

Oversight of Police Critical Incidents



Terms of Reference

A 'critical incident' is an incident involving the death or serious injury of a police officer, or a civilian arising from a police operation. The NSW Police Force can also declare other matters to be 'critical incidents' if it is considered to have sufficient public interest. A critical incident is investigated in accordance with NSW Police Force guidelines, which detail key management and investigatory requirements. This includes investigation by a separate Command and a review by a further Command.

The NSW Police Force has unique skills and expertise and resources to investigate these matters and should retain responsibility for investigating and reviewing critical incidents.

A number of external bodies may also oversight the critical incident investigation or review the investigation for different purposes. This includes the NSW Coroner, NSW Ombudsman and the Police Integrity Commission. In addition, the WorkCover Authority of NSW may undertake its own investigation.

One of the NSW Government's goals in *NSW2021* is to improve community confidence in the justice system. The NSW Government recognises the need for independent scrutiny, as well as the need for efficient, effective and robust oversight of critical incidents and their investigation.

Two recent reports have raised concerns with the critical incident investigations undertaken by the police and made recommendations for changes to the system.

To enhance transparency, the *Critical Incident Guidelines* will be publically available and the Police Commissioner will advise the Ombudsman of all critical incidents, not only those that are subject to a formal complaint.

In order to assure the community that police actions resulting in death or serious injury will be thoroughly and objectively investigated, the NSW Government has also decided to establish an independent review of the investigation and oversight of police critical incidents.

The review will take into account the findings of the Police Integrity Commission's report of Operation Calyx, the NSW Ombudsman's *Ombudsman Monitoring of the Police Investigation into the Death of Roberto Laudisio-Curti* and will operate in conjunction with the statutory review of the *Police Act 1990*.

The Review will specifically consider:

- a) whether the NSW Police Force *Critical Incident Guidelines* provide adequate guidance and clarity to ensure critical incident investigations are rigorous, timely and objective;
- b) whether operational, legal and other barriers exist to the NSW Police Force, publicly reporting on the outcomes of critical incident investigations, and how these might be resolved;



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- c) whether improvements can be made to the oversighting of critical incidents to guarantee accountability and transparency, including:
 - (i) how and when oversight responsibilities are allocated between different agencies,
 - (ii) what gives rise to, and the purpose of, that oversight, and
 - (iii) whether there is any unnecessary duplication of roles or responsibilities;
- d) the need for amendments to relevant legislation, or practices and procedures (such as the *Critical Incident Guidelines*) to be given further consideration by the Government.

A report of the review is to be provided by end November 2013.