

A Matter of Trust

Research on Complaints
Filed Against Police Measures in 2005

RESEARCH REPORT

Written by:

Ildikó Ritter



Trust for Civil Society
in Central & Eastern Europe



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Hungarian Helsinki Committee

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Introduction

“I would like an apology from the police. After that, I will consider the case closed.” This was written by a complainant in a complaint questioning the lawfulness of the proceedings against him and lamenting about the behavior of the acting officers.

While unfortunately the Hungarian system of criminal statistics does not contain data regarding this matter, according to the Disciplinary Division of the National Police Headquarters, annually 7-8,000 people file complaints about the lawfulness and professional quality of police measures and the behavior of the acting officers.

In the majority of the cases, the first instance procedure is conducted by the police unit which the police officer concerned with the complaint belongs to; therefore, the case is probed and the decision is made by a colleague of the concerned officer. One must ask: to what extent can the neutrality and objectivity of the officer conducting the research into the complaint be ensured when he/she is supposed to judge the behavior of his/her own colleague? And how can a citizen trust a legal remedy that is provided by a body affected by the complaint?

Why do we require police officers to judge the work or behavior of their own colleagues, whom they meet daily and with whom they are possibly friends? Under such circumstances, the lack of full neutrality is perfectly natural, even with the honest intention of being as objective as possible. And to what extent is a police officer conducting a complaints case capable of forming a judgment that fulfills social and civil, as well as professional, internal and collegial expectations?

Who and what is one expected to conform to, anyway? Primarily the law, of course, but in this case, the interpretation of laws and regulations is the privilege of the authority. The vast majority of citizens and complainants do not possess extensive knowledge of the law (and the ability to interpret laws in particular), and the majority cannot and/or does not want to hire a lawyer. The perceived unlawfulness of a police measure or an objection to the behavior of a member of the police usually reflects the subjective judgment of the complainant. This does not necessarily coincide with what is stated in laws and regulations.

This is the second obstacle that the complainant faces. The first is the hidden, or perhaps overt bias of the member of the authority examining the complaint; the second is the complainant's limited legal knowledge. But why should one have to be a legal expert for the authority to examine his/her complaint objectively, fairly and impartially?

When evaluating police measures, one must distinguish between unlawful or unprofessional measures or behavior, and the feeling of unlawfulness. If the police officer is perceived to have acted unlawfully, it can cause feelings of outrage, fear and vulnerability, endangering both one's sense of security and the legitimacy of the police. This fear and sense of vulnerability is a sort of psychological unease, but one with a rational cause.

More knowledge about legal regulations and police measures reduces feelings of fear and vulnerability – but also increases the resentment felt at the unlawful actions taken by members of the authority.

The complainants often do not actually want the redress of their (alleged or real) grievances, and do not necessarily wish for the punishment of the (alleged or real) perpetrators. Complaints primarily serve a social and psychological purpose. They help to deal with stress and allow one to regain one's dignity and self-respect. They allow a police measure or the behavior of a member of the authority to become the subject of a research, a way for citizens to fight back. Ultimately, it is not the outcome that matters – this is indicated by the results of the research, as the complainants barely ever hire lawyers, and very few cases make it to the second instance, let alone the courts – but it is the actual filing of the complaint that counts, the ability to express one's grievances. Following the written filing of the complaint, many are not present at the hearing and the recording of the minutes; some do not go even when they are summoned. With this in mind, it is clear that the actions taken by

the authority relating to complaints should transcend the legal framework. Greater emphasis should be placed on the social and interpersonal handling of complaints.

The findings presented below are a result of extensive teamwork, and were made possible by the cooperation of various organizations. This fact is remarkable in itself.

The research was conducted by the National Institute of Criminology (OKRI) under the commission of the Hungarian Helsinki Committee. The research was authorized and supported by the National Police Headquarters (ORFK). The professional and practical assistance of the ORFK's Disciplinary Division was instrumental in its realization.

For all of the above, I personally owe a thank you to the National Police Chief. I would also like to thank the ideas, suggestions and professional and practical assistance I received from the people at the ORFK and the Hungarian Helsinki Committee, as well as their constructive criticism and extremely valuable cooperation. Last, but not least, I would like to express my gratitude for the persistent, hard work of my colleagues.

1. A Brief Introduction to the Legal Framework

This study is the summary of a research conducted primarily in the fields of criminology and legal-sociology, and can by no means be viewed as an analysis conducted from the perspective of law enforcement or law. Nevertheless, to understand the practice of complaints procedures, familiarity with at least the basic regulatory framework is necessary, so this will be detailed first. With regards to this, it is important to note that the provisions pertaining to complaints procedures as set out in Act XXXIV of 1994 on the Police (Police Act) underwent a fundamental change, as of 1 January 2008 (partly to remedy the problems also illustrated by this study), however all the investigated cases took place under the previous regulatory framework, as only cases that started in 2005 could at the time of planning the research be supposed to be closed definitively.¹ Before 1 January 2008, the research of complaints filed against police measures was the exclusive jurisdiction of the police itself, while starting from the aforementioned date, depending on the subject of the complaint, the proceedings are conducted either by the police or the Independent Law-enforcement Complaints Board which, however, may only propose a decision to the police (and may not deliver a decision itself). It is also important to mention that the findings of this study are not made irrelevant by the new regulatory framework, as the majority of the complaints procedures will still be conducted by the police according to the “old rules” – the new provisions merely complementing the norms that have been in effect for a long time.

¹ Because of this, the references in the main text cite the text of the Police Act that was in force in 2005.

1.1 The basic rules pertaining to the complaints mechanism up to 31 December 2007

As a main rule, remedy may be sought against police measures and the use of coercive measures in accordance with the Police Act. Apprehension is an exception – in this case the law pertaining to the proceeding of the authority which gave the apprehension order shall govern the legal remedy applicable with regard to the apprehending order.²

A complaint may be filed by the person against whom the measure was taken. During the proceedings, the complainant may be represented by a lawyer or any other person. The complaint shall be filed with the police unit which took the measure (i.e. where the actual officer who took the measure is posted) within eight days from the time when the measure was taken. The complaint is judged within 15 days of its receipt by the commander of the affected police unit. The decision shall contain detailed reasons. An appeal may be filed against the decision within eight days of the communication of the decision. The appeal shall be addressed to the superior police unit, but shall be filed with the unit which judged the complaint.

The appeal and all the documents concerning the case must be presented to the superior unit within eight days after the appeal deadline, unless the unit which judged the complaint withdraws the decision or amends, corrects or supplements it in accordance with the appeal. Within 15 days of the receipt of the appeal, the superior body delivers a reasoned decision, affirming, modifying or annulling the first instance decision.

In the event that there is not enough information to make a second instance decision or further clarification of the facts of the case is needed, the superior police unit either take steps itself to supplement the missing information or annuls the decision and orders the first instance unit to start the proceedings again. The decision of the superior unit must be communicated to the complainant in writing via the unit which judged the complaint. The decision of the superior unit qualifies as an administrative resolution, and, as such, it is subject to judicial review. This may be requested by the complainant, in accordance with the general rules pertaining to the judicial review of administrative decisions.

2 Police Act, Article 92

In the event that the deadline specified for filing the complaint is missed, it is possible to file a request for justification. This shall specify the reason for missing the deadline or the obstacle preventing the complainant from filing the complaint and shall be presented to the proceeding unit within eight days after the missed deadline. The request for justification is decided upon by the head of the proceeding unit. If the concerned party finds out that the deadline was missed or the obstacle ceased to exist later than eight days from the missed deadline, the eight -day deadline for filing the request for justification starts from when the missing of the deadline was found out about or when the obstacle ceased to exist. If three months have passed after the missing of the deadline, it is no longer possible to file a request for justification.

1.2 Positive changes in the regulation of the complaints mechanism as of 1 January 2008

For a number of reasons, the proceeding regulated in the Articles 92 and 93 of the Police Act was in dire need of reform.

The first problem was the complete incoherence of the complaints mechanism. For different police measures, entirely different legal remedies were available to complainants. We are referring primarily not to the difference between the legal remedies available against police measures taken as part of complaints procedures as opposed to criminal proceedings, as we consider this distinction necessary due to the particularities of criminal proceedings, but to the following.

Police complaints procedures could only be used against measures listed in Chapter V of the Police Act (e.g. ID checks, search of clothing, short-term arrest) and/or coercive measures listed in Chapter VI of the Police Act (e.g. physical coercion, handcuffing, use of baton, etc.). However, Chapter IV of the Police Act also contains obligations that, if violated, necessitate the availability of legal remedies, for example the obligation to take a police measure,³ the obligation to provide assistance,⁴ or

3 Article 13 Paragraph (1) If a police officer detects or is informed of a fact or circumstance that requires police intervention, then he/she is obliged to initiate or take a measure within his/her jurisdiction.

4 Article 24 Paragraph (1) A police officer is obliged to provide assistance and information within his/her range of duties to those who request it.

the obligation to wear an identification badge.⁵ Before the amendment, violations concerning these obligation did not fell under the scope of the ordinary police complaints mechanism. Instead, they could be remedied according to the provisions of Act XXIX of 2004 on Certain Amendments and the Withdrawal and Verification of Certain Statutory Provisions related to EU Accession (EU Act).

The EU Act sets out the rules based on which state bodies (including the police) shall handle complaints with regard to which no specific complaints mechanism is set up. (In the terminology of the EU Act, a complaint is a request aimed at the termination of a violation of one's personal rights or interests provided that the handling of the complaint is not governed by any specific – judicial or administrative – legal regime.) The complaint shall be judged within 30 days of its receipt. The body entitled to conduct the proceeding may choose to hear the complainant, if the contents of the complaint necessitate such a hearing, and once the research is completed, the proceeding body shall inform the complainant in writing or electronically about what measures (if any) were taken, and also about the reasons. Based on the complaint, it shall be ensured a) that a state of affairs is restored that is lawful and conforms to the public interest, and that any otherwise necessary measures are taken; b) that the causes of the deficiencies that were revealed cease to exist; c) that any violation is redressed; and d) that if necessary, the measures necessary for calling the violators to account be taken.⁶

While it is clear that in many cases the negligence of a police officer to act or provide assistance could result in a significant violation of rights, the procedure regulated in the EU Act does not contain many guarantees that can be found in the police complaints procedure (such as, ultimately, the possibility of a judicial review).

This problem is solved by the new regulation, which states that if the violation of an obligation contained in Chapter IV of the Police Act affects one's rights or rightful interests, then he/she is entitled to initiate a police complaints procedure.⁷

Another positive aspect of the amendment is that previously, the Police Act only referred to the general procedural rules of administrative proceedings in stating that

5 Article 20 Paragraph (1) A police officer shall be identifiable by his/her uniform and the identifying tag placed thereon, or a service badge, when a police measure is taking place.

6 EU Act, Articles 141–143

7 Police Act, Article 92

the second instance decision in a police complaints procedures “is an administrative decision, and its judicial review can be requested by the complainant in accordance with the rules pertaining to the judicial review of administrative decisions”.⁸ Based on the principle of *argumentum a contrario*, it could have followed that first instance decisions are not administrative ones. This did not turn out to be the case, as after Uniformity Decision 1/1999 of the Supreme Court a practice evolved that was consistent in applying the provisions of Act IV of 1957 about the General Rules of Administrative Proceedings to both instances of police complaints procedures.⁹ (The Uniformity Decision stated that a second instance decision by the head of a superior police unit judging a complaint is an administrative decision that can be subject to judicially review, because the police takes measures and uses coercive devices “in its capacity of a body exercising public powers, which creates an administrative legal relationship between the police and the subject of the measures.”)

This notwithstanding, the unequivocal statement that “a complaint filed to the unit that took the measure is judged by the head of that unit in an official administrative proceeding”¹⁰ was an important step in terms of legal certainty. It is also important because it provides the basis for the amended Police Act to harmonize the circle of potential complainants with the GPSA’s definition of a “client” The regulation before the amendment stated that “a complaint can be filed by whomever the measure was taken against”.¹¹ This provision limited complaint rights in many ways. Firstly, it narrowed down the group of people entitled to file complaints (excluding, for example, the club manager intending to express his grievance at the fact that the ID’s of all youths leaving the disco operated by him are checked, potentially harming his business), and secondly, it did not allow for complaints to be filed about the failure to take a measure (as it assumed that a measure was actually taken against someone). The amendment solved both problems, as it states that anyone who’s rights or rightful interests were affected by a measure has a right to file a complaint,¹²

8 Old Police Act, Article 93

9 This law was later on replaced by Act CXL of 2004 on the General Rules of the Proceedings and Services of Public Administrative Authorities (GPSA), so at present the provisions of this law govern complaints procedures.

10 Article 93/B

11 Old Police Act, Article 93

12 Article 92 Paragraphs (1) and (2)

and specifically lists the failure to take a measure as a type of behavior that can form the basis of a complaint.¹³

Another positive change is the proclamation that complaints procedures are free of any duty.¹⁴ This allowed the Parliament to rectify an earlier legislative mistake, which – due to an inaccurate choice of words – allowed some police units to demand complainants to pay administrative fees when submitting their complaint.

Another step forward is that the law specifies the deadline for filing a complaint at 30 days after the measure was taken. From our own experiences we can say that eight days often proved insufficient: by the time the clients made contact with the Helsinki Committee’s lawyers, who provided them with the necessary information concerning the legal remedies available to them, many had already missed the deadline, and the police did not accept its own negligence as justification, namely that someone clearly dissatisfied with the police measure was not provided by the acting police officer with sufficient information about options for complaint.

In this regard, an inconsistency found its way into the text of the law during the Parliamentary amendments. The original text submitted allowed the complainant eight days for both types of complaints procedures (i.e. the “traditional” police complaints procedure and the proceeding of the Independent Law-enforcement Complaints Board). The motion to amend this, submitted by three representatives of the largest opposition party (János Lázár, Károly Kontrát and Zoltán Balog)¹⁵ led to the prolongation of the time open to file complaints to the police unit which took the measure from eight to 30 days.¹⁶ In the case of complaints filed to the Complaints Board, however, the time allowed for submitting complaints remained unchanged at 8 days.¹⁷

It is clear from the reasoning of the representatives’ amending proposal that the submitters wrote their proposal under the misconception that they were proposing an amendment to the proceedings of the Complaints Board, as they argue that the by allowing the amendment the complainant would have more time to decide

13 Article 92 Paragraph (1)

14 Article 92 Paragraph (4)

15 T/2916/24

16 Article 93/B Paragraph (2)

17 Article 93 Paragraph (1)

whether to turn to this body. The result, however, is that there is far less time allowed to decide a significantly more complex legal question (did the measure violate any fundamental rights?) than there is to start an ordinary police complaints procedure (intended for less significant violations).

This could theoretically be corrected by a provision (also entered through an amending motion)¹⁸ which states that the Complaints Board may request information about the complaints filed with police units and, if the specific conditions for its proceeding are in place, it may notify the complainant, who, within eight days of the notification, has a right to request that the national police commander judge the complaint, after an research conducted by the Complaints Board.¹⁹ It is doubtful, however, that the Board that is likely to be overburdened would take advantage of this right very often.

It is also a positive development that the amendment specifies social organizations/foundations dealing with legal protection, minority local self-governments and law school teachers among those who can act as representatives. This provision is only relevant to the Complaints Board, as its order of procedure is not yet known (it will specify this itself in its rules of procedure).²⁰ The traditional police complaints procedure will be conducted in accordance with the rules of the GPSA, so – in accordance with its relevant provision²¹ – anyone can act as a representative, including, for example, someone working at a social organization. In any case, the explicit naming of these organizations certainly carries a positive message.

18 T/2916/30

19 Article 93 Paragraph (3)

20 Article 6/C Paragraph (2)

21 Article 40 Paragraph (1)

2. Research Methodology

2.1 The purpose of the research

The purpose of the research was to provide the recently founded Independent Law-Enforcement Complaints Board with information and data that can contribute to its efficient functioning and ensure a smooth working relationship with the police authorities. We also strove to allow police bodies investigating complaints to review and develop their procedural practices.

Our goals also included revealing behavioral patterns on both sides (complainants and police) that appear frequently during complaint cases, analyzing the causes of events that are most frequently followed by complaint proceedings, and examining the socio-demographic characteristics of those involved and the results/outcomes of the handling of the problems.

2.2 The scope of the research

Around two thirds of known complaints are filed in Budapest, therefore we formulated our sample so as to reflect this proportion. We conducted the research using the complaints cases of the district police stations in Budapest, and of the police stations of two towns in each of the following counties: Borsod-Abaúj-Zemplén, Baranya and Zala and Nógrád. According to criminal statistical data, these four provinces were the ones with the country's two highest (Borsod-Abaúj-Zemplén and Baranya) and two lowest (Baranya and Zala) crime rates.

2.3 The sample range

The sample consisted of complaints filed by citizens at the district police stations of Budapest and the municipal police stations of Miskolc, Kazincbarcika, Pécs, Komló, Zalaegerszeg, Nagykanizsa, Salgótarján and Balassagyarmat in 2005, based on Articles 92 and 93 of the Police Act against the activities or behavior of police officers taking measures. (Act XC of 2007 significantly amended the Police Act, and the new provisions in force from 1 January 2008 transformed the complaints procedures procedure as well. However, as all the cases we researched concerned complaints filed in 2005 or before, we refer to the old text of the Police Act.)

Although the range of the sample was comprised of complaints filed in 2005, only 92.4 percent of the cases in the sample actually started in 2005. 6.6 percent of the cases started in 2004, as that was when the measure concerned by the complaint was taken. Either the complaint was only filed in 2005, or the investigation of the complaint or the decision was drawn out until 2005. In the remaining 1 percent (2 cases), the proceedings started in 2002 and 2003 (this was also when the complaints were filed), but events connected to the case were still occurring in 2005: a new complaint was filed in the same case, or reporting took place continuously.

2.4 The sample size

All together we examined 183 complaints cases. We were planning to survey 200, but certain files were not forwarded to us, and we encountered 12 files that did not contain sufficient information. The police, observing the provisions of the data protection law, provided us with photocopied case files, with the personal details of both the complainants and the acting police officers removed.

2.5 The sampling design

For the Budapest sample, we used a random sampling method, randomly selecting 5 cases from each district. In the case of the provincial towns, we collected all the data, meaning we analyzed every complaint made in 2005.

Following this, we performed document analysis: using a structured code page, we collected data from the cases in the sample, which we then coded and stored digitally. We performed the data analysis using the SPSS statistical program.

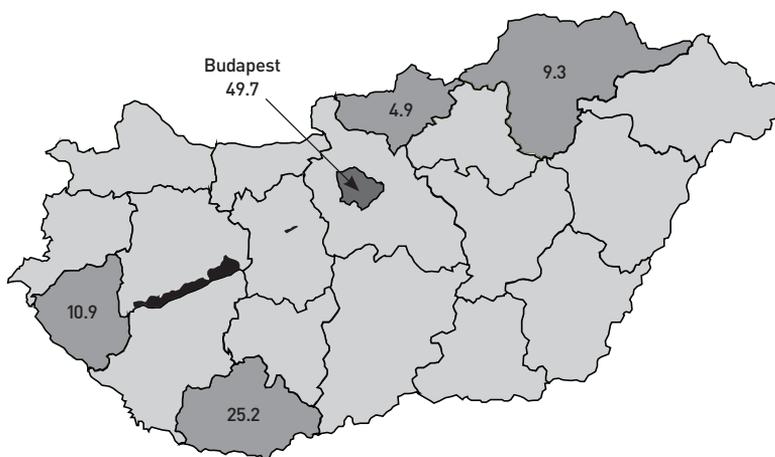
3. The Results of the Research

Before the results of the research are presented, it is important to stress that it was not our intention to investigate the veracity of the complaints or the extent to which the police measures about which the complaints were filed were justified. We simply collected and analyzed the common characteristics of the complaints and the police measures about which the complaints were filed.

3.1 The geographic distribution of the researched cases

Diagram 3.1 below shows the geographic distribution of the cases in the sample.

Diagram 3.1
Geographic distribution of the cases (%)



Around half of the cases in the sample are from Budapest. This conformed to the goal that half of the sample should be comprised of cases from Budapest. More intriguing is the frequency with which citizens used their right to complain about police measures or behavior in the four counties.

The sample – besides Budapest – was comprised of two towns from each of the four (aforementioned) counties because we wanted to investigate the correlation between the number of reported crimes (and obviously the number of police measures taken) and the number of complaints cases, however, a countrywide research was prevented by financial limitations.

Table 3.1 below shows the number of reported crimes and the amount of complaints based on the Articles 92 and 93 of the Police Act in the districts of Budapest and the four provincial towns.

Table 3.1

| Location | Number of reported crimes in 2005 | Number of complaints based on Art. 92 and 93 | Proportion of complaints in relation to crimes |
|---------------|-----------------------------------|--|--|
| 1st District | 2,671 | 17 | 0.6 |
| 2nd District | 4,238 | 11 | 0.3 |
| 3rd District | 5,918 | 19 | 0.3 |
| 4th District | 4,824 | 13 | 0.2 |
| 5th District | 5,445 | 13 | 0.2 |
| 6th District | 4,808 | 8 | 0.1 |
| 7th District | 5,880 | 12 | 0.2 |
| 8th District | 11,236 | 24 | 0.2 |
| 9th District | 7,700 | 19 | 0.2 |
| 10th District | 5,111 | 10 | 0.1 |
| 11th District | 7,555 | 16 | 0.2 |
| 12th District | 2,994 | 12 | 0.4 |
| 13th District | 10,071 | 24 | 0.2 |
| 14th District | 8,375 | 19 | 0.2 |

Table 3.1 (continued)

| Location | Number of reported crimes in 2005 | Number of complaints based on Articles 92 and 93 | Proportion of complaints in relation to crimes |
|------------------|-----------------------------------|--|--|
| 15th District | 3,025 | 9 | 0.3 |
| 16th District | 3,570 | 12 | 0.3 |
| 17th District | 3,129 | 7 | 0.2 |
| 18th District | 4,630 | 7 | 0.2 |
| 19th District | 2,942 | 23 | 0.7 |
| 20–23rd District | 4,492 | 13 | 0.3 |
| 21st District | 4,813 | 8 | 0.2 |
| 22nd District | 1,943 | 10 | 0.5 |
| Komló | 831 | 6 | 0.7 |
| Pécs | 8,963 | 38 | 0.4 |
| Kazincbarcika | 968 | 4 | 0.4 |
| Miskolc | 10,909 | 15 | 0.1 |
| Balassagyarmat | 670 | 9 | 1.3 |
| Salgótarján | 2,219 | 1 | 0.0 |
| Nagykanizsa | 2,063 | 15 | 0.7 |
| Zalaegerszeg | 2,741 | 5 | 0.2 |
| Total | 144,730 | 399 | 0.3 |

The number of complaints filed about police measures and behavior in the settlements in the sample is typically not too high (qualitative characteristics are analyzed later).

The table shows that there is no direct correlation between the number of reported crimes and the number of complaint cases in one particular area. Therefore the assumption that more complaints are received where more cases are handled by the police is not substantiated.

Certain regional tendencies can, however, be detected. The number of complaint cases is typically lower in the towns belonging to the Northern region of Hungary, while it is higher in the ones in the West. In fact, examining the proportion of complaints to reported crimes reveals that within the districts of Budapest, in the ones with more favorable socio-demographic characteristics, the proportion is reversed.

The examination of the geographic distribution of the cases in the sample shows that there is no correlation between the frequency of cases handled by the police and the number of complaints in a given area. Thus we can conclude that typically, the proportion of complaints to reported crimes – as well as the actual number of complaints – is lower in areas where the socio-demographic characteristics of the population are less favorable.

3.2 The time of commission

Most of the investigated complaints were preceded by a police measure taken because of a petty offense or a crime. We looked at what time of day the related petty offense, crime (or reporting, coercive measure etc.) took place, i.e. when the complainant and the police officer met. Our supposition was that certain times of day could have an effect on the behavior of both the police officers and the complainants.²²

Diagram 3.2 shows at which time of day the complainant and the police officer first met (as a percentage of the investigated cases).

According to Diagram 3.2, the most encounters that resulted in the filing of a complaint took place between 9–12 o'clock and between 21–24 o'clock. According to Hungarian criminal statistics, the majority of known crimes occur in the morning (7–10 o'clock) and in the afternoon/evening (15–18 o'clock). We already know, however, that more cases do not necessarily result in more complaints, so another perspective is needed to find out why, in our sample, the events occurring at these two times of day resulted in the most complaints.

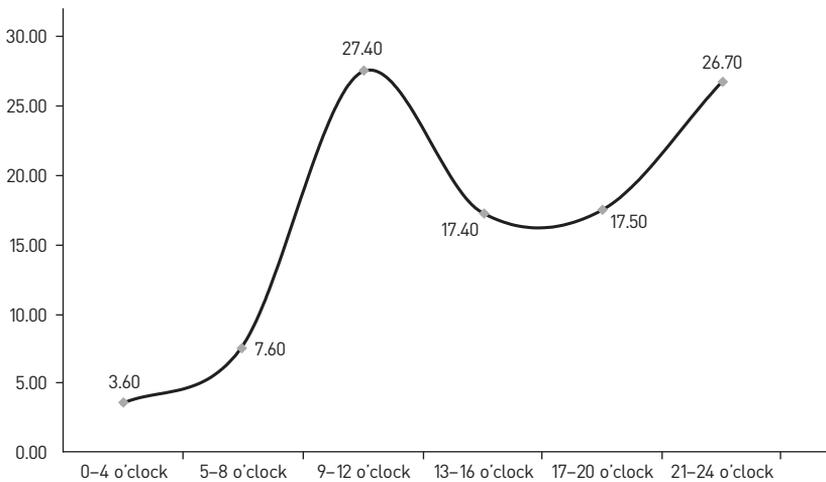
We found only one variable with which these times of day can be explained. In the case of encounters taking place in the morning, the complainants usually express their grievance at the actual measure – they argue that it was unlawful. In the after-

22 In 13.1 percent of the cases we could not find out when the measure was taken.

noon, however, complaints relating to the behavior of police are more common. This is when so-called “social measures” are usually taken: measures against drunk people (many of them filed complaints), visits to the scene in response to notifications from citizens (the handling of tensions within a family or between neighbors). For some reason, the searching for and arresting of individuals wanted by the courts or other authorities (and not yet found simply due to a lack of information) usually falls within this time period as well.

So presumably the reasons are found in human factors, both concerning the acting police officers and the complainants.

Diagram 3.2



The most complaints result from the following:

- **The acting police officer and/or the complainant acts impatiently and disrespectfully:**

“This current hearing made me realize how overburdened the police are, and that no generalizations can be made on the basis of the measure in question. I am reinforced in this belief by the fact that the acting police officers apologized for their conduct. I am sorry as well, for acting more irritably than I should have. I agree with the measures taken in the case, and withdraw my complaint.” (excerpt from a case file)

- **The acting police officer does not provide the citizen with sufficient information (about the reasons for the measure and the consequences, or the legal framework):**

During the investigation of the complaint, grievance is expressed that the acting police officers did not specify the reason for and purpose of their arrival. He also wanted to know if a petty offense proceeding was initiated against him. (excerpt from a case file)

- **The legal knowledge of the individual against whom the measure is taken is insufficient, although he thinks that he is aware of his rights and the duties of the police officer:**

“The officer on duty speaks to the complainant in a rough tone, and does not want to accept the report, as it is not actually a police report, but only a notification, and will end up in the petty offense division of the mayor’s office anyway, as the limit [probably of the value of the stolen good] does not reach the level required for a criminal offense [...] I establish that the measure was lawful – the complainant received all the necessary information regarding his report from the officer on duty.”

- **By filing the complaint, the complainant wants to make his/her position in the proceedings conducted against him/her (either criminal or concerning a petty offense) more favorable, or wants to avoid having to pay a fine:**

“I appeal the decision, and file a complaint against the arbitrary and unprofessional police procedure. The police patrol arbitrarily changed the facts, and conducted the research in a biased way, sending us away and allowing the person who caused the accident to stay on the spot. A lack of professionalism, impartiality and trust characterized the proceedings.”

All of these generate tension between the sides – a situation which, according to the perception of the complainant, the police officer handles (mis)using his superior status. The individual against whom the measure was taken files a complaint as a reaction to this.

3.3 The length of time between the police measure and the filing of the complaint

Presumably the larger the perceived or real grievance of the complainant, the earlier the complaint is filed. According to the Police Act, “the complaint may be filed with the police unit which took the measure within eight days after the measure is taken”.

In the event that the deadline is missed, justification may be requested. The question arises: what proportion of those against whom measures are taken actually know of the deadline?

From the cases we examined, we were not able to obtain information about how the complainant knew of the right to complain, and whether the complainant knew when, where and in what form the complaint could be filed.

Based on the files we examined, it is probable that the majority of the complainants filed a complaint shortly after the event, motivated by outrage and humiliation. This is where the social and psychological function of filing complaints can really be seen. It helps one to deal with the grievance (the feeling of grievance is very subjective, meaning it does not always depend on whether one was actually aggrieved), handle the stress and restore one's violated self-respect.

Diagram 3.3 shows the length of time between the measure and the filing of the complaint (as a percentage of all the cases).

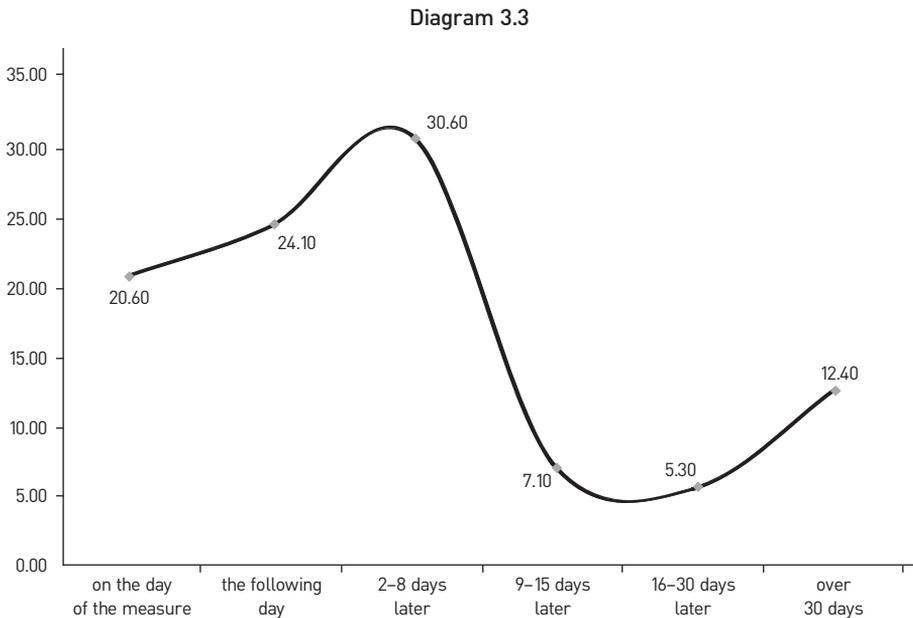


Diagram 3.3 shows that one-fifth of the complainants filed a complaint on the day of the grievance. Another 25 percent filed the complaint the next day.

75.3 percent of the complainants filed their complaints within the deadline specified in the law (eight days), and another 12.4 percent within a month. Every eighth complainant only filed a complaint over a month after the event.

Interestingly, there was only one measure in the case of which almost every complaint was filed after the deadline – accident scene inspection. The reason for this can be found in the damage survey procedure of the insurance companies. After the accident, the (future) complainant is usually occupied with getting the damaged vehicle serviced and sorting out the insurance. If a driver decides to complain about a police measure, the complaint is usually only filed once it is revealed that the insurance company has a different view on the role of the participants in the accident. At this point the police report is needed, the contents of which the complainant is not satisfied with, so he/she files a complaint (usually the complainant also objects to the police measure itself).

The distribution based on the time of day, area or the type of the measure does not display any correlation with the length of time of the measure and the complaint. This indicates that complainants generally file their complaints within eight days after the event not because of the legal provisions – in fact they are probably largely unaware of them – but according to the extent of their outrage, humiliation and feeling of vulnerability, or in the event that a measure was taken against them that they deem unlawful, in the protection of their immediate interests.

So the extent of the humiliation suffered and injustice felt is inversely proportional to the length of time until the complaint is filed. The larger the subjective grievance is, the quicker the filing of the complaint follows.

3.4 The type of measure taken

We examined in our sample the circumstances under which the acting police officer and the complainant met. We wanted to find out which types of measures, which “forms of encounter” result in more, and which ones in fewer complaints.

Table 3.2 shows how the different types of measures²³ are broken down in the sample (as a percentage of all examined measures).

23 We use the term “type of measure” in a criminological, not a legal sense. This means that we refer to all encounter patterns between police officers and citizens in which the police officer acts as an official entity, taking a measure either upon the request of a citizen or ex officio.

Table 3.2

| Type of measure | In the percentage of all cases |
|--|--------------------------------|
| ID check | 39.2 |
| Visit to the spot and taking measures upon a report by a citizen | 27.1 |
| Short-term arrest | 11.0 |
| Measure taken in relation to an accident | 5.5 |
| No measure was taken | 4.0 |
| Accident scene investigation | 3.2 |
| Towing away a vehicle | 3.2 |
| Recording a police report | 2.7 |
| Recording a complaint | 1.1 |
| Data collection (acquiring information about something or someone) | 0.5 |
| Searching a vehicle | 0.5 |
| Searching a house | 0.5 |
| Controlling compliance with alien policing regulations | 0.5 |
| Arresting a person under arrest warrant | 0.5 |
| Taking the aggrieved party to the station for the purpose of his/her hearing | 0.5 |
| Total | 100.0 |

In the majority of the cases in the sample, the complaints were filed in relation to ID checks – of drivers, in particular. The complainants expressed their doubts about the lawfulness of the check, and their grievances at the behavior or stricter than necessary conduct of the police officer acting during the check, or the misuse of police powers.

Numerically, complaints concerning identification checks were followed by complaints concerning police measures taken upon reports from citizens and complaints concerning short-term arrests.

Below are excerpts from case files concerning identification checks:

- *“Let’s check his ID, if he’s in such a hurry – said one of the police officers [...] I feel aggrieved by the tone used and the comments made during the proceedings by the acting officers”*
- *“The tone of the police officers was supercilious, the atmosphere during the measure was tense [...] they treated me like a criminal”*
- *“I am deeply shocked that a uniformed police officer threatens to search me, then to take my driver’s license. Simply because he is unaware of the legal regulation of ID checks.”*
- A young man was assaulted. No one intervened, so he called the emergency number 107. *“The officer on duty said he cannot send anyone, as they would have to go to a dead man, and then hung up. The complaint recorder told me that I can complain file a complaint about the petty offence of dangerous threat. I am currently, however, complaining about the absence of a police measure.”*
- The complainant was driving his car, when he was made to stop by the police officers, as he allegedly did not let them come out from a side street (they did not use any distinguishing signs). His ID was checked and his clothing was searched. *“I do not know why, they did not find anything, and let me go [...] I feel aggrieved by the fact that everyone at the tram stop was staring at me, I felt humiliated, they treated me like a criminal.”*
- *“I am expressing my grievance because if I am fined on the spot, then why do I also have to suffer excessive police measures and very humiliating treatment?”*
- Fear of police measures: the complainant did not stop immediately when the police car flashed its light. After he stopped, the police officer pointed his gun at the complainant and shouted at him. *“I had no idea what he wanted. He drove aggressively, and it was not visible that it was a police car. ‘Police’ was not painted on it. I thought they wanted me to stop so they could take my car. One hears about such incidents. I only found out they were police when they exited their vehicle. I was very afraid, afraid of the police officers and of humiliation”*
- *“Through gathering information we established that the operative information was incorrect, and this was not the stairway in question.”* Before that, however, the acting officers rang some doorbells and performed ID checks on the occupants late at night, scaring them considerably. *“The complainant also expressed grievance*

at the fact that more extensive information about the reasons for the intrusion was not provided, and only one of the acting police officers identified himself using his badge and papers (they were looking for a storage apartment) [...] Based on Article 39 Paragraph (1) Point b) of the Police Act, a police officer can enter a private home without an official warrant or being admitted, if the aim is the prevention or interruption of a crime or the arrest of a perpetrator or suspect of a crime. Based on the facts of the case as established, this was not the case here, as the complainant admitted the acting police officers, even if, according to his own account, only after a number of calls to do so. After the officers entered, the identification of those present became necessary. This measure was lawful and professional. I would like to inform you that the activities of a police officer are never self-serving, and always serve the interest of the state, the society and the individual, even if they may occasionally result in inconveniencing honest, law-abiding citizens. If this is how you felt about the incident, I apologize in the name of my colleagues. The belated judging of your complaint (8 months) is a result of negligence, for which I have held responsible my affected subordinates by disciplinary means. I would like to bring to your attention that according to Article 29 Paragraph (1) of Act XCIII of 1990, the complainant has to pay a duty of HUF 2000 in a first instance administrative procedure. I warn you that, according to Paragraph (3) of Article 34 of the aforementioned law, a fine must be paid in addition to the duty if the duty is not paid within 8 days.”

- According to the case files, the acting police officers unfortunately uttered sentences like: *“Don’t fucking talk back to me, or I’ll arrest you in, you fag.”* (excerpt from a case file)

However, during the proceedings the acting police officers also had cause for complaint in some cases: those against whom the measures were taken were not always cooperative and respectful. Their tone and behavior was occasionally supercilious and humiliating, even threatening.

- *“As the above named individual did not admit to the offense, I told him that I would file a report against him. Then the above named individual said: “...go ahead and report me, they’ll sort it out for me anyway.”*
- *“...throughout the proceedings, he behaved in a way that was arrogant and belittling, and demonstrated conduct that was dismissive and nonchalant towards the measure.”*

- *“...The director of the market, as well as the head of the security service, said that he would expect the police to assist the work of the security guards, as the market and the local government provide the district police station with quite a significant allowance. He asked us to apprehend the two people and take them to the police station...”*
- *“Tomorrow you won’t be on the police force any more, I’ll take the necessary steps, I have contacts.”*
- A complainant said the following to the officer on duty, because he had to wait: *“All police are fascists, you are too. Fascist bastards.”*

There are different examples though:

- *“Although I am not familiar with the rules of police proceedings, presumably the acting police officers adhered to them. They were polite and courteous with me.”*

The above excerpts from case files reflect the inadequacy of police training (in terms of communication and conflict management), and demonstrate that the lack of information is often the source of conflict between acting police officers and citizens. It is certain that the occasionally one-sided, but often mutual verbal abuse that takes place during police measures is not in the interest of fair measures or the reasonable on-the-spot handling of offenses.

Threatening statements from citizens that call for corruption and expect the abuse of police power are absolutely shocking (e.g. the “market” incident above; but there were two more such cases in our sample). The question is, how can and does a police officer act in such situations?

Police conduct that goes beyond the impolite and disrespectful, conduct that is degrading and humiliating and instills fear in the person against whom the measure is taken, is also significant cause for concern.

Even more alarming is the fact that it may happen (as it did in one of the cases we examined) that two people have an argument over a matter, one of them calls his police acquaintances, who “put themselves on duty” and take measures in the interest of the friend. This is an abuse of official powers, even if the friend happens to be right.

There was more than one case in our sample in which the residence of an individual under an arrest warrant was located and the arrest was timed to take place late at

night. More than once it occurred that the court or another body merely wanted to hear someone as a witness, but, as the location of residence had changed, the individual did not receive the summons, so a warrant of apprehension was issued. In such cases the problem was caused not only by the timing of the measure, but by the fact that the apprehension of a law-abiding citizen was performed so assertively that the conduct of the police scared both the apprehended individual and the people in his/her environment.

The absence of information within a police unit can also be harmful. If a police patrol sent to take a measure is not informed of all the available data and is not told the reasons for the measure by the superiors, then an otherwise perfectly lawful measure can easily go awry.

It can also be seen from the complaints that it is extremely harmful if the aggrieved parties are treated like suspects (if no distinction is made in the tone of communication, for example), and if the perpetrators of minor offenses are dealt with in a humiliating manner in front of others (if the situation is overreacted, in other words).

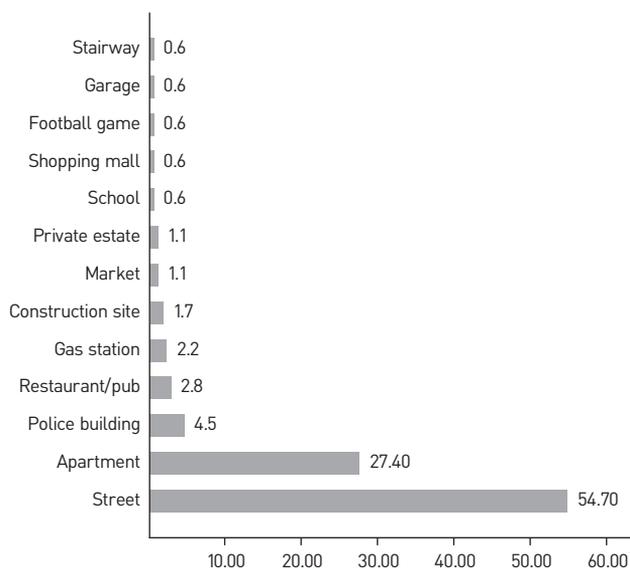
It is also clear from the police reports that certain people against whom proceedings are conducted behave aggressively and brusquely towards the acting members of the authority and use an unacceptable tone, and often face no consequences for such conduct.

3.5 The location of the measure

We also investigated where the measure complained about took place. Diagram 3.4 shows the distribution of the measures according to their location (as a percentage of the investigated cases).

More than half of the measures took place on the street (54.7%). This is also suggested by the fact that in 42.6 percent of the cases in the sample, the measure was taken against a car driver. Every second complaint in the sample was filed because of a measure taken in relation to a driver.

Diagram 3.4



The second most frequent location was the home, usually that of the complainant, and the third was the police station (where the complainant wanted to – or actually did – file a report, but felt aggrieved by the actions or behavior of the officer on duty, or was dissatisfied with the person conducting the questioning). There was a large variety of locations altogether.

3.6 Measures taken against drivers

In this section we will look into the complaints filed about measures taken against drivers in more detail, as this was the most common type in our sample.

Both the patrols of the Traffic Division of the Budapest Police Headquarters and the patrols of individual district and municipal police stations perform vehicle checks, for purposes of traffic control and crime prevention and/or to locate individuals under an arrest warrant.

The threat posed to society by the violation of the rules of traffic is often quite limited (for example if the paper certifying the payment of the mandatory insurance

is missing), and in these cases the drivers violating the rules often find the police measures unjustified and excessive.²⁴

Measures about which motorists expressed their grievances and factors that generated complaint were principally the following:

- **The acting police officer is trying to put pressure on the driver of the vehicle to accept being fined on the spot** (according to Act LXIX of 1999 on Petty Offenses, if, after being informed about the legal consequences, the perpetrator accepts being fined on the spot, then legal remedy against the fine is not available).

“I wanted to end the entire ordeal as quickly as possible, so I signed the paper about being fined on the spot” (excerpt from a complaint). The viewpoint of the unit judging the complaint was the following: *“The imposition of a fine on the spot was lawful and professional, and the police officer disclosed the legal consequences of not paying, XY admitted all of this by signing the paper. The legal consequences of not paying were also set out, for purposes of information, on the back of the copy of the fine, handed over by the police officer. Had you not agreed with the police officer’s view, you would not have signed the paper.”*

It is important that, when fining people on the spot, police officers not only disclose the relevant legal rules, but also explain, in a manner intelligible to motorists lacking legal knowledge, the consequences of accepting the fine imposed on the spot.

- **The complainant is unfamiliar with the legal rules, and the police officer does not provide the necessary information**

In the cases examined, the acting police officers generally failed to provide the necessary information. In the above example, the police officer believed, and the judging district police chief clearly agreed, that if the complainant signed the paper about the fine, then he was aware of the legal consequences. In the absence of advice, however, he only found out about them after signing, when he read the other side of the signed paper.

24 In fact there was not a single case in our sample in which the police measure took place because the complaining motorist was driving beyond the speed limit or while under the influence of drugs or alcohol.

Many do not file their complaints about the police measure, but argue instead about the veracity of the allegation against them, the very legality of the measure, that is. However, as a decision about such a complaint states: *“The proceedings of the petty offense authority and the police complaints procedure are two entirely different proceedings, to which different legal regulations pertain and which have different legal remedy forums.”* However we only found the necessary information about this in a single decision, one that rejected the complaint: *“I inform you that this decision (rejection of the complaint) does not limit the legal remedies available to you in the petty offense proceedings initiated against you.”*

Ordinary citizens cannot be expected to know all the legal rules. If they do not receive adequate information, their right to legal remedy could be infringed. It is the duty of acting police officers to provide the necessary information, but they often fail to do so. It would be worth considering a scheme under which groups protecting the interests of motorists, in cooperation with the crime and accident prevention professionals of the police, could inform the motoring community about its right, its duties, the procedure of ID checks outlined in the legal regulation, and the course of action taken by the police officer performing the check. This could be communicated through written and electronic media, as well as the Internet. If motorists were better informed, it is likely that the number of complaints filed on the basis of Articles 92 and 93 of the Police Act would decrease, and the atmosphere and tone of the proceedings would improve significantly as well.

Although motorists cannot, police officers most certainly can be expected to be familiar with the laws concerning the police, the traffic rules and all the legal rules pertaining to the measures they take.

A society’s perception of the police is based on its day-to-day contact with the people. One’s subjective view of the police is influenced by the experiences of one’s own and those of one’s environment, as well as by the media. Members of the police whom people most frequently encounter are police patrols, so their procedural practices and behavior form the basis of people’s opinion about the police as a whole and its role in society. This is why it would be important to put emphasis on the training and in-service training of patrols. Unfortunately we encountered many cases in the sample in which the acting police officer was not familiar with the legal regulations pertaining to the situation, and engaged

in procedural practices below desired standards. There is a need to rethink the training, as shown by the following case file excerpts.

Two cars were parked somewhere where they should not have been, and their drivers admitted that they had committed the offense. Two police officers acted, and in both cases they observed the same offense, but imposed different fines. The answer to the obvious question “why?” was the following: *“...my colleague is more flexible.” It is incomprehensible how a pair of police officers can evaluate the same offense so differently that one should impose a fine over three times as much as the other. This can only be explained by the animosity of the acting member of the authority towards the individual against whom the measure was taken. Taking into consideration the fact that the police sergeant acting in my case was of the younger variety, perhaps the necessary practice and empathetic capacity was also missing.*” (excerpt from a complaint)

Excerpt from a decision: *“Society expects a police officer who detects a petty offense to take action, and to react to an appropriate degree.”*

And another one: *“As the police patrol did not receive the thorough legal training that would have been necessary to act in the case properly, I will see to it that they be informed by their superior.”*

A head of the traffic unit of one station said the following with regards to a specific traffic situation: *“...in my view the acting police officers could not have been expected to make the correct decision at that specific location, in a contradicting legal environment.”*

- **The eight-day deadline**

According to Article 93 Paragraph (1) of the Police Act *“the complaint can be filed with the police body which took the measure within eight days after the measure is taken”*. According to Paragraph (10) of the same Article, *“in the event that the specified deadline is missed, a request for justification specifying the cause of the missing of the deadline or the obstacle can be filed with the proceeding authority within eight days of the missed deadline”*.

In many of the cases we examined, complaints were filed in relation to police measures taken against traffic offenders (after the initiation of proceedings directed at the enforcement of non-paid on-the-spot fines).

The majority of complainants have no knowledge of the eight day deadline or the possibility to file a request for justification. Here is an excerpt from an appeal lodged against a rejecting decision: “...as the problems started with what was stated in the decision, I could not have filed a complaint within eight days, after all I only received the decision two months afterwards [...] How would the proceedings have been conducted if I had started off with the complaint that the acting police officer was impatient, and took it as a personal offense that he had to go there and take a measure?”

- **Civility of procedural practices**

Grievance was expressed over the manners and behavior of acting members of the authority during ID checks and other measures taken against drivers in many complaints that were filed. In the sample we examined, the majority of complaints were filed because of rudely conducted police measures/proceedings, and the behavior of police officers specifically. It must be noted, however, that some of the drivers against whom measures were taken did not contribute at all to the civility of the proceedings. The case files we examined show that, partly as a result of ill-information, partly in defense of their interests, and partly as a response to the conduct of the police, certain drivers provoked the acting police officers using speech that is entirely unacceptable. In such situations, the degeneration of the proceedings is almost inevitable.

Larger emphasis should be placed on the civility of procedures such as ID checks and vehicle-searches. One of the typical methods of communication used with drivers resembles the game of “barkochba” (in which one player asks yes/no questions to find out something the other player has thought of): “*The police officer asked me if I knew why he stopped me [...] And whether I know the colors [...] He also asked me if I am familiar with petty offense proceedings*” (excerpt from a case file). Excerpt from another complaint: “*I am thoroughly outraged that a uniformed police officer threatens to search me, then to take my driver’s license. Simply because he is unaware of the legal regulations of identification.*”

“*I am expressing my grievance because if I am fined on the spot, then why do I also have to suffer excessive police measures and very humiliating treatment?*”

Police officers also complained about the behavior of citizens, however: “*he was not affected by the case, it was not initiated on his request, and the measure was*

not being taken against him. On more than one occasion he made patronizing comments about our work, saying he knows what to do in such a situation”.

“Throughout the proceedings, he behaved in a way that was arrogant and belittling, and demonstrated conduct that was dismissive and nonchalant towards the measure.”

- **Lack of information**

In many cases, and not only during measures taken against drivers, it occurred that the individual against whom the measure was being taken was not properly informed about why the measure was being taken, what the cause of the stricter-than-usual conduct was (for example, an escaping criminal was being pursued, and so extensive, scrutinizing search of vehicles had to be conducted in a certain area), and what was the basis of the increased obligation to cooperate.

What is being discussed here is not miscommunication, but rather a lack of information that can generate insecurity, tension and anger, often inevitably resulting in the acting police officer finding himself faced with an impatient, arrogant citizen.

- **Police officers refuse to identify themselves**

In many of the cases we encountered the complaint that acting police officers refused to identify themselves, occasionally giving rather peculiar reasons for doing so: *“I asked them to show me their identification [...] The police officers said that they are wearing a uniform, so they do not have to identify themselves”* (excerpt from a case file).

The amendment of the Police Act should, hopefully, solve this problem. Article 20 Paragraph (1) of the Police Act effective as of 1 January 2008 states that, when a police measure is taking place, police officers must be identifiable by their uniform and the identifying tag placed thereon, or a service badge and identifying tag, and must verbally communicate the fact that they belong to the police, their name, their location of service and the fact and purpose of the measure, before commencing the measure. The only exception is if this would endanger the success of the measure, for example if immediate intervention is necessary. In this case the identifying steps must be taken after the measure is completed.

- **Bias during accident scene inspection**

There were quite a few complaints in our sample in which the complainants expressed their doubts about the neutrality of police officers acting during accident scene inspection. They felt that the acting members of the authority did not listen to them enough and talked far more with the other party. In these cases the problem was not necessarily with the actual police measure, but with the fact that the police officer did not help in relieving the tension generated by the detriment, and that the complainant could not discuss the matter and did not feel that sufficient attention was being given to them (almost all of these complaints were filed by the party that was not at fault). In these conflicts the complainants often also feel that they do not have the opportunity to express their point of view.

There were also complaints filed because it was felt that equipment was either missing or inadequate to reveal and record the circumstances of the accident. For example, the arriving police officers did not have a camera.

During some accident scene inspections, the acting police officers also complained. In the following report, for example, about the behavior of a witness: *"...he was not affected by the case, it was not initiated on his request, and the measure was not being taken against him. On more than one occasion he made patronizing comments about our work, saying he knows what to do in such a situation. He immediately came forward as a witness to the collision, but we informed him that there was no need to do so, as the case does not belong to the jurisdiction of the police (it took place in private property)."*

Excerpt from an appeal lodged against a rejecting decision: *I appeal the decision, and file a complaint against the arbitrary and unprofessional police procedure. The police patrol arbitrarily changed the facts, and conducted the research in a biased way, sending us away and allowing the person who caused the accident to stay on the spot. A lack of professionalism, impartiality and trust characterized the proceedings."*

- **The contents of the police report about the accident do not conform to the truth**

It appears that many motorists are not fully aware of the competency of certain members of the police-motorist-insurance company triangle, and the police

and insurance professionals are not too clear about each other's tasks and the related legal provisions and rules. This results in many inconveniences for drivers during loss adjustment. In practice, there are virtually as many types of loss adjustment procedures as there are insurance companies, and this makes the situation of the injured party very difficult. The problems caused by the loss adjustment procedure often appear in complaints filed against the measure(s) taken by the police. These complaints are generally filed when the insurance company has finished its proceeding, in the event that the injured party is dissatisfied with the results. It also happens that the insurance company sends the report back to the police, arguing that if a certain event had occurred differently, or had been recorded differently, then more favorable loss adjustment could be provided to the client.

Other problems also emerged – some complainants felt that the report or the decision from the police contained inaccuracies or omissions: *“the case officer disclosed the files, from which important facts are missing, and in the absence of these facts, the acting petty offense division cannot judge my case objectively”* (excerpt from a case file).

From the above it is clear that the reduction of the number of complaints from drivers is a realistic goal, as most of them are based on a lack of information. It is not only drivers who need more information, however, but the acting police officers as well, in order to ensure more efficient and polite proceedings. If drivers had more information about the relevant regulations, the course of proceedings, the role of police officers and the process of insurance loss adjustment, then not only would the number of complaints decrease, but the day to day activities of police officers would become easier, and frustration on both sides would be alleviated.

The task of propagating this information could be undertaken by the Hungarian Motoring Club, perhaps in cooperation with the Traffic Division of the ORFK and the Hungarian Insurance Companies' Association, or on its own, via its website. It would be useful to include the basic rules pertaining to police measures in the theoretical curriculum of the driver's license obtainment process. This could either be presented orally during classes, or provided to students in written form.

3.7 About the acting police officers

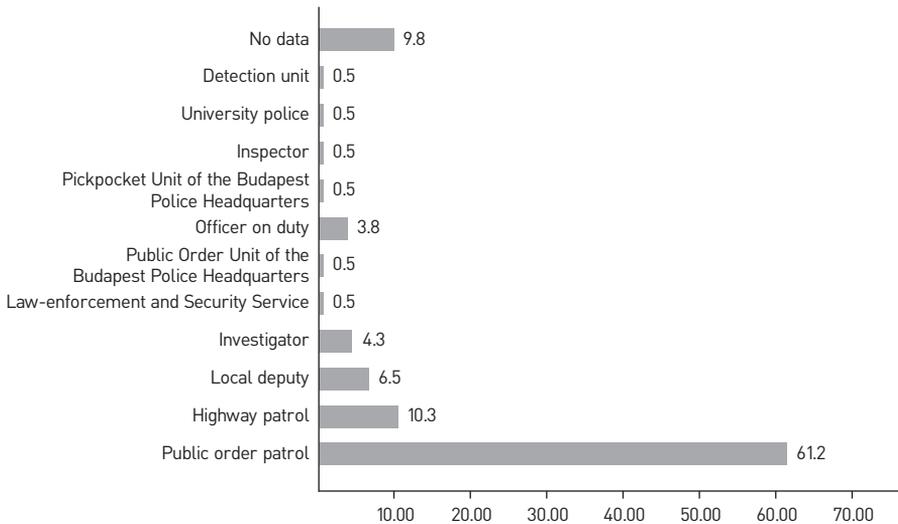
We also investigated the socio-demographic characteristics of those who carried out the measures about which complaints were filed. For reasons of data and identity protection, information containing socio-demographic characteristics was removed from most of the case files (in addition to personal details), so we had very little information to work with.

Although there were at least two police officers present during the measures, we collected the characteristics of the police officer who was dominant or was specifically complained about.

The individuals acting in the cases we examined were almost exclusively (98.3 %) men. Even if there was a female colleague present, the individual initiating and playing the dominant role in the measure was male. Complaints were directed against measures initiated or executed by a woman in only 1.7 percent of the cases.

We have no data about the age of the acting individuals, but we do know the location of service and rank of nine out of ten (90.3%) of them. Diagram 3.5 shows the units/divisions which the individuals acting in the cases in our sample belonged to (percent).

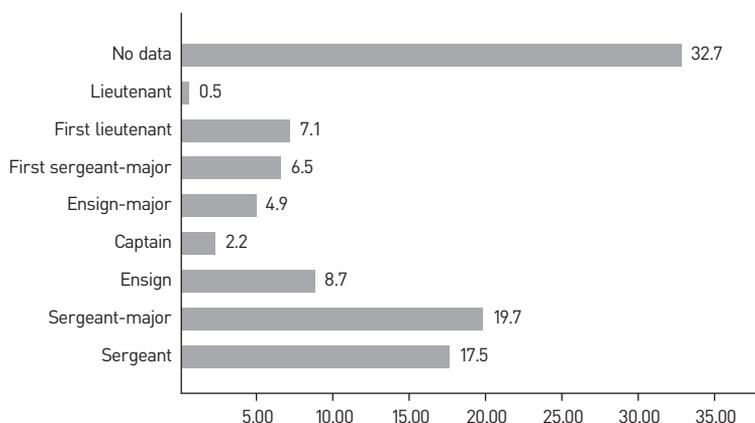
Diagram 3.5



Most common were patrols serving in the public order unit of a district or municipal police station, followed by highway patrols and local deputies. They were, in turn, followed by investigators and officers on duty. Although the proportion of Law-enforcement and Security Service members and those belonging to central bodies in the sample is low, we would like to note that in one Budapest district, in the examined cases, complaints were filed almost exclusively against police officers belonging to a central body.

Diagram 3.6 shows the division of functionaries according to their rank (percentage).

Diagram 3.6



We found unambiguous information about ranks in two thirds (67.3%) of the cases. Diagram 3.6 shows that most police officers acting in the complaint cases were of a low rank, sergeant or sergeant-major. We would like to stress once again that within the police, officers of lower ranks encounter citizens most frequently when they take measures, which is why the number of complaints against them is high. This does not mean, however, that this cannot, and, according to our findings up to this point, should not, change. The police needs support from society to strengthen its legitimacy, and this can be achieved by starting at the 'grass-root' level. Credible, confident, stern but polite police officers represent an authentic, self-assured and ready police force in the eyes of society.

3.8 The characteristics of the complainants

We did not manage to obtain the necessary information about the socio-demographic characteristics of the complainants, for the same reasons as with the acting police officers.

Gender distribution

We know that, in the cases in our sample, 75.4 percent of complaints were filed by men, 23.5 percent by women, and 1.1 percent by some kind of company or organization. Complaints filed by companies and organizations were all rejected, as, according to Article 93 Paragraph (1) of the Police Act, “the complaint can be filed by the person against whom the measure was taken”. Therefore, if a measure is taken against an employee of a company or organization while working, the complaint still has to be filed by the actual person against whom the measure was taken.

Men filed complaints primarily because of ID checks performed in relation to vehicle checks, while women because they informed the police of something, and either the police did not dispatch anyone to the scene or did not, in the complainants eyes, proceed correctly. Almost half (47.9%) of men, while only 32.5 percent of women filed complaints on the day of, or on the day following the measure.

Criminal record

Of the complainants in the cases in our sample, almost all (98.4%) had a clean criminal record – or at least no information suggesting a criminal record was present in the materials we examined. A mere 1.6 percent had been punished before the event about which the complaint was filed.

Citizenship

Although 97.3 percent of complainants were Hungarian citizens and only 2.7 percent were foreigners, the five complaints filed by foreigners highlight a typical problem. The source of these conflicts was a lack of language knowledge. In the cases we examined, the acting police officers did not speak a single foreign language, but instead of calling for help or an interpreter, they proceeded with the measures. The foreigners did not understand what the police officers wanted from them, who thought they would get them to understand by behaving more forcefully. None of the complaints filed by foreigners were related to vehicle checks. The foreigners from

Western Europe (3) filed their complaint using lawyers, and requested no more than an apology. The foreign complainants all filed their complaints because of measures taken in Budapest.

“Serial” complainants

There are people who constantly file complaints against police measures or the work or attitude of the police. Some of these serial complainants are undergoing psychiatric treatment, while others are typically single people who are afraid and/or yearn for attention. In such cases the filing of the complaint serves a social purpose.

The complaints of serial complainants can also, however, be valid. It has happened that the police ignored the call of a serial informer, and no one was dispatched to the scene, even though under the given circumstances it would have been necessary.

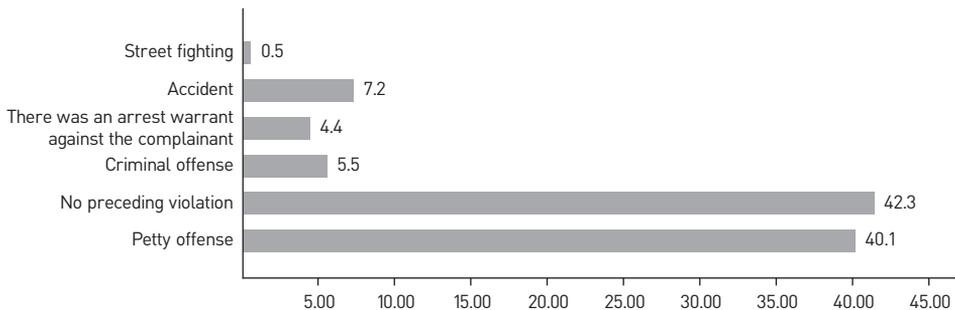
3.9 The characteristics of the complaints filed

3.9.1 Reasons for the measure

We wanted to find out whether the measure or behavior about which the complaint was filed was preceded by a violation of the law by the complainant.

Diagram 3.7 shows whether the measure was preceded by a violation of the law by the complainant, and if so, what kind (as a percentage of examined cases).

Diagram 3.7



On diagram 3.7 it can be seen that most police measures or behaviors about which complaints were filed were not preceded by a violation of the law by the complainant (42.3%). In a further 7.2 percent of the examined cases, the complaints were filed about incidents that took place during the inspection of the scene of an accident.

Complaints were filed about measures connected to petty offenses in 40.1 percent of the cases, and about measures connected to crimes in 5.5 percent of the cases.

The proportion of measures in the sample that were without a preceding violation by the complainants is staggeringly high.

In these cases the measure was usually an ID check, or a measure entailed by a report or notification from a citizen. In some cases the information was directed against the future-complainant, but in most of them the complainant himself submitted the report or request, because either he/she did not find the police measure suitable, or, if there wasn't one, then objected to its absence.

Almost half of these measures took place in a home (43.7%), a third on the street (32.4%) and a further 5.4 percent at a police station. In most of these cases complaints were filed because of the behavior by the acting police officers that was perceived as humiliating, disrespectful and offensive to human dignity (31.2%). Table 3.3 shows the measures which were not preceded by a violation of the law by the complainant, as a percentage of causes for complaint.

The most common cause for complaint is insufficiently forceful conduct to the detriment of the complainant. Many complained that the police officer did not possess or provide the necessary information (13.1%), behaved roughly, aggressively, even assaulting the complainant (11.7%). Altogether, of the complaints filed because of measures not triggered by a violation of the law, every tenth one objected to the aggressive behavior of the acting police officer. The police body proceeding on the first instance accepted a mere 2.9 percent of these complaints.

Table 3.3

| Grounds for complaint | Percentage |
|--|------------|
| Insufficiently assertive conduct to the detriment of the complainants | 13.2 |
| Lack of information from and rough treatment by the officer | 13.1 |
| Humiliating measure, offensive to human dignity | 13.1 |
| Unlawful measure | 11.8 |
| Disrespectful conduct | 11.8 |
| Aggressive conduct | 5.2 |
| Police were called, but they did not come to the spot | 5.2 |
| Police officers used profanity | 3.9 |
| Abuse of police power | 3.9 |
| Police officer was not familiar with legal provisions | 2.6 |
| Ill-treatment | 2.6 |
| Police intruded into house | 2.6 |
| Complainant refused to identify himself, the police officer took him into custody | 1.3 |
| Police report is untruthful | 1.3 |
| Police misplaced the complainant's documents | 1.3 |
| Local deputy regularly insults the complainant, although they do not know each other | 1.3 |
| What is written in the minutes is not what was actually said | 1.3 |
| Police officers went shopping while on duty, and parked in the disabled area | 1.3 |
| Very inept handling of a social problem | 1.3 |

3.9.2 Grounds for complaint

We also examined the grounds for filing complaints. Hereinafter, the original complaints are analyzed as they were phrased by the complainants, and not according to our own grouping, providing more insight into what actually caused a level of dissatisfaction that was sufficient to trigger the filing of a complaint.

Table 3.4 show the types of complaint we encountered in our sample (as a percentage of the examined cases).

Table 3.4

| Grounds for complaint | Percentage |
|---|------------|
| Attempt to evade a petty offense fine | 12.7 |
| Unlawful measure | 12.1 |
| Humiliating measure, offensive to human dignity | 11.6 |
| Lack of information from and rough treatment by the officer | 11.0 |
| Ineffective measure (complainant expected stricter action from the police) | 9.4 |
| Disrespectful conduct | 8.8 |
| Measure restricting individual freedom was unlawful | 4.4 |
| Abuse of police power | 3.3 |
| Unprofessional measure | 3.3 |
| Aggressive conduct | 2.8 |
| Ill-treatment | 2.8 |
| What is written in the minutes is not what was actually said | 2.7 |
| Police misplaced the complainant's documents | 1.7 |
| Police were called because of drunk, rowdy individual, but they did not react to the report | 1.7 |
| Police officers used profanity | 1.6 |
| Police committed a breach of domicile | 1.1 |
| Police officer was not familiar with legal provisions | 1.1 |
| Car was towed away | 1.1 |
| Police report is untruthful | 0.6 |
| Police officers called the complainant a "homosexual" | 0.6 |
| Police officers went shopping while on duty, and parked in the disabled area | 0.6 |
| Police did not deliver a decision about accident | 0.6 |
| He was followed and acted against, instead of his brother | 0.6 |
| Officer acted in a discriminatory manner during the imposition of on-the-spot fine | 0.6 |
| Local deputy regularly insults the complainant, although they do not know each other | 0.6 |
| Complainant was not allowed access to case files | 0.6 |

Table 3.4 (continued)

| Grounds for complaint | Percentage |
|---|------------|
| Very inept handling of a social problem | 0.6 |
| Complainant reported noise, but police failed to take a measure | 0.6 |
| Physician reported injury resulting from ill-treatment | 0.5 |

The most common cause for complaint was behavior by police officers that was humiliating, disrespectful and offensive to human dignity (24.2%). This was followed by the allegation that no measure was taken (14.6%) and that the measure was taken incorrectly or unlawfully (12.1%). According to 11 percent of the complaints, the police officers did not provide information. In 12.7 percent of the complaints examined, certain elements of the case file suggest that the complainants attempted to 'evade' having to pay the petty offense fine.

Beyond measures that are humiliating and offensive to human dignity (and which could, in a non-legal sense, be considered an abuse of police power), complainants specified the abuse of the role of the police as the cause for their complaint in 3.3 percent of the cases. More than quarter of the complaints (27.5%) were filed due to reasons related to this issue.

3.9.3 Method of filing the complaints

Over half (53%) of the complainants in the cases in our sample filed their complaint personally, at their police hearing. These complaints were recorded in minutes.

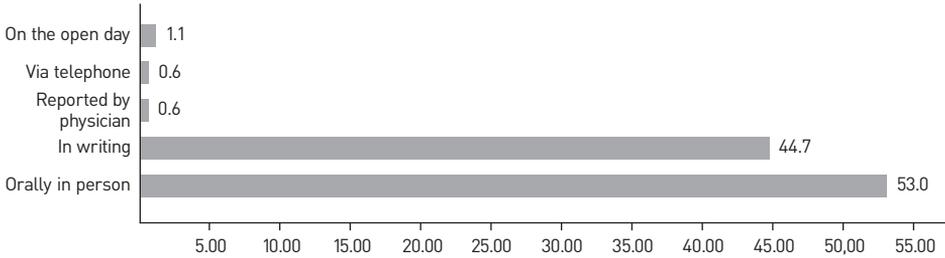
Almost two-thirds (64.8%) of personally filed complaints were filed shortly after the concerned measure or objectionable behavior was detected.

Diagram 3.8 shows how the complainants filed their complaints in the cases in our sample (as a percentage of examined cases).

In addition to the complaints filed personally by the complainant, another 44.7 percent were filed in writing, but it also occurred that a doctor filed a complaint in the name of the patient (0.6%). There was a complaint that was filed first through telephone, and then in writing. In one of the provincial towns, the municipal police station has an open day every month, during which citizens can personally file their complaints with the local chief of police about, among others, the police or specific

police officers. Quite a few people in the sample filed their complaint officially during the open day, after a discussion with the police chief.

Diagram 3.8

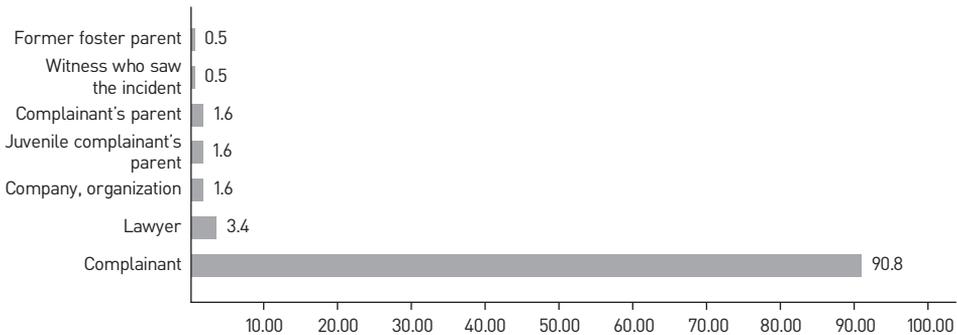


There are many such “complaint forums” throughout the country, these are remarkable and exemplary. They foster mutual respect, understanding and cooperation between the local population and the police. They facilitate the social and interpersonal handling of complaints, substantive communication with the residents, and communal problem-solving. This serves the interest of both the people and the police.

3.9.4 The person filing the complaint

In 90.8 percent of the examined cases, the complaint was filed by the complainant. Lawyers only filed complaints on behalf of their clients in 3.4 percent of the cases. Diagram 3.9 shows the distribution of the examined cases according to the complainant (as a percentage).

Diagram 3.9



In the case of minors, their parents filed complaints (3.2 percent), but there were also cases in which individuals filed complaints who were not, under the a law effective at the time, entitled to do so.

3.9.5 Legal representation

Lawyers were involved in 5.5 percent of the cases (10 cases), either in the filing of a complaint or the lodging of an appeal against a rejecting decision. In three of the ten cases the client was foreign, in two the complainant himself or a close relative was the lawyer, and in one the company's lawyer proceeded. Excluding lawyer-complainants, lawyers proceeded on behalf of their client in 3.4 percent of the cases in the sample.

We did not find a correlation between the reason for the complaint and the presence of a lawyer. It is however noteworthy that, with one exception, all complaints supported by lawyers were filed in Budapest.

Typically, complainants with legal representation filed their complaints over 5 days after the measure.

3.9.6 Means of evidence

The authority has many potential sources of information at its disposal when investigating a complaint: expert opinions, the testimony and statement of the complainant, testimonies from witnesses, the police report etc. Despite this, in 96.9 percent of the cases, only the testimony of the complainant, the police report and the testimony of police officers served as the means of evidence.

In about a quarter of the cases (23.5%), the reasons provided in first instance decisions rejecting the complaint was that the contradictions between the testimonies were impossible to resolve.

Witnesses were heard in a mere 2.4 percent of the cases in the sample. Other means of evidence (expert opinions etc.) were used in only 1.8 percent of them.

A considerable amount of complainants (24.8%) are not present at the hearing, the recording of the minutes, even when they are summoned by the authority following the written filing of the complaint. So every fourth person who filed a written complaint against a police measure chose not to participate in the further proceedings.

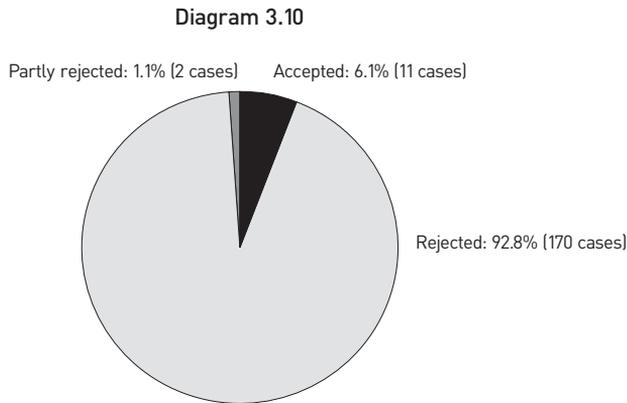
This data suggests on the one hand that filing complaints has a primarily social and psychological function, and on the other hand that the police occasionally does not commit sufficient resources to investigating complaints and revealing the facts. That appeals were lodged against negative first instance decisions in only every seventh case (14.5%, 24 cases) could also contribute to this.

In 21 of these cases (87.5%), the second instance police unit affirmed the first instance decision. In two cases the complainant withdrew the complaint. This means that the second instance modified the first instance decision in favor of the complainant in only one (1) case.

3.9.7 First and second instance decisions

We examined how often the body proceeding on the first instance found the complaints well-founded. Diagram 3.10 illustrates the distribution by percentage.

In the first instance decision, the head of the police body which took the measure rejected 92.8 percent, partly rejected 1.1 percent and accepted merely 6.1 percent of the complaints in our sample.



As stated above, 14.5 percent of the rejected complaints made it to the second instance (24 cases).

We investigated if there was a connection between the rejection of complaints and the location of their filing. While half (49.7%) of the sample was comprised of

cases in Budapest, only three of the eleven accepted complaints were filed in one of Budapest's district police stations – the others were filed in the provincial towns. What could be the reason for this? Are complaints judged differently in Budapest? Or are more valid complaints filed in the provincial towns? Fewer complaints are received, but when they are, they are more valid, more easily proven, or better filed? Perhaps provincial police stations are more responsive to local problems, or consider a complaint as information about their functioning and a call to improve their practices, rather than deliberate vexation or some sort of revenge?

In one of the provincial towns in the sample, there was a 'wave' of car towing during the period we investigated (2005). This was presumably not the independent initiative of the police – most likely the local government contributed significantly to the fact that so many cars were towed away. We examined all the complaints filed that year, and found out that most of the complaints were filed because the complainants' cars were towed away. The majority of these complaints were rejected, and most complainants did not appeal. Those who did appeal, however, stood their ground and went to court (requested the judicial review of the second instance decision, that is), and won. The adjudications showed that in the majority of the cases, the towing away of the cars was unwarranted, so the police (and presumably the local government also) had to review its practices. Later this wave of stringency, which caused continuous conflict between the police and the local populace, quieted down.

Judicial review of second instance decisions took place in only five cases in our sample (2.5%). This is 3 percent of the rejected complaints. In two of these cases, the court ordered the first instance authority to start new proceedings, in another two, the prosecutor issued an objection to the police decision, and in one the court rejected the complaint.

Of the two cases in which the proceedings were repeated, in one the complaint was accepted, and in the other it was rejected once again.

3.9.8 The ground for rejection

Table 3.5 shows the reasons of first instance decisions rejecting the complaints (as a percentage of all reasons for rejection).

From the table it can be seen that the most frequent reasons appearing in negative decisions were that the police measure was appropriate (lawful and/or professional),

and that furthermore the testimonies (those of the police officers and the complainants) are contradictory, and these contradictions cannot be resolved. Excerpt from a decision: “... Concerning their significant aspects, with the statements of the complainants and the police officers taken into account the facts are concordant. The difference only concerns the use of profane language, and the resolution of this contradiction is unlikely to result from the hearing of the parties, so this will be forgone.”

Table 3.5

| Reasons for the negative decision | In percentage of all the negative decisions |
|--|---|
| The police measure was appropriate | 46.2 |
| Contradicting statements, resolution of contradictions between testimonies cannot be expected | 23.5 |
| The complainant filed the complaint after the deadline | 17.2 |
| The manner in which the measure was taken was appropriate | 4.7 |
| The complaint was not filed by the person who was entitled to do so | 1.2 |
| The police officer was entitled to take the given measure | 1.2 |
| Not the jurisdiction of the police, dispute concerns civil law | 1.2 |
| The measure restricting the complainant's individual freedom became necessary in connection with the act | 0.6 |
| On the spot fine was accepted | 0.6 |
| The complaint is not realistic | 0.6 |
| Was threatened by a police officer, but there is no police officer with that name in the staff | 0.6 |
| Rejection, but a partial modification of the petty offense fine due to a mistake during the proceedings | 0.6 |
| The rights of the suspect were not violated | 0.6 |
| There is no neutral witness | 0.6 |
| Total | 100.0 |

The reason for rejection in every sixth negative decision was that the complainant filed the complaint after the deadline (of eight days following the measure), and no reason for missing the deadline was given, no request for justification was filed.

Presumably because the complainants had no knowledge of their right to do so. For, as stated before, according to our research, complainants are generally unfamiliar with the legal regulations of complaints procedures, and are often even unaware of when a measure actually constitutes a violation of their rights. Complaints are most commonly filed on the basis of subjective perception and moral judgment.

3.9.9 The consequences of complaints found to be well-grounded

Accepted complaints constituted 6.1 percent of the cases examined (11 cases). In none of these cases were amends made. The type of sanction used or to be used by the police chief judging the complaint was specified in nine positive decisions. In eight of the nine cases, verbal admonition took place, in one case, it was brought to the attention of the personnel that in the future that specific violation of rights should be avoided.

In 3.5 percent of the cases (7 cases), the complainant withdrew the complaint, as the police officers apologized, or both parties apologized and discussed what had occurred. Unfortunately this is not typical, despite the fact that this method would allow such cases to be closed more quickly and efficiently, and to the contentment of all the affected parties.

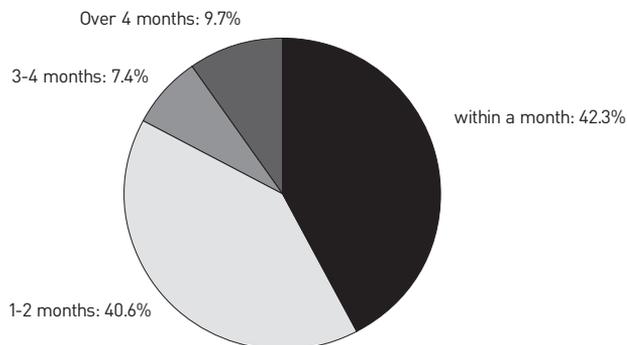
Excerpt from a case file: *“This current hearing made me realize how overburdened the police are, and that no generalizations can be made on the basis of the measure in question. I am reinforced in this belief by the fact that the acting police officers apologized for their conduct. I am sorry as well, for acting more irritably than I should have. I agree with the measures taken in the case, and withdraw my complaint.”*

With the assistance of a mediator and the use of mediation, the majority of complaints could be resolved quickly and efficiently.

3.9.10 The length of time between the filing of the complaint and the final decision

In the cases in the sample, the average length of time between the filing of the complaint and the final, legally binding decision was 2 months. Diagram 3.11 shows the distribution of the time between the filing of the complaint and the final decision.

Diagram 3.11



A legally binding decision was delivered within two months in most of the complaints (82.9%). In 9.7 percent of the examined cases, however, a decision was delivered only after more than four months.

Of the cases in our sample, in 166 the first instance decision rejected the complaint, and only 24 complainants lodged appeals. In 142 cases (72.1%) the proceedings should have been completed within in one month. As a request for justification was filed in only one case (and even that was filed after the deadline), the prolongation of the proceedings was not a result of the delay on the part of the complainants. Of the examined cases, only one was submitted to the Prosecutorial Investigation Office (responsible for investigating criminal offenses committed by police officers). This was the case in which, according to the medical records, the police officers ill-treated the complainant. (Here we note that in 2.8 percent of the cases the complainants stated that the police officers physically assaulted them, but there was a medical record in only one case. This was the case in which the doctor filed the complaint because his patient was assaulted.)

So the first instance decision should have taken place within one month in 72.1 percent of the cases, but it only did in 42.3 percent of them.

3.9.11 Other characteristics of the complaints

In the examined cases, the problems that were raised and could have been handled were generally the following:

- problems with motorists that have already been discussed
- behavior by the acting police officers that was perceived by the complainant as humiliating and offensive to human dignity
- lack legal knowledge (occasionally not only on the part of the complainant)
- lack of information (police officer does not provide sufficient information about the reason for the measure, the necessity of strict conduct etc.)
- coercive handling of social problems by the police (persons under psychiatric treatment, alcoholics or people under influence, family conflicts, feud between neighbors etc.)
- measures involving foreigners (lack of language knowledge)
- problems with security guards and vigilantes (lack of legal knowledge, conduct that is more arrogant, humiliating and rough than that of the police officers!)
- abuse of police powers

Measures taken against motorists

We have already examined the complaints about measures taken against motorists. The majority of the problems that caused these could have been handled without much difficulty. The frequency of excessive action and aggressive, supercilious, even frightening and coercive behavior by the police during measures, found problematic and aggrieving by citizens, could be reduced significantly with more information, practice and training.

If the Hungarian Motoring Club and the police joined forces, a great deal could be achieved in terms of improving motorists' knowledge about the course of proceedings and their rights, as well as the rights and duties of the acting police officers. Numerous conflicts between police officers and citizens could be avoided this way.

Lack of information

The lack of information is one of the most basic problems. The results of the research show that police officers do not always communicate appropriately with the individuals against whom they act. Sometimes they do not disclose the reason for the measure, and are reluctant to provide information about their unusually forceful conduct, even

when the citizen against whom they are acting is obviously upset by their seemingly unjustified roughness. It is important to note that we encountered eight cases in our sample (4%) that started off as simple ID check (there was no violation of the law by, or warrant of arrest against the individual who was being identified), however the citizen did not cooperate with the police officer, who responded by taking a coercive measure, meaning that the person was handcuffed and taken to the police station. The legal regulations permit this, but the effectiveness and rationality of this sort of procedure is questionable. Does not a measure that the complainant perceives as being unjustifiably, unnecessarily and disproportionately long, while curtailing individual freedom, aggravate, rather than mitigate, the conflict? In most cases, of course, the basic problem was a lack of information, resulting in incomprehension, vulnerability and fear, thus generating verbal aggression.

Lack of legal knowledge

As we have seen, deficient or superficial legal knowledge is the source of many conflicts. If motoring organizations and the police join forces to inform the motoring community and act to make measures more civil, beneficial to traffic morale and free of conflict, then at the same time the training of police officers performing highway patrol duties and acting as patrols at district and municipal police stations must be ensured.

Social problems

Police officers are members of an authority, but are occasionally forced to act as social workers. There were various measures in our sample that were taken against severely intoxicated people, or where the police were called in connection with conflicts between family members and neighbors. Often the caller was not an outsider, but one of the fighting parties, intending to prove that they were right. There were cases in which the police were called in connection with people suffering from psychiatric problems, and also in which those suffering from such problems asked for police action. These people often do not actually have a problem with the police officer, but with a family member, a neighbor, an acquaintance, or perhaps themselves and their illness, but they project their frustration onto the acting police officer.

Besides these, there were various cases in which people were looking for company in the police officers, someone with whom they could share their problems and difficulties. There was a case in which someone asked for help in connection with a social problem. Excerpt from a complaint: “...if you can help, please do, what should I do against my ex-husband [...] please advise me where I could turn to for help.”

This is not the job of the police, although it is true that in many cases such intervention is inevitable. There are social workers who could handle these tasks instead of the police. In common law countries police social work is an existing profession, and there are social workers who deal with these types of cases at every police station. Their primary function is crisis intervention (the immediate handling of stressful, problematic situations), followed by the direction of the client to the appropriate institution and the establishment of contact with that institution. Beyond these, they have many other tasks, such as speaking with victims, and, if necessary, providing them with information, advice and assistance. Police social workers take over tasks from the police that do not belong there and take up vast amounts of time and energy that could be used for crime detection and prevention.

The use of this institution could help decrease both the number of complaints and the over-encumbrance of the police, while increasing the contentment of citizens.

4. Summary

Various conclusions can be drawn from the results of our research. The scope of our findings is limited, of course, as the research did not involve every police station, but almost 200 cases and the method of sampling allow us to make qualified statements and observations about the police complaints procedures.

1. The assumption that the number of complaints filed about police measures is linked to criminal statistics – that more complaints are filed where more crimes are committed, that is – turned out to be false. A discrepancy can also be seen in terms of times of day, between when criminal statistics show that most crimes are committed, and when most complaints are filed. Therefore the defense that complaints against police measures are typically filed by ‘criminals’ appears to be invalid, meaning it is not true that the right to file complaints is a tool used by criminals as retaliation against measures taken against them, as shown by the fact that, in terms of the entire sample, citizens only filed complaints about measures connected to crimes in every twentieth case we examined. In fact, out of the locations in our sample, the proportion of complaints to known crimes was the lowest where the actual number of known crimes was the highest (Miskolc).

Concerning the cases in the sample, we can determine that typically the proportion of complaints to known crimes and the actual number of complaints is lower in the districts and towns where the socio-demographic characteristics of the population are less favorable, meaning that the exercising of the right to complain appears to be a factor determined by awareness and knowledge of the law.

2. 25 percent of complainants did not meet the deadline of eight days, meaning one in four people on average missed the deadline allowed for using the legal remedy. Missing of the deadline was most typical when the complainant was involved in a traffic accident (usually the innocent party). We presume that in such cases, citizens oblivious to the deadline file their complaints late because of all the things that need to be done concerning the adjustment of losses.

If we examine what percentage of complainants complied with the 30 day deadline specified in the new regulations (effective as of 1 January 2008), we get far better results, with the number of those missing the deadline halved. The new deadline therefore may make complaining a more effective legal remedy, as fewer requests will be rejected for reasons of formality.

3. It can be determined by examining the typical reasons for complaints that in most cases (31.2%) the acting police officers behave in a way that the complainant perceives to be humiliating, disrespectful or offensive to human dignity. The second most frequent cause for complaint is inadequate, improper action by the police (24.9%), but grievance is also frequently expressed about the deficiency of the information provided by police officers (11%), as well as about rough, aggressive conduct or assault (11.7%). Of the cases in our sample in which the measure was not preceded by a violation of the law, every tenth complaint was filed because of aggressive behavior by the acting police officer(s).
4. In terms of the type of the measures, the type about which complaints are most frequently filed is ID check, among which the proportion of identification of motorists on public roads is very high. The reasons specified in these complaints generally involve the civility of the acting police officer's behavior, or express grievance about the police officer pressuring them to accept the imposition of an on the spot fine. The shared basis of complaints filed by motorists is that the violation of traffic rules is often not seen as a significant threat to society (for example if the paper certifying the payment of the mandatory insurance is missing), and in these cases the drivers violating the rules often find the police measures unjustified and excessive.
5. Based on the analysis of the aspects of complaints procedures pertaining to procedural law, it can be concluded that the proceeding authority utilizes a very

narrow range of the legally possible means of evidence during the evidentiary procedure. In 96.9 percent of the cases, only the testimony of the complainant (often simply in its written form), the police report and the testimony of police officers served as the basis for the decision. Witnesses were heard in a mere 2.4 percent of the cases, while other means of evidence were used in only 1.8 percent of the cases examined.

In terms of the conduction of the proceedings, a quarter of complainants de facto desist from participating in any further proceedings after filing their complaint, suggesting that complaints often (also) have a social, psychological and stress-handling function.

6. The vast majority of complaints are rejected on the first instance – the proportion of unsuccessful complaints is over 90 percent. The proportion of first instance decisions fully accepting complaints is 6 percent. In Budapest, it is even worse: of the eleven accepted complaints in our sample, only three were filed at Budapest's district police stations.

In almost a quarter (23.5%) of the examined cases, the first instance negative decision stated that the resolution of the contradiction(s) between the testimonies was not possible, meaning that using the means of evidence available to the authority, the complaint could not be proven. Complainants who 'desist' from further proceedings are partly responsible for this high rate, but the authorities investigating complaints are as well, occasionally labeling complaints impossible to prove without fulfilling their duty of revealing all the facts.

The reasons presented in negative decisions are often extremely laconic, generally only stating that the police measure was appropriate (lawful and/or professional), and that the testimonies (those of the police officers and of the complainant) are contradictory, and the resolution of the contradiction(s) is not likely to result from the further investigation of the complaint. However the function of complaints, aside from the primary one of remedying the violation of rights, is also that if a citizen expresses an unfounded grievance about a measure, then the authority intelligibly shows (quasi explain) why the measure was lawful and professional. This, aside from being a 'client-friendly' solution, contributes to the transparency of police operation, as the explanations could define the word 'professional'. This is not done in publicly accessible

legal regulations, so the standards according to which a given police measure is qualified as professional or unprofessional are not known, even from decisions made during proceedings.

