims: Effects on offender recidivism and victim satisfaction. A systematic review. *Campbell Systematic Reviews* 9. <https://www.publicsafety.gc.ca/lbrr/archives/cnmcs-plcng/cn33169-eng.pdf>
- Strauss, A., & Corbin, J. (1998). *Basics of qualitative research: Techniques and procedures for developing grounded theory*. Thousand Oaks, CA: Sage.
- Sullivan, D., & Tifft, L. (2013). Needs-based justice as restorative. In G. Johnstone (Ed.), *A restorative justice reader* (2nd ed.). (p. 208). Oxon, UK: Routledge.
- Sunshine, J., & Tyler, T. R. (2003). The role of procedural justice and legitimacy in shaping public support for policing. *Law and Society Review*, 37(3), 513-548. <https://doi.org/10.1111/1540-5893.3703002>
- Supreme Court of New South Wales. (2017). *Mediation*. http://www.supremecourt.justice.nsw.gov.au/Pages/sco2_practiceprocedure/sco2_mediation_inthesec/court_annexed_mediation.aspx.
- Sviridoff, M., & McElroy, J. (1989). *The processing of complaints against police in New York City: The perceptions and attitudes of line officers*. New York: Vera Institute of Justice. <https://www.vera.org/publications/the-processing-of-complaints-against-police-in-new-york-city-the-perceptions-and-attitudes-of-line-officers>.
- Tasmania Ombudsman. (2014). *How to make a complaint*. http://www.ombudsman.tas.gov.au/making_a_complaint/how_to_make_a_complaint

- Tasmania Police. (2014). *Complaints*. <http://www.police.tas.gov.au/about-us/compliments-and-complaints/>
- Tavuchis, N. (1991). *Mea culpa: A sociology of apology and reconciliation*. Stanford, CA: Stanford University Press.
- Taylor, T. J., Turner, K. B., Esbensen, F., & Winfree, L. T. (2001). Copping an attitude. *Journal of Criminal Justice* 29(4), 295-305. [https://doi.org/https://doi.org/10.1016/S0047-2352\(01\)00089-7](https://doi.org/https://doi.org/10.1016/S0047-2352(01)00089-7)
- Terrill, W., & Ingram, J. (2016). Citizen complaints against the police: A eight city examination. *Police Quarterly*, 19(2), 154-179. <https://doi.org/10.1177/1098611115613320>
- Thacher, D. (2001). Conflicting values in community policing. *Law & Society Review*, 35(4), 765-798. <https://doi.org/10.2307/3185416>
- Tink, A. (2015, August 31). *Review of police oversight: A report to the New South Wales Government on options for a single civilian oversight model for police*. <http://www.justice.nsw.gov.au/justicepolicy/Documents/review-police-oversight/review-police-oversight-final-report.pdf>
- Trenwith, C. (2011, February 11). Civilians take on cops in court. *Brisbane Times*. <http://www.brisbanetimes.com.au/queensland/civilians-take-on-cops-in-court-20110210-1aogs.html>
- Trimboli, L. (2000). *An evaluation of the NSW youth justice conferencing scheme*. New South Wales Bureau of Crime Statistics and Research. Sydney: NSW. <http://www.austlii.edu.au/au/journals/NSWBOCSARLES/2000/12.pdf>
- Tyler, T. R. (2003). Procedural justice, legitimacy, and the effective rule of law. *Crime and Justice: A Review of Research*, 30, 283-357. <http://www.jstor.org/stable/1147701>
- Tyler, T. R. (2006). *Why people obey the law* (2nd ed.). Princeton, New Jersey: Princeton University Press.
- Tyler, T. R. (2008). Procedural justice and the courts. *Court Review: The Journal of the American Judges Association*, 44(1/2), 25-31. <https://digitalcommons.unl.edu/ajacourtreview/217>
- Tyler, T. R., Goff, P. A., & MacCoun, R. J. (2015). The impact of psychological science on policing in the United States: Procedural justice, legitimacy, and effective law enforcement. *Psychological Science in the Public Interest*, 16(3), 75. <https://doi.org/10.1177/1529100615617791>

- Tyler, T. R., & Huo, Y. J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts*. New York: Russell Sage Foundation. ISBN: 1-61044-542-2.
- United States Census Bureau (USCB). (2019). *Quick facts New York City, New York*.
<https://www.census.gov/quickfacts/newyorkcitynewyork>
- Victoria Police. (2014). *Compliments and complaints*. www.police.vic.gov.au
- Victoria Police. (2016). *Annual report 2015-16*. Melbourne: Victoria Police.
- Victoria Police. (2017). *Annual report 2016-2017*. Melbourne: Victoria Police.
- Van Ness, D. W., & Strong, K. H. (2006). *Restoring justice* (3rd ed.). Cincinnati, OH: Anderson.
- Vines, P. (2009). *Law and justice in Australia: foundations of the legal system* (2nd ed.). South Melbourne, Victoria: Oxford University Press.
- Volpe, M. R. (2014). Police and mediation: Natural, unimaginable or both. In J.M Fritz (Ed.), *Moving toward a just peace: The mediation continuum*. 91-105. https://doi.org/10.1007/978-94-007-2885-1_6
- Volpe, M. R. (2016). *Mediation in the future of policing*. Mediation.com: Author.
<https://www.mediate.com/articles/VolpeFutures.cfm>
- Wachtel, T. (2016). Defining Restorative. *International Institute for Restorative Practices*. Pennsylvania: IIRP. <https://www.iirp.edu>
- Waldman, E. (Ed.). (2011). Values, models, and codes. *Mediation ethics: Cases and commentaries*. San Francisco, CA: Wiley. ISBN: 978-0-787-99588-1.
- Walker, G de Q. (1988). *The rule of law: Foundation of constitutional democracy* (p. 475). Carlton, Vic: Melbourne University Press. ISBN: 0522843476.
- Walker, S., & Archbold, C. (2000). Mediating citizen complaints against the police: An exploratory study. *Journal of Dispute Resolution*, 2, 233.
<https://scholarship.law.missouri.edu/jdr/vol2000/iss2/2>
- Walker, S., Archbold, C., & Herbst, L. (2002). *Mediating citizen complaints against police officers: A guide for police and community leaders*. Washington, DC: Department of Justice, Office of Community Oriented Policing. <http://restorativejustice.org/am-site/media/mediating-citizen-complaints-against-police-officers.pdf>
- Warburton, H., May, T. & Hough, M. (2003). *Opposite sides of the same coin: Police perspectives on informally resolved complaints*. London: Police Foundation.
<http://library.college.police.uk/docs/ipcc/Opposite-sides-of-the-same-coin-2006.pdf>
- Waters, I., & Brown, K. (2000). Police complaints and the complainants' experience. *British Journal of Criminology*, 40(4), 617-638. <https://doi.org/10.1093/bjc/40.4.617>

- Waye, V. (2016). Mandatory mediation in Australia's civil justice system. *Common Law World Review*, 45(2-3), 214-235. <https://doi.org/10.1177/1473779516645455>
- Webbe, S., Williams, G., & Grayson, F. (2011). *Simple effective transparent strong: An independent review of the Queensland Police complaints, discipline and misconduct system*. Department of the Premier and Cabinet, Queensland Government, Independent Expert Panel.
<https://cabinet.qld.gov.au/documents/2011/May/Police%20Discipline%20Review/Attachments/independent-review-of-qld-police-discipline-system.pdf>
- Wells, I., & Field, R. (2003). Complaints about Australian intelligence organisations and the potential use of mediation. *Queensland University of Technology Law and Justice Journal*, 18, 3(1). <http://classic.austlii.edu.au/au/journals/QUTLawJJI/2003/18.html>
- Wells, W., & Schafer, J. A. (2007). Police scepticism of citizen oversight: Officers' attitudes toward specific functions, processes, and outcomes. *Journal of Crime and Justice*, 30(20), 1–25. <https://doi.org/10.1080/0735648X.2007.9721233>
- Western Australia Police (WAPOL). (2015a). *Police complaints*.
<https://www.police.wa.gov.au/en/Police/Police%20Direct/Commendations%20and%20complaints/Complaints>
- Western Australia Police (WAPOL). (2015b). *Professional standards statistical overview 2015*. Perth: Western Australia Police.
- Wood, J. (1997). *Royal commission into the New South Wales police service: Final report, volume II: Reform*. Sydney: Government of NSW.
- Woolford, A., & Ratner, R. S. (2010). Disrupting the informal-formal justice complex: On the transformative potential of civil mediation, restorative justice and reparations politics. *Contemporary Justice Review*, 13(1), 5-17. <https://doi.org/10.1080/10282580903549094>
- Worrall, J. (2002). If you build it, they will come: Consequences of improved citizen complaint review procedures. *Crime & Delinquency*, 48(3), 362-379.
<https://doi.org/10.1177/0011128702048003001>
- Yin, R. K. (2003). *Case study research, design and methods* (3rd ed.). Thousand Oaks: Sage.
- Yin, R. K. (2011). *Qualitative research from start to finish*. New York: Guilford Press.
- Young, R., Hoyle, C., Cooper, K., & Hill, R. (2005). Informal resolution of complaints against the police: A quasi-experimental test of restorative justice. *Criminal Justice*, 5(3), 279-317.
<https://doi.org/10.1177/1466802505055837>
- Youth Justice Act 1992* (Qld), ss 22, 24A, 163, 165, 175(2A).

- Zehr, H. (1990). *Changing lenses: A new focus for crime and justice*. Scottsdale, PA: Herald Press.
- Zehr, H. (1995, May 1). *Re-thinking criminal justice: Restorative justice* [Paper presentation].
1995 Restorative Justice Conference, Auckland, New Zealand.
<http://www.ncjrs.gov/App/publications/abstract.aspx?ID=174765>
- Zehr, H. (2013). Evaluation and restorative justice principles. In G. Johnstone (Ed.), *A restorative justice reader* (2nd ed.). (p. 263). Oxon, UK: Routledge.
- Zumeta, Z. (2020). *Styles of mediation: Facilitative, evaluative, and transformative mediation*.
<https://www.mediate.com/articles/zumeta.cfm>

Appendices

Appendix A

Summary of Australian Police Complaints Management Processes by State and Territory as of June 2017

Jurisdiction	Organisation	Role
Commonwealth and Australian Capital Territory	Australian Federal Police ¹	Receives and investigates civilian complaints against Australian Federal Police. Informal resolution in the form of a discussion is an option but not mediation. Serious misconduct and corruption allegations are investigated by Professional Standards investigators.
	Commonwealth and Law Enforcement Ombudsman ²	Oversight role of Australian Federal Police but civilians can complain directly to the Ombudsman, particularly in relation to ACT police. The Ombudsman can also initiate investigations without receiving an individual complaint.
New South Wales	NSW Police Force ³	Investigates most civilian complaints against police at a local level; PSC has an advisory role; under section 144 of the <i>Police Act 1990</i> (NSW) the Commissioner can resolve a complaint using an alternative dispute resolution.
	Ombudsman	Investigates some civilian complaints against police and provides an oversight role of NSW Police Force complaints management process;
	Independent Commission Against Corruption ⁴	Investigates police corruption allegations involving another public official.
	Police Integrity Commission	Receives and investigates civilian complaints of serious police misconduct; initiates investigations itself and reviews some complaints handled by the NSW Police Force;
	UNSW Policing Practice	Provides free advice for complainants in civil litigation; no mediation;
Northern Territory	Northern Territory Police ⁵ Ombudsman	Ethical and Professional Standards Command investigates and oversees complaints. Investigates, conciliates and mediates complaints. Recommends disciplinary action against police but cannot enforce it.
Queensland	Queensland Police Service ⁶ or Ethical Standards Command	Managerial resolution and mediation are advertised as options for complaints handling at the local level. However, mediation (facilitated by a senior police officer) is rarely used.
	Crime and Corruption Commission	Has a statutory oversight role of QPS. It can receive and investigate complaints directly from

	Queensland Ombudsman ⁷	civilians that relate to serious misconduct and/or corruption. The CCC has both civilian and seconded police officers who investigate complaints. Provides an administrative review of complaints but only those unresolved matters that have been through all of the existing processes.
South Australia	South Australian Police⁸ Police Ombudsman⁹ Independent Commission Against Corruption – Office of Police Integrity¹⁰	Receive and investigate complaints at the local level. Attempts to resolve complaints using conciliation; investigation process usually involves an interview with an experienced senior police officer; may take place at Ombudsman's Office. Receives and assesses complaints; Commissioner may conduct an investigation or refer matter to SAPOL, Police Ombudsman or inquiry agency. No feedback from ICAC to complainant.
Tasmania	Tasmania Police¹¹ Ombudsman¹² Integrity Commission¹³	Receive and investigate complaints at the local level. Section 46 of the <i>Police Service Act 2003</i> (Tas) provides an option for conciliation with an internally assigned investigator. The Ombudsman's Office and the Integrity Commission are independent of Tasmania Police. Monitors how other agencies deal with complaints; can investigate itself; if it does, the investigation is conducted in private and complainants are not generally advised of the findings.
Victoria	Victoria Police¹⁴ Professional Standards Command Independent Broad-Based Anti-Corruption Commission¹⁵ Victorian Equal Opportunity Human Rights Commission	Receive and investigate complaints at the local level. Required to report misconduct and investigations to IBAC. An independent anti-corruption body which receives complaints either directly from complainants or from Victoria Police and conducts investigations. IBAC Commissioner advises complainant of his/her decision. The VEO and HRC only deal with complaints relating specifically to discrimination, harassment and/or victimisation. Some matters may be referred to IBAC or Victoria Police.
Western Australia	Western Australia Police ¹⁶	Two complaints processes: Local Complaint Resolution process which involves conciliation by an assigned resolving officer; and the Formal

		Investigation process which is internally managed and a final report produced.
	State Ombudsman ¹⁷	Complaints about police made to SO or the EOC are generally referred to the WAP for management. SO mainly investigates complaints relating to police administrative matters.
	Equal Opportunity Commission ¹⁸	Deals with complaints relating to unlawful discrimination; conciliation process involves a conference which is facilitated by a neutral conciliation officer.
	Corruption and Crime Commission	Deals with serious misconduct and corruption issues.

Australian Federal Police, 2015. AFP Service Charter for the Australian Community.

<https://www.afp.gov.au/about-us/governance-and-accountability/service-charters/afp-service-charter-australian-community> and AFP Annual Report 2015-16.

² Prof John McMillan, 2009. Submission by the Commonwealth and Law Enforcement Ombudsman. Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity.

³ New South Wales Police Force. (2012). Complain about a police officer.

http://www.police.nsw.gov.au/services/complain_about_a_police_officer

⁴ Independent Commission Against Corruption New South Wales (ICAC). (2015).

<https://www.icac.nsw.gov.au/about-the-icac>

⁵ Northern Territory Police Force. (2015a). Customer Service Charter.

<http://www.pfes.nt.gov.au/Police/Publications-and-forms.aspx>

⁶ Queensland Police Service (QPS). (2017). Annual Report 2016-17. <https://www.police.qld.gov.au>

⁷ Queensland Ombudsman. (2015). Queensland Government, Effective Complaints Management, Fact Sheet 14: External Review. <http://www.ombudsman.qld.gov.au>

⁸ South Australia Police. (2015). Service Charters. <https://www.police.sa.gov.au/about-us/service-charters>

⁹ Police Ombudsman. (2015). Complaints. Adelaide, South Australia. <http://www.policeombudsman.sa.gov.au>

¹⁰ Independent Commission Against Corruption South Australia (ICAC). (2014). What happens to complaints or reports? ICAC-OPI website, <http://www.icac.sa.gov.au/content/what-happens-complaints-or-reports>

¹¹ Tasmania Police. (2014). Complaints <http://www.police.tas.gov.au/about-us/compliments-and-complaints/>

¹² Tasmania Ombudsman. (2014). How to make a complaint.

http://www.ombudsman.tas.gov.au/making_a_complaint/how_to_make_a_complaint

¹³ Integrity Commission Tasmania. (2016). Complaints and Investigations.

http://www.integrity.tas.gov.au/report_misconduct/how_to_report

¹⁴ Victoria Police. (2014). Compliments and complaints. <https://www.police.vic.gov.au>.

¹⁵ Independent Broad-Based Anti-Corruption Commission Victoria (IBAC). (2015). What can you complain about? <http://www.ibac.vic.gov.au/reporting-corruption/what-can-you-complain-about>

¹⁶ Western Australia Police. (2015). Police Complaints. <https://www.police.wa.gov.au>

¹⁷ Ombudsman Western Australia. (2015). How to make a complaint.

http://www.ombudsman.wa.gov.au/Complaints/Making_complaints.htm

¹⁸ Equal Opportunity Commission 2013, Government of Western Australia, Complaints Process.

<https://www.eoc.wa.gov.au>

Appendix B

Research Sub-Questions:

1. To what extent are non-adversarial processes used internationally in the resolution of civilian complaints against the police?
2. What are the 'ingredients' of a successful program?
 - a. How are the programs facilitated?
 - b. How and by whom are cases referred to mediation?
 - c. What are the biggest obstacles to successful mediation programs?
 - d. Why do the number of independently mediated complaints remain low in comparison to overall complaints made to police?
 - e. How has success been defined and measured?
3. What changes/improvements have been made to programs?
4. What are the institutional processes of implementation?
5. Does the program include investigation of complaints?
 - a. Does the program allow sufficient time for effective investigation and resolution?
6. Does the program employ restorative justice principles?
7. Does the program support restorative rather than punitive recommendations?
8. What have been the 'pitfalls' in the development of a best-practice model?
9. Why are so many Australian police services locked into tokenistic local resolution?
10. Why have pilot mediation programs, particularly in Queensland, not subsequently been implemented?
11. What are the impediments to implementation of a mediation model in Australia?

Appendix C

Similarities and differences between litigation, arbitration and mediation

Features	Litigation	Arbitration	Mediation
Parties retain control	No	No	Yes
Voluntary	No	Yes	Yes
Adversarial	Yes	Yes	No
Speedy Result	Usually No	Usually Yes	Yes
Cost of Result	High	Moderate	Low
Formality	Yes	Usually Yes	No
Evidentiary hearing	Yes	Yes	No
Type of Result	Win-Lose or Lose-Lose	Win-Lose or Lose-Lose	Win-Win or None
Binding result	Yes	By agreement	By agreement

Source: Holbrook & Gray, 1995

Appendix D

Comparison of Formal Investigation, Mediation, Informal Resolution and Managerial Resolution

	Formal investigation	Mediation	Informal resolution	Managerial resolution
Primary purpose	Determine if disciplinary or criminal offence committed	Resolve conflict to parties' mutual satisfaction	Ensure complainant is satisfied that complaint has been dealt with appropriately	Address behaviour of subject officer that gives rise to complaints
Currently used in QPS	More serious allegations	Mainly minor allegations	Minor allegations only	Mainly minor allegations. Can be part of resolution for more serious matters
Conducted by	Experienced investigators	Neutral qualified mediators	Authorised Members (commissioned officers and senior sergeants)	Subject officer's supervisor
Outcome	Complaint substantiated or not substantiated Criminal or disciplinary sanction	Written or oral agreement (if successful) No sanction	Flexibility allowed, but mainly an apology, 'explanation accepted' or 'agree to differ' No sanction	Wide range of strategies available, e.g. remedial training, apology, change to supervision No sanction
Benefits	Justice by way of criminal or disciplinary sanction 'Clearance' for the accused Possible specific and general deterrence	High complainant satisfaction Possible specific deterrence	High complainant satisfaction Quick and cheap Reduced negative impact on subject officer's performance Benefits complainant and service when subject officer is uncooperative	Customised response Addresses systemic issues Moderately quick and cheap
Limitations	Costly and time-consuming Low substantiation rates Low complainant satisfaction Limited systemic improvement (when outcomes are not linked to research) Negative impact on subject officer	No finding No sanction No general deterrence	No sanction No general or specific deterrence Minimal remedial effect	Possibly low complainant satisfaction Limited general and specific deterrence No sanction

Source: Ede & Barnes, 2002, p. 6

Appendix E

Queensland Alternative Dispute Resolution (ADR) Trials

Pilot ADR Programs	Organisation	Description	Category	Facilitator/Mediator	Findings
Aboriginal Mediation Project 1991-1993	Community Justice Program	Three-year program	Civilian review	Independent mediators from CJP	Little information is available. Effectiveness more apparent when respected elders were present.
Complaints Mediation Pilot 1992	Community Justice Program	Six-month program	Civilian review	Two mediators from CJP	Thirty-three mediations: all except one reached agreement. High levels of satisfaction with process and outcome. However, some complainants did not participate for reasons such as distance from CJP.
Informal Resolution 1994	CJC and QPS	Local resolution of complaints	Internal affairs	Police officers trained by civilian ADR specialists	Complainants: Process: 76% satisfied compared to 40% through formal investigation. Outcome: 60% compared to 28% through formal investigation. Police: Process: 83% compared to 76% through formal investigation. Outcome: 76% satisfied compared to 68% through formal investigation.
Project Resolve 2000	CJC and ESC	Managerial Resolution – conducted in 2 police regions (South Eastern and Southern)	Internal affairs	Police supervisory staff	Similar results to 1994 IR study by CJC.
Project Verity 2007	CMC (now CCC) and QPS	Devolution of complaints management to QPS. Six-month program in one police region	Internal affairs	Police supervisory staff	Little information is available. Mediation offered but rarely used. CMC commenced a further trial in 2010.
Project Juniper 2018	QPS & External Mediators	North Queensland initially; Proposed statewide; ongoing	Internal affairs/civilian review	External mediators and Police supervisory staff.	Trial is using mediation to resolve internal complaints involving bullying and harassment.

Appendix F

Semi-Structured Interview Protocols

Queensland	
Queensland Police Service	288
Crime and Corruption Commission	291
Dispute Resolution Branch	294
New Zealand	
New Zealand Police	297
Independent Police Complaints Commission	300
United States Police Departments (Denver, Los Angeles, New York City)	303
Denver	
Office of the Independent Monitor	306
Community Mediation Concepts	309
Los Angeles	
Dispute Resolution Program, City Attorney's Office	313
New York City	
Civilian Complaints Review Board	317
United Kingdom	
Thames Valley Police Department	321
Resolution Solutions Organisation, United Kingdom	324
Retired Police Officer	327

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
Queensland Police Service

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I need to find out about the ADR practices you use, in particular, the use of 'informal resolution' or 'conciliation' in the resolution of civilian complaints against police; the reasons why strategies have or have not been implemented; the implementation processes, and any perceived issues or challenges associated with current practice. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____

2. How long have you been in that position? _____

3. What are your main duties in this role? _____

4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What brought about the inclusion of conciliation, i.e. an alternate dispute resolution (ADR) mechanism, as a complaints resolution option?
3. What is your experience of complaints resolution using ADR/conciliation?
4. How did you become involved?
5. How and by whom is a determination made about which cases are offered ADR/conciliation?
 - a. At what stage, and how, are complainants made aware of the ADR option?
 - b. At what stage, and how, are police who are the subject of complaints made aware of the ADR option?
 - c. Who facilitates the ADR sessions?
 - d. Where are they held? How long do sessions usually take?
 - e. How is the success or failure of the ADR session determined?
 - f. What has been the feedback from complainants about the process/their experience?
 - g. What has been the feedback from subject officers about the process/their experience?
 - h. What types of complaints are conciliated?
 - i. Have you ever considered using conciliation or other ADR processes for more serious complaints? Why/why not?
6. The QPS website lists mediation as an option, how often is it used?
 - a. Is it ever independently facilitated? If not, why not?
 - b. If not used, what were the reasons for not taking up this option?
 - c. Why are so many Australian police services locked into tokenistic local resolution?
 - d. Are you familiar with the pilot complaints resolution mediation programs which were run in Queensland in the 1990s?
 - i. The results indicated some success with this program, including high police satisfaction. Why was the program not implemented?
 - ii. Were there policy obstacles?
 - iii. Do these obstacles still exist today in Queensland?
 - iv. Can you provide a copy of the satisfaction report from the 1992 mediation program?
7. What do you see are the impediments to implementation of a mediation model in our jurisdictions?
8. Are you aware of mediation programs in other jurisdictions?
9. To what extent does the current ADR option incorporate restorative justice principles?
10. Is the current ADR program linked to behavioural change for officers?
 - a. If so, how does this work?
 - b. If so, do you have any data on outcomes?
11. Is it likely that the police service will consider independent mediation of complaints in the future?

- a. Do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
 - b. Do you have any concerns that civilians might hold some bias against the police? If so, what gives you that impression?
 - c. In your opinion, do you think the independent mediation of civilian-police complaints should be incorporated into a best-practice police complaints model in Australia/New Zealand? Why/why not?
12. Do you have any relevant data, e.g. policy and practice manual or evaluations of ADR trials, that you can give me to assist with this research?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
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Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
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PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

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This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I need to find out about the ADR practices you use, in particular, the use of ‘informal resolution’ or ‘conciliation’ in the resolution of civilian complaints against police; the reasons why strategies have or have not been implemented; the implementation processes, and any perceived issues or challenges associated with current practice. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
3. The *Crime and Misconduct Act 2001* (Qld) gave the CCC stronger monitoring powers in relation to police complaints. How has the monitoring of the QPS's complaints-handling processes changed since 2001?
4. How often does the CCC deal with complaints against police? Please explain the process.
5. How often has the CCC used alternative resolution strategies such as mediation to resolve complaints? What form have these taken?
6. What brought about the inclusion of conciliation, i.e. an alternate dispute resolution (ADR) mechanism, as a complaints resolution option?
 - a. Was mediation ever considered as an option when the current ADR system was developed. If so, what were the reasons for not taking up this option?
7. What is your experience of complaints resolution using ADR/conciliation?
8. How did you become involved?
9. How and by whom is a determination made about which cases are offered ADR/conciliation?
10. At what stage, and how, are complainants made aware of the ADR option?
 - a. At what stage, and how, are police who are the subject of complaints made aware of the ADR option?
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 - j. Is it ever independently facilitated? If not, why not?
 - k. Are you familiar with the pilot complaints resolution mediation programs which were run in Queensland in the 1990s?
 - l. The results indicated some success with this program, including high police satisfaction. Why was the program not implemented?
 - m. Were there policy obstacles?
 - n. Do these obstacles still exist today in Queensland?
11. Explain the process for matters being referred to QCAT?

12. Is mediation of complaints required prior to a QCAT hearing? If so, does this include the complainant?
13. What do you see are the impediments to implementation of a mediation model of police complaints in our jurisdictions?
14. Are you aware of mediation programs in other jurisdictions?
15. To what extent does the current ADR option incorporate restorative justice principles?
16. Is the current ADR program linked to behavioural change for officers?
 - a. If so, how does this work?
 - b. If so, do you have any data on outcomes?
 - c. Is it likely that the police service will consider independent mediation of complaints in the future?
 - d. Do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
 - e. Do you have any concerns that civilians might hold some bias against the police? If so, what gives you that impression?
 - f. In your opinion, do you think the independent mediation of civilian-police complaints should be incorporated into a best-practice police complaints model in Australia/New Zealand? Why/why not?
17. Do you have any relevant data, e.g. policy and practice manual or evaluations of ADR trials, that you can give me to assist with this research?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
Queensland - Dispute Resolution Branch

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I need to find out about the ADR practices you use, in particular, the use of 'informal resolution' or 'conciliation' in the resolution of civilian complaints against police; the reasons why strategies have or have not been implemented; the implementation processes, and any perceived issues or challenges associated with current practice. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. Can you tell me a little about the Dispute Resolution Branch?
2. Who are your clients?
3. How and by whom is a determination made about which cases are offered ADR?
4. What are the processes used for resolving disputes?
 - a. What types of complaints are conciliated?
 - b. Who facilitates the ADR sessions?
 - c. Are clients represented by lawyers?
 - d. Where are sessions held? How long do sessions usually take?
 - e. How is the success or failure of the ADR session determined?
 - f. What has been the feedback from complainants about the process/their experience?
5. To what extent does the current ADR option incorporate restorative justice principles?
6. Does the DRB get complaints from the public about police?
7. Are you aware of the pilot police complaints mediation program trialled in 1992 that was conducted by the Community Justice Program?
 - a. Do you have any relevant data from that pilot program, such as an evaluation report?
 - b. There was agreement at the end of the trial, between the CJP and CJC, to continue mediation. Why do you think it was it discontinued?
8. Can you tell me about your experience working with the QPS on mediation?
 - a. How did this come about? Did the police approach the DRB?
 - b. Can you tell me about mediation that has been trialled to resolve staff conflict?
 - i. When was that?
 - ii. How long was it trialled?
 - iii. Who mediated? Did it involve mediation training of police?
 - iv. Was it aimed at conflict involving police and administrative staff?
 - v. Does mediation of staff complaints still occur? Why/why not?
9. Was it ever discussed/considered in relation to public complaints against the police?
10. You mentioned in an email to me that you were not around long enough at the QPS to pursue discussion on a restorative framework for the resolution of public complaints.
 - a. Can you tell me what happened?
 - b. Were the police interested in RJ and mediation?
 - c. Do you think there may be an opportunity to revisit these processes with the QPS?
11. In your opinion, is it likely that the police service will consider independent mediation of complaints in the future?
 - a. Do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
 - b. Do you have any concerns that civilians might hold some bias against the police? If so, what gives you that impression?

- c. In your opinion, what do you see are the impediments to implementation of a mediation model in the police service?
12. Are you aware of police complaints mediation programs in other jurisdictions?
- a. Are you aware of any limitations to these programs?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
New Zealand Police

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I need to find out about the ADR practices you use, in particular, the use of 'informal resolution' or 'conciliation' in the resolution of civilian complaints against police; the reasons why strategies have or have not been implemented; the implementation processes, and any perceived issues or challenges associated with current practice. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
3. Can you explain the early resolution project? Has this project become part of NZP practice?
4. What brought about the inclusion of conciliation, i.e. an alternate dispute resolution (ADR) mechanism, as a complaints resolution option?
 - a. Was mediation ever considered as an option when the current ADR system was developed? If so, what were the reasons for not taking up this option?
 - b. If so, who facilitated it?
5. Can you tell me about the 2016 'informal resolution pilots' in Manukau, Eastern and Canterbury?
6. What is your own experience of complaints resolution using ADR/conciliation?
7. How did you become involved?
8. How and by whom is a determination made about which cases are offered ADR/conciliation?
9. At what stage, and how, are complainants made aware of the ADR option?
 - a. At what stage, and how, are police who are the subject of complaints made aware of the ADR option?
 - b. Who facilitates the ADR sessions?
 - c. Where are they held? How long do sessions usually take?
 - d. How is the success or failure of the ADR session determined?
 - e. What has been the feedback from complainants about the process/their experience?
 - f. What has been the feedback from subject officers about the process/their experience?
 - g. What types of complaints are conciliated?
 - h. Have you ever considered using conciliation or other ADR processes for more serious complaints? Why/why not?
10. The *Independent Police Conduct Authority Act 1988* (NZ) gives the IPCA the authority to consider complaints against the NZP. How and by whom are complaints referred to the IPCA?
11. What do you see are the impediments to implementation of a mediation model in the NZP?
12. Are you aware of mediation programs in other jurisdictions?
 - a. To what extent does the current ADR option incorporate restorative justice principles?
 - b. Is the current ADR program linked to behavioural change for officers?
 - c. If so, how does this work?
 - d. If so, do you have any data on outcomes?

- e. Is it likely that the police service will consider independent mediation of complaints in the future?
 - f. Do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
 - g. Do you have any concerns that civilians might hold some bias against the police? If so, what gives you that impression?
 - h. In your opinion, do you think the independent mediation of civilian-police complaints should be incorporated into a best-practice police complaints model in New Zealand? Why/why not?
13. Do you have any relevant data, e.g. policy and practice manual or evaluations of ADR trials, that you can give me to assist with this research?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
New Zealand - Independent Police Conduct Authority

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I need to find out about the ADR practices you use, in particular, the use of 'informal resolution' or 'conciliation' in the resolution of civilian complaints against police; the reasons why strategies have or have not been implemented; the implementation processes, and any perceived issues or challenges associated with current practice. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
3. The *Independent Police Conduct Authority Act 1988* (NZ) gives the IPCA the authority to consider complaints against the NZP. What does the process involve?
4. How often does the IPCA deal with complaints against police? Please explain the process.
5. How often has the IPCA used alternative resolution strategies to resolve complaints? What form have these taken?
6. What brought about the inclusion of conciliation, i.e. an alternate dispute resolution (ADR) mechanism, as a complaints resolution option?
 - a. Was mediation ever considered as an option when the current ADR system was developed. If so, what were the reasons for not taking up this option?
 - b. If so, who facilitated it?
7. Can you tell me about the 2016 'informal resolution pilots' in Manukau, Eastern and Canterbury?
8. What is your own experience of complaints resolution using ADR/conciliation?
9. How did you become involved?
10. How and by whom is a determination made about which cases are offered ADR/conciliation?
11. At what stage, and how, are complainants made aware of the ADR option?
 - a. At what stage, and how, are police who are the subject of complaints made aware of the ADR option?
 - b. Who facilitates the ADR sessions?
 - c. Where are they held? How long do sessions usually take?
 - d. How is the success or failure of the ADR session determined?
 - e. What has been the feedback from complainants about the process/their experience?
 - f. What has been the feedback from subject officers about the process/their experience?
 - g. What types of complaints are conciliated?
 - h. Have you ever considered using conciliation or other ADR processes for more serious complaints? Why/why not?
12. What do you see are the impediments to implementation of a mediation model in your jurisdictions?
13. Are you aware of mediation programs in other jurisdictions?
 - a. To what extent does the current ADR option incorporate restorative justice principles?
 - b. Is the current ADR program linked to behavioural change for officers?

- c. If so, how does this work?
 - d. If so, do you have any data on outcomes?
 - e. Is it likely that the police service will consider independent mediation of complaints in the future?
 - f. Do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
 - g. Do you have any concerns that civilians might hold some bias against the police? If so, what gives you that impression?
 - h. In your opinion, do you think the independent mediation of civilian-police complaints should be incorporated into a best-practice police complaints model in New Zealand? Why/why not?
14. Do you have any relevant data, e.g. policy and practice manual or evaluations of ADR trials, that you can give me to assist with this research?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
International Police (Denver, Los Angeles & New York City)

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I have interviewed Australian agencies and found limited use of independent mediation in the resolution of civilian-police complaints. Now, I want to study the implementation processes used in what appear to be successful civilian-led mediation programs, such as yours, to evaluate what works, for whom, and under what circumstances. In doing this, I hope to provide evidence to support the implementation of a civilian-led police complaints mediation model in Australia and elsewhere. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

20. What are the current procedures for dealing with civilian complaints against the police?
21. What were the procedures previously?
22. Why did your procedures change?
23. Do you also use 'conciliation' or 'informal resolution'? If so, can you please tell me about that?
24. Do you use internal mediation for dealing with civilian complaints? If so, can you please tell me about that?
25. What has been your experience of internal mediation?
26. What practices have been effective?
27. How has success been measured?
28. Are complaints referred to an external body?
29. Is this body an independent agency?
30. What was the impetus for the establishment of external mediation of police complaints?
31. Who made the decision to implement external mediation?
32. Can you explain the process that led to the establishment of external mediation?
33. Was there a trial or pilot mediation program? Can you tell me more about that trial?
34. How long did the implementation process take?
35. Were there impediments to the implementation of an independent mediation program?
36. Were there policy obstacles to the implementation of the program?
37. Do these obstacles still exist today?
38. What are the criteria for referring cases to external mediation?
39. Is there a statutory requirement for referral?
40. Can you explain the referral process? Who makes the referral?
41. How long has the referral process been operating?
42. Has the process been continual? If not, what were the reasons for the disruptions in its use?
43. At what stage, and how, are complainants made aware of the ADR option?

- a. At what stage, and how, are police who are the subject of complaints made aware of the ADR option?
 - b. Who facilitates the ADR sessions?
 - c. Where are they held? How long do sessions usually take?
 - d. Is the process voluntary?
 - e. How is the success or failure of the ADR session determined?
 - f. What has been the feedback from complainants about the process/their experience?
 - g. What has been the feedback from subject officers about the process/their experience?
 - h. What types of complaints are mediated?
 - i. Have you ever considered using mediation or other ADR processes for more serious complaints? Why/why not?
44. How many cases are referred to your agency each year?
 45. How many civilian-police complaints mediation sessions have you facilitated?
 46. Are any cases referred back to the police for management?
 47. How and who decides which cases should be referred back to police?
 48. Does the mediation program report to the police service or other body on each mediation?
 49. Are you aware of mediation programs in other jurisdictions?
 - a. To what extent does the current ADR option incorporate restorative justice principles?
 - b. Is the current ADR program linked to behavioural change for officers?
 - c. If so, how does this work?
 - d. If so, do you have any data on outcomes?
 50. In your opinion, do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
 51. What are the biggest obstacles to successful mediation programs?
 52. Why do the number of independently mediated complaints remain low in comparison to overall complaints made to police?
 53. How has success been defined and measured?
 54. Has the mediation program been evaluated? If so, when and by whom?
 55. What changes/improvements have been made to programs?
 56. What have been the pitfalls in the development of a best-practice model in complaints management?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
Denver – Office of the Independent Monitor

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I have interviewed Australian agencies and found limited use of independent mediation in the resolution of civilian-police complaints. Now, I want to study the implementation processes used in what appear to be successful civilian-led mediation programs, such as yours, to evaluate what works, for whom, and under what circumstances. In doing this, I hope to provide evidence to support the implementation of a civilian-led police complaints mediation model in Australia and elsewhere. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish. Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
3. Why did the procedures change?
4. What was the impetus for the establishment of external ADR/mediation of police complaints?
5. Who made the decision to implement external ADR/mediation?
6. Can you explain the process that led to the establishment of external ADR/mediation?
7. Was there a trial or pilot mediation program? Can you tell me more about that trial?
8. How long did the implementation process take?
9. Were there impediments to the implementation of an independent mediation program?
10. Were there policy obstacles to the implementation of the program?
11. Do these obstacles still exist today?
12. What are the criteria for referring cases to external mediation?
13. Is there a statutory requirement for referral?
14. Can you explain the referral process? Who makes the referral?
15. How long has the referral process been operating?
16. Has the process been continual? If not, what were the reasons for the disruptions in its use?
17. At what stage, and how, are complainants made aware of the ADR/mediation option?
 - a. At what stage, and how, are police who are the subject of complaints made aware of the ADR/mediation option?
 - b. Who facilitates the ADR/mediation sessions? Is the facilitator independent of the police?
 - c. Where are sessions held? How long do sessions usually take?
 - d. Is the process voluntary?
 - e. What has been the feedback from complainants about the process/their experience?
 - f. What has been the feedback from subject officers about the process/their experience?
 - g. What types of complaints are mediated?
 - h. Have you ever considered using mediation or other ADR processes for more serious complaints? Why/why not?
18. How many cases are referred to your agency each year?

19. What has been your experience of mediation?
20. How many civilian-police complaints mediation sessions have you facilitated?
21. Are any cases referred back to the police for management?
22. How and who decides which cases should be referred back to police?
23. Does the mediation program report to the police service or other body on each mediation?
24. Are you aware of mediation programs in other jurisdictions?
 - a. To what extent does the current ADR option incorporate restorative justice principles?
 - b. Is the current ADR program linked to behavioural change for officers?
 - c. If so, how does this work?
 - d. If so, do you have any data on outcomes?
25. In your opinion, do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
26. What are the biggest obstacles to successful mediation programs?
27. Why do the number of independently mediated complaints remain low in comparison to overall complaints made to police?
28. How has success been defined and measured?
29. Has the mediation program been evaluated? If so, when and by whom?
30. What changes/improvements have been made to programs?
31. What have been the pitfalls in the development of a best-practice model in complaints management?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
Denver, Community Mediation Concepts

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I have interviewed Australian agencies and found limited use of independent mediation in the resolution of civilian-police complaints. Now, I want to study the implementation processes used in what appear to be successful civilian-led mediation programs, such as yours, to evaluate what works, for whom, and under what circumstances. In doing this, I hope to provide evidence to support the implementation of a civilian-led police complaints mediation model in Australia and elsewhere. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
3. Why did the procedures change?
4. How did the Community Mediation Concepts organisation come about?
5. Do you also use 'conciliation' or 'informal resolution'? If so, can you please tell me about that?
6. Do you use internal mediation for dealing with civilian complaints? If so, can you please tell me about that?
7. What has been your experience of internal mediation?
8. What practices have been effective?
9. How has success been measured?
10. Are complaints referred to an external body?
11. Is this body an independent agency?
12. What was the impetus for the establishment of external mediation of police complaints?
13. Who made the decision to implement external mediation?
14. Can you explain the process that led to the establishment of external mediation?
15. Was there a trial or pilot mediation program? Can you tell me more about that trial?
16. How long did the implementation process take?
17. Were there impediments to the implementation of an independent mediation program?
18. Were there policy obstacles to the implementation of the program?
19. Do these obstacles still exist today?
20. What are the criteria for referring cases to external mediation?
21. Is there a statutory requirement for referral?
22. Can you explain the referral process? Who makes the referral?
23. How long has the referral process been operating?
24. Has the process been continual? If not, what were the reasons for the disruptions in its use?

25. At what stage, and how, are complainants made aware of the ADR option?
- a. At what stage, and how, are police who are the subject of complaints made aware of the ADR option?
 - b. Who facilitates the ADR sessions?
 - c. Where are they held? How long do sessions usually take?
 - d. Is the process voluntary?
 - e. How is the success or failure of the ADR session determined?
 - f. What has been the feedback from complainants about the process/their experience?
 - g. What has been the feedback from subject officers about the process/their experience?
 - h. What types of complaints are mediated?
 - i. Have you ever considered using mediation or other ADR processes for more serious complaints? Why/why not?
26. How many cases are referred to your agency each year?
27. How many civilian-police complaints mediation sessions have you facilitated?
28. Are any cases referred back to the police for management?
29. How and who decides which cases should be referred back to police?
30. Does the mediation program report to the police service or other body on each mediation?
31. Are you aware of mediation programs in other jurisdictions?
- a. To what extent does the current ADR option incorporate restorative justice principles?
 - b. Is the current ADR program linked to behavioural change for officers?
 - c. If so, how does this work?
 - d. If so, do you have any data on outcomes?
32. In your opinion, do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
33. What are the biggest obstacles to successful mediation programs?
34. Why do the number of independently mediated complaints remain low in comparison to overall complaints made to police?
35. How has success been defined and measured?
36. Has the mediation program been evaluated? If so, when and by whom?
37. What changes/improvements have been made to programs?
38. What have been the pitfalls in the development of a best-practice model in complaints management?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
Los Angeles, Dispute Resolution Program
City Attorney's Office

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I have interviewed Australian agencies and found limited use of independent mediation in the resolution of civilian-police complaints. Now, I want to study the implementation processes used in what appear to be successful civilian-led mediation programs, such as yours, to evaluate what works, for whom, and under what circumstances. In doing this, I hope to provide evidence to support the implementation of a civilian-led police complaints mediation model in Australia and elsewhere. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
3. Why did the procedures change?
4. How did the Dispute Resolution Branch within the City Attorney's Office come about?
5. Do you also use 'conciliation' or 'informal resolution'? If so, can you please tell me about that?
6. Do you use internal mediation for dealing with civilian complaints? If so, can you please tell me about that?
7. What has been your experience of internal mediation?
8. What practices have been effective?
9. How has success been measured?
10. Are complaints referred to an external body?
11. Is this body an independent agency?
12. What was the impetus for the establishment of external mediation of police complaints?
13. Who made the decision to implement external mediation?
14. Can you explain the process that led to the establishment of external mediation?
15. Was there a trial or pilot mediation program? Can you tell me more about that trial?
16. How long did the implementation process take?
17. Were there impediments to the implementation of an independent mediation program?
18. Were there policy obstacles to the implementation of the program?
19. Do these obstacles still exist today?
20. What are the criteria for referring cases to external mediation?
21. Is there a statutory requirement for referral?
22. Can you explain the referral process? Who makes the referral?
23. How long has the referral process been operating?

24. Has the process been continual? If not, what were the reasons for the disruptions in its use?
25. At what stage, and how, are complainants made aware of the ADR option?
 - a. At what stage, and how, are police who are the subject of complaints made aware of the ADR option?
 - b. Who facilitates the ADR sessions?
 - c. Where are they held? How long do sessions usually take?
 - d. Is the process voluntary?
 - e. How is the success or failure of the ADR session determined?
 - f. What has been the feedback from complainants about the process/their experience?
 - g. What has been the feedback from subject officers about the process/their experience?
 - h. What types of complaints are mediated?
 - i. Have you ever considered using mediation or other ADR processes for more serious complaints? Why/why not?
26. How many cases are referred to your agency each year?
27. How many civilian-police complaints mediation sessions have you facilitated?
28. Are any cases referred back to the police for management?
29. How and who decides which cases should be referred back to police?
30. Does the mediation program report to the police service or other body on each mediation?
31. Are you aware of mediation programs in other jurisdictions?
 - a. To what extent does the current ADR option incorporate restorative justice principles?
 - b. Is the current ADR program linked to behavioural change for officers?
 - c. If so, how does this work?
 - d. If so, do you have any data on outcomes?
32. In your opinion, do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
33. What are the biggest obstacles to successful mediation programs?
34. Why do the number of independently mediated complaints remain low in comparison to overall complaints made to police?
35. How has success been defined and measured?
36. Has the mediation program been evaluated? If so, when and by whom?
37. What changes/improvements have been made to programs?
38. What have been the pitfalls in the development of a best-practice model in complaints management?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
New York City – Civilian Complaints Review Board

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I have interviewed Australian agencies and found limited use of independent mediation in the resolution of civilian-police complaints. Now, I want to study the implementation processes used in what appear to be successful civilian-led mediation programs, such as yours, to evaluate what works, for whom, and under what circumstances. In doing this, I hope to provide evidence to support the implementation of a civilian-led police complaints mediation model in Australia and elsewhere. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
3. Why did the procedures change?
4. How did the Civilian Complaints Review Board come about?
5. Do you also use 'conciliation' or 'informal resolution'? If so, can you please tell me about that?
6. Do you use internal mediation for dealing with civilian complaints? If so, can you please tell me about that?
7. What has been your experience of internal mediation?
8. What practices have been effective?
9. How has success been measured?
10. Are complaints referred to an external body?
11. Is this body an independent agency?
12. What was the impetus for the establishment of external mediation of police complaints?
13. Who made the decision to implement external mediation?
14. Can you explain the process that led to the establishment of external mediation?
15. Was there a trial or pilot mediation program? Can you tell me more about that trial?
16. How long did the implementation process take?
17. Were there impediments to the implementation of an independent mediation program?
18. Were there policy obstacles to the implementation of the program?
19. Do these obstacles still exist today?
20. What are the criteria for referring cases to external mediation?
21. Is there a statutory requirement for referral?
22. Can you explain the referral process? Who makes the referral?
23. How long has the referral process been operating?
24. Has the process been continual? If not, what were the reasons for the disruptions in its use?

25. At what stage, and how, are complainants made aware of the ADR option?
- At what stage, and how, are police who are the subject of complaints made aware of the ADR option?
 - Who facilitates the ADR sessions?
 - Where are they held? How long do sessions usually take?
 - Is the process voluntary?
 - How is the success or failure of the ADR session determined?
 - What has been the feedback from complainants about the process/their experience?
 - What has been the feedback from subject officers about the process/their experience?
 - What types of complaints are mediated?
 - Have you ever considered using mediation or other ADR processes for more serious complaints? Why/why not?
26. How many cases are referred to your agency each year?
27. How many civilian-police complaints mediation sessions have you facilitated?
28. Are any cases referred back to the police for management?
29. How and who decides which cases should be referred back to police?
30. Does the mediation program report to the police service or other body on each mediation?
31. Are you aware of mediation programs in other jurisdictions?
- To what extent does the current ADR option incorporate restorative justice principles?
 - Is the current ADR program linked to behavioural change for officers?
 - If so, how does this work?
 - If so, do you have any data on outcomes?
32. In your opinion, do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
33. What are the biggest obstacles to successful mediation programs?
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37. What changes/improvements have been made to programs?
38. What have been the pitfalls in the development of a best-practice model in complaints management?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
Thames Valley Police, England

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I have interviewed Australian agencies and found limited use of independent mediation in the resolution of civilian-police complaints. Now, I want to study the implementation processes used in what appear to be successful civilian-led mediation programs, such as yours, to evaluate what works, for whom, and under what circumstances. In doing this, I hope to provide evidence to support the implementation of a civilian-led police complaints mediation model in Australia and elsewhere. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
3. Why did the procedures change?
4. What was the impetus for the establishment of external ADR/mediation of police complaints?
5. Who made the decision to implement external ADR/mediation?
6. Can you explain the process that led to the establishment of external ADR/mediation?
7. Was there a trial or pilot mediation program? Can you tell me more about that trial?
8. How long did the implementation process take?
9. Were there impediments to the implementation of an independent mediation program?
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14. Can you explain the referral process? Who makes the referral?
15. How long has the referral process been operating?
16. Has the process been continual? If not, what were the reasons for the disruptions in its use?
17. At what stage, and how, are complainants made aware of the ADR/mediation option?
 - a. At what stage, and how, are police who are the subject of complaints made aware of the ADR/mediation option?
 - b. Who facilitates the ADR/mediation sessions? Is the facilitator independent of the police?
 - c. Where are sessions held? How long do sessions usually take?
 - d. Is the process voluntary?
 - e. What has been the feedback from complainants about the process/their experience?
 - f. What has been the feedback from subject officers about the process/their experience?
 - g. What types of complaints are mediated?
 - h. Have you ever considered using mediation or other ADR processes for more serious complaints? Why/why not?
18. How many cases are referred to your agency each year?

19. What has been your experience of mediation?
20. How many civilian-police complaints mediation sessions have you facilitated?
21. Are any cases referred back to the police for management?
22. How and who decides which cases should be referred back to police?
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24. Are you aware of mediation programs in other jurisdictions?
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 - c. If so, how does this work?
 - d. If so, do you have any data on outcomes?
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28. How has success been defined and measured?
29. Has the mediation program been evaluated? If so, when and by whom?
30. What changes/improvements have been made to programs?
31. What have been the pitfalls in the development of a best-practice model in complaints management?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
Restorative Solutions Organisation, United Kingdom

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I have interviewed Australian agencies and found limited use of independent mediation in the resolution of civilian-police complaints. Now, I want to study the implementation processes used in what appear to be successful civilian-led mediation programs, such as yours, to evaluate what works, for whom, and under what circumstances. In doing this, I hope to provide evidence to support the implementation of a civilian-led police complaints mediation model in Australia and elsewhere. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. When was the Restorative Solutions Org established?
2. What is its main role/function?
3. Is this body an independent agency?
4. Can you explain the process that led to the establishment of your organisation?
5. What types of disputes do you deal with?
6. Are the facilitators members of your organisation, or externally sourced?
7. What ADR processes do you use, e.g. conciliation or mediation? Can you please tell me about that?
8. Is mediation used in the resolution of civilian complaints against police?
9. What was the impetus for the establishment of external mediation of police complaints?
10. What were the procedures previously?
11. Why did the procedures change?
12. Who made the decision to implement external mediation?
13. Was there a trial or pilot mediation program? Can you tell me more about that trial?
14. How long did the implementation process take?
15. Were there impediments to the implementation of an independent mediation program?
16. Were there policy obstacles to the implementation of the program?
17. Do these obstacles still exist today?
18. What are the criteria for referring cases to external mediation?
19. Is there a statutory requirement for referral?
20. Can you explain the referral process? Who makes the referral?
21. How long has the referral process been operating?
22. Has the process been continual? If not, what were the reasons for the disruptions in its use?
23. At what stage, and how, are complainants made aware of the ADR option?
 - a. At what stage, and how, are police who are the subject of complaints made aware of the ADR option?

- b. Who facilitates the ADR sessions?
 - c. Where are they held? How long do sessions usually take?
 - d. Is the process voluntary?
 - e. How is the success or failure of the ADR session determined?
 - f. What has been the feedback from complainants about the process/their experience?
 - g. What has been the feedback from subject officers about the process/their experience?
 - h. What types of complaints are mediated?
 - i. Have you ever considered using mediation or other ADR processes for more serious complaints? Why/why not?
24. How many cases are referred to your agency each year?
25. How many civilian-police complaints mediation sessions have you facilitated?
26. Are any cases referred back to the police for management?
27. How and who decides which cases should be referred back to police?
28. Does the mediation program report to the police service or other body on each mediation?
29. Are you aware of mediation programs in other jurisdictions?
- a. To what extent does the current ADR option incorporate restorative justice principles?
 - b. Is the current ADR program linked to behavioural change for officers?
 - c. If so, how does this work?
 - d. If so, do you have any data on outcomes?
30. In your opinion, do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
31. What are the biggest obstacles to successful mediation programs?
32. Why do the number of independently mediated complaints remain low in comparison to overall complaints made to police?
33. How has success been defined and measured?
34. Has the mediation program been evaluated? If so, when and by whom?
35. What changes/improvements have been made to programs?
36. What have been the pitfalls in the development of a best-practice model in complaints management?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

**ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION OF
COMPLAINTS AGAINST POLICE: A CASE STUDY ANALYSIS**
Ethics Approval No. S181168

SEMI-STRUCTURED INTERVIEW QUESTIONS
Retired Police Officer, Thames Valley, England

PhD Dissertation Research Project
Mary Riley
University of the Sunshine Coast

Day and Date: _____

Participant ID: _____

Participant Agency: _____

Interview Location: _____

Start Time: _____ End Time: _____

PREAMBLE:

This study will evaluate how police services utilise ADR practices in their complaint management strategies.

To do this, I have interviewed Australian agencies and found limited use of independent mediation in the resolution of civilian-police complaints. Now, I want to study the implementation processes used in what appear to be successful civilian-led mediation programs, such as yours, to evaluate what works, for whom, and under what circumstances. In doing this, I hope to provide evidence to support the implementation of a civilian-led police complaints mediation model in Australia and elsewhere. Therefore, throughout our interview I will be asking questions about your complaint management practices, both past and present.

As this is a semi-structured interview, I will attempt to ask the same core group of questions for everyone I interview. However, our discussion may lead to other questions and comments which are not scripted. You can skip any questions if you wish.

Are you okay to get started? To begin, can you tell me a bit about yourself?

BACKGROUND INFORMATION:

1. What position do you hold in this organisation? _____
2. How long have you been in that position? _____
3. What are your main duties in this role? _____
4. What did you do before taking on its role? _____

INTERVIEW QUESTIONS:

1. What are the current procedures for dealing with civilian complaints against the police?
2. What were the procedures previously?
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4. What was the impetus for the establishment of external ADR/mediation of police complaints?
5. Who made the decision to implement external ADR/mediation?
6. Can you explain the process that led to the establishment of external ADR/mediation?
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 - b) Who facilitates the ADR/mediation sessions? Is the facilitator independent of the police?
 - c) Where are sessions held? How long do sessions usually take?
 - d) Is the process voluntary?
 - e) What has been the feedback from complainants about the process/their experience?
 - f) What has been the feedback from subject officers about the process/their experience?
 - g) What types of complaints are mediated?
 - h) Have you ever considered using mediation or other ADR processes for more serious complaints? Why/why not?

18. How many cases are referred to your agency each year?
19. What has been your experience of mediation?
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25. In your opinion, do you think that civilians are qualified to conduct investigations into alleged police misconduct? Why or why not?
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29. Has the mediation program been evaluated? If so, when and by whom?
30. What changes/improvements have been made to programs?
31. What have been the pitfalls in the development of a best-practice model in complaints management?

OTHER QUESTIONS OR COMMENTS:

That concludes the interview. I want to thank you for your time. I sincerely appreciate your help. Once this study is completed, you will be contacted in order to receive a copy of the results.

End time: _____

Appendix G

Major Themes from Semi-Structured Interviews

Theme Name	How many times it was mentioned (across all interviews)
Program Design	29
Program Support	16
Program Success	28
Procedural Justice & Trust	25
Complainants' Voice in the Complaints Process	37
Diverse Complainants	5
Finality of the Complaint for Police Officers	11
Police Behavioural Improvements	18
Mediator Skills & Process Independence	8
Types of Complaints Mediation	15
Restorative Justice	22

Appendix H

Kappa Scores

A percent agreement across two data collectors was used. The scores were limited to two values (0 and 1). The results were an overall inter-rater reliability of 90%. No data collector had an excessive number of outlier scores.

Variable #	Raters		
	Rater 1	Rater 2	Difference
1. Program Design	1	1	0
2. Program Support	1	1	0
3. Program Success	1	1	0
4. Procedural Justice & Trust	1	1	0
5. Complainants' Voice in the Complaints Process	1	1	0
6. Location Specific Mediation Program	0	0	0
7. Diverse Complainants	1	1	0
8. Finality of the Complaint for Police Officers	1	1	0
9. Police Behavioural Improvements	1	0	1
10. Mediator Skills & Process Independence	1	1	0
11. Types of Complaints Mediation	1	1	0
12. Restorative Justice	1	1	0
Number of Zeros			11
Number of Items			12
Study Interrater Reliability (% Agreement)			90%

The results allowed the researcher to identify a variable that was problematic, i.e. #6 was removed as a main theme and treated as a sub-theme of #7.

Appendix I

Republication Permission

Permission has been granted, and the publishers are thanked and acknowledged, for the inclusion of the published journal articles in this thesis, as follows:

- Riley, M., Prenzler, T., & McKillop, N. (2018). Alternative dispute resolution and mediation of complaints against police in Australia and New Zealand. *Police Practice and Research*. <https://doi.org/10.1080/15614263.2018.1500284>. Publisher: Routledge, Taylor and Francis Group. 333
- Riley, M., & Douglas, S. (2019). Is there a place for restorative justice in civil mediation? *Australasian Dispute Resolution Journal* 30 (14), pp. 14-22. Publisher: Thomson Reuters (Professional) Australia Limited. 334
- Riley, M., & Prenzler, T. (2020). Conciliation versus mediation of complaints against police: Lessons from the Queensland experience. *Journal of Criminology, Criminal Justice, Law & Society* 21(1), pp. 22-38. Publisher: Scholastica. 336
- Riley, M., & Prenzler, T. (2020). Mediation of complaints against police: Program implementation in the Denver Police Department. *Newcastle Law Review* 15, pp. 5-34. Publisher: University of Newcastle. 338
- Riley, M., Prenzler, T., Douglas, S. (2021). Mediation of complaints against police: A review of programs in Los Angeles and New York City. *Contemporary Justice Review: Issues in Criminal, Social & Restorative Justice*. <https://doi.org/10.1080/10282580.2021.1884978>. Publisher: Taylor and Francis Group. 339

**Case #01122028 - Alternative Dispute Resolution and Mediation of
Complaints Against Police in Australia and New Zealand [**
ref:_00D30oeGz._5004Q21YNoS:ref]

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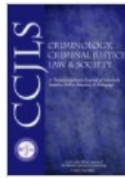
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