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2 March 2016

Dora Oravecz
Committee Manager
Committee on the Ombudsman,
Police Integrity Commission and the Crime Commission
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

Dear Ms Oravecz

Re 2016 Review of the Annual Report of the PIC

On Monday 29 February 2016 the Commissioner and other officers of the Police Integrity Commission gave evidence before the Committee.

As recorded on page 9 of the draft transcript of the evidence, the Commissioner answered questions about whether the Commission has served notices to produce pursuant to section 26 of the Police Integrity Commission Act which required the person served to produce a document or thing 'forthwith.' The Commissioner gave evidence that notices to produce issued by the Commission were signed by him and that, to the best of his recollection, there had always been a return date on notices to produce which he had signed.

The Commissioner was asked whether it would not be unusual to serve a notice to produce requiring the production of a mobile phone 'forthwith.' After consulting with a member of the Commission's Executive Group seated close to him, the Commissioner said, 'I am told that it is unusual but that that has happened.' It was then agreed that the question should be taken as a question on notice.

Since the Commissioner and other members of the Commission's Executive Group gave evidence on 29 February the Commission has examined its records and has ascertained that on five occasions in the calendar years 2014 and 2015 the Commission did serve notices to produce signed by the Commissioner, which did not have a return date and required the production of a document or thing 'forthwith.' Particulars of these notices are as follows:

1. Operation Orkney Notice 801 of 2014 dated 6 February 2014

This notice required a serving police officer to produce a private mobile telephone, Operation Orkney related to allegations that the police officer had inappropriate associations with persons involved in Middle Eastern Organised Crime. Investigators considered that the telephone might contain photographic images which would

provide evidence of the alleged associations and also evidence of the officer being present during the taking of illicit drugs.

2. Operation Elba Notice 820 of 2014 dated 28 February 2014

This notice required the commander of a local area command to produce to Commission investigators records made by a police officer within that command who was the subject of the investigation. Consultation took place between the commander and Commission investigators before the notice was served.

3. Operation Lexia Notice 979 of 2014 dated 10 November 2014

This notice required a civilian to produce 'all computers and computer data storage devices...and all hardcopies of emails between...' Operation Lexia was an investigation into allegations made against two senior police officers. Investigators considered that the computers and devices might contain evidence relevant to the allegations against the senior officers. It was known that the civilian had sent or received a number of emails relating to the allegations.

4. Operation Ossa Notice 860 of 2015 dated 19 May 2015

This notice required a person who was a police administrative officer for the purposes of the Police Integrity Commission Act to produce 'all mobile telephones and computer data storage devices within (the civilian officer's) possession...and passcodes.' Operation Ossa was an investigation into allegations of drug use by administrative officers attached to a specialist command within the police force. Investigators considered that such telephones and devices might contain evidence which would support the allegations.

5. Operation Malabon Notice 949 of 2015 dated 29 August 2015.

This notice required a civilian to produce 'all telephone and computer data storage devices within (the civilian officer's) possession...along with any passcodes.' Operation Malabon was an investigation into allegations of misuse of drugs by a serving police officer, including allegations that the police officer and the civilian on whom the notice to produce was served had taken part in an illicit drug transaction.

The five notices referred to above are the only notices to produce, not having a return date and requiring production 'forthwith,' which were served by the Commission in the period 2014-2015.

The Commission's examination of its records shows that in the calendar year 2014 the Commission served a total of 182 notices to produce (including the first three notices referred to above) and that in the calendar year 2015 the Commission served a total of 207 notices to produce (including the last two notices referred to above).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Bruce James', with a stylized flourish at the end.

The Hon Bruce James QC
Commissioner