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The Hon Catherine Cusack MP
Chair
Committee on the Office of the Ombudsman, Police Integrity Commission
and the Crime Commission
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

Dear Madam Chair

Answers to questions on notice

I am writing in response to Mrs Carly Maxwell's letter of 28 February 2014 providing questions on notice following the general meeting on 18 February 2014. The following are my answers to those questions.

1. **At the Committee's recent General Meeting with the Police Integrity Commission, the Commissioner expressed concern with paragraph 7.197 of the McClelland report into *Oversight of Police Critical Incidents*. Paragraph 7.197 quotes a statistic from your 2011-2012 Annual Report, noting that:**

... contrary to the period examined by the Wood Royal Commission, there has been a reversal of culture in the NSW Police Force with now 37% of the total complaints about police officers being made by other police officers.

In his response to this paragraph, the Commissioner commented that:

... the statistic is based on complaints reported to the Ombudsman. There have been changes in what categories of complaints are reported to the Ombudsman and a number of complaints are now dealt with by the police at local management level and are never reported to the Ombudsman and never appear in his figures.

- **Are you aware of the volume of complaints that are not reported to you but are dealt with at the local management level?**

As the Committee is aware, my office and the Police Integrity Commission enter into an agreement under Part 8A of the *Police Act 1990*. This agreement specifies the categories of complaints the NSW Police Force (NSWPF) must notify to my office, and those that do not have to be notified. This means we are not notified of all police complaints.

Section 160 of the Police Act requires my office to keep the police complaints system under scrutiny and inspect police records at least once every 12 months to ensure compliance with the Police Act. We report on the outcomes of these audits every year in our annual report. One aspect of these audits involves ensuring local management issues are being dealt with appropriately by the various commands across NSW. These audits assess the response to less serious complaints, as well as allowing us to ensure that matters are appropriately notified. Additional information about our audit work can be found at pages 50-52 of the office's annual report for 2012-2013.

- **Does the figure of 37% solely represent complaints made about police officers by other police officers, or does it also include complaints made about police officers by individual members of the public but filed on behalf of the individual by a police officer?**

The figure Mr McClelland referred to is taken from the table we include in each annual report, found at page 43 of the 2012-2013 annual report. The table breaks down notifiable complaints into those from members of the public and those made by police officers. The number of complaints made by officers includes circumstances where an officer has made a complaint pursuant to clause 49 of the Police Regulation 2008 having received information from another source.

We do not currently record data on the number of complaints that result from a verbal complaint from a member of the public. Many of these matters are not being recorded as complaints on the complaint information system by NSWPF. My office's recent submission to the review of the Police Act touched on this issue, and noted the importance of ensuring these complaints are categorised, and more importantly dealt with, appropriately. I have included the following extract from the submission for the Committee's information:

... a new provision should be added to require police to reduce to writing complaints by members of the public about any conduct that falls within section 122 to ensure that these matters are recorded on the complaints information system as required by section 129 and can be audited by the Ombudsman in accordance with section 160 to ensure compliance with Part 8A.

The new provision should stipulate that the police officer reporting the matter does not become the 'complainant' merely because the police officer reduces an allegation or information to writing. This proposed provision would mirror section 135. Furthermore, if the source of the verbal information is unknown the complaint may be regarded as anonymous. However, such an amendment should not remove that police officer from the protections afforded under section 206 of the Act and the PID Act. It would be appropriate for both Acts to be amended to provide that a police officer who registers information into the police complaints systems should attract all the protections afforded to a person who makes the disclosure directly.

- **Could you give your view as to whether the opinion of Mr McClelland that there has been a reversal of culture in the NSW Police Force is supported by your figure of 37% of complaints about police being made by other police officers?**

With due respect to Mr McClelland, I think it may be overly simplistic to use the number of complaints made by police officers alone as an indicator of a reversal in the culture of the NSWPF. I would note that I understand the Police Integrity Commissioner recognised during his meeting with the Committee that there had undoubtedly been an improvement in the culture of the NSWPF since the Wood Royal Commission, but that there was clearly always more to be done.

I would agree with those comments of the Commissioner, and note that we have continued to work with both the Police Integrity Commission and the NSWPF to refine and improve the system for handling complaints to ensure that the most serious allegations are receiving the time, attention and resources they deserve, while also ensuring less serious matters are correctly classified and dealt with appropriately.

- 2. Has the Ombudsman's office introduced any new methods for measuring the office's performance in the last twelve months or are there any plans to do so in the near future?**

As is noted at page 38 of the office's annual report, we have continued to refine our key performance indicators and other management reporting to ensure we are accurately measuring if we are achieving our objectives. I and the other members of my Senior Officers Group receive detailed monthly reports on all aspects of the office's work. This includes information about the workloads of the various complaint handling and investigative areas of the office, as well as the progress of systemic projects, such as legislative reviews. This report also provides information on the office's financial, personnel, information technology, risk management and other key areas.

We are continuing to work towards developing effective methods of measuring and assessing our performance in our proactive and systemic work. I will ensure we continue to provide the Committee with information on the progress we make in this second stage of our key performance indicators project.

- 3. At last year's General Meeting, we discussed the Optional Protocol to the Convention Against Torture (OPCAT), and the possible role for your office in inspecting places of detention following Australia's ratification of the Protocol (see for example pages 7 to 9 of the transcript). Are you aware of any further progress on this matter?**

I am not aware of any further progress in relation to OPCAT.

4. The annual report states that requests for information and advice from various sexual assault inquiries have exceeded expectations and that you will be seeking additional resources to assist you in meeting the demands for information. How are you managing this extra workload at present?

The simple answer to this question is that we have been allocating existing resources to complete the required work. I have tasked staff from my office's Strategic Projects Division with preparing and coordinating much of the information we have provided to the Royal Commission. The submissions I provided to the Committee during our meeting are only part of what we have done to assist the Commission. As is noted at page 90 of the annual report, we have:

- prepared submissions in response to issues paper and submissions on specific issues at the request of the Royal Commission
- provided trend data relating to allegations of child sexual abuse and related investigation outcomes across various institutions, sectors and role types
- assisted organisations tasked with carrying out research for the Royal Commission
- responded to referrals from the Royal Commission in relation to complaints about the handling of both historical and more recent child sexual abuse allegations – this can involve liaising with victims, police, employing agencies and Community Services to ensure effective and coordinated action is taken
- reviewed the handling of individual cases and providing relevant documentation
- provided support to agencies to identify relevant records to answer summonses.

The Department of Premier and Cabinet has asked all agencies providing information and assistance to the Royal Commission to keep a record of hours worked. I am hopeful this information will then inform any consideration of allocation of resources.

5. The annual report notes that you recently upgraded your telephone system and document and case management systems, and conducted a trial of electronic complaint handling (page 4). How have these improvements assisted you with your work?

One of the continuing challenges for my office is to ensure we meet the demands of our work with the resources available to us. This is why it is vital that we continue to identify opportunities to improve our systems.

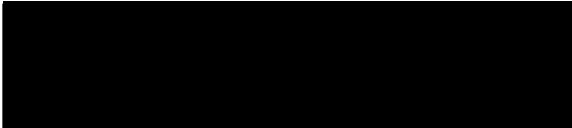
As noted at page 30 of the annual report, the trial of electronic complaint handling focussed first on the way we dealt with less serious complaints. The first phase was focussed on reducing handling of matters. This has a clear benefit to our office, as staff are able to deal with matters in the most efficient manner possible, freeing them up to deal with more matters as well as allowing the office to focus its resources on more complex matters. The second phase has involved expanding the types of matters we handle without keeping hardcopy documents. We believe this will present a future benefit in reducing handling time, while also assisting the office in reducing the number of hard copy records we create, maintain and store.

We introduced a new telephone system in June 2013 primarily to improve the management of our inquiries as well as to upgrade our technology and to reduce costs. The new system is a voice over internet protocol (VOIP) system based on technology provided by CISCO.

The new system is being integrated with Resolve, our case management system, which will allow staff to see the relevant complaint details automatically when they receive a call. This function relies on telephone number recognition and has been developed by our IT staff. This will greatly assist staff responding to high volumes of calls, as they will have the relevant information available to them faster. This will of course in turn help to improve our customer service. We have also configured our system to record calls. This will only be available to inquiries staff. This will assist with quality control, as well as helping to resolve disputes over the content of conversations. In a very small number of cases where threats are made during calls, my staff will be able to provide these recordings to the NSW Police Force, where appropriate.

I hope this information is of use to the Committee, and please do not hesitate to contact my office if you would like anything further.

Yours sincerely

A large black rectangular redaction box covering the signature of Bruce Barbour.

Bruce Barbour
Ombudsman