

Special Constables Role Description Evaluation Process

Final Response from PSA

7 June 2019

Summary

The response from NSW Police to the PSA's request for a review of the Role Description of Special Constables is regrettably unsatisfactory. The response falls into a number of traps: literal application of the Capability Framework level indicators in spite of their inadequacies; illegitimate reference to Police capabilities; discounting of the importance of core tasks on grounds of frequency of performance; and treatment of security functions as derivative of customer service functions.

The PSA has previously submitted to management that the section of the Capability Framework which deals with Capability Levels is flawed, as the indicators are all based on administrative, clerical and policy duties, which cannot be uncritically applied to security roles. The response demonstrates that NSW Police has not paid any attention to our submission.

The level indicators in the Capability Framework function as a kind of grid, which is expected to capture and evaluate relevant elements of job requirements. If the grid is not based on tasks in the employment category, it will fail to capture important elements of the job being analysed. That is what has happened here. The only way for this grid to function as intended is for the base indicator set to be adapted to enable it to match the target security role. No attempt has been made to adapt the indicator set and accordingly the results of the analysis are not a reliable assessment of the capability levels of the role.

One significant example of this consists in the references to following SOPs as part of an argument regarding absence of discretionary decision-making. Complex, non-discretionary procedural instruction sets are a key design feature of security systems, and the ability to recall and correctly follow such instructions under pressure is an essential capability of security jobs. Yet the level indicator set fails to capture this important aspect of the role.

In addition to this general methodological deficiency, the response suffers from a further defect. At key points in the analysis, reference has been made to the role of Constable of Police. This is demonstrated by the use of "at all ranks" to dismiss our submissions on first response training. The role of Constable of Police has not yet been captured using the Capability Framework. However, Constables of Police are relatively highly paid, which is an indicator that their capabilities would be assessed highly relative to administrative and clerical capabilities. So it is no answer to our claim that a Special Constable's capability should be rated as intermediate in the Capability Framework to say that it is at the same level as or lower than those of a Constable of Police.

The combined effect of these two approaches is to downplay key responsibilities, which broadly fall under the rubric of 'law enforcement'. Law enforcement responsibilities fall between two stools because they do not match clerical, administrative and policy indicia, but they are limited with respect to the corresponding responsibilities of Police Officers.

A third problem is the dismissive approach to functions which are not performed every day, regardless of their importance when performed. For example, in a critique

of our submission regarding the Capability “Courage and Resilience”, the response states: “Many of the statements offered are focused on the “overwatch” taskings which is only one of many tasks that a Special Constable is deployed with during a shift. The level of engagement with members of the public and in particular threatening behaviours is minimal when considering the entirety of the Special Constable role.” It is true that “overwatch” taskings are not performed at all sites and at all times. However, the function of challenging and if necessary responding to physical security threats is a core part of the role, even if it is not performed on a continuous basis, and should be assessed accordingly.

The response also attempts to minimise the importance of the law enforcement elements of the role by purporting to subordinate the security function to the customer service elements. In doing so it goes too far and contradicts itself. We quite agree with the statement on page 1 that - “the primary purpose of the Special Constable role is to provide specific safety and security functions to the NSWPF and government institutions/facilities”. For this reason, although we support the inclusion of customer service as a capability, we strongly disagree with the statement on p. 2 that: “the safety and security functions are an overlay and result of this customer service”.

Specific Issues

1) Reference to ‘Law Enforcement’.

In order for the capabilities framework to be applied appropriately the tasks or duties of a role must be examined and the capabilities to perform these tasks must then be identified and rated. The fact that Special Constables are delegated police powers and functions to the rank of Constable and, at times required to exercise these powers or functions is well established. Whilst we acknowledge that the NSWPF is conscious not creating the perception of two-tier policing (and concessions were made in good faith by the PSA for this), the Capabilities Framework does not concern itself with the internal political arguments of individual agencies rather is focused to create a generic framework to measure the capabilities of roles across the greater NSW public sector.

2) Primary role is specifically safety and security.

The PSA agrees with this however this does not diminish the duties of Special Constables and it does not negate the fact that at times in order to maintain the safety and security of a designated site, it may include the use or exercising of police powers or functions or the provision of a law enforcement service. This can include challenging suspicious persons, conducting CNI or transport checks, issuing move along directions etc. To simply state safety and security does not adequately reflect the complete diverse nature of the position.

3) Reference to being first responders & being required to respond outside their task location.

Special Constables do not assert that they are first responders outside their geographical location, rather that they are first responders at their respective sites. They provide the first response and initial management of a situation until such time as the situation is resolved or it is escalated to a secondary responding authority. It goes without saying that this includes incidents that occur during their normal patrol routes within predesignated public areas.

4) Deployment and tasking strictly governed by geographical location.

The PSA agrees that Special Constables are governed by a geographical area, however it has to be acknowledged that some of these predesignated areas include sites with patrols in public areas. These include, Parramatta Police Headquarters, the NSW Parliament House, the DPC, the Governor's residence, the SPC.

Any public area increases the probability of the requirement to manage a broader spectrum of incidents. Being limited in geographical location does not necessarily result in lower risk or exposure to serious incidences. To date at these geographical locations Special Constables have had to manage situations that included, a lone wolf terrorist attack that resulted in the murder of a staff member, improvised vehicle born IED, white powder incidents, POIs with a fixation on police or politicians, POIs suffering mental illness etc.

5) AAO and Tactical Options training.

The PSA agrees, Special Constables do receive Active Armed Offender and DEFTAC training and that these techniques are taught from a greater pool of tactical options for Police Officers and Special Constables and, that these foundational techniques are taught across all ranks as a minimum accreditation point in the mandatory training program. It should also be noted that NSW Police Officers are a lot higher grade than Special Constables and no other Administration Officer is trained in this area and to this level.

The fact that the department has invested so much in training Special Constables in this area indicates that there is a risk that determines the need and also that there is an expectation for Special Constables to respond in such circumstances.

6) Reference to different posts, SOPs & inductions at new posts.

The PSA agrees that there is site specific induction and training outside of the initial Special Constable training course. This demonstrates the complexities of the sites that Special Constables manage.

Although it is acknowledged that there are set SOP's, Policies & Procedures that guide Special Constables in the performance of their duties, this does not diminish the requirement for Special Constables to make professional judgements in regards to exercising Police Powers or using Police appointments. Policy actually dictates that the decision to use your appointments rests with you! Given that the use of appointments can result in a person's death, and the level of accountability that goes with such usage of appointments, the decision-making ability of a Special Constable needs to be for greater than a base grade clerk.

7) The role description of Special Constable is the base level only.

The PSA agrees with this however, this does not infer that as it is the position of lowest ranking for Special Constables that it is automatically required to have all capabilities rated as foundational. This is a misinterpretation of the capability's framework. As demonstrated within the broader framework many position titles have their base position start at various different levels of capabilities ranging from foundational to advanced. In order to appropriately grade a position, the capabilities and behavioural indicators need to be assessed at their level of merit. The Department regularly refers to the core function of Special Constables as providers of quality Protective and Security Services.

Appropriately if we then measure the training skills and expertise to that of Security Officers we find the following:-

- Most Security personnel are categorised in one of the following categories which dictate the required skill level and levels of renumeration, lowest to highest: -
 - Static & Patrol
 - Control room operators
 - Armed Security

It must be noted that Special Constables do all three and also are elevated to another level as they have the conferred Police Powers and functions of a police officer to the rank of Constable. No other Security Officer within the state of NSW has this.

Bearing this in mind, the fact that Special Constables have been deliberately under graded is evident in the fact that other state government security personnel have been graded at:-

- Opera House security
- State Library security

The closest industry peer to Special Constables in regards to training, Law Enforcement Powers and functions are Protective Services Officers within the Federal Police. For the purpose of a position grading, under the capabilities framework they would be graded as Clerk ??

8) Display resilience and courage

We agree with your assessment of our submission in this category. Our arguments are inconsistent with the display courage and resilience at the *foundational level*.

The reason for this is because the submission demonstrates how Special Constables meet (if not exceed) the *intermediate* behavioural indicators for this category. The fact that we already meet the foundational level is evident in the fact that these levels have already been published in the existing role description.

We disagree that the primary function of Special Constables is merely a visible security presence and that the safety and security functions are an overlay of the Customer Service we provide. As stated by yourself in paragraph 2, our primary or core duties are the safety and security of our sites.

It should be noted that this is not restricted to a visible security presence, this also includes pro active security duties and in all matter's security related, customer service will always be secondary. This has been the policy of management and has been reaffirmed when management refused requests to be able to withdraw overwatch in order to deal with high customer traffic.

We also note that you have cited "Critical thinking through suppression of emotion". This is not a true reflection of the representations made in the submission. It was one small example amongst many, in fact it was more centred around the fact that Special Constables are required to constantly use critical thinking in regards to the initial and ongoing assessments of individual scenarios in order to make sure that they are, and continue to act within the required framework whether it be for exercising police powers or functions or the use of appointments, etc.

We disagree with your assessment that overwatch is a very small part of our duties as at some sites overwatch is still performed for all business hours, down to 6 hours (like at PHQ) which equates to half of a shift. Many of the statements also focus on patrols as well.

You also state it is not a departmental expectation for Special Constables to respond to fires, active armed offenders and IED incidents. We totally disagree with this statement. If it was not an expectation that Special Constables are to respond they would not be trained in these incidents (all of which they are and have been). This

was clearly demonstrated in 2015 Murder of a Police Employee at Parramatta Police Headquarters. As soon as shots were heard being fired outside the Special Constables were directed to “get out there”.

It also should be noted that there are current SOP’s which address responses to some of these incidents, however all these SOP’s **require a response** to the situation by Special Constables. There are references to higher level decision making such as the Senior Special Constable assuming the role of Chief Fire Warden. It also must be taken into consideration that not all sites even have a Senior Special Constable, in this instance the responsibility falls to the Special Constable on duty.

Even when Specialist Emergency Services attend sites such as fire they will not for example take over control of evacuation from the Chief Fire Warden.

For your example of a fire at PHQ, Police do not attend, only the fire brigade does, in any case the roles of Chief Warden is not superseded by anyone and continues to be facilitated by the Senior Special Constable.

Although there are Policies and Procedures in place (as with all positions within the statement government sector) does not mean there is no decision-making ability of staff on the ground floor in addressing individual circumstances be what they may. This is reiterated in the current role description where it states that Special Constables have a high degree of autonomy.

9) Act with integrity

We disagree that Special Constables are only required to comply with the NSWPF Code of Conduct and Ethics which also applies to normal administrative officers. Changes in legislation have been introduced to increase the departments ability to investigate Special Constables to the same level as police officers for example, NSW Police Act 1990, 81G(4) sections 207A, 211A-211AB “*apply to a Special Constable in the same way they apply to a Police Officer*”.

This means that NSW Police Force can conduct integrity tests on Special Constables. Special Constables can be compelled to answer questions or give a statement. These far exceed any of the integrity related Policy, Procedures or Legislation that applies to normal administration officers.

10) Communicate effectively

We find your comments to be a deliberate misrepresentation of the submission. In no section of our submission did we refer to Special Constables being required to compile investigative documents, witness statements or briefs of evidence. What we did reference is recording incidents and their personal actions in their contemporaneous note books, or on webcops or written statements via a Godfrey Report. All of which could be subpoenaed to Court and therefore need to be clear, concise and follow set formats which exceed that of which would be required to be produced by a foundational level clerk.

11) Demonstrate Accountability

We agree with your definition of Demonstrate Accountability being related to being responsible for your own actions, adhering to legislation and Policy and being proactive to address issues.

However, we disagree that Special Constables have no delegated authority, Special Constables are delegated the Powers and functions of a Police Officer by the Commissioner of Police.

We note that Special Constables do not have financial delegations however this is not the sole form of delegated authority. Special Constables are delegated the authority to enforce provisions of the Law Enforcement (Powers & Responsibilities) Act 2002, (just to name one).

Special Constables are also subject to higher forms of accountability, both in their private and work life, for example:-

- Integrity testing
- Drug & alcohol testing
- Gun shot residue testing

Along with this, is the responsibilities as outlined in the law enforcement (Powers and Responsibilities) Act 2002.

All these clearly exceed the forms of accountability experienced by other foundational level clerks.

12) Technology

The PSA stands by the arguments as outlined in the submission in regards to Technology.

Management acknowledge that Special Constables undertake training in these systems during the initial Special Constables training course and then further undertake more training in the systems at individual sites. This demonstrates the large number of systems that are required to be used and the complexity which can change with each individual site.

Conclusion

As it presents the application of the capabilities framework to Special Constables has not been applied in a fair and equitable manner as afforded to other roles within the NSW Police Force and greater NSW State Government.

This is clearly demonstrated by the comparison of role descriptions of the NSWPF Security Officer and Special Constables. Although focus capabilities differ both role descriptions have the same capability groups and the same foundational levels for all the capabilities.

This is in spite NSWPF Security Officers do not:-

- Have delegated Police Powers or functions
- Carry Police appointments
- Are not subject to integrity testing legislation
- Are not subject to Drug & Alcohol testing
- Do not require anywhere near the level of training of Special Constables
- Do not perform CNI checks
- Do not perform Transport checks
- And are not sworn to “keep Her Majesty’s Peace”, etc

Management appear to be deliberately watering down the responsibilities of the position. This is evident in your response where the position is now referred to a Customer Service position overlaid with the safety and security service.

We challenge this new position designation and doubt that any lapse of security could ever be prioritised lower than a customer service issue.

In finishing, we reserve the right to challenge the outcome of this process by any means available to us, including seeking an independent review by the IRC.

Management also need to acknowledge that the final role description will have an impact on how Special Constables perform their duties going forward. This is so that at all times they remain within the scope of the role description and do not place themselves outside of its boundaries subsequently exposing themselves to internal disciplinary action and or external litigation.