



Parliament of New South Wales

---

1997–98

Third Session

## REPORT

OF THE

# COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

ENTITLED

“SIXTH GENERAL MEETING WITH  
THE NSW OMBUDSMAN”

DATED MAY 1998

---

---

*Ordered to be printed 1 May 1998*

---

---

**SIXTH GENERAL MEETING  
WITH THE  
NSW OMBUDSMAN**

**Report of the Committee on the Office of the  
Ombudsman & the Police Integrity Commission**

**May 1998**

**Secretariat  
Room 813 Parliament House Macquarie St Sydney 2000  
Telephone: 02 9230 2737 Facsimile: 02 9230 3309**

**ISBN: 0 7313 1577 4**

# CONTENTS

<b>Committee Membership</b> .....	1
<b>Functions of the Committee</b> .....	2
<b>Chairman's Foreword</b> .....	5
<b>Ombudsman's Opening Statement</b> .....	6

## **Police Complaint Conciliations**

<i>Questions 1 to 3</i> .....	8
-------------------------------	---

## **Implementation of Ombudsman's Recommendations**

<i>Questions 4 to 5</i> .....	13
-------------------------------	----

## **Role of the General Manager in Local Government**

<i>Questions 6 to 7</i> .....	18
-------------------------------	----

## **Annual Report 1996-97**

<i>Questions 8 to 10</i> .....	20
--------------------------------	----

<b>Transcript of Proceedings</b> .....	24
--	----

<b>Index to Transcript of Proceedings</b> .....	54
---	----

## **APPENDICES**

1. *Minutes*
2. *Answers to Questions on Notice*
3. *Program for Advanced Conciliation Course*
4. *Compliance Report - Corrective Services and Corrections Health Service*
5. *Report by Director-General of Department of Juvenile Justice, 30 September 1997*

## COMMITTEE MEMBERSHIP

### *Legislative Assembly*

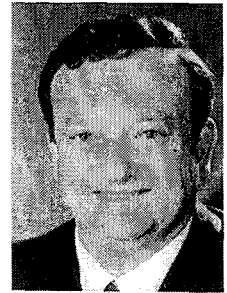
Mr B J Gaudry MP (Chairman)  
Mr J Anderson MP  
Mr A R G Fraser MP  
Mr J S P Kinross MP  
Mr P G Lynch MP  
Mr A P Stewart MP

### *Legislative Council*

The Hon M Gallacher MLC  
The Hon E B Nile MLC  
The Hon A B Kelly MLC

### *Secretariat*

Ms H Minnican - Project Officer  
Ms R Miller - Clerk to the Committee  
Ms T van den Bosch - Research Officer  
Ms S Hesford - Research Officer  
Ms N O'Connor - Assistant Committee Officer



Committee on the Office of the Ombudsman and the Police Integrity Commission (left to right):  
Bryce Gaudry MP (Chairman), James Anderson MP, Andrew Fraser MP, Jeremy Kinross MP, Paul Lynch  
MP, Anthony Stewart MP, The Hon Michael Gallacher MLC, The Hon Elaine Nile MLC, and The Hon  
Anthony Kelly MLC

## **FUNCTIONS OF THE COMMITTEE**

The Committee on the Office of the Ombudsman and the Police Integrity Commission is constituted under Part 4A of the Ombudsman Act 1974. The functions of the Committee under the Ombudsman Act 1974 are set out in section 31B (1) of the Act as follows:

- ◆ to monitor and to review the exercise by the Ombudsman of the Ombudsman's functions under this or any other Act;
- ◆ to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Ombudsman or connected with the exercise of the Ombudsman's functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;
- ◆ to examine each annual and other report made by the Ombudsman, and presented to Parliament, under this or any other Act and to report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;
- ◆ to report to both Houses of Parliament any change that the Joint Committee considers desirable to the functions, structures and procedures of the Office of the Ombudsman;
- ◆ to inquire into any question in connection with the Joint Committee's functions which is referred to it by both Houses of Parliament, and to report to both Houses on that question.

These functions may be exercised in respect of matters occurring before or after the commencement of this section of the Act.

Section 31B (2) of the Ombudsman Act specifies that the Committee is not authorised:

- ◆ to investigate a matter relating to particular conduct; or
- ◆ to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint; or
- ◆ to exercise any function referred to in subsection (1) in relation to any report under section 27; or
- ◆ to reconsider the findings, recommendations, determinations or other decisions of the Ombudsman, or of any other person, in relation to a particular investigation or complaint or in relation to any particular conduct the subject of a report under section 27; or

- ◆ to exercise any function referred to in subsection (1) in relation to the Ombudsman's functions under the Telecommunications (Interception) (New South Wales) Act 1987.

The Committee also has the following functions under the Police Integrity Commission Act 1996:

- ◆ to monitor and review the exercise by the Commission and the Inspector of their functions;
- ◆ to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or the Inspector or connected with the exercise of their functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;
- ◆ to examine each annual and other report of the Commission and of the Inspector and report to both Houses of Parliament on any matter appearing, or arising out of, any such report;
- ◆ to examine trends and changes in police corruption, and practices and methods relating to police corruption, and report to both Houses of Parliament any changes which the Joint Committee thinks desirable to the functions, structures and procedures of the Commission and the Inspector; and
- ◆ to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

The Act further specifies that the Joint Committee is not authorised:

- ◆ to investigate a matter relating to particular conduct; or
- ◆ to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint, a particular matter or particular conduct; or
- ◆ to reconsider the findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or a particular complaint.

The Statutory Appointments (Parliamentary Veto) Amendment Act, assented to on 19 May 1992, amended the Ombudsman Act by extending the Committee's powers to include the power to veto the proposed appointment of the Ombudsman and the Director of Public Prosecutions. This section was further amended to provide the Committee with the same veto power in relation to proposed appointments to the positions of Commissioner for the PIC and Inspector of the PIC. Section 31BA of the Ombudsman Act provides:

- “(1) The Minister is to refer a proposal to appoint a person as Ombudsman, Director of Public Prosecutions, Commissioner for the Police Integrity Commission or Inspector of the Police Integrity Commission to the Joint Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Minister may withdraw a

referral at any time.

- (2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter.
- (3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it.
- (4) A referral or notification under this section is to be in writing.
- (5) In this section, a reference to the Minister is;
  - (a) in the context of an appointment of Ombudsman, a reference to the Minister administering section 6A of this Act;
  - (b) in the context of an appointment of Director of Public Prosecutions, a reference to the Minister administering section 4A of the Director of Public Prosecutions Act 1986; and
  - (c) in the context of an appointment of Commissioner for the Police Integrity Commission or Inspector of the Police Integrity Commission, a reference to the Minister administering section 7 or 88 (as appropriate) of the Police Integrity Commission Act 1996.”

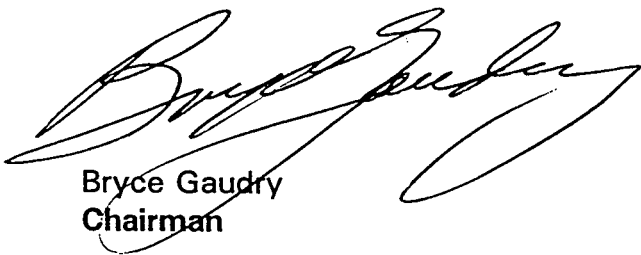
## CHAIRMAN'S FOREWORD

This report is a collation of the evidence received at the Committee's sixth General Meeting with the NSW Ombudsman. As with previous general meetings, the Ombudsman was provided with questions on a variety of issues prior to the meeting; the answers to those questions are contained in the first section of the report. The second section of the report presents the transcript of the proceedings of the General Meeting, during which the Ombudsman was asked follow-up questions without notice.

The Committee finds the general meetings to be a valuable opportunity to discuss with the Ombudsman important matters relating to her functions and jurisdiction. Of particular note in the sixth General Meeting is the failure rate for the conciliation of complaints against police, an issue which was the subject of the Committee's Report tabled in October 1997, and which continues to be a source of concern to the Committee. The implementation of the Employee Management Scheme were also discussed at some length, as this is crucial to the success of the reforms envisaged by the Wood Royal Commission.

The very poor level of compliance by public authorities with the annual reporting requirements of the *Freedom of Information Act* is another issue of concern, as is the failure to implement internal reporting systems for protected disclosures. This latter issue will be examined further in the Review of the Protected Disclosures Act which the Committee will undertake this year.

I would like to thank the Ombudsman, the Deputy Ombudsman, and the Assistant Ombudsmen for their time and their co-operation. My thanks also to the Members of the Committee who participated in the General Meeting, and the Secretariat for its assistance in organising the meeting.



Bryce Gaudry  
Chairman



## OMBUDSMAN'S OPENING STATEMENT

**Ms MOSS** .... The 1996-97 annual report was the third occasion on which I reported an increase in complaints. We dealt with 8,111 formal written complaints - up 5 per cent on last year and up 37 per cent since five years ago - and 15,698 informal oral complaints - up 10 per cent. Increasing numbers of complaints each year seem to be a fact of life for the office. Nevertheless, it would be a mistake to see these increases as a sign that things are getting dramatically worse.

Whilst there will always be problems within the public service, increased numbers of complaints may in fact reflect the entrenchment of a culture of accountability where citizens expect accountability and the public sector accepts it.

In the area of police, the Royal Commission has finished its work and the Police Service is implementing its recommendations as part of a wide-ranging reform process. Part of the reform process involves the employee management system. The employee management system places greater emphasis on making senior police managers accountable for the conduct of officers under their command, and we regard the successful implementation of the employee management system as a critical test of the Service's commitment to reform.

The first trials of the Employee Management System showed neither a significant improvement in the way in which complaints were handled nor any demonstrated deterioration. Given that the first EMS trial provided no evidence for or against employee management system, further trials have proved necessary and are being undertaken. We are closely involved in overseeing the further evaluation of the Employee Management System, and the results of evaluations are expected next year.

With respect to councils, our councils, after police, are the second-largest area of complaints. A key concern in this area is the high level of breakdowns in relations between general managers and their mayors and/or councillors. We expect to make a special report to Parliament in this area early in the new year.

Other key issues are the use and abuse of legal advice and the threats of defamation action. We are consulting widely on the process of developing guidelines in these two areas.

In the area of youth, we have seen a dramatic increase in complaints from or on behalf of young people and we have been reviewing our practices and procedures to improve services for young people.

In the area of whistleblowing, the response of the public sector to the implementation of the Protected Disclosures Act is disappointing. We have audited over 100 internal reporting systems of State government agencies and have found over 72 per cent to be inadequate. We have written to all agencies with deficient systems with advice as to how they could be improved. We will closely monitor this area and continue to push three messages: that bona fide whistleblowing is an important public service; retribution

against bona fide whistleblowers is utterly unacceptable; and protecting whistleblowers is a management responsibility.

Freedom of information is another area where implementation is somewhat disappointing. We have detected a trend towards secrecy and refusal of access where the documents being sought are either about sensitive issues or where agencies could be the subject of criticism. These are not proper grounds for refusing access, and we will be closely monitoring complaints in this area.

Overall, the year was a mixed bag, with the usual cases of bureaucratic bungling and poor customer service. On a positive note, we have received good levels of co-operation by most of those we have investigated, and I genuinely believe that the New South Wales public sector increasingly accepts the demands for accountability.

The annual report contains a larger number of cases which range from the very straightforward to those which are extremely complex. It also gives a good flavour of the types of matters which we handled. The cases also provide a good illustration of our three-pronged approach to public sector complaints - to review matters, to resolve problems, and to rectify deficiencies.

## **POLICE COMPLAINT CONCILIATIONS**

### **Questions on Notice**

The Committee's Key Issues Report noted a number of recommendations arising out of the Ombudsman's *Special Report on Police Conciliations* which had not been implemented (ie authority of conciliation officers; monitoring the conciliation process; improving the profile of conciliation; and implementing procedures to ensure that conciliation rate benchmarks are met).

**1. What progress has the NSW Police Service made in implementing your recommendations from the Special Report of May 1996?**

At present the Police Service is engaged in training all local area commanders in advanced dispute resolution strategies. This is consistent with the Royal Commission's view that Local Area Commands should generally be the focus of complaint resolution and Local Area Commanders should control the conciliation process. The training is crucial to ensuring conciliation remains a key element of complaint resolution techniques under the Employee Management Scheme (EMS).

Our staff regularly participate in the training sessions to ensure that conciliation will be incorporated into complaint resolution mechanisms, as well as to assist in and monitor the development of the training.

Following the Ombudsman's Special Report to Parliament of May 1996 and recommendations by the Royal Commission, the Police Service has:

- In consultation with the Ombudsman's office, developed a course in advanced dispute resolution techniques;
- Decided that all local area commanders should participate in this course - many have already completed the course. The training encourages local commanders to adopt more creative approaches to resolving complaints at the local level; and
- Begun to review failed conciliations in some areas, notably the Greater Hume region, identifying reasons for the failures and attempting to conciliate again where possible.

There is still much to be done, including completing the review of the authority of conciliation officers to settle matters on behalf of the Police Service, extending mechanisms to review unsuccessful conciliations and trends in the conciliation process, and looking at ways to improve the profile of conciliation. The issue of training and accreditation for other police officers involved in conciliating complaints is also yet to be addressed by the Service.

Our participation in the conciliation working party also highlighted a number of issues, including the need for the Police Service to:

- Introduce a new, simplified conciliation form and look at practical measures to retain and use conciliation records for promotion and recruitment procedures within the Police Service;
- Set benchmarks across the service for the rate of conciliations as a percentage of complaints determined; and
- Set service-wide benchmarks for the rate of unsuccessful conciliations.

There is an urgent need to address the current weaknesses of the system and increase the emphasis on the use of conciliation as a management tool and as a means of improving the performance of rank and file police. Many of the outstanding issues must be addressed by the Police Service at a policy level. However, it is unclear whether the current EMS project team will take over responsibility for ensuring the Service implements benchmarks and other aspects of conciliation policy. These concerns are discussed below.

## **2. Has there been any improvement in the success rate for conciliations?**

Conciliations remain integral to resolving about a quarter of all complaints.

As we noted in our 1996-97 Annual Report, 1309 written complaints were the subject of an attempted conciliation and police resolved 955 to the satisfaction of the complainant. The number of attempted conciliations as a percentage of complaints determined has increased from 21 percent in 1995-96 to 25 percent in the past year. On the other hand, the proportion of those attempts that failed also increased to 27 percent in 1996-97, up from 24 percent the previous year.

A review of conciliations in the period since 1 July 1997 shows the number of attempted conciliations as a percentage of complaints determined remains at 25 percent. However, the rate of conciliation failures has jumped to 35 percent. We might have expected some increase in the failure rate had there also been a concurrent increase in the proportion of attempted conciliations, as this could have indicated a willingness by the Police Service to try to conciliate more difficult matters. The fact that there has been such a marked increase in the failure rate at a time when the proportion of attempted conciliations has remained static, is an issue of great concern.

A related concern is uncertainty about the future of the conciliation working party and who in the Police Service is responsible for overseeing conciliation policy, including tracking conciliation trends and implementing the Service's commitment to benchmarks (see below). The Service is yet to respond to our request to clarify this matter. Nor has there been a response from the Service on issues raised in our 1996-97 Annual Report.

In light of these developments, we have requested a meeting with senior personnel in the Police Service to:

- Clarify who in the Service is driving conciliation policy;
- Request a thorough review of current conciliations and the types of matters where attempts to conciliate have failed. A review of conciliations is already under way in

- the Greater Hume region including a review of failed conciliations; and
- Consider the longer term need for the Service to develop a system to measure the Service's performance and identify areas where its conciliation policies are working effectively.

In reviewing these aspects of the conciliation process we are seeking to consolidate and build on the positive developments that have taken place in relation to conciliation. These include the Service's commitment to training Local Area Commanders, which indicates that it recognises the value of conciliation as a mechanism for resolving a great number of complaints. We hope that training Local Area Commanders, who will play a pivotal role in future complaint resolution strategies, will help reduce the number of failed conciliations. We will continue to monitor the conciliation process and assist Local Area Commanders to resolve complaints informally.

If the Service does not act soon to track the success rate of conciliations and take steps to remedy current deficiencies, then this Office will prepare a report to Parliament.

#### *Conciliation Survey*

Our 1996-97 conciliation survey data showed that complainants were a little less satisfied with conciliation than in the previous year. However, the surveys also showed there is still a high level of complainant satisfaction with the conciliation process:

- 80 percent were satisfied with the way their complaint was handled;
- 44 percent thought that the Police Service might improve as a result of the conciliation process;
- 84 percent were satisfied with the manner and approach of the police officer who handled the conciliation; and
- 64 percent felt an apology played a role in the resolution of their complaint.

#### *The need for benchmarks*

The Police Service needs benchmarks to promote the use of conciliation as a tool for resolving a number of complaints. Without conciliation targets, there is a real risk of sliding back to the low rate of conciliations which marred the complaint system for many years. If this occurs, then - instead of a more streamlined system - the complaints process is likely to become less efficient, with some matters inappropriately dealt with, leading to protracted disputes.

The Police Service has set ambitious benchmarks regarding conciliation rates [conciliate up to 30 percent of complaints, reduce failure rate to 12 percent]. Although the Police Service has informed this office of the benchmarks it intends to set, there is no indication yet that these benchmarks have been implemented. As discussed above, we have flagged these concerns with the Police Service, and asked for clarification of whether and how the conciliation targets will be incorporated into the Employee Management Scheme. If the Police Service aims for these conciliation benchmarks and monitors the results, then we would agree with the Royal Commission that the current mandatory legislative requirement to attempt to conciliate certain types of matters can be abolished.

### **3. Have you undertaken a preliminary evaluation of the Employee Management Scheme?**

We are currently undertaking an evaluation of the Employee Management Scheme. Information to date suggests there has been no significant improvement in the way in which complaints are handled. On the other hand, there has been no significant decline in the quality of work.

EMS evaluation strategies have included:

#### *(1) Our evaluation of EMS*

The Ombudsman's office is currently reviewing and analysing complaint data and complainant surveys from the January-June 1997 phase of the EMS. This evaluation includes scrutiny of:

- Our complaints information system and other complaint data for turnaround times;
- Complainant surveys and other qualitative data for complainant satisfaction;
- EMS/Pilot files and non-Pilot files for a comparison of the sophistication of management responses, to assess how EMS may have influenced managers;
- Complaint data for indications of whether the EMS achieved a devolution in decision-making whereby local commanders should take greater responsibility for appropriately responding to more serious allegations; and
- Complaint files for indications of the nature and extent of police contact with complainants to involve them in the resolution of complaints.

We are also convening a forum consisting of representatives of this Office, the PIC and senior personnel from the Police Service to resolve around 30 outstanding 'hard' cases which raise difficult management issues. The resolution of these matters will provide a foundation for training materials to advise Local Area Commanders of the standards expected of them, and provide guidance on expanding the range of managerial responses in difficult matters.

#### *(2) The EMS steering committee*

A steering committee consisting of representatives of this Office, the PIC, the Police Ministry, the Police Service, the Police Association and the Commissioned Officers Association, has been established to track key issues relating to the EMS. The steering committee process is not intended to fetter the independence of the PIC and the Ombudsman's office in any way: instead, it provides a forum for constructive discussion of key issues in connection with the EMS.

#### *(3) The Ramsey evaluation*

The Police Service has contracted consultant Janet Ramsey to prepare a project brief for its EMS project team. Following instructions from the Police Service, advice from the steering committee and input from this office, Ms Ramsey has been asked to prepare a review of the EMS/Pilot which will include:

- An independent evaluation of the January-June 1997 phase of the EMS;
- Any projected plans for further implementation in the immediate future;
- A review of program documentation, including statement of aims, objectives, planning documents, program guidelines and training materials;

- A review of evaluations undertaken so far, including the post-implementation reviews of earlier trials;
- An analysis of monitoring records of outcomes;
- Interviews with key participants and stakeholders;
- An analysis of the results of the pilot process, in terms of both its achievements and ongoing issues which should be addressed in planning the further implementation; and
- Proposals for a set of measurable performance indicators for the ongoing scheme.

In addition to providing ideas and advice to the consultant's review, we will review and comment on the project brief, due to be completed in December 1997.

New procedures and policies relating to the further trials (commencing early 1998) will be modified, based on the information obtained from the evaluation strategies outlined above. The new trial will occur throughout the Hunter and Greater Hume regions, and involve the Police Academy and the Goulburn Local Area Command.

## IMPLEMENTATION OF OMBUDSMAN'S RECOMMENDATIONS

### Questions on Notice

4. Can you provide an update on the implementation of the Ombudsman's recommendations concerning:
- a) public authorities; and
  - b) local governments?

At the Fourth General Meeting, the Assistant Ombudsman (General) gave oral evidence about figures for compliance with recommendations for the 1996/97 financial year in respect of the General Team. These were:

Area	No. of recommendations	No. implemented	% of reports containing recommendations relating to changes to law, policy or procedures
Local Government	30	29 (97%)	85%
General public authorities	54	51 (94%)	66%
Total	84	80 (95%)	77%

Since July 1997, there have been only a small number of reports issued where either the time foreshadowed for implementation of recommendations has expired or the time given for the authority to report to me on action taken or proposed in consequence of the report has fallen due. These reports are:

Public authority	Date of final report	Compliance report due	No. of recs	No. complied with	Does report contain recommendations for changes to law policy or procedures?
Juvenile Justice	Dec 96	ongoing over 2 years	239	compliance is incremental(see separate report)	yes
Central Sydney Area Health Service (FOI)	9/5/97	6/6/97	3	1 partially (Note: report to Parliament being prepared)	yes
State Transit Authority	25/9/97	25/12/97 to 25/9/98	38	All endorsed by CEO; 21 implemented to date	yes
Dept of Corrective Services	15/8/97		9	8	yes
Hornsby Council	3/10/97	ongoing	25	ongoing	yes



Two further reports that have been issued during that period, but in relation to which the time given to report has not expired, are:

Public Authority	Date of Final report	Compliance report due	No. of recs	No. Complied with	Does report contain recommendations for changes to law policy or procedures?
Dept of Urban Affairs & Planning	7/11/97	7/2/98	2	NA	yes
Ku-ring-gai Council	28/11/97	20/11/97	27	NA	yes

**5. To what extent have the recommendations contained in the Ombudsman's reports on Mulawa Correctional Centre, the Inquiry into Juvenile Detention Centres and Conflict of Interest been implemented?**

*Mulawa Correctional Centre*

Forty recommendations were made in the Mulawa report. Thirty seven have been fully or substantially implemented. The three in some contention are the following:

Recommendation 12.2.5 recommended that the Department consider providing for appeal rights for more serious disciplinary matters heard by the governor. The Department did consider the matter but does not agree with the proposition. Current legislation does not provide for the right of appeal against a decision of a governor and the Department has indicated that there is no intention of pursuing changes in that area.

Recommendation 12.3.7 recommended that the Women's Services Unit be moved to the Operations Branch of the Department and that all policies affecting women in the system be reviewed by the Unit. Prior to completion of the investigation, the Unit was transferred from the Support Services Division to the Personnel and Education section. The Department indicated that it would review the placement after 12 months.

Recommendation 12.2.40 recommended that until the position of Inspector General is established and filled, that every allegation of sexual misconduct involving inmates and officers be notified to the Ombudsman in order that the investigation of such complaints are properly oversights. The Department did not accept this recommendation stating that the recommendation was vague in respect of the term "sexual misconduct". It said if it was intended to cover the full spectrum of sexual misconduct, including harassment, it would be inconsistent with its current "Prevention of Harassment Policy and Guidelines" and "Grievance Resolution Policy and Procedures" which provide that an officer may elect to have a matter dealt with through the mediation/grievance process. The Department stated it would be an invasion of that individual's privacy to report the matter to the Ombudsman in such cases.

Compliance reports on the recommendations were received from the Department of Corrective Services in June 1997 and from the Corrections Health Service in late October 1997. Aspects of the implementation will be followed up during regular inspections of Mulawa and if necessary through further correspondence with the Commissioner.

Copies of the compliance reports from Corrective Services and Corrections Health Service are attached.

#### *Juvenile Detention Centres*

The Special Report to Parliament was made public in December 1996. The report made 239 recommendations. Since the report was published, the Department has set about implementing the recommendations in phases. The Department hopes to complete its implementation over a two year period ie. finishing in December 1998.

The Department appears to be on track with respect to its program of implementation and the Ombudsman is, at present, satisfied with the both the manner and pace at which the recommendations are being implemented. Further details about the implementation program appear below.

The Department's Executive Committee meets monthly and drives those recommendations concerning policy and procedural changes, although some of these are also being done at the Centre level. The Ombudsman's report is a standing item on the Committee's agenda.

The Department's five cluster directors are also monitoring the progress of implementation in each of the Centres.

Local implementation committees have been established in each of the Centres. These include staff from all levels of work in the Centre, including operational and specialist staff (eg psychologist or AOD counsellor), and a representative from the Centre school. They largely determine how the recommendations will be implemented in their Centre, taking into account the particular local conditions eg. layout, recreational and vocational options, staffing and local community resources.

The significant issue of cultural change is being addressed by a taskforce chaired by Carmel Niland. This is to advise the Director-General on agency values, ethics, practice, and gender equality. These matters are central to the recommendations and will take some years to really determine whether change has been effective in this area.

In our routine visits to the Centres, we have noted some significant and positive changes in some of the Centres. These include:

- *Reviews of behaviour management programs for detainees to better reinforce positive behaviour.* Although this has created some tensions during the transition, it appears genuine efforts are being made to improve these systems. Although it was expected that the Department would approach this on a department-wide level as a policy matter, it is recognised that there is benefit in having input and

involvement from those staff who have daily responsibility for detainees and the eventual implementation of such programs. A workshop was held for all Centres in late October 1997 to assist them in the design of these programs.

- *Increased activities and programs after school hours.* This was particularly problematic at Minda. Recent visits and reports from others who attend have commented favourably on the activities now available.
- *Increased attendance at the Centre schools.* This again was particularly pronounced at Minda. The addition of demountable classrooms has increased the places available. These rooms are also available for activities after school hours.
- *Increased recognition of the right and need of detainees to maintain contact with family.* Some Centres have adopted new recording systems to better identify problems, eg if there have been difficulties in contacting family. There generally seems to be a heightened consciousness amongst Centre staff of the importance of family contact for detainees.
- *Revised induction material.* This material is available in some Centres, including the development of a an induction video for Minda produced by the Centre's detainees. The Department has recently launched a 'Streetwise' comic describing the rights and rules in Centres.
- *Greater interaction between staff and detainees.* In most Centres, greater and more positive interaction between staff and detainees have been noted. This is particularly marked at Worimi and Minda.
- *Serious young offenders review panel.* A serious offenders review panel, chaired by former NSW Chief Magistrate Ian Pike, has been established to review and monitor the placement and management of serious young offenders.

Of great significance is the fact that the Department's restructure has finally been implemented to the point where most key positions, including the Team Leader positions (who supervise the Senior Youth Workers on each shift) are now largely filled. This has removed a lot of uncertainty and tension for staff, although clearly there will be those who are disappointed by the decisions made. Nevertheless, the completion of the restructuring can only assist in the stability and longer term morale of the Centre staff.

More improvements are detailed in the attached report provided by the Director-General dated 30 September 1997.

#### *Conflict of Interest*

In the Special Report of March 1997 on *Conflict of Interest*, two recommendations were made. First, that there be a development of policy requiring police to consult patrol commanders where involvement in court proceedings may conflict with their positions; and reporting of proposed involvement in court proceedings where the Crown is a party but they are not being called by the Crown. Second, that the Police Service consider

issuing instructions that officers consult Patrol Commanders when giving character evidence; and to make it clear when they are appearing in a private capacity; in which case they should not wear uniform. The Police Service has amended its court attendance instructions accordingly. (The police officer who was the subject of the complaint was fined \$1,000 following his guilty plea to "misconduct". This fine was not collected prior to the officer's retirement as the officer resigned on 3 January 1997.)

The Ombudsman's recommendations in the Special Report of June 1997 on *Conflict of Interest and Police* are being implemented. The Ombudsman recommended that clear guidelines be issued on conflicts of interest, and their proper promotion. The Ombudsman also recommended that a training package be created on the issue of conflicts of interest contained in the Police Service's Code of Conduct. The Police Service has said that it is:

- introducing a new subject on ethics and accountability into the constables' development program;
- introducing an ethics module in the revised basic training for constables; and
- developing ethics packages for constables, supervisors and management.

## **ROLE OF THE GENERAL MANAGER IN LOCAL GOVERNMENT**

### **Questions on Notice**

- 6. Have there been any initiatives to clarify and improve the relationship between general managers and councillors in local government?**

The Ombudsman believes that breakdowns in relationships between general managers and councillors is a significant problem in local government. This belief is based on both evidence in complaints and other information received by the Ombudsman and statistical evidence on the numbers of resignations and terminations of general managers since the commencement of the Local Government Act 1993.

The Ombudsman has had some discussions with the Minister for Local Government about the issue in the course of consultation regarding a draft report which discusses this issue. It is recognised and accepted by both the Department of Local Government (as per Mr Payne's earlier evidence to the Committee) and the Ombudsman that there is a need for further examination of statistical information concerning the separations of general managers that have occurred. The Ombudsman believes that there is also some merit in surveying general managers and councillors on their attitudes on the adequacy of the existing legislative provisions on the respective roles and responsibilities of general managers and councillors.

The Ombudsman has decided to prepare a special report to Parliament on this issue sometime early in the New Year. This will bring together the Ombudsman's views on the topic, based on the investigations of which the Committee is aware and the further research referred to above, and make recommendations on how the situation might be improved.

- 7. In the 1996/7 Annual Report, you refer to two major investigations concerning the role of general manager. When do you anticipate publishing the reports?**

A report about an investigation concerning Ku-ring-gai Council was subject of a Ministerial consultation in mid-November and the final report was issued at the end of November.

In relation to an investigation concerning Auburn Council, Provisional Conclusions and Recommendations have been sent to the Council for submissions. When those submissions, if any, are received, consideration will be given to whether a draft report will be prepared pursuant to s.26(1). It is not expected a final report in this matter would be issued before the New Year due to the procedural steps that still have to be gone through. This investigation directly concerns conflict between councillors and a general manager.

At this stage it is not intended to make the reports on either investigation public by tabling them in the Parliament, although we will recommend that they be tabled by the councils concerned at a council meeting.

The insights that have been gained from these investigations and the handling of other complaints about the general issue of relationships between elected members and the General Manager will be distilled into the planned special report to Parliament, which is foreshadowed in the answer to question 6.

## ANNUAL REPORT 1996-1997

### Questions on Notice

#### 8. What do you consider to be the issues of key importance of the 1996 - 1997 Annual Report?

The key issues from the 1996-1997 Annual Report are:

##### *Increasing levels of complaints*

8,111 formal written complaints - up 5% on last year and up 37% since five years ago. Formal written complaints about councils increased by 22%, about correctional centres by 21%, about FOI by 11%. However, it would be a mistake to see these increases as a sign that things are getting dramatically worse. Whilst there will always be problems within the public service, increased numbers of complaints may in fact reflect the entrenchment of a culture of accountability where citizens expect accountability and the public sector accepts it. Growing numbers of complaints may well reflect a public sector that is prepared to be held accountable and is unafraid of the concept.

##### *Police*

- *Aboriginal Complaints Unit:* A highlight of 1996-97 was the Aboriginal Complaints Unit's work with Aboriginal communities across NSW, particularly in rural and remote areas. The Unit initiated a number of practical measures including an access and awareness program which has led to a sharp rise in the reporting of Aboriginal complaints about police misconduct (an increase of 50%), and a pilot mediation program to encourage communities to take concerns directly to local police commanders. The Ombudsman - in conjunction with the Police Service - is about to commission an evaluation of the Police Service's Aboriginal Strategic Plan.
- *Other significant police issues:* We targeted significant issues relating to recurring complaints about police conduct in relation to arrest and detention, illegal computer access, conflicts of interest, internal witnesses, domestic violence, sexual harassment, intellectual disability, child abuse and a number of other issues requiring a more strategic approach. For instance, our attempts to highlight problems and recommend changes to police policy and practice in relation to arrest and detention included alerting the Police Service to common themes emerging through complaints, notably a poor understanding among many police of their basic powers of arrest and when to exercise discretion not to arrest. We also raised these concerns through the *Foster Report*, in our submissions to the Wood Royal Commission, and in detailed submissions to the Police Service's and Attorney-General's committees working on changes associated with the *Crimes Amendment (Detention After Arrest) Act*. By urging the Police Service to consider systemic patterns of misconduct, we have highlighted a number of Service-wide reforms in relation to each significant issue.

### *Councils*

After police, councils are the second largest area of complaints. One of the key issues in this area remains the level of conflict between general managers and their mayors and or councillors. (Please refer to answers to questions and 6 and 7 for further discussion about this matter.) Two other key issues concern the use and abuse of legal advice by councils and the growing incidence of threats being made to commence defamation proceedings. We are consultatively developing guidelines with respect to the obtaining and distributing legal advice and will be monitoring closely further complaints in the area. We are also developing guidelines on defamation action with the Local Government and Shires Association (with input from other peak bodies).

### *Youth*

The Ombudsman's appointment of a youth liaison officer has seen a dramatic increase in complaints from or on behalf of young people. In the police area, there has been a focus on the development of strategies to address recurring problems between young people and police, is making the Ombudsman's services more accessible to young people. Renewed Police Service interest in developing a cooperative approach to dealing with young people is adding to the momentum for constructive change.

### *Whistleblowing*

The public sector response to the implementation of the *Protected Disclosures Act* has been disappointing. During the year, we audited over 100 internal reporting systems of state government agencies - these reporting systems are a key step towards protecting whistleblowers and the proper implementation of the Act. We found 72% of these reporting systems to be inadequate. Many contained misstatements about the Act and its interpretation and very few offered proper advice and guidance to prospective whistleblowers. All agencies with deficient systems have been written to and we will be working co-operatively with them to improve their systems.

## **9. *The Annual Report notes that Junee Correctional Centre is the subject of the highest number of complaints about correctional centres.***

**Does the higher number of complaints about Junee Correctional Facility reflect a larger prison population, the type of prisoner held there, or other variables? Do you intend conducting a detailed report on Junee?**

Until the opening of the new Metropolitan Reception and Remand Centre at Silverwater recently, Junee was the largest gaol in the country, almost twice the size of some of the major maximum security gaols. It is built to accommodate 604 inmates. Since last year it has become almost exclusively a protection gaol.

More written and oral complaints were received from Junee inmates than any other institution in the 1996-97 financial year. 52 formal complaints and 262 oral complaints. The oral complaints were significantly higher than other institutions. Its closest rival Lithgow only logged 94. The greater number of prisoners at Junee is one reason for this. More importantly, however, prisoners at Junee have had greater access to telephone calls to this Office than any other gaol. At Junee, prisoners have access to telephones in their wings which they can use at any time they are out of their cells. The



phone system is computerised so that each inmate has a limited range of telephone numbers they are able to call. The Ombudsman's number is available to all inmates. Similar systems are only starting to be rolled out in other correctional centres. In many centres, calls to this office are still individually connected by officers and so prisoners have much more restricted access than do the inmates at Junee.

The management of Australasian Correctional Management believe that the high incidence of calls is also related to the fact that the vast majority of prisoners at Junee are protection prisoners.

Junee has always generated a high number of complaints. Initially, a great proportion of the complaints were a product of the isolation of the centre and the difficulties that presented for inmates in receiving visits from family and friends. We now receive fewer complaints about issues related to its distance as most protection prisoners would prefer to be in a protection gaol that provides relatively normal access to work and amenities than be a minority group in a mainstream gaol with limited access to amenities.

The range and proportion of complaints received from prisoners at Junee is almost identical to the complaint profile for the prison system as a whole.

We see no need to conduct a special investigation into Junee at the current time. It is subject to special monitoring by the Department of Corrective Services.

**10. *The Annual Report also notes a very poor level of compliance with the annual reporting requirements of the FOI Act.***

**Have any government departments indicated that they will undertake any initiatives to improve compliance with the FOI Act reporting requirements?**

In the Special Report to Parliament in July 1997, it was noted that more than half of the 135 public authorities that had been audited by the Ombudsman were not properly reporting their FOI activities. All of the public authorities that were not properly reporting their FOI activities were written to prior to the Report being tabled in the Parliament with specific advice as to how they could rectify any problems which had been identified in the audit. Additionally, the Ombudsman addressed a state government CEO Committee in mid-1997 and indicated to those present that the Office would be happy to assist any agency which had any questions or queries about their reporting obligations. Thus far, positive and co-operative responses indicating an intention to act on advice provided have been received from the following agencies:

- The University of Sydney;
- The Privacy Committee;
- The Department of Juvenile Justice;
- The Office of the Legal Services Commissioner;
- The Audit Office;
- The Health Care Complaints Commission; and
- The Office of the Director-General, DTEC, Office of the Managing Director, TAFE,

NSW.

It is anticipated that further responses will be received and the Office will be closely monitoring the situation.

**PROCEEDINGS BEFORE THE COMMITTEE ON THE OFFICE OF THE  
OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION**

**Wednesday, 10 December 1997 at 10.00am**

**PRESENT**

**Mr B. J. Gaudry (Chairman)**

**Legislative Council**

The Hon M Gallacher

The Hon E Nile

**Legislative Assembly**

Mr J Anderson

Mr J Kinross

Mr P Lynch

(....)

**CHAIRMAN:** Firstly, Ms Moss, I congratulate you on your Annual Report. I think it is provided in a format that is easily readable and understandable, enabling people in the street to see where fall-downs occur and how the Ombudsman has dealt with those. I think that encourages people to make complaints. Could I say to you, though, that the Committee in its oversight role of the Ombudsman and the Police Integrity Commission sees the work that is being done now in the reformation of the New South Wales Police Service as extremely important.

In that context, it is rather of concern to see the statistics that you have given out, particularly of failed conciliations. Despite the fact that the Police Service is undergoing all the changes that are occurring, and the emphasis on the Employee Management System, with the increased role that has been given to Area Commanders to conciliate complaints, your report obviously highlights the need for great improvement in both the procedures and in the professionalism with which those complaints are handled and also in the education approach that is to be taken at particularly higher levels of the Police Service but obviously all the way down through the ranks.

I note in the statistics that you have pointed out that the percentage of complaints determined has increased from 21 per cent in 1995-96 to 25 per cent last year, but that the proportion of those attempts that have failed increased from 24 per cent in the previous year to 27 per cent in the year reported on. As you said in your later review, since July, it has gone up to 35 per cent.

That raises in my mind, and I am sure in the minds of Committee Members, a great deal of concern about the capacity of the Police Service to handle this section of its responsibilities. Obviously, there is a great need for oversight and continued involvement of the Ombudsman. I note on the first page of your report you say that in consultation with your office the Police Service has developed a course in advanced dispute resolution techniques, and that they have begun to review failed conciliations in some areas. So a process is in train.

Would you expand for the Committee on the extent of that course in advanced dispute resolution techniques? Who conducts it? What is its duration? What is the ongoing monitoring and perhaps peer review process, if any, that is going on in relation to that matter?

**Ms MOSS:** We have been very much involved in this course. Steve Kinmond would probably be the best person to describe in some detail how it is conducted and how we are involved with it.

**Mr KINMOND:** Michelline Dewdney has been appointed by the Police Service to run the course. Michelline Dewdney is an expert in dispute resolution. Michelline prepared the course after extensive consultation with our office and with the Police Service. One of the concerns that we had in relation to the earlier course that the Service ran in relation to conciliations was that it was very much process focused. So it was very much focused on correctly completing the right forms, correctly entering the information on the system, and so on.

There were some skills-based elements to the course, but in our opinion they were not sufficient. So the focus of Michelline Dewdney's course has very much skills based and having officers work through problem-type issues and getting them to look at things very much from the complainant's perspective.

In terms of participation, I attended earlier sessions of the training of local area commanders to give them the context of the training. I have spelt out the context regarding our ongoing interest in the area, in the sense that I have also explained that it has arisen out of report. Our Customer Services Manager has continued to attend, and he attends each of the training sessions for Local Area Commanders. As each new course is run, Michael Gleeson attends that and will participate in discussions and give the Ombudsman's perspective on things.

So we have had active involvement in relation to the process. I might take the liberty, if that is alright with the Committee, of responding to some of the broader concerns in relation to conciliations. One of the things worth noting is that the shift in complaint handling in recent times has not really affected conciliations. In the past, it was local area commanders who dealt with conciliations. So the devolution of decision-making really has not impacted on the conciliation area. In the past it was local area commanders dealing with it, and that is the current phase.

The concern I have in relation to conciliations is that I have sought to identify what I believe to be the major changes that have occurred with conciliation that may have led to an increased failure rate. I have identified three issues.

The first is that when conciliations suddenly leapt, and when we had the sudden improvement in the rate of conciliations and also in the success rate, they had a very skilled person in the Service who was co-ordinating the overall process. That person was Caroline Smith, who had a great deal of skills and a great deal of credibility within the Service. She would actively intervene in relation to matters that were going astray. So that is one situation that they had in the past that does not exist now. There is not

one person from the Service who has got responsibility for conciliations.

The second thing is that the increased rate of conciliations, and the success of conciliations, were directly related to very clear indications that the then Assistant Commissioner, new Deputy Commissioner, issued at the time. In that he essentially said that conciliation is going to be a focus of the Police Service; we are going to increase our efforts in this area; and we are going to achieve performance.

I know a lot has been said about the Commander Patrol approach of the Police Service, and there has been some criticism of that approach. But my experience is that that letter worked, and that it led to an increased commitment to conciliations and we saw within a very short period of time a large increase in the proportion of conciliations and we saw a relatively low failure rate in relation to conciliations.

The third factor, and one which has perhaps muddied the waters to some extent in relation to the area of conciliations, has been the comments that have been made by the Royal Commission that have perhaps been misconstrued by Local Area Commanders. As you may be aware, the Royal Commission made the point that Local Area Commanders should not be required to conciliate matters that really are not appropriate for conciliation.

I think that was in respect to a number of local area commanders expressing concerns about conciliating matters that they thought were inappropriate. I think that message, to some extent, has been picked up inappropriately as well. So that there is no longer the sense of commitment to the conciliation process that there was in the past. So, in terms of remedies for the future, we have written to the Service and this will be our focus. How the Service responds is a matter for the Service.

We will be saying there needs to be someone, or a small group, responsible for co-ordinating conciliations. There needs to be a very clear message from the top relating to the concerns that exist. As you would be aware, the Police Service appeared before this Joint Parliamentary Committee and said it would have conciliations running at 30 per cent and would have the failure rate down to 12 per cent. But I have not seen any clear messages coming out from the Service to support that announcement made to this Committee. So they need to send out the message that they are concerned about the decline, and they need to send out a very clear message that conciliations are still regarded as an important part of complaints handling. I am sorry about the long explanation, but I thought it is a particularly important area and it needs to be addressed.

**CHAIRMAN:** I was particularly interested in the extent of the training program that those Local Area Commanders have and whether you have those details, because it is of concern to me whether or not there is adequate training in order to make the system work as effectively as we would want it to work. In those discussions between the Ombudsman, the Police Service and the consultant, I am wondering whether you have got down to a very defined program of training.

**Mr KINMOND:** It is a defined program. What I can do is provide the Committee with details of an outline of the course. It is not simply a coming together for a couple of days and working through some issues. It is a very clearly defined course. What I will do is provide to the Committee the outline of the course, which goes over several days.

The Service has argued that in order for these Local Area Commanders to be appointed in the first place they already have to be assessed as having skills that are suitable for conciliations. I think that point has to be taken. So I would be happy to provide the Committee with an outline of the course.

**Mr LYNCH:** This question is perhaps better directed to Mr Kinmond than to Ms Moss. In the written answers there is comment about there being no-one from the Police Service responsible for overseeing conciliation policy, and I think that is more an issue for Caroline Smith. The written answers go on to talk about a request to the Police Service to meet with senior personnel to find out what is going on, and whether police will condescend to try to deal with what is a fairly important issue. I wonder whether there has been any development since the answer was prepared to indicate any concern on the part of the Police Service about the issue.

**Mr KINMOND:** Not at this stage. I do not think the Service has fully appreciated that we have got a serious problem in relation to the increased failure rate. There has been a lot of attention given to the development of Employee Management System policies and other aspects of complaints but, in fairness to the Service, they have done a significant amount of work on that issue of recent times. So I think the problem has been: 'Look, conciliations have been going quite well, so let's leave them to one side'.

I think the recent statistics, in which we have shown that the failure rate has increased to 35 per cent, should be a very clear message to the Police Service that one area, which really has been a positive area, will be lost if they do not address the issue.

**CHAIRMAN:** You say on page 3, "*We hope that training Local Area Commanders who will play a pivotal role in future complaint resolution strategies will help reduce the number of failed conciliations.*" I note also you say that if the Service does not act soon to improve its success rate of conciliation and take steps to remedy current deficiencies that your office will prepare a report to Parliament. I think that indicates the level of concern that the Ombudsman's Office is showing to the Police Service about the slowness to respond in this respect. Is that a reasonable assumption?

**Ms MOSS:** Yes, it is a reasonable assumption. As Steve said, it is a positive area which they have let drop. We feel that one issue is their finding the appropriate person or persons within the Service to take responsibility for this whole area and to drive it again.

**Mr KINROSS:** Could I ask a few questions on the conciliation process, and I will come to a couple of examples, one involving a constituent of mine and another involving a constituent of another member, relating to the form and how it was resolved. My first concern is, do you take it that it is therefore only Local Area Commanders who should be conciliating, given that they are the only ones who have undertaken the course?

**Ms MOSS:** My understanding is that it is not just them, but also people that they would feel are appropriate. The important thing with the involvement of the Local Area Commanders is that they are strategically placed in that fairly senior hierarchical position. So, if they take responsibility for the success of conciliation, then things will move better further down the line.

**Mr KINROSS:** But how can it move better further down the line if they are not undertaking the course?

**Ms MOSS:** Well, that is a problem. That is why the Service is focusing on trying to train up the Local Area Commanders.

**Mr KINROSS:** Let me deal in specifics. Inspector Dent of Hornsby Police Station - and I have part privilege here - almost accused me of lying because I had never seen a conciliation form before in my life, which was the case until a few months ago. That is, to make it specifically clear, I had never had to conciliate in a dispute with the police in my electorate beforehand. There was a serious matter, a failure to respond to a constituent's 000 emergency call.

Inspector Dent, almost refused to provide me with a copy of the form - and the reason I required that was that my constituent had rung me and said, "I have been asked to go up to the police station forthwith and sign a form. What should I do?" I said, "What form are you talking about?" She said, "I don't know. Don't you know?" I said, "No, I don't." So I got onto the police and asked them for a copy of that form. I have seen that form, and I have since established that that form - and I see you make some reference in your report to this - has not been reviewed, I think, since March 1995, since the Coalition lost office, and we can come to that a bit later because I do not want to hog all the questions. But I have not got to a question yet.

**CHAIRMAN:** Could I interpose to say that questions will be fairly distributed around the table.

**Mr KINROSS:** My concern, firstly, is that you have got an Inspector, lower than an Area Commander, who belligerently was trying to get me to pressure the constituent to sign a conciliation form. So my question is this. I do not believe for one moment that the conciliation failure rate is just 35 per cent. I have equal concern with those constituents, or men and women of New South Wales, who have been forced to sign conciliation forms under duress, but who are not aware that once that has been signed there is still some recourse open to them if they subsequently discover that they have concerns for complaints. Do you follow what I am saying?

**Ms MOSS:** Yes. It certainly would be inappropriate for the Service to be putting pressure on a person to sign a form.

**Mr KINROSS:** Are you aware of this practice? My colleague Bruce McCarthy raised in Parliament on 12 November this comment in relation to a Mr Dernau:

*Police asked him [Mr Dernau] to sign a conciliation note, which is a form used to resolve complaints. Mr Dernau asked for a copy of the note to study and to think about it. He was told he could not have a copy unless he first agreed to sign it.*

What I am concerned about - in terms of figures of success rate or otherwise of the conciliation process - is whether in fact the failure rate is much higher than that, because there have been forced attempts to make these people sign the conciliation forms, and at other times they are told that they cannot have a copy of the document unless they first commit themselves to agree to sign it. Are you aware of that practice?

**Mr KINMOND:** That is ridiculous if they are doing that, and I am glad you brought that issue to my attention. On the question of whether the success rate in relation to conciliations is inaccurate, in relation to every matter that we get where there has been a written complaint and we receive the conciliation form, we survey the complainant, for the very reasons that you have outlined. We send the survey to the complainant, giving options in relation to their level of satisfaction with the complaint and with the outcome in connection with the complaint.

We also seek the complainant's views and whether they have got any concerns about the process. In connection with some of those matters, the very sorts of issues that you have raised can, as a result, come to light. We have one, for example, where a Sergeant may well have forged the signature on the form. What was clear to us was that the complainant had not signed it. We investigated the matter and referred the matter for DPP attention and so on. So we see the surveying of complainants as of critical importance in relation to these issues.

One thing you have identified which does raise a question in mind is that, if there is a formal written complaint from the complainant, then we receive in those circumstances the conciliation forms, and there are a significant number of them. But there can also be what are called oral conciliations, where the complainant has never actually lodged a complaint under the Act. So the Service is the body that is initiating the complaints. Essentially, they are dealing with someone over the counter and they may use that form.

In those circumstances, we are not sent each and every conciliation. We were in the past, and we conducted surveys and there did not seem to be any problems in relation to those matters. The fact that you have raised this issue this morning indicates that it may well have been a form of oral conciliation where they use the form, but I am not sure, and I would need to look at the case. In that instance, it may well have been a case that we have not surveyed.

**Mr KINROSS:** I in fact was the complainant on behalf of three or four constituents, of which the failure to respond to a 000 emergency call was but one. The police have a habit, when Members of Parliament get involved - and maybe I am being unfair, but it was the case in this instance - of saying, "Look, they have some reasonable knowledge of this" and they in fact bypassed me, resolved the matter with the constituents directly, even though I was acting on their behalf, got the forms for conciliation signed, and then came to me and said, "Thank you very much, Mr Kinross, these matters have been



satisfactorily resolved and that is the end of the matter."

When I, acting on their behalf, and that is my duty as a Member of Parliament, to make representations, may not have been satisfied at all, not the least of which is the problem I have told you about, the original pressure that was brought to bear on a constituent to sign a conciliation form. So I just ask you whether you are aware of that. If not, can we check the extent to which representations beyond the constituent level, maybe by a Member of Parliament, and maybe by someone else whom the constituent trusts but not necessarily a Member of Parliament, makes representations and they are being bypassed.

**Mr KINMOND:** It is an important issue. I mean, there are those cases where you can have Members of Parliament or solicitors or a whole range of representatives who initially raise the complaint and, in the course of the complaint being dealt with, there is a clear indication that the complainant is quite happy to finalise the matter directly with our office and with the Service. It appears that this was not such a case and, therefore, it does need to be examined. In the light of this particular case, we need to see whether the practices are appropriate in relation to continued involvement of Members of Parliament.

**Mr KINROSS:** Can I raise ethically on this issue, I understand it is a breach of Law Society ethics, and I therefore ask, if it is an ethical issue, why is it not a breach of police ethics, whatever that term means, for police to bypass the complainant, be it a solicitor or a member of Parliament? It is a breach, I understand, of legal ethics for a person, be it a defendant or plaintiff or whatever, to go and bypass the person who is on the record representing the plaintiff or the client and to go and try to speak directly to that client.

**Mr LYNCH:** That is a breach by the lawyer. It is not a breach by the party.

**Mr KINROSS:** No, it is a breach by the person who is seeking to bypass the representative.

**Mr LYNCH:** How can the police be bound by lawyers' ethics?

**Mr KINROSS:** I am using an analogy and saying that if the police are bypassing the constituent or person who makes the representations, I would have thought by analogy that is a breach of legal ethics and there are some problems, when it is clearly known. It is not as if this is being surreptitiously arranged that a Member of Parliament steps in; it is on the record as a formal representation being made.

**Mr KINMOND:** I would support the view that if a person has gone through a member of Parliament in order to raise a complaint, then the presumption should be that future dealings are through the Member of Parliament, unless and until the circumstances make it clear that the complainant wishes to deal with the situation otherwise. In these circumstances, it appears that there was no such evidence in the case, and that is why I believe the matter needs to be reviewed.

**Mr ANDERSON:** In your report you talk about the 5,232 written complaints and the 2,706 oral complaints. I think that the issue that relates to everything you have said so far is attitude. What sort of attitude are you facing when you are overseeing these investigations and these inquiries? Are the police co-operating?

**Ms MOSS:** Our observation is that the public sector generally and the police as well are becoming more accepting of the accountability process.

**Mr ANDERSON:** I am not talking about the second or third level of management of the Police Service. I am talking about the ground level officers from which you actually get the information.

**Ms MOSS:** On the whole, they are co-operating. But, of course, it is not always necessarily clear whether you are getting the full story or whether what they are saying is an incorrect interpretation. My feeling is, from talking to senior staff, that there is a fairly co-operative approach. Would that be correct?

**Mr KINMOND:** By and large, they do appreciate that not to co-operate with the Ombudsman creates for them more problems than co-operating with us. The more important issue is whether they are co-operating with the complainant. One of the messages that we are trying to give to police is that we are not the principal player, that the principal player is the public and the complainants. So their level of co-operation with us is not bad but, unfortunately, as I think Mr Kinross has outlined, their level of co-operation at times with complainants is not what it could be. Of course, I would not want to generalise. There are Local Area Commanders who do an impressive job. There are also some Local Area Commanders who really we have some significant concerns about.

**Mr ANDERSON:** How will you report that?

**Mr KINMOND:** We deal with them on a case-by-case basis. One of the things that I have recently spoken with Internal Affairs about is the need for that whole issue of deficient investigations or deficient outcomes arising from investigations to be caught up in some systematic way. What we have discussed and we have agreed in principle to do, is to put in place a system of review. We send back quite literally well in excess of 100 matters a year relating to investigations. That reflects our oversight, but the issue that concerns me is whether in fact we are appropriately identifying those who are in a sense repeat offenders, those who are consistently failing in their obligations.

**Ms MOSS:** Following on from what Steve has said, that is what we are hoping this Employee Management System will address, so that the managers will not just be looking at the individual complainants but will be able to draw a general picture as to how well police officers working under their supervision are performing as a whole and be able to judge the officer as a whole, not just from individual matters that arise one by one.

**CHAIRMAN:** I would think there are concerns about the fact that the Royal Commission has recommended mandatory conciliation be done away with. Of course, in order to properly manage and oversight, the mandatory conciliation at least does give some lead to some problems that are arising. I draw your attention to page 11 of your report where you say:

*There are significant issues relating to recurring complaints about police conduct in relation to arrest and detention, illegal computer access, conflicts of interest, internal witnesses, domestic violence, sexual harassment, intellectual disability, child abuse, and a number of other issues requiring a more strategic approach.*

Obviously you are able to raise those and focus on them as coming out of the complainants system. How might that be impacted on by the removal of mandatory complainants and managing conciliation of complaints?

**Ms MOSS:** I do not know that it would be impacted upon, because the matters that we deal with under conciliation would come under a class or kind agreement, whereby a decision is made that they are appropriately dealt with by way of conciliation. So that they are of a nature that they can be resolved in a less formal sense. There are other matters that we have been able to raise, looking outside the conciliation process.

**CHAIRMAN:** You note a couple of other matters there, including the poor understanding among many police of their basic powers of arrest, and when to exercise a discretion not to arrest. Obviously, you are highlighting a number of problems across the Service that need reform. How are you indicating that those reforms should take place?

**Ms MOSS:** I understand that there is a great deal of work being done in this area. Steve might elaborate on that.

**Mr KINMOND:** In relation to arrests, we contribute papers in relation to detention after arrest. On the Act that went through, we made submissions on the draft regulation pursuant to the Crimes Amendment (Detention After Arrest) Act. We have contributed to the Police Service's own internal policies that they are developing in relation to detention after arrest procedures. So, to some extent, one of the approaches that we have taken in more recent times, rather than simply raise the issues, in relation to their new code of practice in this area, is to build in checks and balances which hopefully will require better quality control in relation to the arrest and detention area.

For example, the new custody officers are going to be critical in this whole area of arrest and detention. If they do their job effectively, then if a person comes into a station who has been arrested, they will actively seek to review the conduct leading up to the arrest and also the charging process, and so on. So we see that as a critical issue. Also, there are specific protections that are built into the code in relation to young people and indigenous members of the community. So it is a matter of looking at possible changes to the system to hopefully overcome some of the problems that we have identified in the past. So that has been the major area of focus on our part.

In addition to that, we have taken up matters with particular regions. At this stage, with Northern Region, we are trialing looking at issues arising from complainants in relation to arrest and detention matters and sitting down with the Local Area Commanders. A couple of my staff went up there last week to talk to the Local Area Commanders about some of the issues that we have identified and then to look at very specific strategies that we might put in place in relation to arrest and detention.

The other thing that we are actually starting to develop some statistics on is the use of such things as court attendance notices, field CANs, and so on, and being able to benchmark, for example, the performance in relation to one region and compare that across the Service. So those are the kinds of specific strategies that we can put in place to not only come up with some kind of general view as to the problem but to be able to come up with some very specific data as to trends across the Service.

**The Hon. M. J. GALLACHER:** I have a couple of points that are probably deserving of very short answers. Jeremy raised earlier the matter of conciliation without knowledge. Have you received complainants from police officers themselves who have had matters conciliated and they had no knowledge of them?

**Mr KINMOND:** The Police Association raises this from time to time. What I am not sure about is whether it is something that happened in the past, or whether it is in fact something that is still ongoing. If it is still ongoing, then it is a clear breach of the procedure. On the form it is indicated that the officer the subject of complaint has to be given the form. That is a part of the procedure that needs to be followed. It would be foolish for me to say it is not happening. What I would need in order to be able to pursue a particular case, are very specific examples of where it has been happening.

I repeat, it has been raised from time to time, and my concern is that sometimes things that happened six or seven years ago get raised as part of the current system. So we really do need some specifics on that issue.

**The Hon. M. J. GALLACHER:** On the form that was mentioned earlier are the criteria by which the conciliation can be determined. The last one is the agree to disagree criterion. Has there been any observation as to whether that is being used as a mechanism by which the Police Service can still hold face and the officers can still keep face by disagreeing with the complainant whilst at the same time the matter is effectively killed off at that point?

**Mr KINMOND:** We have not noticed any general increase. On the other hand, to be fair, we have not really undertaken a comprehensive analysis of whether there has been an increase in the use of that box. I think it is a good point that you are raising, and I am happy to take that on notice and get some advice on it. It is useful for our operations to specifically consider that issue.

**The Hon. M. J. GALLACHER:** With respect to failure rates, what is the current procedure with respect to failure rates? If the conciliation has failed, does it still go back for preliminary investigation, or has the Police Service got the ability to then re-examine the matter and determine whether it will be dismissed altogether? Has there

been any increase in the number of dismissals coming back to you on the failure to conciliate?

**Mr KINMOND:** There has been, I think, an increase in the number of matters where there has been a failure and the matter has been sent for investigation. That is my impression. The problem is, of course, that given the nature of these matters, they really are the matters you would want to be resolving informally. Then, if you proceed to full and formal investigation, you are looking at the expenditure of significant resources. So there are a significant number which really, on the basis of lack of resolution, do not go any further.

We review them, and in some cases we will in fact engage in direct conciliation in relation to them. The Greater Hume at the moment has introduced a procedure whereby at the end of every conciliation they are reviewing them and, unless there are very good reasons, they then will give them a second go. I think that is something that we would like to see rolled out across the Service. So it is not simply a Local Area Commander saying, "Oh, well, the matter was handled and could not be resolved, and that is the end of the issue." Rather, that there be a formal review mechanism within the Service at senior level to have a look at the matter and see whether more could have been done. The Greater Hume is trialing that. If that proves to be successful, then we can roll that out across the State.

**The Hon. M. J. GALLACHER:** You made one point about the field court attendance notices. I am excited to hear them being mentioned again, because the matter had been dead for about two years. What is bringing court attendance notices back into play again?

**Mr KINMOND:** I was of the view that they were still trialing field court attendance notices, and that the jury was still out in terms of their roll-out. I think one of the problems that officers will often raise in relation to field CANs is the question of identification.

**CHAIRMAN:** Could I interpose and ask for an explanation of this process.

**Mr KINMOND:** As you may be aware, in a lot of cases you can bring someone into custody, you go through the full charging process, they are in the dock, and they are formally charged, and that is a complete arrest and charging process. A court attendance notice, on the other hand, is where you bring in the person, there is no need for any bail conditions, and it is simply a matter of noting the details of the fact that the person needs to attend, and the person signs on the bottom of the form.

Given that you have got to bring a person into custody in order to do that - or that is the practice, in any event, that they are brought into custody - of course, you still have an arrest situation. Obviously, if you can avoid an arrest situation wherever practicable, then you avoid the problems of conflict. So the field court attendance notice relates to having a kit out in the field and having police officers out in the field not having to actually bring someone into custody, but in the field being able to complete the process.

The issue in relation to field court attendance notices relates to the question of identification. You cannot use that process in circumstances where you have doubts as to the person's identification. So they are toying with ideas such as getting fingerprints in the field and so on. As I understand it, there is need for legislative support for such a procedure.

**The Hon. ELAINE NILE:** On page 12 you deal with significant issues. There is a very wide area of complainants about police conduct in relation to arrest, detention, illegal computer access, and so on. The general public might look at the force today and ask, "What training have they had?" It seems terrible that they have this whole range of complaints being lodged regarding intellectual disability, child abuse and a number of other issues requiring a more strategic approach. Can you set a time limit upon when we will have a better response from the police in those areas?

**Ms MOSS:** The whole process is ongoing. I believe we are working quite closely with them to try to strategically improve their performance in those various areas, as is the Police Integrity Commission. I think it is inevitable, with such a huge force, that such issues will arise. It is a continual process to attempt to help them to improve.

**The Hon. ELAINE NILE:** Are you saying that there will be rebellious officers coming out of the academy, or are they not as grounded in these matters as they should be in their training at the academy, or what is the situation?

**Mr KINMOND:** I think there is still a problem in relation to Sergeants and Senior Sergeants - and we are not talking about all Sergeants and Senior Sergeants - who have been in the system and do not have any strong career aspirations and who indicate to the young recruits that what they have been taught at the academy is not the real world. They really are not committed to the reform process. I think it is going to take a considerable period of time before that group moves on.

**CHAIRMAN:** I would like to raise a few issues on that. In the last few days we have had some spectacular examples. One was the case of a glowing report being given to a police officer by a fairly senior officer after the Commissioner had made it very clear that that should not occur. The education process for police officers, it was clearly demonstrated yesterday in the Police Integrity Commission, was illustrated by the rather tragic case that is going on at the moment relating to the methods that police use in cells in obtaining grace and favour.

In a personal example, recently I rang a police station to speak with a senior person and the telephone was answered by someone who said, "You know me. Back in the good old days, before all these changes." For a serving officer to make a statement like that to a Member of Parliament indicates a certain resistance to change. The matters to which Mrs Nile referred indicate the need for a very proactive approach in the Police Academy and also certainly a retraining approach to serving officers who still indicate this lack of understanding of the need for change. Are you pressing those particular points?

**Ms MOSS:** We are certainly trying.

**Mr KINMOND:** I think the message is out there too. One of the concerns that I have is that if, after the Royal Commission, you still have a situation where there are officers still saying, "We do not need to change" then one really does have to ask the question as to whether it is a matter of education or whether you have a much more fundamental problem. In fairness to police, I talk quite regularly to police who are very committed to doing the job. I was talking to a person in relation to the internal witness area the other day and is doing a very good job. He, with tears in his eyes, described the frustration that he experiences when he sees those who should know better dealing poorly with young constables who are reporting matters.

So there are these two different, if you like, schools of thought within the Service: those who want to get on with the job, those who want to be a part of the new Police Service, and also a group, unfortunately - and that group is acknowledged by the Commander of Internal Affairs - who really do represent some of the bad practices of the old days.

**The Hon. M. J. GALLACHER:** On the education aspect, do you people have a contributory role in terms of advising the Service where it should be looking at the education of their personnel?

**Ms MOSS:** Not at the Goulburn Academy, not that we would not be happy to. But, of course, we are involved subsequent to that when these issues arise, and we would of course be heavily involved along with the Police Integrity Commission in the Employee Management System, which we see as quite key.

**The Hon. M. J. GALLACHER:** So you would have no on-the-ground knowledge of the service delivery aspect of education - for example, as to how corruption prevention and ethical conduct education is being delivered to members of the Service as they go through the academy?

**Ms MOSS:** Steve will give you details, but my understanding is that we are involved where it concerns us, and then we are asked to, and also where complaints focus on those particular issues and task forces or committees are set up and we are invited to be members of those committees. But we are not actually that involved when it comes to the initial education process of the Goulburn academy.

**Mr KINMOND:** What we tend to do is become involved, where it is relevant, to areas that we are looking at. So, in recent times, in relation to conflict of interest, we have become involved in relation to the development of the ethics package and the Service has consulted with us. In relation to the training of their youth liaison officers, and the development of the course in relation to the training of youth liaison officers, we have reviewed the proposed course and there have been some significant changes that will be made to the course as a result of that review. In connection with the training of officers in relation to conciliation, which is tied in with their education and training, we have extensive involvement in that area. So we tend to become involved if it relates to an area that we are particularly focusing on, rather than having a general education function.

**Ms MOSS:** There is a committee that has been set up to look at how the curriculum is devised. I am not too sure who is on the committee, but there are people from the Anti-Discrimination Board, the Ethnic Affairs Commission, the Independent Commission Against Corruption and others.

**The Hon. M. J. GALLACHER:** In relation to that service delivery, they are relying on - and I am not having a go at the people down at the Academy, who have basically built their careers in academia going through courses and doing education university packages and those sorts of things, but they are not utilising peer group pressure of detectives from major crime squads and those who are embracing the reform process, and using them to go and deliver the message, which would have a far more lasting effect from down at Goulburn whom they would only see for a couple of weeks.

**Ms MOSS:** That is probably correct.

**CHAIRMAN:** We will continue with the issue of conciliations and issues surrounding that subject.

**Mr KINROSS:** Mr Kinmond, you said the training course was quite extensive. How long is that course?

**Mr KINMOND:** It is two days, I believe.

**Mr KINROSS:** So were you speaking tongue in cheek when you said it wasn't a two-day course?

**Mr KINMOND:** I suppose the difference is that it is no longer on process, it is on skills. In terms of it being reasonably extensive, the other thing that causes me to say that is that in fact we are accepting that they should have a basic skill level in terms of being appointed to the position of Local Area Commander in the first place. I mean, they have been through the assessment centre procedure, they have been tested in terms of those sorts of skills, and so it is really skills that specifically relate to conciliation complaints that we should focus on.

**Mr KINROSS:** That two days, I put to you, is not a drain on resources. Would you not agree that we could bring forth a recommendation that says no conciliation should be undertaken by a police officer unless that officer is either a Local Area Commander and/or has undertaken the police training course in dispute resolution?

**Mr KINMOND:** I think the difficulty with procedure along those lines is that one would hope, given the nature of policing, that for some particular types of conciliations, inspectors who have been in the field for a number of years and may have gone through the earlier conciliation training course, or even if they have not, should have the basic skills to sit down with members of the public and resolve relatively minor matters. So I do agree that for the more complex conciliation matters there needs to be a pool of highly skilled people. But for your average concern, where a person comes into the police station and wants a quick result, rather than have to have a bureaucratic process that says you have to be a trained conciliator, probably what the



member of the public wants is a quick response and a quick resolution. So I would have concerns about it being a blanket rule.

**Mr KINROSS:** It is just that in the case I gave you it was an Inspector, it was not the Local Area Commander, and I have already put on the record his attitude and there were "worse" problems down the line in respect of failure to respond to a 000 emergency call. When she went up to the station the next morning, on Saturday morning, she was told there was no record of the call.

**Mr KINMOND:** The concern I would have is that, leaving aside the question of whether this person has attended a course, is that acceptable for an Inspector in any event? I think the answer would be that you would have real concerns about any Inspector, regardless of whether that Inspector had attended a course, who does not appropriately deal with these kinds of matters that an Inspector, being paid the kind of money that an Inspector is being paid, should be able to deal with.

**Mr KINROSS:** I take your point. My concern is that I wonder, if he is not being exposed to any dispute resolution or conciliation course, then maybe that is why the officer has that sort of attitude that he would express it to me as a Member of Parliament.

**Mr KINMOND:** My particular view would be that if he does not have those skills, I would have concerns about his appointment to the position of inspector.

**CHAIRMAN:** On page 4 of your report you indicate that you are at present doing an evaluation of the Employee Management System, and you are talking about the January-June phase of it, and you are dealing there with a whole series of issues that are important both to the Police Service but also yourselves and of interest to this Committee, including turnaround times, complainant satisfaction, devolution in decision-making, and a whole range of things that are important in terms of the ongoing capacity of the Police Service to manage this issue. You also say that you are convening a forum to resolve 30 outstanding hard cases which raise difficult management issues. Without raising any in a particular sense, is it possible for you to comment on the sorts of difficult management issues that are raised in these cases?

**Mr KINMOND:** Hard cases include cases where there has not been an initial appropriate management response and no key management decisions can be made about the subject of the complaint. These included serious abuses of power, gross repeated incompetence, or under-performance and negligence. In the past it may have been the case that an officer may well have been departmentally charged for many of these particular cases. Some of these cases are now being considered under the Commissioner's confidence provision, but one thing that the Police Service realises, and that we accept, is that to simply respond in a punitive way, if the officer is going to remain in the Service, is not really to the point. What one would hope to see achieved is that the officer actually learns and amends the inappropriate conduct.

To give you some broad examples of the sorts of cases that we are talking about when we talk about serious misconduct, such as evidence that indicates that a senior

constable may have been driving a motor vehicle whilst intoxicated and that he hindered the investigation of a motor vehicle accident in refusing to supply the name of the driver of the vehicle to police, including his supervisor attending at the time. There are a number of these particular cases where, if one looks at it, there is the question whether they should remain in the Service. It may not be a case where there would be sufficient material to proceed under 181D, which is the Commissioner's confidence provision, but on the other hand you cannot simply say, "Well, we will just admonish this officer and tell him not to do it again."

What we have said to the Service is that we need to sit down and discuss these hard cases, and we need to develop some common ways of responding to these issues so that the community can rightly expect that these matters are being dealt with as serious matters.

**CHAIRMAN:** And in a systematic way.

**Mr KINMOND:** That is right.

**Mr KINROSS:** I am a bit confused on that example. We have read in the press about an officer and I think a footballer involved in some case. Can you tell me whether there are more cases like that? You seemed to suggest there were more than that. Are they not being criminally charged? This is way outside the Employee Management System; this is five to ten metres up the ladder.

**Mr KINMOND:** I think some of the problems in relation to some of these cases is that from the point of view of strict proof, from the point of view of proof beyond reasonable doubt, you have quite often got a problem. In those circumstances you will not sometimes be able to institute criminal proceedings. And advice from the Director of Public Prosecutions would be sought in this case.

The difficulty you have got is that although you have not got sufficient material to proceed criminally - and the Royal Commission drew attention to this - the standard should not be whether you can prove beyond reasonable doubt that an officer is engaged in an offence. But, where there are fairly strong indicators of either criminal conduct or conflict of interest - for example, you have cases where officers engage in matters in which they have a personal interest, those officers will often then by way of defence say that it was an innocent mistake - you then look at the conduct and ask the question whether it is reasonable to assume it was a reasonable mistake. You cannot prove what is in the mind of the officer, as to whether it was an innocent mistake in terms of the judgment call, and whether the officer knew that he or she was doing the wrong thing and nevertheless deliberately did it.

So these are quite often the hard cases. It gets down to a situation where it may not be sufficient evidence to prove a matter criminally, but nevertheless there are real concerns as to the officer's conduct. Or else, the officer has engaged in grossly inappropriate conduct but the officer seeks to excuse the conduct by way of saying "Well, I did not know any better." When one looks at it, you form the view either that the officer is extremely ignorant or that the officer is in fact compounding the original

error by being untruthful.

**Ms MOSS:** I would add to what Steve said. I think this process helps management to look at risk assessment of the officers, looking at the whole picture and considering how to deal with that person. If you have a few unproven cases, what do you do? You still have to look at the history of the person, so hopefully by looking at these hard cases, and having this forum, will help management look at the whole issue of risk assessment and how risky it is to keep that officer in that position, or whether something has to be done about that person, or whatever.

**Mr KINMOND:** The other important point to make is that the Police Integrity Commission is quite keen to look at these hard cases with us and with the Service so that we can make sure, in relation to the way in which these matters are dealt with, there will be a common voice from the external oversight bodies.

**CHAIRMAN:** The Ramsay evaluation that is going on is due to be reported on in December. You are then going to review that and comment on the project brief. Then it goes out to further trials. What is the extent of those trials, and how long are they likely to run? When is there likely to be a roll-out of the employee management system?

**Mr KINMOND:** The Police Service initially took the view that they were going to conduct another trial. Initially, I think it was intended to start around September, and that that trial would go for only three months and they would then roll it out across the Service. As soon as I learned of that I advised the Service that that was inappropriate, and I received the support of the Police Integrity Commission.

I anticipate that towards the end of January or early February they will be rolling out a trial in the Hunter region, Greater Hume Region and Goulburn Patrol as well as at the Police Academy, which I think is a very important area on which to focus. If the Police Academy itself has not got the standards right, then the Service has major problems. Obviously, the evaluation will be conducted in accordance with the proposals outlined in the Ramsay report.

I anticipate that they will probably need to go for about six months in order to be able to come up with some useful data. Based on the information that we get at the end of the six months, then a determination needs to be made as to further roll-outs. If there are still some significant problems that need to be addressed, then my view is that you address the problems before you move to the roll-out. So it will be dependent on the results of the evaluation.

**CHAIRMAN:** If there are no further questions on that issue, we will move on. Ombudsman, I note that you have just tabled the FOI on Royal Prince Alfred Hospital as part of your report, where you talk about the pick-up of your recommendation by public authorities. Obviously, this one indicates a lack of interest on behalf of the Area Health Service of carrying out its responsibilities, and on page 2 of that report you say:

*We are particularly concerned that section 52(4) of the FOI Act prevents the Ombudsman from informing Parliament and relevant Ministers about the conduct of a public authority that may be improper or contrary to the public interest and where the evidence for such conduct is revealed in documents that an agency, in responding to an FOI application, has claimed to be exempt.*

I wonder if you would expand on that issue for the benefit of the Committee.

**Ms MOSS:** This was a case where the complainant lodged an FOI application for specific documents and, because of a confidentiality agreement which the hospital entered into with the contractor, they then used that to say that they could not release those documents. If those documents were released, they would have shown of course any information that would shed light on the eight-year delay to the building of that particular private hospital.

Because of that claim of a confidentiality agreement, we were not able to release those documents to the complainant because a particular section of the FOI Act says that when the organisation claims that those matters are exempt under a commercial in confidence agreement, then we cannot do anything else except abide by what they say.

Crown Solicitor's advice to us was that when they claimed the exemption it would be only under extraordinary conditions that we would be able to release the documents, that the interpretation of that was just so incorrect and so extreme that we would be able to bypass that and say, "Yes, we can release it." So, because of that provision, we are not able to release those documents to either the Minister or the Parliament as well as to the public.

**CHAIRMAN:** And in your view it is very much in the public interest that those documents be released?

**Ms MOSS:** That was my view, that it was certainly in the public interest that those documents be released.

**CHAIRMAN:** So your recommendation is that there needs to be a change.

**Ms MOSS:** To that particular provision to enable us to release those documents. We certainly understand the constraints imposed by commercial in confidence exemptions. We perfectly understand that if the private contractor felt that by revealing that information that would put them at a disadvantage with other contractors, then they would not want that to be released. I do not believe that the exemption covered that. So I think that in those situations, where quite obviously, as I believed in this case, it was used as an excuse not to release documents, we believe an amendment would remedy that situation.

**CHAIRMAN:** So that would mean a public interest test?

**Ms MOSS:** The Public interest and special circumstances test.

**CHAIRMAN:** Are there other Acts where that might apply?

**Mr WHEELER:** The problem is really only in the Freedom of Information Act. It is section 52(4), which says that:

*The Ombudsman shall not disclose any exempt matter in the exercise of his or her functions under the Ombudsman Act in relation to any investigation of a determination made by an agency under the Freedom of Information Act.*

So, because the particular investigation was under the Freedom of Information Act into whether the documents should have been released, we could not release any information that was claimed by the agency to be exempt. If, on the other hand, the complainant had come to us under the Ombudsman Act complaining about delay, instead of complaining about FOI, there would have been no problem. But because the complaint was under the FOI, wanting the release of documents, we did have the problem.

**Ms MOSS:** So you would have the ludicrous situation where, under the FOI Act, you could release less than if the matter had been brought under the Ombudsman Act.

**Mr WHEELER:** The complainant's particular interest was in wanting the documents. When we looked at the matter our particular interest was that there was a huge delay and that was against the public interest. Because the matter was under the FOI Act, we could not discuss the details. But, as I say, if we had been doing this purely under the Ombudsman Act, we could have released the lot.

**Ms MOSS:** And, of course, the complainant did not know about the details of the delay issue until we were closing up the complaint. He had brought it under the FOI Act, because that is what he wanted: he wanted the documents.

**CHAIRMAN:** Could you not launch an own-motion investigation of it?

**Mr WHEELER:** The problem is whether that would be seen as some artificial mechanism to get round a statutory restriction, and that is why we did not say, "Right, we will stop under that Act and start under another." The perception would have been wrong.

**CHAIRMAN:** As I recall, on this issue you were not overly happy with the implementation of FOI across government departments. Was that the case?

**Mr WHEELER:** The annual reporting was our particular concern. A Parliamentary Public Accounts Committee report recommended that we should look at annual reporting by agencies of their FOI data. Also, out of our interests in this area, we did a review of 100 or so annual reports of agencies and looked at what they had reported and whether that met the requirements of the legislation or whether it allowed an external scrutiny to determine what was going on. We found that many of the agencies were not complying with the legislative requirements and were not putting in sufficient information so that we actually could make a reasonable external assessment of how

they were going. So we put in that separate report that you have already seen.

**Ms MOSS:** By and large, our observation is that agencies do comply when faced with FOI applications. It is when they are faced with considering whether they should release information that might be critical of the agency, or where the information might embarrass the agency, that we have the most problems, even though those grounds do not constitute an exemption.

**CHAIRMAN:** In the case of the public interest, is that not really the time that they should be releasing the documents?

**Ms MOSS:** Yes, indeed.

**Mr WHEELER:** The basic position is that in relation to run-of-the-mill applications, this State compares very favourably with other States in the number of applications where release is provided. But, as soon as the matter gets contentious, particularly when it is not related to personal affairs, that is when things get difficult.

**CHAIRMAN:** If there are no further questions on that area, I might move to page 12 of your report to the allied issue of whistleblowing. The Committee reviewed the Protected Disclosures Act and produced its report to Parliament in September 1996. The Committee made some fairly strong recommendations in relation to managerial responsibilities, and those are contained on page 143 of the report. Certainly, in terms of ongoing monitoring and review, it indicated that public authorities should be required to provide a report to the joint committee undertaking its biennial review. That gave a whole range of suggested areas where government authorities should be complying with the whistleblower Act.

It is a great disappointment to me to see that your audit of 100 internal reporting systems showed that 72 per cent of those were inadequate, that many contained statements about the Act and its interpretation, and that very few offered proper advice and guidance to prospective whistleblowers. To me, that is a non take-up either of responsibility or of the report tabled in Parliament by this Committee. I would be interested in your comments on operations you have done since this review to improve the Whistleblowers Act implementation in public authorities.

**Ms MOSS:** There has been a fairly intensive education program that we carried out with the Independent Commission Against Corruption and the IMM. That has been quite intensive round the State, particularly with local government departments. So we are hoping that the message will get out through that.

**Mr WHEELER:** Following the review, on behalf of the Steering Committee that has been set up with various government departments represented on it, including ourselves, the Audit Office, the ICAC, the Premiers Department, the Cabinet Office, Police Service and the Department of Local Government, I wrote to all agencies whose internal reporting system was inadequate, stating in very blunt terms that the system was inadequate and listing exactly where they had to improve the documents, pointing out all the technical errors where they appeared - and by technical I mean mis-

statements of the Act, mis-statements of the obligations, et cetera.

That was a reasonably blunt letter because I thought it was necessary to focus people's minds in this area. We have had a reasonably good response from that, and a number of agencies have forward revised copies of their policies which are far better in their content. Agencies are doing a lot more now to make sure their staff are aware, first, of the existence of the systems and, second, what their rights are under the Act. So we are keeping up this process. As the Ombudsman has mentioned, through the Steering Committee, we are running training courses around the State for councils, at the moment. Next year we will move into training courses for State public officials.

The research done so far tends to indicate that the primary problem is with councils, more so than with State instrumentalities. In addition, it is a lot easier to organise seminars where you are talking about the same system of government and the same sorts of policies that could be brought in. But next year we will expand that into other State government agencies.

**Mr KINROSS:** If I might make an introductory comment. Mr Chairman, at a deliberative I raised the fact that I had attended yesterday the Whistleblowers Australia public forum in a personal capacity, of course, but as a member of that committee and indeed chaired the questions session towards the end. Ms Kardell would be very pleased to hear this, because this was the very issue she asked me about at the end. Can you tell me what is the state of this interdepartmental committee? How often has it met recently? And when do you expect to resolve these outstanding issues in terms of implementing all the recommendations of our Parliamentary Committee's report of September 1996?

**Mr WHEELER:** I would have to get back to you on the precise number of meetings, but it was meeting once every month. I think we have moved to two-monthly meetings at the moment. The committee has no role in the legislative amendments recommended in your report, and a number of the recommendations are of a legislative nature. Where matters can be taken up on an administrative basis, we have tried to do so. For example, we have built as much of the report as we could into our protected disclosure guidelines, we have quoted numerous bits from it, and we have stated where we think matters are relevant.

A lot comes down to the legislative changes though, and that is a matter for the government. But I will certainly report back to you on when the Committee has met and on the matters that have been discussed by the Committee.

**Mr KINROSS:** Have the legislative changes been the subject of discussion at the interdepartmental committee?

**Mr WHEELER:** Yes. We have asked, probably at each meeting, for an update on what was happening.

**Mr KINROSS:** And what has been the response? And who is giving the response? Is it the Premier's Department, or is it Cabinet Office?

**Mr WHEELER:** The response to date has been from Cabinet Office. They have carried out, as I understand it, significant review of the recommendations, proposals have been developed, and they have been revised on, I think, at least two occasions. The last time we checked on this, it was either just before or just into this last session, and it was pointed out that we were talking about major amendments on fairly wide-ranging issues.

So at that point the Ombudsman wrote in, stating that from our perspective we had two particular issues that really were of priority that we would like to see something done on, even though the rest of it might be too big to deal with immediately. One of those was the status of police officers, given that the whole issue is totally confusing as to whether they come under the Act or in what circumstances they do.

The second was that the protective provisions under the Act, being criminal provisions, so that they had to be proved to the criminal standard all elements of it against their employer. That could do with looking at in terms of the recommendation of the Committee. We have not heard back formally on that.

**Mr KINROSS:** Could I flag that I do not have with me - because I did not think this issue would come up today - a letter that I would like to table formally from Ms Cardell in April or May this year saying that the reason he was not implementing - this is what I believe it said because I have not had time to fully digest it - but, basically, her concerns were: We are in the middle of a Royal Commission and we do not have time to deal with the Committee's recommendations.

**CHAIRMAN:** I think we can look at the letter when it is tabled.

**Mr KINROSS:** I would like to flag that it is an important issue because if this interdepartmental committee has been set up to monitor some of the co-ordination links that this Committee has flagged in its report, and that is being delayed, I would regard that as a serious matter. Yes, of course, it is a matter for the Government to implement. But, as I say, these are important issues. Whistleblowing, as you have said, is an important issue. I just think that, the Royal Commission having reported, we should be bringing it on forthwith.

**CHAIRMAN:** Certainly, the 72 per cent inadequate response indicates that there is a need for a proactive approach to be taken since then to deal with that. This is a two-yearly review by legislation, so we are going to be up to doing a further review next year.

**Mr KINROSS:** I was asked yesterday whether SES workers are under the same obligations in terms of whistleblowing as are CEOs of departments. I do not recall the full context in which the question was asked, but that was a concern raised by Whistleblowers Australia, that they did not think SES and CEOs, who are ultimately responsible for government departments in terms of the responsibilities and obligations for whistleblowing activity, were on the same level.



**Mr WHEELER:** As I understand the position, the Government has either given some thought to or is implementing a proposal whereby a requirement to implement the legislation is included in SES contracts. I think that that has proceeded. I cannot be absolutely sure on this point, but as I understand it, it has proceeded. But it would only proceed in relation to new contracts, I would assume. In terms of the legal obligations or the legal rights, they are there across the public sector, and there is no difference whether you are a SES appointment or a public official employed under the Public Sector Management Act or under the Local Government Act. But, in terms of your obligations to implement the legislation, as I understand it, steps have been taken to include such provision in the contracts.

**Mr KINROSS:** And that is the same for SES, you think, or CEOs?

**Mr WHEELER:** I think it is the same for both.

**Mr KINROSS:** Have we had a response from the Cabinet Office as to the stage of implementation of this Committee's recommendations?

**CHAIRMAN:** Not to my knowledge. If we could now move on to the issue of your relationship with Police Internal Affairs after the setting up of the Police Integrity Commission. Could you describe the level of contact and oversight and/or monitoring that is now within the hands of the Ombudsman?

**Mr KINMOND:** We still have a great deal to do with Internal Affairs, particularly in relation to individual matters but also where there are systems issues that arise. In addition to that, we have ongoing involvement with the Internal Affairs consultants, who are located within each of the regions. Given that we are still dealing with a range of serious matters, we still have a significant amount of involvement with Internal Affairs - not to the same extent as previously, but to some extent that has been picked up by our involvement with Internal Affairs consultants in the region.

**CHAIRMAN:** The Police Integrity Commission has an audit role on their investigations, but my question was more directed to monitoring performance, completion times, and the accuracy of their operations.

**Ms MOSS:** My understanding is that it still applies.

**Mr KINMOND:** It still applies, but a lot of the work that we will be overseeing will in fact be reasonably serious matters that have been dealt with at the regional level and major operations that the Police Integrity Commission is carrying out of a proactive nature will be monitored by PIC.

**CHAIRMAN:** In terms of the Police Integrity Commission, what sort of impact has the creation of the Commission had on the workload of the Ombudsman, particularly in your oversight role and your relationship with the Police Integrity Commission? I understand that you are virtually conducting a lot of the work that perhaps initially people would have thought was going to be done by PIC. We will have the opportunity this afternoon to discuss those issues with the Commissioner.

**Ms MOSS:** As you know, it is a positive and co-operative relationship. In terms of workload, I do not think it has really affected our workload. Our complaints still appear to be at a fairly high level in this area, although I believe in the last quarter it has dropped somewhat, probably because of the internal arrangements that we have with the Police Service. Recently we have renegotiated our Category One complaints, and that has narrowed the category even more of what the Police Integrity Commission handles. We can give you details of those agreements.

**CHAIRMAN:** I would be interested in the philosophy underlying that perhaps contraction of the Police Integrity Commission to fairly serious issues within Category One.

**Ms MOSS:** Basically, we are still handling a great number of matters, including matters which involved criminal offences. So, yes, the Police Integrity Commission does want to focus on the much more serious matters, and wants to be able to focus on specific operations, and feels that they want to spend its energy doing that well. In effect, we are still handling quite a number of matters that people might think would normally be handed by the Police Integrity Commission.

**CHAIRMAN:** The protocols have been fairly clearly defined, I take it?

**Ms MOSS:** They have. Where we come across matters which we believe are borderline, we liaise quite closely and the Police Integrity Commission works out whether it wants to pick those up or not.

**CHAIRMAN:** Are there any further questions on that particular area?

**The Hon. M. J. GALLACHER:** Ms Moss, you are aware of the Police Integrity Commission's Annual Report which stated that the PIC "sees itself as having a role in the monitoring of investigations." From your perspective, as someone who has been involved in this process for quite a number of years, are you concerned about the number of serious matters that are being referred back to the police for investigation, that work basically under a similar model with the ICAC having a monitoring role and prior to that the Office of the Ombudsman having a monitoring role?

**Ms MOSS:** I am not too sure. The Police Integrity Commission at the moment is basically beginning its operations, so we are seeing it in its early days. I think out of necessity they have to pretty much pick and choose what they will focus on, and I think over time matters will probably settle better.

**Mr KINMOND:** If we look at the deficiencies in performance, the major problem we have at the moment related to proactive major operations is that we were, quite frankly, not able to effectively oversight those matters. So, for example, you might have suspected ongoing criminal conduct by a range of police officers, there was a need for a major operation to be commenced to examine those kinds of matters, and there was the need for a very active monitoring of those matters. We, as a complaints handling body, have essentially reacted to some extent. We have not got telephone intercept powers, and we do not have powers in relation to taping and listening devices and so

on; nor do we have the resources to be able to actively participate in large-scale operations.

Consistent with the argument that we put to the Royal Commission, we see a need in this State for a body that is able, by proactive operations, to participate in those directly and/or make sure that Internal Affairs is effectively carrying out those matters. We see that the Police Integrity Commission is actively involved in relation to those matters. If that means that in relation to complaints that require a reactive response we still need to play a role, we do not have a problem with that.

For example, whether in fact there was a particular assault on a day in question is really a question that needs to be considered in terms of the available evidence, and we are equipped to do that. But whether in fact Constable X is regularly involved in ripping off members of the public would probably require a proactive operation, largely resource intensive, and would involve the kinds of resources that the Police Integrity Commission has available to it.

**CHAIRMAN:** If there are no further questions on that issue, we will move to local government. From your response on local government, obviously that was a matter of concern arising out of significant issues last time as well as your general report. There is ongoing interest in the position between general managers and councils, and you obviously are preparing a report that will indicate some of those issues early next year. You have also produced two investigations in your report. You discuss Ku-ring-gai Council and Auburn Council and say that those matters, while the reports back to the council or the Minister are not matters that will be reported to the Parliament, they will form the basis of case examples in your report. What is the process of determining which reports you will actually table in Parliament? Is it the significance of it as a public interest matter?

**Ms MOSS:** Primarily public interest. With respect to some individual inquiries that we do, sometimes we believe that recommending that they be tabled within the local council meetings is sufficient. Often, those matters will only concern the local councils and may or may not concern issues of general public interest. We feel it is probably not necessary to make a special report to Parliament. Quite frequently, these matters are quite detailed but are of interest only to the players involved in that particular matter at local council.

But what we hope to do next year is distill what we believe are the key issues that would be of public interest and to make that the subject of a special report to Parliament, rather than issue the reports themselves, many of which are seven inches thick, on matters in which parties other than the players involved would have very little interest.

**Mr LYNCH:** My perception of the evidence is that the Director-General of the Department of Local Government has a somewhat different view about the level of concern that will be generated by the separations.

**Ms MOSS:** Possibly, although our later indications show that they will be looking at certain of the recommendations that will be made and possibly taking them up. That probably is true. We believe, from the work that we have done on the complaints, plus looking at the statistics, that the rate of either dismissals or retirements, or whatever reasons general managers have, is still inordinately high. I understand from the IMM figures of the last five years that about 83 general managers have left because of being retired or dismissed, that one general manager died in the job, that some retired because of sickness. I understand there might be a variety of reasons why general managers would have left, but that number of 83 out of 177 is still inordinately high for local councils.

We think that it might be worthwhile to look behind the situation to see whether there are other reasons why there is this high number. From complaints handling and from talking to general managers and councillors right across the State, it is obvious that they have the perception that this is an issue for the day-to-day management of councils and these issues could be better clarified.

**Mr WHEELER:** If I could make two points here. There are two issues here. The first is the number. There is some ongoing discussions between ourselves and the Department of Local Government as to just what the numbers are. If you look at the basic termination, it is about 10 per cent a year, from memory. But we are thinking of going behind that to look at things like the resignations, even with the ones that go to other councils, to look at the reasons behind those resignations. Were there problems occurring at the councils that caused these people to want to move?

The information we are getting from our complaints handling and going around local government is that quite often people will leave a council because there is a huge dispute going on and it is easier to get out and go somewhere else. I think in the case of Ku-ring-gai Council's new general manager, that might be a good example. He has got out of Maitland and has gone to Ku-ring-gai. From memory, I do not think she was terminated; it was a resignation.

So we say you look at those figures, even the sickness cases, resigning on the basis of sickness, we are aware of one general manager who went out on the basis of WorkCover claim arising out of stress, because he had great difficulty working with the council in that particular area. So the first issue is the numbers. We believe the straight terminations are not reflective of the level of problem that is occurring.

The second issue for us is that it is not like at the State level, where if a Director-General is dismissed it happens very quickly and it is all over. In local government, these things tend to go on for six to eight months. There is a long dispute that quite often gets messy and bloody. It leads to the council losing focus on its core activities. Because of the dispute that is going on between the general manager and either the mayor or the council, there is no focus by the council on performing its core functions during that period. So we are having ongoing discussions with the department about the seriousness of the problem and the extent of the problem.



**Mr LYNCH:** You would have expected, though, a dramatic increase in the number of terminations or moves post 1993 compared to what you had prior to 1993.

**Mr KINMOND:** Absolutely.

**Mr LYNCH:** You have effectively moved from a job-for-life position with town clerks to a five-year renewable contract. In fact, unless there are a significant number of changes, the new Act and its reforms have failed abjectly. That has to be factored into the reviews, does it not?

**Mr KINMOND:** Absolutely. We are really talking about the ones that occurred after that. Once they have re-appointed their general manager, or appointed a new one, what happened to them? If you go back, the number that did not work out, for one reason or another, is high in our view.

**Mr LYNCH:** There would be a significant number who in 1993 simply stitched up a five-year contract on the basis of continuing the way they were going for 100 years, and things might have started to unravel subsequent to that. It seems to me it is just a lot more complicated with nasty councils giving general managers a hard time.

**Ms MOSS:** I am sure that is not necessarily the case. I think it is a two-way street.

**CHAIRMAN:** Or the older town clerks not being able to adjust.

**Mr LYNCH:** I think a lot of this is about old town clerks wanting to remain as general managers and not be subject to five-year review. I think there is a degree of complaint coming from general managers who are attempting to reinstate the old system.

**Ms MOSS:** Yes, and we would not disagree with that. I think it is important that town clerks and general managers have appropriate performance agreements with their councils and that they should perform accordingly. We are saying that because of the 1993 Act the delineation of responsibility is not necessarily that clear to general managers and/or councillors. The respective players need to be much better aware of where their powers lie so that they can carry out their functions under the Act.

**Mr LYNCH:** I think that is right. Certainly, cases have been put to me that general managers were doing things that I would regard as being far beyond what is appropriate. For example, I am aware of councils that have been approached by community groups about a problem with the lease of a particular facility. They contact the council officer, not to put pressure on the council officer but on behalf of constituents just to find out what is going on, and the councillor gets told by the general manager, "You're not allowed to do that because that is not part of your role as a councillor." The community group could directly approach the council officer, but the councillor could not.

**Mr WHEELER:** That is a very good example. A number of the matters, we are finding, involve new general managers who come in thinking that the Act reflects what is supposed to be there and start acting that way, not realising that they are in a political situation and that there has got to be a lot of give and take. The ones who draw the

line and say, "It is my power, you stay out of it" are going to be in as much trouble as the ones who are sitting there and doing nothing whatsoever.

**Ms MOSS:** It has to be very difficult for councillors, who are elected to those positions, where the public or constituents have certain expectations of what those elected people should be doing. They feel that they are answerable to their constituents. They believe that certain policies ought to go a certain way, so that if the general manager says "No, you can't" that becomes a very difficult situation.

**Mr LYNCH:** The councillors have the power to review policies in any event, and you get the argument about whether it is a day-to-day matter or whether it is a matter for review by councillors. I am concerned that it is not all a one-way street.

**Ms MOSS:** No, it is not. And we appreciate that.

**Mr ANDERSON:** On last year's review of your report I think this self same issue came up for discussion. I thought there was talk then that there would be some sort of information made available, or education opportunities made available to councillors. I remember well raising the matter that some of the difficulties occur from older style councillors who have been there many years under the old system, and they were the ones who were having some difficulties knowing where the old Act finished and where the new Act started. I thought there was some talk then between us about some sort of an education program. Was any further consideration given to that?

**Ms MOSS:** We issued a discussion paper setting out many of these problems. That was issued to all the key players and we sought their response to it. Since then we have had discussions with people from IMM, who are very interested in the issue now, although they were not initially. I now believe they are interested in the matter, and we have had positive discussions. We are discussing education measures that could be taken up. We have had discussions with the Local Government Association. I guess we are at the point of trying initially to work out what the various parties can do in furthering that education. We are hoping that the Department of Local Government might assist in that regard.

**CHAIRMAN:** I think we have some responses to come from the Department of Local Government relating to the separations. Obviously, we will make that available.

**Ms MOSS:** One of the important issues is education, so we will be working on that. We have not begun a campaign on it, but we are working with the other parties on working something out.

**Mr WHEELER:** We have made recommendations on the Ku-ring-gai report - and those will be included in the report to Parliament - about the education role, who should take responsibility, and how it should be organised, in very broad terms, basically saying that the Department of Local Government should get together with the IMM and the associations and develop prior training before people's expectations of what their role should be is fixed, and training for new councillors. So you want to get candidates and new councillors and do this as an ongoing process, particularly focused on the next election.

**Mr ANDERSON:** Quite recently I had a case of a young fellow doing a university degree in public management, and one of the essays he had was on local government and the differences between the old Act and the new Act. After I had given him an explanation of my understanding of the new Act and how it operates he said, "Well, that's totally different from what I have been told by some of the councils." So there is confusion out there, even at this time, among senior officers of councils. That is something that should be considered.

**Ms MOSS:** That is reinforced by my discussions with councillors and general managers at the Local Government Association conference this year. Many people approached me and raised that as an issue.

**Mr KINROSS:** As you may know, we have Rhonda Bignall in Ku-ring-gai Council, and we also have a general manager who was appointed under the new Local Government Act who has left and gone to another council. You have made a very detailed report on Ku-ring-gai Council. Perhaps the timing was sad, following on from the Maitland Council debacle. You say in your report that it will be early next year, have you actually got an approximate time as to when that will be?

**Mr WHEELER:** It depends on when we finalise the other investigation. So, once they are both finalised ----

**Mr KINROSS:** I am sorry, that is all of them?

**Mr WHEELER:** Yes.

**Mr KINROSS:** Could you tell me why these matters necessarily go to the Minister? For example, the Ku-ring-gai Council matter involved a private litigant or another party, and I forget the parties involved in Auburn Council. But why do they necessarily go to the Minister, because that accounts for some of the delay.

**Mr WHEELER:** Under section 25 of our Act we have to give the Minister the opportunity to consult.

**Ms MOSS:** It is written into the legislation.

**Mr KINROSS:** Wherever there is a local council affected?

**Ms MOSS:** Any report on any agency. The report has to go to the respective Minister involved.

**Mr KINROSS:** What I want to stop is that it is being regarded - and I am not being critical of you, because I think it went on for so long. I think I am correct in saying I raised it in Parliament in December 1994, when we were in government, about this issue that led to the Ku-ring-gai Council report. It has not been tabled, has it? It has not been tabled, but it has been given to the parties, and that is three years after the event. It is being regarded by councillors as a soap opera, which I would regard as a condescending comment. What I want to do is avoid that and see that a lot of the hard work and lessons to be learnt do come out, with teeth, in your report as soon as possible.

**Ms MOSS:** Not to forget that we were also subject to Supreme Court action.

**Mr KINROSS:** Yes, I am conscious of that. That was in July 1995.

**Mr WHEELER:** And there has been an extensive period of consultation with persons the subject of adverse comment. That period has been much longer than usual. Extensive submissions have been received and considered.

**Mr KINROSS:** Could I make that recommendation, because the problem as well, generally from a PR point of view and recommendations, no matter what the Ombudsman does, as my colleague here says, on local government specifically, it tarnishes the incumbents, who are not really a lot of the problem. It has now been at least two years, and they will probably wear it if we do not get this report out soon, and that will affect their re-election, unjustifiably maybe, as if they are the target of the problem, when it was the previous council.

**Ms MOSS:** I take your point.

**Mr WHEELER:** Certainly, Ku-ring-gai has the report, and they were asked to table it at a council meeting for the benefit of the councillors.

**Mr KINROSS:** Is there any discretion in your organisation to give the report to persons other than that?

**Mr WHEELER:** No.

**Mr KINROSS:** Is there any discretion as to whom a report can be provided?

**Mr WHEELER:** The Act specifies that it goes to the head of any public authority concerned - and we may have discretion about that particular point - and to the complainant and the Minister.

**CHAIRMAN:** If there are no further questions, I thank you Ms Moss, Mr Kinmond and Mr Wheeler for appearing before us and, in a very co-operative way, answering the questions posed by members of the Committee. We look forward to the reports that you have mentioned, and certainly to our next meeting. I thank you also for your hospitality on our recent visit to the office to look at your case management system. Thank you very much.

(The witnesses withdrew)



Conciliation of police complaints . . . . .	24-30, 33
and failure rates . . . . .	25, 26, 33
Conciliation training . . . . .	37
Employee management system (EMS) . . . . .	6, 38, 40
Freedom of information	
and implementation . . . . .	7
Freedom Of Information . . . . .	41, 42
and RPA Hospital . . . . .	40, 41
Freedom Of Information Act	
and implementation . . . . .	42
Local government . . . . .	48, 51
and general managers . . . . .	49-52
Local Government	
and complaints . . . . .	6
Numbers of complaints . . . . .	6
Opening statement . . . . .	6
Police complaints . . . . .	31, 32, 47
Police ethics training . . . . .	36
Police Integrity Commission . . . . .	46
Police Integrity Commission and Police complaints . . . . .	46
Protected Disclosures Act . . . . .	43-45
Protected Disclosures Act	
and implementation . . . . .	6
Relationship with Police Internal Affairs . . . . .	46
Young people . . . . .	6
and complaints . . . . .	6

# APPENDIX 1

---



COMMITTEE ON THE OFFICE OF THE OMBUDSMAN  
AND THE POLICE INTEGRITY COMMISSION

**Proceedings of the  
Committee on the Office of the Ombudsman  
& the Police Integrity Commission**

Wednesday, 10 December, 1997  
at 10.00am in the Jubilee Room, Parliament House

**MEMBERS PRESENT**

**LEGISLATIVE ASSEMBLY**

Mr B Gaudry MP (Chairman)  
Mr J Anderson MP  
Mr J Kinross MP  
Mr P Lynch MP

**LEGISLATIVE COUNCIL**

The Hon M Gallacher MLC  
The Hon E Nile MLC

**APOLOGIES**

The Hon A Kelly MLC, Mr A Fraser MP, and Mr A Stewart MP

**IN ATTENDANCE**

Ms Helen Minnican (Director), and Ms Natasha O'Connor (Assistant Committee Officer).

**DELIBERATIVE MEETING** - Commenced at 10.10am - concluded 10.15am.

The Committee discussed the procedures for conducting the General Meetings with the Ombudsman and Commissioner for the PIC.

**GENERAL MEETING WITH THE OMBUDSMAN**

The Chairman opened the public hearing at 10.20am and welcomed the Ombudsman, Ms Irene Moss, Deputy Ombudsman, Mr Chris Wheeler and Assistant Ombudsman (Police), Mr Steve Kinmond.

The witnesses, all on former oath, acknowledged receipt of summons.

The Ombudsman tabled her original answers to the questions on notice dated 5 December, 1997 and the addendum to the answers dated 8 December, 1997.

The Ombudsman addressed the Committee, then the Chairman questioned Ms Moss, followed by other Members of the Committee.

Questioning concluded, the Chairman thanked the witnesses for attending.

The Committee adjourned at 12.15pm and resumed at 1.10pm.

### **GENERAL MEETING WITH THE COMMISSIONER OF THE PIC**

The Chairman opened the public hearing and welcomed the witnesses.

Commissioner for the PIC, Judge Paul Urquhart QC, Assistant Commissioner, Mr Tim Sage, and Information Manager, Mr Denis Lenihan, all on former oath, acknowledged receipt of summons.

Mr Andrew Nattress, Director of Operations Special Services, took the oath and acknowledged receipt of summons.

Mr David Rawson, Director of Corporate and Information Services, took the oath and acknowledged receipt of summons.

The Commissioner tabled his answers to the Committee's questions on notice.

The Commissioner addressed the Committee, then the Chairman commenced questioning Judge Urquhart, followed by other Members of the Committee.

The public hearing concluded and the Members of the Committee continued to examine the witnesses in private.

Questioning concluded, the Chairman thanked the witnesses for attending.

The hearing closed at 3.10pm.

**DELIBERATIVE SESSION** - commenced at 3.15pm

#### **Draft Report - General Meeting with the Inspector of the PIC**

The Committee considered the draft report on the first General Meeting with the Inspector of the PIC, as previously circulated.

The Committee resolved on the motion of Mr Lynch, seconded Mr Anderson, that the draft Report be adopted as the Report of the Committee and that it be signed by the Chairman and presented to the House.

The Committee further resolved on the motion of Mr Lynch, seconded Mr Anderson, that the Chairman, Director and Committee Clerk be permitted to correct stylistic, typographical and grammatical errors.

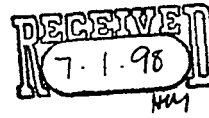
Minutes of the meetings held on 12 and 17 November 1997 confirmed on the motion of Mr Lynch, seconded, Mr Anderson.

The Committee adjourned at 3.20pm sine die.

# APPENDIX 2

---

6. January 1997



Mr Bryce Gaudry, MP  
Chairman  
Committee on the Office of the Ombudsman  
and the Police Integrity Commission  
Room 813  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Gaudry

**SIXTH GENERAL MEETING WITH OMBUDSMAN**

The Ombudsman is on leave until 12 January and I make this reply in her absence.

I enclose a copy of the corrected transcript.

In relation to those matters which we took on notice, I respond as follows:

1. *Transcript page 7*

Please find enclosed a copy of the course outline of the Police Service's Advanced Conciliation Techniques Course.

2. *Transcript page 10*

Mr Kinross, MP, raised the issue of police bypassing Members of Parliament who act on behalf of constituent-complainants.

The Customer Service Manager of our Police Team has instructed staff to bring to his attention any instances where the Police Service has bypassed a Member of Parliament to conciliate a complaint. These matters will be taken up with the Police Service by the Customer Service Manager to ensure that Members of Parliament are included when they request to be involved.

The particular complaint raised as an example by Mr Kinross, MP, has not been located yet. It would be useful if we could follow up on that complaint. Could we therefore request the details of the names of the constituents so that this can take place. The information can be provided to Michael Gleeson, Customer Service Manager, on telephone 9286 1075.

NSW Ombudsman

Level 3  
580 George St  
SYDNEY  
NSW 2000

Telephone  
(02) 9286 1000

Toll free  
1800 451 524

Facsimile  
(02) 9283 2911

TTY  
(02) 9264 8050

Email  
nswombo@  
nswombudsman.  
nsw.gov.au

3. *Transcript page 14*

Mr Kinross, MP, asked whether the use of Outcome #4 (as per the Police Service's standard conciliation form) has increased. Outcome #4 ("I accept that everything possible has been done to resolve my complaint, which has been brought to the attention of the subject officer/s. No further action is required.")

We have conducted some basic analysis to see whether there has been a trend where complainants agree to disagree at the end of the process of conciliation. The analysis shows a slight increase in the use of Outcome #4 over the last year. At the same time, there has been a slight increase in the number of conciliations resolved by the conciliating officer tendering an apology to the complainant on the behalf of the Police Service. The highest number of outcomes are found to be Outcomes #3 and 4 rather than 1 and 2.

The basic analysis is consistent with information gathered through our surveys and our contact with complainants about conciliation. Complainants consistently express the desire for acknowledgment by the Police Service about their concerns and that officers be spoken to about the complaint.

While such analysis is useful, it is our concern that the design of the conciliation form hinders a successful resolution of complaints. The use of complaint outcomes numbered 1-4 narrows the options for complaint resolution and discourages conciliating officers from seeking creative or unique solutions to complaints. The form contributes to a bureaucratic approach to conciliation that is contributing to the increased rate of failed conciliations. In our 1996-97 Annual Report, we reiterated the need for the Police Service to develop a more suitable and flexible conciliation form.

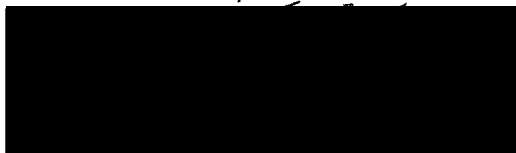
4. *Transcript pages 25 and 26*

Mr Kinross, MP, asked about the number of meetings of the Protected Disclosures Act Implementation Steering Committee.

The Committee first met on 5 July 1996, and has met on 10 other occasions. I enclose copies of the minutes of the Committee meetings.

I trust this information is of assistance to the Committee.

Yours sincerely



CHRIS WHEELER  
DEPUTY OMBUDSMAN

6/1/98.

# APPENDIX 3

---



# Advanced Conciliation Course for Senior Conciliation Officers

<b>Table of Contents</b>	<b>Page</b>
1.0. Rationale.	1
2.0. Program Philosophy.	1
3.0. Background.	2
4.0. Training Program Aims, Objectives and Outcomes.	2-3
5.0. Course Content.	3-7
6.0. Assessment Methods.	8
7.0. Selection Criteria.	8-9

## Advanced Conciliation Course for Senior Conciliation Officers

### 1.0. RATIONALE.

The training program has evolved in response to recommendations made by the Ombudsman that:

- (a) The Police Service should train a small group of police officers in advanced dispute resolution techniques to perform as Senior Conciliation Officers.
- (b) The training should be carried out by experts external to the Police Service.
- (c) The group of highly trained conciliators would then be strategically used by the Police Service in attempting to resolve complex disputes arising from complaints.
- (d) The Police Service must ensure that a high level of skill is attained prior to accreditation as advanced conciliators.

### 2.0. PROGRAM PHILOSOPHY.

The training program is geared to Local Area Commanders (LAC's).  
The program purports to:

- (a) Provide a higher level of conciliation service as an adjunct to existing opportunities to respond promptly and effectively to complaints made against police as well as dealing with issues which arise from the employee management system.
- (b) Provide a higher level of conciliation service in resolving more complex complaints.
- (c) To enhance the rate of successful conciliations by providing opportunities for a second attempt at conciliating matters which have not responded to initial conciliation efforts.

It is assumed that LAC's, in view of their appointment, have already demonstrated a capacity to facilitate the resolution of complaints against police including:

- \* the possession of effective oral communication skills, in particular, listening and interpersonal skills;
- \* the capacity to identify relevant issues relating to a complaint and to deal with unacceptable behaviour by police officers;
- \* a clear understanding and commitment to:
  - customer service
  - professional responsibility
  - the need for continuing improvement of police conduct through complaints management
  - the ability to appreciate the perspectives of both the police officer and the complainant
  - the capacity to appreciate and tolerate conflict situations where parties may express intense emotions.

### **3.0. BACKGROUND.**

The Internal Affairs Unit has been given responsibility for providing training courses in conciliation throughout the state of New South Wales. Members of Training Unit and a number of Internal Affairs Regional Officers were selected to undergo a "Train the Trainers" course presented by Ms. Micheline Dewdney, a highly qualified trainer and practitioner in facilitation, conciliation and mediation.

The conciliation course which was prepared for the training of conciliators related to the legislative basis and process of conciliation. Other course material which was used had been prepared by Ms. Micheline Dewdney and additional material by Mr. Dennis Meadus. Mr Meadus, who had also presented an Informal Resolution Course on a "Train the Trainers" basis, was a former English Superintendent of Police who had developed an informal resolution process and method training.

From May 1995 to July 1997, 1660 members of the New South Wales Police Service completed the two day conciliation course. The course was accredited as a short course by the New South Wales Police Academy in 1995. The course was designed for police of or above the rank of Sergeant. The Advanced Conciliation Skills Course for Senior Conciliators was designed for the newly-appointed Local Area Commanders.

### **4.0. TRAINING PROGRAM AIMS, OBJECTIVES AND OUTCOMES.**

#### **4.1. Program Aims.**

The aims of the training program are as follows:

- (a) To provide LAC's with a sound knowledge of the legislation and policies relating to conciliation.
- (b) To provide LAC's with the appropriate refinement of skills to prepare them for conciliating complex complaints against police.
- (c) To prepare LAC's for multi-level assessment of their conciliation performance with built-in opportunities for:
  - (i) in-course assessment:
    - \* peer group feedback of observed performance in a conciliation role play
    - \* progressive assessment of observed performance in a conciliation role play by a trainer
    - \* assessment at the end of uninterrupted observed performance in a conciliation role play by a trainer;
  - (ii) post-course assessment of three authentic conciliations by a peer assessor who will observe the LAC's performance and who will also obtain written feed-back from all parties to the conciliation, including the complainant, the conciliator and the involved officer

#### **4.2. Program Objectives.**

The course aims to provide participants with opportunities to:

- (a) Acquire a sound knowledge of legislation and policy guidelines in relation to the conciliation program.
- (b) Acquire advanced conciliation skills to deal with complex complaints against the police.
- (c) Critically examine the features of the conciliation program and its application in order to evaluate its effectiveness in responding to complaints against the police.

#### **4.3. Training Outcomes.**

At the completion of the course, the participants will have:

- (a) Developed an in-depth understanding of the conciliation process.
- (b) Demonstrated a capacity for conciliating complex complaints against the police.
- (c) Developed an awareness of mediation as an alternative process and its appropriateness in special situations.
- (d) Refined existing oral skills, in particular listening and other interpersonal skills and strategies, including the importance of remaining even-handed and impartial throughout the conciliation process.
- (e) Consolidated and enhanced a critical understanding of relevant changes in departmental policy and underlying rationale.
- (f) Demonstrated a capacity for identifying and applying creative and flexible complaints outcomes on behalf of the Police Service within the requirements of policy guidelines.
- (g) Explored innovative and appropriate options for resolving unsuccessful conciliations and ways of effectively implementing the terms of any conciliation agreement.
- (h) Critically examined the feature of the conciliation program, its applications and its effectiveness in responding to complaints against the police.

### **5.0. COURSE CONTENT.**

#### **5.1. Course Overview.**

##### **(a) Field of Study.**

The field of study is the application of skills and strategies in the management of complex complaints.

##### **(b) Name of Course.**

The name of the course is Advanced Conciliation Course for Senior Conciliation Officers.

##### **(c) Structure of Course and Training Methods.**

The course will be conducted over a 2-day period and includes the theory of conciliation, the conciliation model and its critical evaluation in the context of departmental policy and interactive group participation. Participants will be observed in role-playing and be provided by feedback both on a peer group review basis as well as by the trainers.

## 5.2. Course Content.

### DAY 1.

**8.30 am – 8.40 am: Introduction to Trainers.**

**8.40 am – 9.20 am: Session 1: Addresses by Police and Ombudsmen Spokespersons.**

#### **Session 1 Rationale.**

- (a) To convey to participants the importance attached to the conciliation program by both the Police Service and the Ombudsman in general and the potential of the program in enhancing the settlement rate of complaints.
- (b) To demonstrate the need to focus on the importance of professional responsibility and the need to examine strategies to contain and prevent an escalation in the rate of complaints in the context of the employee management system.

**9.20 am – 9.25 am: Course Objectives.**

**9.25 am – 9.45 am: Session 2: Introductory Exercise.**

Participants will divide into pairs and tell each other about:

- (a) Their work experience over the past two years.
- (b) The nature and extent of their conciliation experience.
- (c) What they hope to gain from the course.

Each in turn will then summarise what they were told to the course participants in plenary session.

#### **Session 2 Rationale.**

The Introductory exercise will act as an ice-breaker and will also create group cohesion. It also provides participants with an opportunity to apply their listening, paraphrasing and summarising skills, all of which are essential features of effective conciliation.

**9.45 am – 10.15 am. Session 3: Definition, Principles and Features of Conciliation and Mediation.**

#### **Session 3 Rationale.**

- (a) To develop a critical understanding of the feature of the conciliation process.
- (b) To provide additional information on mediation as a dispute resolution alternative and to appreciate the differences between conciliation and mediation.

**10.15 am – 10.35 am. Morning Break.**

**10.35 am – 11.20 am. Session 4: Communication Skills and Strategies which apply to Conciliation.**

#### **Session 4 Rationale.**

To refine and add to existing conciliation skills

**11.20 am – 11.35 am. Session 5: The Police Service Conciliation Program.**

**Session 5 Rationale.**

To develop a critical understanding of the conciliation process in the context of policy guidelines and recommendations by the Ombudsman.

**11.35 am – 11.55 am. Session 6: The Police Service Conciliation Model.**

**Session 6 Rationale.**

As for rationale for Session 5 above.

**11.55 am – 12.30 pm. Session 7: Critical Evaluation of the Conciliation Model.**

- (a) Participants will divide into small groups to evaluate the model and consider changes which may need to be made to maintain the fairness of the process and increase its acceptance by all parties, not just the complainant.
- (b) The small groups will then report back to course participants in plenary session.
- (c) Trainers will also provide input to the discussion in relation to the extent to which potential changes can be implemented.

**Session 7 Rationale.**

To provide opportunities for the course participants to explore mechanisms and flexible approaches to refining the conciliation process, in particular the participants who have taken part in the conciliation program.

**12.30 pm – 1.30 pm. Lunch Break.**

**1.30 pm – 2.30 pm. Session 8: Refresher on Legislation & Departmental Requirements.**

**Session 8 Rationale.**

To consolidate and acquire a sound understanding of relevant legislation and departmental structures. The inclusion of this refresher is based on positive feedback from participants in Train the Trainers Course on its value especially when conciliators have not had the benefit of sustained conciliation opportunities.

**2.30 pm – 3.00 pm. Session 9: The Conciliator's Opening Statements to the Complainant and the Involved Officer.**

Course participants will divide into pairs and each prepare one statement, one choosing the statement for the complainant and the other for the involved officer.

**Session 9 Rationale.**

To prepare the course participants for the fishbowl exercises which can be a daunting experience in a relatively non-threatening way.

**3.00 pm – 3.20 pm. Afternoon Break.**

**3.20 pm – 3.45 pm. Session 10: Fishbowl Exercise re Conciliator's Statements and Critique.**

Course participants will divide into two groups facilitated by the trainers to present their Opening Statements prepared in Session 9.

**Session 10 Rationale.**

To be actively involved in applying part of the conciliation process in a peer group review environment.

**3.45 pm – 4.30 pm. Session 11: Conciliation video.**

**Session 11 Rationale.**

To prepare the course participants for the intensive fishbowl exercises on Day 2.

**DAY 2.**

**8.30 am – 10.30 am. Session 12: Fishbowl Exercise – Scenarios 1,2 & 3. (Successful Outcomes.)**

Course participants will divide into 2 groups facilitated by one trainer for each group. The participants will be given the opportunity to role play the conciliator, the complainant, the involved officer and the observer. The conciliator will be responsible for conciliating the whole of the session i.e. the interview with the complainant, the interview with the involved officer and the follow-up interview with the complainant. The trainer will provide progressive feedback for the first two scenarios but will wait until the end of the scenario before giving feedback to the conciliator. The role players, i.e. the complainant, the involved officer and the observers, will be also be invited to provide feedback to the role-playing conciliator.

**Session 12 Rationale.**

- (a) To consolidate an understanding of the conciliation process in complex complaints by way of hands-on experience.
- (b) To demonstrate a capacity for conciliating complex complaints against the police.
- (c) To build on existing interpersonal skills and strategies in the context of conciliation.
- (d) To obtain peer-group feedback and exchange useful information on skills and strategies which can be applied.
- (e) To provide opportunities through role plays to appreciate the perspectives of both involved officers as well as complainants.
- (f) To provide opportunities for course participants to identify creative and flexible complaints outcomes within the requirements of policy guidelines.

**10.30 am – 10.40 am. Morning Break.**

**10.40 am – 11.30 am. Session 13: Small Group Exercise Stage 1.**

- (a) The two groups will remain under the facilitation of the same trainer as during Session 12.
- (b) Each of the 3 conciliators in Scenarios 1, 2 & 3 will complete the Departmental Forms informing the rest of the group on the way they are completing the form and the underlying reasons.
- (c) The trainers will facilitate commentary from the group of the conciliator's form filling.
- (d) The trainer will also facilitate comments from the group as a whole on:
  - other potential creative and flexible outcomes which could have been reached;
  - ways in which the agreement could be implemented effectively;
  - constructive critique of the Departmental Forms.

**Session 13 Rationale.**

- (a) To encourage course participants to identify potential outcomes within policy guidelines.
- (b) To explore ways in which agreement terms could be effectively implemented.
- (c) To critically examine completed conciliation reports in order to streamline the forms to accurately reflect what occurred in the course of the conciliation process.

**11.30 – 12 noon. Session 14: Debriefing Form-filling in Plenary Session.**

**12 noon – 1.00 pm. Lunch Break.**

**1.00 pm – 3.00 pm. Session 15: Fishbowl Exercise. Scenarios 4, 5 & 6. (Unsuccessful outcomes.)**

The same procedure and session rationale as for Session 12.

**3.00 pm – 3.20 pm. Afternoon Break.**

**3.20 pm – 3.45 pm. Session 16: Debriefing in plenary session.**

Exchange of constructive suggestions especially options for ways of resolving the unsuccessful conciliations.

**3.45 pm – 4.30 pm. Session 17: Introduction to mediation as a process option.**

**Session 17 Rationale.**

To consider the potential of mediation as an additional optional process in selected matters.



## **6.0. Assessment Methods.**

### **6.1. In-course Assessment.**

Assessment of the performance of course participants will be available at three levels:

- \* Level 1: Peer group feedback in the course of the fishbowl conciliations.
- \* Level 2: Progressive feedback from trainers at all stages of the fishbowl conciliations.
- \* Level 3: Feedback from trainers following an uninterrupted supervised fishbowl conciliation.

### **6.2. Post-course Assessment in Authentic Conciliations.**

Opportunities for assessment will be made available in two ways based on 3 authentic conciliations. This number may need to be reviewed according to the number of conciliations being available.

(a) Feedback from Parties to the Conciliation.

Feedback will be obtained from both complainants and the Involved Officer completing a simple exit form (by choice on a confidential basis) at the conclusion of the conciliation. The feedback exit forms will constitute an adjunct to a proposed Charter of Rights and Responsibilities for Participants in Conciliation. This would be similar to what is shortly be applied to the Law Society of New South Wales Mediation Program. The Charter for the Conciliation is in the process of being designed and will be available prior to the involvement of Senior Conciliators in the Police Service Conciliation Program. The Charter will inform Senior Conciliators, involved officers and complainants what is expected of them as parties to the conciliation session as well as what is to be expected of the process itself.

(b) Peer group Feedback.

Senior Conciliators, who have completed the course who will be required to complete 3 conciliations, will be asked to observe a conciliation conducted by one of their peers. A different observer will preferably be involved in this scheme. The same peer observer/ assessor will collect the feedback forms in a sealed envelope from all the parties - the complainant, the Involved Officer and the Conciliator.

This system allows for peer group performance assessment as well as an assessment of the conciliation process itself and represents a far more valid and equitable performance indicator than a pass-fail system following a 2-day skills acquisition course.

## **7. Selection Criteria.**

All LAC's will be invited to participate in the 2-day course. Taking their rank and extensive police experience into account, it is assumed that they have in the course of their careers demonstrated a capacity to conciliate complaints. If they do not feel comfortable in participating in the course they may prefer to nominate a delegate. Their appointment as an LAC will have taken into account.

- (a) Their effective interpersonal communication skills as well as their capacity to:
- to identify relevant issues and to deal with unacceptable behaviour by police officers

- (b) Their clear understanding and commitment to customer service, professional responsibility and the need for continued improvement of police conduct through prompt and effective complaints management.
- (c) Their ability to have a sensitive appreciation of the necessarily differing needs and perceptions of both complainants and police officers.
- (d) Their ability to tolerate a high level of emotion which could be displayed by complainants.

As the course is scheduled to be offerered on a number of occasions before the end of 1977 to cover all LAC's, this will provide for an opportunity for progressive evaluation from the participants allowing for streamlining if necessary.

# APPENDIX 4

---



New South Wales



Ms. I Moss  
Ombudsman  
580 George Street  
Sydney NSW 2000

Dear Ms Moss

**RECOMMENDATIONS - OMBUDSMAN'S INVESTIGATION INTO MULAWA**

I am writing in response to your letter of 10 April 1997, to apprise you of the current implementation status of recommendations contained in your final report on Mulawa.

It is pleasing to note that your report acknowledges that things have changed for the better at Mulawa. The report also recognises that there has been a radical shift in the treatment of inmates and acknowledges the significant improvements which have been made in the management of women inmates in recent years. Indicators, including reductions in the rate of self-harm, drug use and inmate misconduct, have continued to show a significant and sustained improvement.

A review of the recommendations has been completed and implementation action has either been finalised or is in progress. The implementation status of the forty recommendations contained in your report is detailed in the attached schedule. With the exception of three recommendations (12.2.5, 12.2.37 & 12.2.40) the Department unreservedly accepts the recommendations contained in the report.

Yours sincerely



LEO KELTNER  
COMMISSIONER

30 June 1997

# RECOMMENDATIONS

## Disciplinary issues

- 12.2.1. *I provisionally recommended an audit be undertaken to ensure a copy of the current Prisons Act and Prisons (General) Regulations is held for the use and information of prisoners at every centre in the state. The department advised that this had been conducted. I make further recommendation that this audit be conducted annually.*

**Further recommendation accepted and implemented. An instruction has been issued directing governors to conduct a documented annual audit to ensure that the Act, Regulations and Operations Procedures Manual are maintained in the library and that they are current. Additionally, Regional Commanders have been directed to include the Governor's audit as a part of the annual inspection. Refer: ACO 97/82 and section 5.8.1 of the Operations Procedures Manual. Tab 1.**

- 12.2.2. *In light of the department's advice about the effect of the implementation of case management on disciplinary matters, I recommend that the area manager should be given the task of verifying, prior to a hearing, that the prisoner has seen the relevant legislation if she/he wishes.*

**Agreed to and implemented. An instruction has been issued to ensure that the area manager, who prepares the hand-up brief for the governor, performs this function. Refer: ACO 97/80, section 16.1.1 (point 21) and annexure 16.2 of the Operations Procedures Manual. Tab 2.**

- 12.2.3. *I provisionally recommended that more information be made available to a prisoner on reception about disciplinary issues. The Department of Corrective Services acknowledged existing deficiencies. I recommend this be addressed in the form of an additional handout and that this be produced within six months.*

**The Inmate Handbook, which was issued in November 1995, is currently being reviewed to ensure it remains relevant to the correctional system and to increase the information contained within relating to inmate discipline. It is anticipated that the review will be completed within the specified 6 month time frame. Tab 3**

- 12.2.4 *I provisionally recommended that a strict time limit should be imposed on the*

*hearing and resolution of disciplinary charges. Unless exceptional circumstances apply, if a matter (other than a drug matter where pathology tests are required) is not heard and determined within 28 days of the alleged offence, it should lapse. The Department of Corrective Services agreed and has issued a policy directive to this effect.*

**Agreed to and implemented. An instruction to this effect was issued on 30th May, 1996. This has been reflected in section 16.1.1 (point 20) of the Operations Procedures Manual. Tab 2.**

12.2.5. *I recommend that consideration be given to the provision of appeal rights for more serious matters heard by the governor.*

**The Department does not agree. It's position in relation to this recommendation is detailed in the initial response to the report. Current legislation does not provide for the right of appeal against the decision of a governor, nor is there any intention of pursuing changes in this area.**

12.2.6. *I provisionally recommended that drug offences be clearly recorded as such, so that any overlap with prescribed property offences is removed. The Department of Corrective Services agreed and advises that this has now been effected.*

**Agreed to and implemented. Prior to amendments of the Poisons Schedule, some prescription drugs eg: Rivotril, were not classified as "drugs" and charges could not be laid under the provisions of the Prisons Act and Regulations. This has now been addressed. Possession and use of certain categories of prescription pills without prescription have been drug offences since 29 July 1994. See amended definition of "drug" in clause 146 (1) of the 1989 Regulations and now clause 3 (1) of the 1995 Regulations. Tab 4**

12.2.7. *I made a provisional recommendation that clause 42 of the Prisons (General) Regulations be repealed or deleted. The removal of the clause from the legislation was gazetted in September 1996.*

**Agreed to and implemented.**

12.2.8. *I provisionally recommended that the governor of Mulawa examine the incidence of women being charged with assault, particularly of an officer, where no injury is recorded, and consider if it would be more appropriate to instruct staff to deal with such incidents by way of case management. The Department of Corrective Services agreed and advised that case management and training will deter such incidents.*



Agreed to and implemented. The majority of staff working at Mulawa have completed the Women in Prison Training Course and case management training. All incidents are assessed prior to determining a course of action. The value of the training coupled with closer scrutiny of misconducts have produced significant results. The misconduct rate per hundred inmates has reduced from 483 in 1995 to 326 in 1996. Even more significant the assault rate on officers per hundred inmates has reduced from 25.3 in 1995 to 11.2 in 1996. Although this is a vast improvement on the five years prior to 1996, more work will be done to increase effectiveness in this area.

Additionally, the new women's classification system emphasises the need to address offending behaviour, including breaches of internal discipline, through modification of the case plan.

- 12.2.9. *I provisionally recommended that a review be conducted of existing guidelines on multiple punishments, punishments for multiple offences, and the appropriateness and severity of those punishments. The Department agreed. I recommend that such review be conducted within six months of the date of this report.*

An attempt to examine the frequency with which multiple penalties are being imposed has been thwarted by difficulties encountered in accessing appropriate data. The computerised Offender Records System offences in custody module does not provide for the identification of instances where multiple penalties have been imposed. A module has been developed in the new computerised Offender Management System (OMS) which will enable the identification of specific penalty provisions and more importantly will identify multiple penalty provisions. The new OMS commenced operation at the end of May 1997. The transfer of information from the old system to the new is still in progress. Unfortunately the review cannot be conducted within the time frame specified by the Ombudsman but will occur as soon as is practical. As dismissal from employment is not a specified penalty provision, an instruction is being developed to ensure that inmates are not sacked for disciplinary reasons.

- 12.2.10. *I provisionally recommended that the Department of Corrective Services develop a training course on conduct of hearings for inmate disciplinary offences and require any officer who is likely to be required to conduct such hearings, and every officer currently hearing such charges, to attend. The Department of Corrective Services advised that this subject would become part of pre-promotional courses. Once again, I recommend this be completed within six months of the date of this report.*

Agreed. A training module on conducting inquiries and hearings into

internal disciplinary offences by inmates will be trialed at the next Commissioned Officers Training Course later this year (date to be fixed). Subject to review and evaluation, this module will be delivered "on site" at all correctional centres as a stand alone training course.

- 12.2.11. *I recommend the Department of Corrective Services investigate a pilot program of "reintegrative shaming" (the Wagga Model) for certain categories of internal disciplinary offence. A decision on the appropriateness and practicality of such a model should be made within six months of the date of this report. The Department of Corrective Services agreed that it would conduct a trial based on six cases to examine the feasibility of the program.*

**Agreed. Not implemented as yet. The Department's position has changed slightly since its initial response. This proposal to introduce a trial at Mulawa is currently in the developmental stage. A draft proposal has been completed and will be discussed with relevant staff at a workshop on 28 July 1997 situation in the near future. The trial will be conducted over a six month period commencing in September 1997 and concluding in February 1998. Tab 5**

## Visits and Telephone Calls

- 12.2.12. *I provisionally recommended that the deprivation of phone calls to prisoners with children be used as a punishment of last resort, in recognition of severity of punishment. The Department agreed. I therefore make a further recommendation that the use of this punishment should be specifically reviewed at the end of six months following this report, and annually after that date.*

**Agreed. Further recommendation to be implemented. The Department believes that the deprivation of family contact should only be used as a punishment of last resort. The Assistant Commissioner, Operations, has identified this as an important agenda item for discussion at the next governors conference in September 1997 in order to ensure uniform implementation. Tab 6**

- 12.2.13. *I recommend that the current practice of allowing all day visits by children, no matter what other punishment the prisoner is undertaking, to be continued. The Department of Corrective Services agreed.*

**Agreed and implemented. See letter from Assistant Commissioner, Operations to governor, Mulawa Correctional Centre. Tab 7**



- 12.2.14. *I provisionally recommended that if box visits are imposed as penalty, women must be made aware as soon as possible so that they have sufficient time to cancel a visit or warn their visitors. The Department of Corrective Services agreed.*

**Agreed to and implemented. Inmates are notified of such decisions as soon as they are made.**

## **Food**

- 12.2.15 *I recommended provisionally that the governor of Mulawa Correctional Centre be given responsibility for his/her own budget for stores/food/rations - especially fresh fruit and vegetables. The Department of Corrective Services advised that Mulawa would receive allocations for these items for the self catering units, starting in the financial year 1996 - 1997.*

**Sub-accounts were introduced at the start of the 1996/97 financial year to capture the component costs of inmate provisions. Mulawa was allocated \$350,000 for inmate provisions. Lunch-time sandwiches for all inmates at Mulawa are now produced in the Mulawa kitchen by Mulawa inmates under the supervision of a Kitchen Overseer. The Kitchen Overseer at Mulawa also purchases and distributes all of the rations for the self catering units.**

- 12.2.16. *I recommend that an independent cook/chef be contracted to examine the adequacy of rations currently provided. The review needs to take into account that prisoners may not have the necessary expertise to cook well with absolutely minimal ingredients.*

**In conjunction with the Department's Catering Manager, consultant "Mathew DICK Bsc. GradDipNutrDiet, MDAA", an accredited practising dietitian, is currently conducting a nutritional analysis and dietary review of the cook chill meals which are being provided by the Silverwater Correctional Complex to certain sections of Mulawa. Immediately following the completion of this review at the end of June 1997, the consultant will be tasked with examining the adequacy of rations provided to the self catering units at both Mulawa and Emu Plains. This review will focus on meeting the dietary and nutritional needs of women and will have regard to the transient nature of cooking skills and expertise available in these units.**

- 12.2.17. *I recommend provisionally that the Programs Manager examine the possibility of offering customised cooking classes, particularly to women required to cater for themselves. The department has advised these courses had been offered in the*

*past and will continue. I confirm my recommendation that such courses be directed at women who cater for themselves.*

**Agreed to and implemented.**

- 12.2.18. *I recommended provisionally that consideration be given to planting a vegetable garden at Mulawa, to provide for the needs of the centre and that tending of this garden form part of the horticulture course. The department advised Mulawa has a vegetable garden but that it would not be possible to cultivate it on a fully commercial scale. This was not my recommendation. However, I would amend the provisional recommendation to the point of tending the garden being paid work for a small number of inmates at Mulawa, providing as it does experience which will continue to have value to women released from custody as well as to the centre.*

**A vegetable garden has been established in the vicinity of Blaxland House which provides paid employment for a maximum of five inmates. Those inmates employed in the garden are given the opportunity to participate in both the horticulture and permaculture courses. The permaculture course which commenced in May 1997, is a cyclic course of eleven weeks duration and is TAFE accredited. The course underpins the permaculture project which aims to supply a limited quantity of fresh fruit and vegetables to women in Mulawa throughout the year and to pass on these skills to an increasing number of women.**

## **Needs of Inmates from Non-English Speaking Background**

- 12.2.19. *I made provisional recommendation that the Ethnic Affairs Taskforce be allowed to conduct an audit of all services at Mulawa in order to make its own recommendations for better providing for the needs of NESB inmates. At its meeting in April 1996, the taskforce decided to conduct such an audit, which has been delayed. I recommend this audit be conducted within six months of the date of this report. The Department of Corrective Services agreed.*

**At the Ethnic Affairs Taskforce meeting which was held on 23 June 1997, the Taskforce undertook to commence the audit by late July 1997. Depending on the scope of the review, the Taskforce expects to complete the review by September 1997.**

## **Classification**

- 12.2.20. *I made a provisional recommendation that accommodation in particular units within Mulawa should continue to be based on behaviour and privileges, not*

*classification. The Department of Corrective Services agreed.*

**Agreed to and implemented.**

- 12.2.21. *I made a provisional recommendation that the review of classification for women be expedited and a separate system, which acknowledges the differing requirements of men and women in this regard, be established as soon as practicable.*

*The current system is weighted towards length of sentence and, if the crime was violent, to provide indication of perceived security risk. This is too blunt a measure for women and should be rethought. Their classification should be based primarily on behaviour while in gaol, ie drug use, particularly long term prisoners.*

*The Commissioner agreed to the proposal put forward by the department, and amendments to the regulations are now in preparation.*

**Amendments to the Prisons (General) Regulation concerning the classification of female inmates are due to commence on 4th July 1997. The new classification policy for women was endorsed by the Commissioner on 2 June 1997 and will commence operation in July 1997. Underpinning the policy is the premise that female inmates are low risk, high need. One of the major elements of the policy is to ensure the continuity of the relationship between mothers and their children. Tabs 8, 9 and 10**

## **Drugs**

- 12.2.22. *I recommend that the Women's Services Unit conduct a review of pre/post release services and make recommendations for improvements within 12 months of the date of this report.*

**Agreed to and in progress. An interdepartmental taskforce has been established under the auspices of the NSW Police Service to reduce re-offending by offenders with AOD problems. The Manager AOD is the Department's representative on the taskforce. One of the agenda items of this taskforce is the review of pre and post release services for this group, including women. It is expected that this review will be completed within the time frame specified.**

- 12.2.23 *I made a provisional recommendation that a detoxification unit and program to be established without delay. The Department of Corrective Services advised that such an initiative formed a part of its 1996-1997 Alcohol and Other Drugs*

*Strategic Plan. The Department of Corrective Services further advised that it has sought funding in its 1997-1998 Capital Works forward estimates for a redevelopment of Mulawa, including a detoxification unit.*

**Long term - The Department sought funding in its 1997-1998 Capital Works forward estimates bid for redevelopment of Mulawa. The redevelopment which is to include, inter alia, a detoxification unit is expected to cost 5.1 million and take three years to complete. The redevelopment is subject to approval by Treasury.**

**Short term - In the interim, the Department is considering the use of Morgan House as a detoxification unit.**

**A meeting of the key stakeholders will be held on 16 July 1997 to discuss both long and short term options.**

- 12.2.24. *In view of the ongoing perceptions about over medication of women and given the CEO of Corrections Health Services assertions about the usefulness of the survey conducted in June 1993, I recommend annual reviews of the medication of women inmates be conducted. The findings of such reviews should be considered by the board, and appropriate action, if necessary, be taken.*

**C.H.S. to respond.**

- 12.2.25 *I recommend that the governor of Mulawa continue to monitor access, as provided for in the Operational Agreement, to attendance at AOD and other IDS programs.*

**Agreed to and implemented.**

- 12.2.26. *Given the high recidivism rate among women, I recommend provisionally that any attention to post release options and services, eg visits to drug rehabilitation centres, be seen as integral to the business of the centre. The Department of Corrective Services agreed, and advised that this was now happening.*

**Agreed to and implemented.**

## **Case Management**

- 12.2.27. *I recommend that proper support and training for case management be provided, including the provision of adequate resources for its full implementation.*

Agreed to and ongoing. Case management processes have been reviewed with the resulting changes endorsed by key stake holders and approved by the Commissioner. Re-orientation training comprising face to face and computer based training commenced in March 1997 and training for staff posted to the MRRC was completed in June 1997. The Corrections Operational Support Team continues to take carriage of this training in conjunction with Corrective Services Academy.

## Medical and Psychiatric Services

12.2.28 *I recommend an amendment to the Corrections Health Service policy on complaint handling to the effect that a summary of all complaints, verbal/written, resolver or not, be provided to the CHS Board. The summary should include the issues raised by the complaint and the outcome.*

**C.H.S. to respond.**

12.2.29 *I made a provisional recommendation that the proposed therapeutic unit be properly resourced in terms of both personnel and buildings. Both the Department of Corrective Services and Corrections Health Service agreed that this would be the case.*

**The Therapeutic Unit has now been completed and positions have been established. The Unit is expected to commence operation in August 1997.**

12.2.30 *I made a provisional recommendation that the efficacy of the mental health team, its structure and support be evaluated by the end of 1996. Corrections Health Services advised that this would occur. I therefore make a further recommendation that the resultant report be made available to the CHS Board by end of June 1997.*

**C.H.S. to respond. Mental Health Team renamed Crisis Intervention Team.**

12.2.31 *I made a provisional recommendation that those women diagnosed as personality disordered have individual management plans drawn up by their case management officers in consultation with psychologist and mental health team. Any changes necessary to ensure the consistent application of such a plan by everyone in contact with that person be instituted. Both the Department of Corrective Services and Corrections Health advised that this was already occurring.*

*In order to ensure that there is no gap between policy and practice, I recommend*

*a case study of at least six management plans for Mulawa inmates, and their implementation by all relevant staff, be conducted within a six month period. The substance of the review should provide useful information for the case management team and for training for case management purposes. The Department of Corrective Services agreed.*

**The development of case management plans for all inmates at Mulawa is a prerequisite for the new women's classification system. The case plans are developed by the case management team, which could include, in addition to the staff specified above, a welfare officer, an AOD worker, an education officer and a case management supervisor. The development of six case studies for training purposes has been referred to the Corrections Operations Support Team (COST) for completion within the specified six month time frame.**

- 12.2.32. *I recommend that capital works give consideration to extending the awning over the clinic window, and making other improvements to give better protection to those women queuing at the pill window. The Department of Corrective Services advised that weatherproofing will be provided.*

**Agreed to and implemented. The waiting area adjacent to the clinic window has been covered and screened to give inmates protection from the weather.**

- 12.2.33. *Corrections Health Service clearly recognise the difficulties it has in relation to staff recruitment, selection, training and orientation. I recommend the CHS Board give consideration to special incentive schemes to help ensure CHS attracts experienced and well qualified nursing and medical staff.*

**C.H.S. to respond.**

## **Suicide/Self Harm**

- 12.2.34 *I made a provisional recommendation that new reporting procedures incorporated in the draft document "Protocol for the management of inmates considered to be at risk of self harm/suicide" be trialed and evaluated before their formal adoption. I am advised that following a number of workshops, the procedures are being used in correctional centres without formal empirical trial. However, I am also advised that feedback on the procedures will result in a number of changes being made to the forms. Clearly any changes to the procedures should be approved by the working party which developed the protocol.*

**Four regional workshops were convened to disseminate information about**

the protocol to those involved in service delivery. Those forums have provided a mechanism for constructive feedback and revision of the protocol in the light of the feedback. On site training at individual correctional centres including Mulawa, where actual local case studies were worked through, has taken place. During the training, deficiencies in reporting procedures were identified and resolved. Given the widespread consultation and testing of the protocol and associated documentation using real case studies, the notion of a formal trial was abandoned and the protocol adopted for full implementation. The protocol and associated pro-forma are contained in the Operations Procedures Manual. *Tab 11*

- 12.2.35. *I recommend that a working party closely monitor the success of the Mulawa self harm protocol, with a view to refining the structure to ensure its on-going appropriate use. This working party should include the governor, case management supervisor, psychologist and CHS representatives, at least. The resultant report should be provided at least to the Regional Commander, and the CEO of the CHS, and within six months of the date of this report. The Department of Corrective Services agreed.*

**Agreed to and implementation is in progress.** The governor of Mulawa and the Regional Commander, Metropolitan Region have been informed of the requirements of this recommendation. Governor of Mulawa is initiating local action to fulfill the terms of this recommendation.

- 12.2.36. *I made a provisional recommendation that the statistics on incidents of self harm, and threats of same, be closely monitored by an objective party, perhaps the Research and Statistics Unit. If any rise in the numbers or severity of attempts at self harm become evident, immediate action must be taken by senior departmental officers to prevent a crisis situation arising again. The Department of corrective services advised that this was occurring before the investigation by this office commenced, and was continuing. If this is in fact so, I observe that the system was not working very well. However, the new reporting procedures should allow for the more reliable collection and distribution of more reliable data. The Department of Corrective Services agreed.*

*I note my support for the current CHS study of the detailed causal basis of self harming incidents at Mulawa during 1993 and 1994. If pursued, such a study should provide valuable general knowledge of this factor of correctional centres.*

**Agreed to and implemented.** The information collected on the Mandatory Notification Forms referred to in Section 13.3 of the Operations Procedures Manual is comprehensive and will enable the speedy collation and regular distribution of self-harm statistics to senior departmental officers. Frequent analysis of this information provides the Department with the capacity to

respond strategically to any statistical variation which is significant enough to be of concern. *Tab 11*

## General

12.2.37 *I recommend that the Women's Services Unit be transferred to the operational section of the Department of Corrective Services; and that all policies affecting women in the system be reviewed by this unit. The Department of Corrective Services advised that the Women's Services Unit has been transferred to Personnel and Education and this placement will be reviewed after 12 months.*

**During the initial period of the investigation, the Women's Services Unit was placed within the Support Services Division. The Commissioner deemed this inappropriate and transferred responsibility for the Unit to Assistant Commissioner Personnel and Education. This arrangement has only been operating for a short period and it is the Commissioner's intention to review the placement after 12 months.**

12.3.38 *Given the oft repeated comments about the lack of training officers receive in dealing with particular difficulties presented by working with women inmates, I recommend the Corrective Services Academy conduct a needs analysis of officers at Mulawa to verify whether its current offerings are sufficient. If they are not, a specialised course should be devised. The Department of Corrective Services agreed and the Director of the Corrective Services Academy has been notified.*

**The Women in Prison Training Course was introduced in October 1994 as a result of a comprehensive needs analysis conducted by a group which included eminent persons such as Professor Susan HAYES, correctional centre staff, inmates and ex-inmates. The course was specifically developed to meet the special needs of women by a team of highly qualified consultants. To date 280 staff have completed the course. The Director of the Corrective Services Academy will be reviewing the course to ensure it remains relevant to the management of women in custody. Significant reductions in the rates of self-harm, inmate misconduct, conflict and violence at Mulawa may, in part, be attributed to the delivery of the training. The Women in Prison Training Course delivered in conjunction with other specialised training and promotional training equips staff with the skills necessary to manage women in custody.**

12.2.39 *I recommended provisionally that personnel involved in the investigation of complaints be trained in sexual assault issues. The Department of Corrective Services agreed, so I make further recommendation that such training be in place at least within six months of the date of this report.*



Agreed to and implemented. The Department has successfully negotiated the inclusion of selected Security and Investigation (S&I) Branch personnel in "Initial Response Officers Course" (IROC) with the Goulburn Police Academy. This is the standard course for Police Officers dealing with sexual assault complaints. Two female S & I Branch officers have been selected to commence training in September 1997. The course consists of two weeks at the Goulburn Police Academy and eighteen months of supervised field work. Senior staff from the Corrective Services Investigation Unit (CSIU) have agreed to supervise the field phase of this course.

12.2.40.

*The establishment of the role of Inspector General should ensure the improvement of a number of areas relating to the functioning of the department's investigative bodies. I assume the Inspector General will turn his/her attention to liaison between units, appropriate computer technology and software and the quality of the recording of information and reporting mechanisms. I recommend that until the position of Inspector General is established and filled, the Department of Corrective Services report every allegation of sexual misconduct involving inmates and officers, in order that the investigation of such complaints are properly oversighted. Once the Inspector General is established, the continuation of this practice may form part of the protocol to be agreed upon.*

**The Correctional Centres Amendment (Inspector General's) Act has been passed by both houses of Parliament in May 1997 and is soon to take effect.**

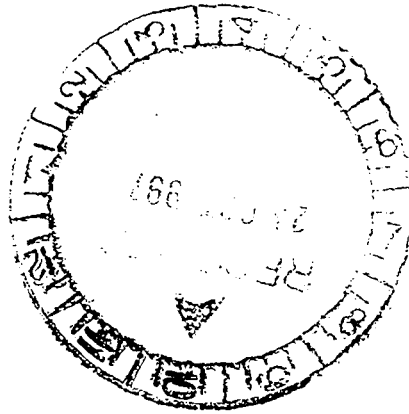
**The Department does not agree with this recommendation. The Department has recently issued "Prevention of Harassment Policy and Guidelines" and Grievance Resolution Policy and Procedures". The recommendation is vague in respect of the term "sexual misconduct" which is not defined at all. If it is intended to cover the full spectrum of sexual misconduct, including harassment, it will be inconsistent with the Department's policy. In those cases where an individual elects to have matters dealt with through mediation/grievance process it could be an invasion of that individuals privacy to report the matter to the Ombudsman. In fact such a reporting process may discourage some individuals from reporting incidents. Tabs 12 and 13.**

Lindy

61

21 October, 1997

Ms Irene Moss  
Ombudsman  
NSW Ombudsman Office  
Level 3  
580 George Street  
Sydney NSW 2000



Dear Ms Moss

**Re: Recommendations Requiring Attention By Corrections Health Service**

I write in response to your letter dated 3 July 1997 requesting advice on the implementation of recommendations 12.2.23; 12.2.24; 12.2.28; and 12.2.30 made in the report on Mulawa Correctional Centre.

The following actions have been taken by Corrections Health Service (CHS).

**12.2.23 I made a provisional recommendation that a detoxification unit and program to be established at Mulawa without delay. The Department of Corrective Services (DOCS) advised such an initiative formed part of its 1996-1997 Alcohol and Other Drugs Strategic Plan. The DOCS further advised that it has sought funding in its 1997/98 Capital Works forward estimates for a redevelopment of Mulawa, including a detoxification unit.**

DOCS have considered allocating funding for the redevelopment and refurbishment of the Mulawa Multi-Purpose Unit to include a detoxification facility next to the induction unit. A meeting of key personnel on 16 July 1997 reviewed planning for this redevelopment which is supported by both agencies and should proceed.

**12.2.24 In view of ongoing perceptions about over medication of women, and given the assertions by the Chief Executive Officer (CEO) of CHS about the usefulness of the survey conducted in June 1993, I recommend that annual reviews of the medication of women inmates be conducted. The findings of such reviews should be considered by the CHS Board, and appropriate action, if necessary, be taken.**

This issue has been examined on a number of occasions by the Director of Women's Health and the Nursing Unit Manager and the findings have been similar to the Initial Report. An enhanced audit form has been designed and will issue on a 3 monthly basis. This will be tabled at the CHS Board. In addition, the 1996/97 prescription figures will be published in the 1996/97 Annual Report.

- 12.2.28** I recommend an amendment to the CHS policy on complaint handling to the effect that a summary of all complaints, verbal/written, resolved or not, be provided to the CHS Board. The summary should include the issues raised by the complaint and the outcome.

The complaints system is being extended to verbal complaints.

A verbal complaints register form has been developed and distributed to all clinics and wards with a memorandum from the State Director of Nursing requesting that all verbal/written complaints be reported on in the clinic/ward monthly reports.

Data from this will be incorporated with other complaints data submitted to the Board.

- 12.2.30** I made a provisional recommendation that the efficacy of the mental health team, its structure and support, be evaluated by the end of 1996. CHS advised this would occur. I therefore make a further recommendation that the resultant report be made available to the CHS Board by end of June 1997.

The Mulawa Crisis Intervention Team was reorganised and now operates under a similar model as the Long Bay Crisis Intervention Team. Similar statistics of service are now kept and will be published in the Annual Report. As it has now been operating for many months under the new format it is to be further reviewed.

## **IN ADDITION**

An update on other recommendations made has been provided for your information.

- 12.2.29** I made a provisional recommendation that the proposed therapeutic unit be properly resourced in terms of both personnel and buildings. Both the DOCS and CHS agreed that this would be the case.

The Therapeutic Unit was officially opened on 22 September 1997. It has been fully operational since 15 September 1997 and includes the CHS safe cells. The CHS have an office in the unit and are involved in the management of cases with unit staff. Its operations will be kept under review.

- 12.3.31** I made a provisional recommendation that those women diagnosed as personality disordered have individual behaviour management plans drawn up by their case management officers in consultation with psychologist and mental health team. Any changes necessary to ensure the consistent application of such a plan by everyone in contact with that person be instituted. Both the DOCS and CHS advised that this was already occurring.

In order to ensure there is no gap between policy and practice, I recommend a case study of at least six management plans for Mulawa inmates, and their implementation by all relevant staff, be conducted within a six month period. The substance of the review should provide useful information for the case management team and for training for case management purposes. The DOCS agreed.

Management of Women at Mulawa with Personality Disorders is based on an interdisciplinary team approach via day to day clinical interaction and special interdisciplinary case reviews such as by the Risk Intervention Team, Case Team meetings and Special Case Studies. The minutes of Case Team Management meetings are kept in clinical (CHS) and Case Management (DOCS) files. Case Studies occur on patients with more complex management problems. Details of these case studies can be made available for review by appropriate agencies as may be recommended by the CEO.

**12.2.33 CHS clearly recognise the difficulties it has in relation to staff recruitment, selection, training and orientation. I recommend the CHS Board give consideration to special incentive schemes to help ensure CHS attracts experienced and well qualified nursing and medical staff.**

The CHS Women's Health Advisory Committee has a particular interest in staff recruitment and training in respect of gender specific issues and has received a grant for the furtherance of this objective from NSW Health Department. Active planning is proceeding in the implementation of the grant monies.

**12.2.34, 12.2.35, 12.2.36**

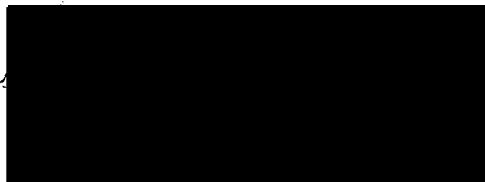
The Risk Intervention Team protocol is now operational across all correctional centres. At this stage it has not been formally evaluated. The Working Party has not yet been reconvened. The study on self harm could not be completed due to the resignation of Research Officers and other current priorities.

A copy of the Mulawa Ombudsman's Report has been discussed at staff meetings at Mulawa and fully covered with staff at an inservice meeting. The report is kept in the Mulawa Clinic for reference and the NUM has ensured that staff are aware of the necessity to read the document which has been made mandatory reading.

In conclusion I refer to my notes 1-4 on page 5 of "Ombudsman's Report-Actions for CHS" dated 19 May 1997 (copy attached).

Should you require further information or have any further queries please do not hesitate to contact me on (02) 9289 2970.

Yours sincerely



Dr Phillip Brown  
Chief Executive Officer

Encl

# OMBUDSMAN REPORT

## ACTIONS FOR CHS

This action plan is based only on recommendations relevant to the CHS.

### NEEDS OF INMATES FROM NON ENGLISH SPEAKING BACKGROUND

12.2.19 I made a provisional recommendation that the Ethnic Affairs Taskforce be allowed to conduct an audit of all services at Mulawa in order to make its own recommendations for better providing for the needs of inmates from non-English speaking background. At its meeting in April 1996, the Taskforce decided to conduct such an audit, which has been delayed. I recommend this audit be conducted within six months of the date of this report. The Department of Corrective Services agreed.

The audit of the Ethnic Affairs Taskforce should include services of the Corrections Health Service.

**Action:** Primarily DOCS, but involve CHS in its aspect of the audit.

### DRUGS

12.2.23 I made a provisional recommendation that a detoxification unit and program to be established at Mulawa without delay. The Department of Corrective Services advised such an initiative formed part of its 1996-1997 Alcohol and Other Drugs Strategic Plan. The Department of Corrective Services further advised that it has sought funding in its 1997-1998 Capital Works forward estimates for a redevelopment of Mulawa, including a detoxification unit.

CHS supports the creation of a detoxification unit and program. This could be in a wing of the MPU next to the induction area. Some capital modifications would be needed. Staffing would primarily be custodial with DOCS drug and alcohol counsellor and consultation on site by CHS nursing and medical staff. A routine for attendance by CHS staff would be set.

**Action:** DOCS to progress. CHS will be involved in design, operational protocols and clinical services. This will also be progressed at the CHS/DOCS Liaison Committee.

12.2.24 In view of ongoing perceptions about over medication of women, and given the assertions by the CEO of Corrections Health Services about the usefulness of the survey conducted in June 1993, I recommend that annual reviews of the medication of women inmates be conducted. The findings of such reviews should be considered by the Corrections Health Services Board, and appropriate action, if necessary, be taken.

Dr Sefton and NUM to provide review document with analysis at three monthly intervals according to CEO's format (enhanced as indicated or required by Mulawa). Utilisation will also be published in Annual Report, as in 1995/96.

Action: Dr A Sefton, CHS.

## MEDICAL AND PSYCHIATRIC SERVICES

12.2.28 I recommend an amendment to the Corrections Health Service policy on complaint handling to the effect that a summary of all complaints, verbal/written, resolved or not, be provided to the CHS Board. The summary should include the issues raised by the complaint and the outcome.

The complaints system will be extended to verbal complaints. We will need a way to refer verbal complaints to CHS Complaints Officer - eg., a monthly summary by NUM on a proforma, the actual complaint to be delineated in the clinical file with supporting documentation.

Action: Mr H Wiggins, CHS

12.2.29 I made a provisional recommendation that the proposed therapeutic unit be properly resourced in terms of both personnel and buildings. Both the Department of Corrective Services and the Corrections Health Services agreed that this would be the case.

The functionality of the building and staff resources will be reviewed after the unit commences operation.

Action: Review by DOCS and CHS separately and conjointly. CHS representatives to be Dr A Sefton and Ms E Berry and an external person from a psychiatric service decided by Mr R Orr.

12.2.30 I made a provisional recommendation that the efficacy of the mental health team, its structure and support, be evaluated by the end of 1996. Corrections Health Service advised this would occur. I therefore make a further recommendation that the resultant report be made available to the CHS Board by end of June 1997.

Ms E Berry is arranging a review including external persons from crisis teams.

**Action:** Ms E Berry

**12.2.31** I made a provisional recommendation that those women diagnosed as personality disordered have individual behaviour management plans drawn up by their case management officers in consultation with psychologist and mental health team. Any changes necessary to ensure the consistent application of such a plan by everyone in contact with that person be instituted. Both the Department of Corrective Services and Corrections Health Service advised that this was already occurring.

In order to ensure there is no gap between policy and practice, I recommend a case study of at least six management plans for Mulawa inmates, and their implementation by all relevant staff, be conducted within a six month period. The substance of the review should provide useful information for the case management team and for training for case management purposes. The Department of Corrective Services agreed.

Individual management plans to be in clinical (CHS) and case management (DOCS) files.

**Action:** Dr A Sefton and Ms E Berry to conduct the review and implement ongoing training of team. Such training to be focussed and of a pragmatic nature.

**12.2.32** I recommended provisionally that capital works give consideration to extending the awning over the clinic window, and making other improvements to give better protection to those women queuing at the pill window. The Department of Corrective Services advised that weatherproofing will be provided.

Support changes. Architect to be engaged. May need to look at extension of file storage as well in this project - if so CHS capital may be required.

**Action:** DOCS/CHS. To refer to CHS Capital Works Committee.

**12.2.33** Corrections Health Service clearly recognise the difficulties it has in relation to staff recruitment, selection, training and orientation. I recommend the CHS Board give consideration to special incentive schemes to help ensure CHS attracts experienced and well qualified nursing and medical staff.



Agree

**Action:** CHS Planning and Services Committee.

## **SUICIDE SELF HARM**

**12.2.34** I made a provisional recommendation that new reporting procedures incorporated in the draft document " Protocol for the management of inmates considered to be at risk of self harm/suicide" be trailed and evaluated before their formal adoption. I am advised that following a number of workshops, the procedures are being used in correctional centres without formal empirical trial. However, I am also advised that feedback on the procedures will result in a number of changes being made to the forms. Clearly any changes to the procedures should be approved by the working party which developed the protocol.

Agree.

**Action:** DOCS with CHS involvement. Reactivate the conjoint Working Party which developed the protocol.

**12.2.35** I recommend that a working party closely monitor the success of the Mulawa self harm protocol, with a view to refining the structure to ensure its ongoing appropriate use. This working party should include the governor, case management supervisor, psychologist, and CHS representatives, at least. The resultant report should be provided at least to the Regional Commander, and the CEO of the CHS, and within six months of the date of this report. The Department of Corrective Services agreed.

Agree.

**Action:** CHS representatives to be Dr A Sefton and Ms E Berry.

**12.2.36** I made a provisional recommendation that the statistics on incidents of self harm, and threats of same, be closely monitored by an objective party, perhaps the Research and Statistics Unit. If any rise in the numbers or severity of attempts at self harm become evident, immediate action must be taken by senior departmental officers to prevent a crisis situation arising again. The Department of Corrective Services advised that this was occurring before the investigation by this office commenced, and was continuing. If this is in fact so, I observe that the system was not working very well. However, the new reporting procedures should allow for the more reliable collection and distribution of more reliable data. The Department of Corrective Services agreed.



**I note my support for the current CHS study of the detailed casual basis of self harming incidents at Mulawa during 1993 and 1994. If pursued, such a study should provide valuable general knowledge of this factor of correctional centres.**

**Action:** DOCS for major statistical system. The conjoint CHS/DOCS Working Party which devised the incident forms should be reconvened. CHS to conduct the retrospective self harm clinical study.

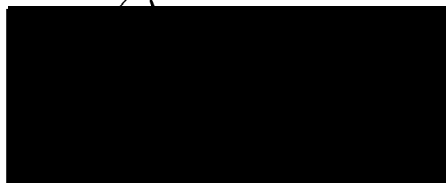
## **IN ADDITION**

A copy of the Mulawa Ombudsman Report is to be kept in the clinic at Mulawa for reference. This is to be mandatory reading for all CHS staff as it displays a culture which CHS and DOCS have been striving to alter.

In relation to CHS staff, it emphasises the importance of adhering to policy.

- (1) the need for a sensitive and caring staff attitude to patients.
- (2) the duty for CHS staff to initiate appropriate clinical interactions with DOCS staff and visa versa in the interests of proper clinical care.
- (3) the importance of recording adverse incidents in the clinical file and other recording systems - thus should concerns be raised at a later date, there is information on file which can help resolve them.
- (4) the importance of staff taking action to resolve day to day interactional administrative problems with DOCS concerning patients and their care directly as they occur.

Each Mulawa CHS staff and all future CHS staff are to sign the Report as being read and any queries discussed with the NUM or Medical Director.



**Dr Phillip Brown**  
**CHIEF EXECUTIVE OFFICER**

# APPENDIX 5

---





DEPARTMENT OF  
**Juvenile Justice**

Level 5, Roden Cutler House, 24 Campbell Street, Sydney NSW 2000 - P.O. Box K399, Haymarket NSW 1240  
Telephone: (02) 9289 3333 Facsimile: (02) 9289 3399

**CENTRAL SUPPORT OFFICE**

Ms Irene Moss  
NSW Ombudsman  
Level 3  
580 George St  
SYDNEY NSW 2000

*Ms Irene Moss  
NSW Ombudsman  
Level 3  
580 George St  
SYDNEY NSW 2000*

Dear Ms Moss,

I refer to your request, under section 26 (5) of the *Ombudsman Act* to advise you of any changes made in response to the *Ombudsman's Inquiry into Juvenile Detention Centres*.

The following information provides an update of the achievements and changes that have occurred since the report sent to you in May 1997.

**1. Implementation Stage 1**

For Stage 1 of the implementation process, the following recommendations were targeted:

- the level of family contact received by Aboriginal detainees;
- involvement of Aboriginal organisations and communities with the Centres;
- a review of all detainees handbooks;
- recruitment of staff from various cultural backgrounds;
- utilisation of non-Christian religious organisations;
- availability of books and newspapers for detainees from non-English speaking backgrounds;
- additional assistance for detainees with intellectual disabilities on rules, routines and rights: and
- a review of school attendance patterns of detainees with learning or intellectual disabilities.

All Centres provided progress reports in May. The Director General, Director of Operations, and the relevant Cluster Director visited each Centre to review and discuss this progress with the Centres' Implementation Committees, and to examine the priorities identified by individual Centres for Stage 2 of the implementation process.

## Stage 1: Some excellent initiatives

Each of the centres devised strategies for implementing the above recommendations. Some of these initiatives were particularly successful. They include the following:

- Minda has started a reading library working with Auburn Library. Every 2 weeks the Librarian delivers books and magazines to the centre and visits the units to find out what books the residents would like delivered in the next visit.
- Minda has a Resident Support Group. About 11 residents and the same number of staff meet every fortnight. Objectives include assisting in the induction/admission of new detainees, assisting with educating new detainees on rights and rules, relaying information from residents to management.
- Minda has produced an induction video to assist new residents in understanding rules and routines and their rights in the centre.
- Worimi has developed a system for implementing the recommendations which incorporates other changes and developments within the Centre. They have a Planning Committee which is responsible for a complete overhaul of Worimi's program. The Planning Committee is then divided into 5 sub-committees: Case Management and Counselling; Behaviour Management; Staff; the Environment; and Programs, Education and Training. These sub-committees represent the aspects of a custodial program. The Ombudsman's Inquiry is just one aspect of their considerations. This approach ensures that all areas in need of improvement are examined and staff are involved in the process. A newsletter is circulated to staff called "Chat About Change". It provides information on the progress of the Planning Committee and each Sub-committee.
- Reiby holds weekly entry groups for new detainees with psychologists. Detainees with special needs are identified at this stage and the psychologist liaises with relevant staff to ensure these needs are met.
- Yasmar holds 'Diffusion Meetings' with team leaders and the clinical co-ordinator. Meetings include debriefing and developing strategies to work with residents more effectively.
- Kariang now has weekly/regular visits from the Aboriginal Medical Service, Aboriginal Legal Service, Aboriginal Deaths in Custody Watch Committee, Aboriginal sporting groups, and holds Aboriginal Family Days.
- Kariang liaises with the DOCS Area Programming Team to assist residents with intellectual disabilities and to provide staff with training and individual programs on working with young people with an intellectual disability.
- Cobham has a Keyworker system whereby a Senior Youth Worker is allocated to a particular long-term resident. Their role is to support the resident through regular contact, developing and maintaining a caseplan in conjunction with the resident and the primary worker, and taking on an advocacy role for the resident when necessary.
- Cobham has established regular visits to appropriate Aboriginal detainees by a psychiatrist from Dharuk Aboriginal centre.

- Keelong's Aboriginal Education Assistant coordinates the involvement of Aboriginal organisations in school curriculum and in pre and post release discharge planning.

To ensure other centres are aware of these good initiatives, and that recognition is made of the work involved, a newsletter is distributed to all staff throughout the department providing details of the implementation progress.

## **2. Implementation Stage 2**

Each of the Centres has nominated their areas of priority for Stage 2 of the implementation process. The Director-General, Director Operations and the relevant Cluster Director reviewed and discussed the priorities on their visits to the Centres and will be requesting progress reports in October. Visits to all Centres are scheduled for November to review progress.

The Centres have nominated the following areas as priorities for Stage 2:

- **Mt Penang:**
  - ⇒ Incentive based behaviour management systems
  - ⇒ Recommendations relating to detainees with special needs
  - ⇒ Recommendations relating to food
- **Keelong:**
  - ⇒ Recommendations relating to Case Work and Programs
  - ⇒ Education needs of detainees
  - ⇒ Incentive based behaviour management systems
- **Riverina:**
  - ⇒ Admissions facilities and procedures
  - ⇒ Incentive based behaviour management systems
  - ⇒ Training plan for staff
  - ⇒ Capital works
  - ⇒ Recruitment
- **Reiby:**
  - ⇒ Recommendations relating to Case Work
  - ⇒ Capital works
  - ⇒ Segregation policy
  - ⇒ Programs/staff development
  - ⇒ Pre-discharge Program
  - ⇒ Incentive based behaviour management systems

- **Worimi:**
  - ⇒ Case management and counselling
  - ⇒ Incentive based behaviour management systems
  - ⇒ Programs and education
  - ⇒ Staff development
  - ⇒ Capital works
- **Cobham:**
  - ⇒ Clothing
  - ⇒ Admissions facilities and procedures
  - ⇒ Detainee handbooks
  - ⇒ Incentive based behaviour management systems
  - ⇒ Staff support framework
  - ⇒ Recruitment of permanent staff
- **Yasmar:**
  - ⇒ Incentive based behaviour management systems
  - ⇒ Staff development
  - ⇒ Programs
  - ⇒ Capital works
- **Minda:**
  - ⇒ Incentive based behaviour management systems
  - ⇒ Capital works
  - ⇒ Staff training and development
  - ⇒ Communication systems in centre
- **Kariong:**
  - ⇒ Admissions procedures
  - ⇒ Transport and placements
  - ⇒ Food
  - ⇒ Clothing/Personal property
  - ⇒ Capital works
  - ⇒ Detainee handbooks
  - ⇒ Programs development
  - ⇒ Incentive based behaviour management systems
  - ⇒ Training plan

### **3. Ombudsman's Implementation Taskforce**

The Ombudsman's Implementation Taskforce has been meeting every three weeks since the 29th January 1997. The work produced by the Taskforce to date has been compiled into a document currently in a draft form. Once complete, this document will be forwarded to the Ombudsman's office.

The document serves as a useful tool in reflecting the beliefs and values of staff in detention centres, and suggests strategies for achieving cultural change. The document will have many potential uses: it will be circulated to the detention centres for feedback from staff and management, and may be utilised by the Training Unit in designing training courses, especially the Competency Based Training.

The Taskforce has been working on the following issues since May:

- identifying inappropriate behaviours in the Department of Juvenile Justice, as identified in the Ombudsman's Inquiry and through consultation with staff;
- consulting with staff to develop organisational values for the Department. These values will be articulated and reinforced throughout the Department by:
  - ⇒ training,
  - ⇒ providing staff with cards displaying the values;
  - ⇒ development and wide circulation of a document on the behaviours that will result from these values; and
  - ⇒ the behaviour of management.
- ensuring that these values underpin and are integrated into all training modules in the Department's Competency Based Training currently being developed;
- identifying new staff rewards to encourage positive, desirable behaviours and reviewing the Staff Performance Appraisal System; and
- reviewing behaviour management practices for detainees. Overarching principles are being developed to guide the design and implementation of these systems in each of the centres.

### **4. Legislation**

- The Juvenile Justice Advisory Council has completed its review into remissions. A discussion paper has been forwarded to the Minister for his consideration.
- Draft guidelines have been developed for the Serious Young Offenders Review Panel

## 5. **Policy**

- The Policy on the Provision of a Protective Abuse Free Environment has been released to all staff following extensive consultation.
- The Policy on the Prevention, Detection and Management of Suicide and Self Harm has been reviewed and staff have been consulted. The amended policy is due to be released shortly by the Executive.
- Complaints Handling System Policy and Procedures have been drafted and circulated for comment.
- A Code of Conduct has been drafted and circulated for comment.
- Joint protocols on NESB rural and post release programs are finalised and implemented.
- The Department's Ethnic Affairs Priority Statement is being developed.
- The Department's Disability Strategic Plan is being developed.
- A response has been provided to the recommendations from the Interdepartmental Committee on People with an Intellectual Disability.
- A response has been provided to the recommendations from the Law Reform Commission report on People with an Intellectual Disability in the Criminal Justice System.
- A response has been provided to the recommendations in the Disability Green Paper.
- A Joint Tenancy Assistance Scheme has been developed between the Departments of Juvenile Justice and Housing, and community organisations to assist homeless young people with short-term accommodation.
- The Department has been involved in developing Draft Quality of Care standards with the Australasian Juvenile Justice Administrators.
- A national audit of mental health services for young people in juvenile justice centres has commenced.

## 6. **Centre Restructure**

- All positions that were previously delayed by the restructure have been advertised for re-deployment and internal promotion.

## 7. **Staff Training**

- The Department will launch competency based training for Direct Care staff in October. This is a highly significant step for the Department in that it is now a Registered Training Organisation. If an individual enrolls in an accredited DJJ course and satisfies all the assessment requirements, he/she will be awarded a nationally recognised qualification.



At this stage the courses on offer are:

- ⇒ Certificate III in Juvenile Justice Direct Care Work (Senior Youth Worker)
- ⇒ Certificate IV in Juvenile Justice Direct Care Work (Juvenile Justice Officer)
- ⇒ Certificate II in Public Administration
- ⇒ Course in Workplace Training
- ⇒ Certificate IV in Workplace Training

## **8. Legal Services for detainees**

An Interagency Legal Working Party was formed in May 1997 with representatives from the Attorney General's Department, the Legal Aid Commission, the Juvenile Justice Advisory Council and the National Children's and Youth Law Centre.

The Working Party examines legal services provided to young people, makes recommendations for improvements including legal advice and representation, addresses funding issues and develops strategies to utilise existing funds more effectively.

The Legal Aid Commission's Juvenile Justice Visiting Legal Service has been expanded as a result of temporary funding provided by the Department of Juvenile Justice. The expanded model of service delivery ensures an increased presence at the children's courts, and weekly visits by a solicitor to all metropolitan juvenile justice centres and fortnightly visits to rural centres.

## **9. General**

- A review of all residents handbooks has been undertaken. Centres have been instructed to reproduce the handbook with a generic list of contents, minimal text to facilitate comprehension and translation, and graphics that assist with understanding the text.
- A booklet is being produced for families of young people in detention centres explaining the following:
  - ⇒ why children are sent to juvenile justice centres
  - ⇒ what to expect if your child is sent to a juvenile justice centre
  - ⇒ your child's rights in the centre
  - ⇒ how to stay in contact with your child
  - ⇒ what services are available in centres
  - ⇒ how to make a complaint about the centre or staff

The booklet will be translated into various community languages based on advice from the NESB Project officer.

- A week long conference on Programming in Juvenile Justice Centres was highly successful with principles for programming in NSW centres developed and a program bank commenced. The principles for programming are as follows:
  1. Programming is a collaborative process involving all the major stakeholders.
  2. Programs meet the requirements of legislation and international standards.
  3. Programming is driven by best practice in case management and program development.
  4. The Department is committed to appropriate staff training and development.
  5. Efficient program administration ensures effective programming.
  
- A draft terms of reference for the establishment of Community Consultative Committees has been written and circulated for staff comment.
  
- A workshop for all centres on designing and implementing incentive based behaviour management systems is scheduled for the 23-24 October. The workshop participants include staff from all centres (including Senior Youth Workers, Psychologists, and Coordinators Operations, Case Work and Programs), and relevant external people with expertise in this area. An anticipated outcome of the workshop is the development and adoption of principles for behaviour management systems to guide the design of systems in each centre.

Should you wish to examine any of the documents discussed, these can be provided to you.

In addition, I am available to meet with you to discuss any matters regarding the department's response to the Ombudsman's Inquiry.

Yours sincerely



**KEN BUTTRUM**

**Director General**

30 . 9 . 97