

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

QUESTIONS ON NOTICE EIGHTH GENERAL MEETING WITH THE PIC INSPECTOR

ADDITIONAL RESPONSE

RE: THE CURRENT ROLE OF THE OMBUDSMAN IN OVERSIGHTING THE INVESTIGATION OF COMPLAINTS CONCERNING NSW POLICE

- 1) Since the Inspector's response to the PJC in respect of this matter, the Ombudsman has published his 2007 Annual Report, in particular, Section 4: Police. Reflected in this report are the recent significant legislative changes which came into force on 1 June 2007, further simplifying the police complaints system. In effect, the changes remove the distinction between Category 1 complaints and Category 2 complaints, and replace these with a single category of "notifiable complaints", as defined in a written agreement between the PIC and the Ombudsman, following consultation with the NSW Police Commissioner. Briefly, all such notifiable complaints must be recorded by police and brought to the attention of the Ombudsman.
- 2) Once notified to the Ombudsman, the latter conducts an assessment with a view to classifying such complaints as require investigation, as distinct from some other procedure, or as requiring no action. In the case of complaints assessed as requiring investigation, these are forwarded by the Ombudsman to police for investigation, importantly subject to the extensive powers in this regard reposed in the Ombudsman by Part 8A of the Police Act.
- 3) The report notes that during the reporting year the Ombudsman received and assessed 3,466 formal or written complaints (2198 from members of the public, and 1268 from the police themselves). Of these, 2157 were investigated by police such investigations being oversighted by the Ombudsman.

- 4) The ombudsman has power to directly investigate complaints, but this power is used sparingly and only where relevant criteria are satisfied.
- 5) There is also power to monitor the investigation of complaints by police, and in these cases the Ombudsman takes up the role of an independent observer of the investigation procedures. During the reporting year 34 investigations were monitored in this way.
- 6) Although the PIC may in theory choose to investigate or oversee the investigation of notifiable complaints, in practice only a handful are either investigated or oversighted by the PIC. For example, according to the PIC 2007 Annual Report published on 25 October 2007, during the reporting year only 11 complaints received by the PIC were investigated by it, and a further 25 were the subject of oversight by the PIC. Although the PIC has certain powers under the PIC Act to oversee the investigation of such complaints by police, it is not included in the extensive powers conferred on the Ombudsman under the Police Act.
- 7) Thus it is clear that the Ombudsman's role in ensuring that complaints against NSW police are properly recorded and investigated has been strengthened, and relevant procedures have been significantly improved, and it follows that the jurisdiction of the Ombudsman in this regard continues to be a vital and effective force in this context.