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13 June 2013

Our Ref: 26274/34

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

Dear Chair

Inquiry into Performance Measures in Oversight Agencies

I am writing in response to your correspondence of 22 May 2013 requesting information regarding the Commission's reporting requirements, in particular any of those that may be "onerous and burdensome reporting requirements".

Attached to this correspondence is a list of the reporting requirements for the Commission, including the report recipient, the reporting requirement, the reporting method and the reporting frequency.

In relation to the Committee's request regarding burdensome reporting requirements experienced by the Commission, I note that while the Commission has reasonably high levels of reporting requirements these are appropriate for the extensive investigative powers that the Commission uses.

Should you have any questions in regard of the material provided below, please contact Ms Pru Sheaves on [REDACTED]

Yours faithfully

[REDACTED]

The Hon Bruce James QC
Commissioner

EXTERNAL REPORTING REQUIREMENTS FOR THE POLICE INTEGRITY COMMISSION

Report Recipient	Reporting requirement	Reporting method	Frequency
Parliament	Annual Report Section 12 of the <i>Annual Reports (Departments) Act 1985</i> and section 99 of the <i>Police Integrity Commission Act 1996</i> require the Commission to provide an annual report to Parliament. According to section 9 of the <i>Annual Reports (Departments) Act 1985</i>, the annual report must contain: - a financial report prepared in accordance with Division 4A of Part 3 of the <i>Public Finance and Audit Act 1983</i> and the regulations under that Act - the financial report so prepared of each entity referred to in section 45A (1A) of the <i>Public Finance and Audit Act 1983</i> that is controlled by the Department - the opinion of the auditor given in accordance with that Division as to any financial report referred to above - a response from the Department Head to any issue which the Auditor-General or an authorised person raises in a report under section 45I (2) of the <i>Public Finance and Audit Act 1983</i> as being a significant issue - a report of the operations of the Department prepared in accordance with this Act and the regulations - and any other such matter that may be prescribed. (These are included in this table as are described as prescribed in the Frequency column of this table.) Section 11 of the <i>Annual Reports (Departments) Act 1985</i>	The Commission's Annual Report tabled must be in both Houses of Parliament by 31 October each year. The Commission's Annual Report is comprised of a letter of transmission and the following sections: - Commissioner's Foreword - Overview - Assessing information and complaints - Investigating serious police misconduct - Preventing serious police misconduct - Tracking Commission recommendations - The NSW Crime Commission - Legal Matters - Governance and Accountability - Appendices	Annual

	requires the Commission to report its operations in the following way: • charter • aims and objectives • access • management and structure • summary review of operations • legal change. The Commission is also required by section 99 of the <i>Police Integrity Commission Act 1996</i> to include the following in its Annual Report: • a description of the types of matters that were referred to the Commission • a description of the types of matters investigated by the Commission • an evaluation of the response of the Commissioner of Police, relevant members of the NSW Police Force Senior Executive Service and other relevant authorities to the findings and recommendations of the Commission • any recommendations for changes in the laws of the State, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions • the general nature and extent of any information furnished under this Act by the Commission during the year to a law enforcement agency • the extent to which its investigations have resulted in prosecutions, disciplinary action or the making of an order under section 173 or 181D of the <i>Police Act 1990</i> in that year • the number of search warrants issued by authorised officers and the Commissioner		
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	respectively under this Act in that year a description of its activities during that year in relation to its educating and advising functions The Commission is required by 99(2A) of the <i>Police Integrity Commission Act 1996</i> to report on information that relates to investigations or other matters involving Crime Commission officers separately. Section 95 of the <i>Police Integrity Commission Act 1996</i> lists the functions of the Parliamentary Joint Committee as including examining 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.		
Parliament	<u>Investigation Reports</u> Section 96 of the <i>Police Integrity Commission Act 1996</i> provides for investigation reports, specifically that: - The Commission may prepare reports in relation to any matter that has been or is the subject of an investigation - The Commission <u>must</u> prepare reports in relation to matters as to which the Commission has conducted a public hearing - A report required under this section is to be furnished as soon as possible after the Commission has concluded its involvement in the matter - The Commission may defer making a report under this section if it is satisfied that it is desirable to do so in the public interest.	Investigation reports are tabled in both Houses of Parliament as soon as practicable following the conclusion of an investigation which included public hearings.	As required.

Parliamentary Joint Committee	<u>Provision of information to the Parliamentary Joint Committee in meetings and correspondence</u> Section 95 of the <i>Police Integrity Commission Act 1996</i> lists the functions of the Parliamentary Joint Committee as: • 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, • 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 Commission appears annually before the Parliamentary Joint Committee to be examined in relation to the Annual Report and any other matters arising. This includes responding to questions on notice, questions about a public hearing conducted by the Commission, questions taken on notice and any other questions arising following the public hearing. The Commission also responds to any request for information from the Committee in relation to ad hoc inquiries conducted by the Committee. This includes responding to questions on notice, attending a public hearing, questions taken on notice and any other questions arising following the public hearing. The Commission also responds to any general inquiries from the Committee or any requests for information in relation to matters concerning the Commission and the exercise of its functions. This may include responding to correspondence, hosting visits by the Committee or preparing and conducting seminars in relation to specific operations or research projects conducted by the Commission.	As required by the Parliamentary Joint Committee.
Inspector of the Police	<u>Provide information to the Inspector of the Police</u>	The Commissioner meets with the Inspector on a	As required by the

Integrity Commission	<u>Integrity Commission</u> Section 89 of the <i>Police Integrity Commission Act 1996</i> provides the Inspector of the Police Integrity Commission with the following functions: • audit the operations of the Commission for the purpose of monitoring compliance with the law of the State • to deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission • to deal with (by reports and recommendations) conduct amounting to maladministration (including, without limitation, delay in the conduct of investigations and unreasonable invasions of privacy) by the Commission or officers of the Commission • to assess the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.	regular basis. The Commission responds to all the Inspector's requests for information including access to files, access to staff, access to the Commission's data bases and any other request made to the Commission.	Inspector
Audit Office	<u>Provide information to the Audit Office</u> Divisions 2 and 2A of the <i>Public Finance and Audit Act 1983</i> provide the Auditor General with the power to conduct both financial and performance audits. This is separate to the Audit Office's annual audit of the Commission's financial records.	The Commission responds to all the Audit Office's requests for information, access to files, and access to staff.	As required by the Audit Office
NSW Ombudsman	<u>Provide information to the Ombudsman under the <i>Public Interest Disclosures Act 1994</i></u> Under the <i>Public Interest Disclosures Act 1994</i>, the Commission must allow the Ombudsman access to audit	The Commission reports every six months to the Ombudsman on all public interest disclosures received by the Commission. Reporting all of all PIDS received by the Commission forms part of the Commission's Annual	6 months to Ombudsman Annually to Parliament in Annual Report

	all public interest disclosures (PIDs) should the Ombudsman request access. Additionally the Commission must provide a 6 monthly report to the Ombudsman of all PIDs received, and report annually on all PIDs received in the Annual Report, as well as directly to the Ombudsman.	Report.	
NSW Ombudsman	Report to the Ombudsman under the <u>Law Enforcement Controlled Operations Act 1997</u> Part 4 of the <u>Law Enforcement (Controlled Operations) Act 1997</u> requires the Commission to notify the Ombudsman within 21 days of the granting of an authority to conduct a controlled operation, or a report of the conduct of a controlled operation. The Ombudsman must inspect all controlled operations records annually, and may inspect them at any time. The Ombudsman may make a special report to Parliament in relation to any of his inspections. The Ombudsman must make an annual report to Parliament about his inspections.	The Commission reports all controlled operations activities to the Ombudsman. The Commission provides access to all controlled operation records to the Ombudsman for inspection on request.	The Commission reports to the Ombudsman within 21 days of the granting of an authority to conduct a controlled operation, or a report of the conduct of a controlled operation. The Commission provides access for inspection on request by the Ombudsman at least annually.
Issuing officers under the <u>Law Enforcement (Powers and Responsibilities) Act 2002</u> NSW Ombudsman NSW Attorney General	Report to issuing officers and the Attorney General under <u>LEPRA Act 1</u> The <u>Law Enforcement (Powers and Responsibilities) Act 2002</u> provides the Commission with the ability to use covert search warrants. That Act requires that an executing officer for a covert search warrant must report in writing to the issuing officer of that warrant details of the execution of the warrant. The report must be provided within 10 days after the execution of the warrant or the expiry of the warrant, whichever occurs first.	The Commission provides written reports on all search warrants to the issuing officer and in the case of covert search warrants, to the Attorney General as well. Warrant information in relation to covert search warrants must also be presented to the Ombudsman for inspection every 12 months.	The Commission provides reports on all search warrants to issuing officers and the Attorney General as necessary.

Attorney General and Issuing Judges under the <i>Surveillance Devices Act 2007</i> NSW Ombudsman	Report to <u>issuing judges and Attorney General</u> under the <u>SD Act</u> The <i>Surveillance Devices Act 2007</i> requires the Commission to report to the judicial officer who issued the warrant for the surveillance device, as well as the Attorney General, the details of the execution of the warrant, and use made of the information obtained.	The Commission reports in writing on the execution of each warrant to the Judge who has granted the warrant, and the Attorney General, within the time frame specified by the warrant. Surveillance device records, including warrants, and reports to the Judge and Attorney General are made available to the Ombudsman for inspection at least once every 12 months.	The Commission reports to the Judge and the Attorney General, within the time frame specified in the warrant. The Commission provides access for inspection on request by the Ombudsman at least annually
NSW Ombudsman	The <i>Telecommunications (Interception and Access) Act 1987</i> requires the Ombudsman to inspect the Commission's telecommunications interception records twice a year and report on the results of the inspection to the Minister.	The Commission provides the Ombudsman with access to inspect the Commission's telecommunication interception records, including warrants, authorisations communications, revocations, destruction, and Ministerial responses.	The Commission provides access for inspection by the Ombudsman twice a year.
Commonwealth Attorney General	The Commission reports to the Attorney General about the use made of the information obtained from intercepts and the communication of that information to any other person within three months of the warrant ceasing to be in force. An annual report of this information is also made to the Attorney General.	The Commission reports on its use of information obtained through telecommunication intercepts to the Minister as required by the legislation. The Commission also provides an electronic report annually to the Minister about the use of information obtained through telecommunication interception.	The Commission reports to the Minister on expiry of each warrant, and provides an electronic report annually to the Minister.
Commonwealth Ombudsman	The Commonwealth Ombudsman is required so inspect the Commission's stored communications records once a year.	The Commission provides access to its stored communications records when requested by the Commonwealth Ombudsman.	Annually

NSW Treasury	The Commission is required to comply with TPP 09-05 Audit and Risk Committee.	Audit and Risk Committee activities are included in the Annual Report and the Commissioner is required to annually attest to the operation of the Audit and Risk Committee.	Annually (Audit and Risk Committee Activities are reported in Chapter 10 Governance and the Commissioner's Attestation is in Appendix 1 of the Annual Report)
State Records	The <i>State Records Act 1998</i> obliges the Commission to maintain a particular standard of record keeping.	The Commission must allow inspections by officers of the State Records as requested. The Commission must also complete State Records Authorities surveys and questionnaires.	Annually
Information Commissioner	The <i>Government Information (Public Access) Act 2009</i> requires the Commission to report on the Commission's obligations under the Act.	The Commission reports on its disclosure logs, proactive release programs, Contracts Register, Assets, and Agency Information Guides.	Annually (in Appendix 8 of the Annual Report)
Privacy Commissioner	The <i>Privacy and Personal Information Protection Act 1998</i> requires the Commission to develop a Privacy Management Plan, and to provide that Plan to the Privacy Commissioner. The Commission is also required to report on its activities in relation to the Act/	The Commission has developed a Privacy Management Plan, which has been provided to the Privacy Commissioner. The Commission reports on applications to the	Updated or new Privacy Management Plans developed by the Commission are provided to the Privacy Commissioner. Annually

		Commission and reviews by the Commission of those applications.	(in Appendix 1 Annual Report)
Department of Finance	Information Communication and Technology Survey	Information regarding the type of IT services provided and the IT infrastructure.	Annually
Department of Premier and Cabinet	The Commission is required to report redundancy movements within the Commission.	Information regarding redundancies at the Commission	Monthly
Department of Premier and Cabinet	The Commission is required to report information to be included in the NSW Public Sector Workforce Profile.	Information regarding the workforce of the Commission	Quarterly
Community Relations Commission	The Commission is required to address the Ethnic Affairs Priority Statement.	Information regarding the workforce of the Commission	Every three years in Appendix 1 of the Annual Report.
Department of Premier and Cabinet	The Commission is required to report Equal Employment Opportunities within the Commission.	Information regarding the workforce of the Commission	Every three years (Annual Report Appendix 1)
Commonwealth Department of Family and Community Services	The Commission has developed a Disability Action Plan which it reports on triennially in the Annual Report.	Information regarding the workforce of the Commission	Every three years (Annual Report Appendix 1)