



16 March 2016

Inspector of the Independent Commission Against Corruption

**Answers to Questions on Notice – ICAC Committee Public Hearing – 14 March –
Inquiry to Review ICAC Inspector's Report regarding Operation Hale**

QUESTION 1

Mr RON HOENIG: Generally speaking, law enforcement officers are required to go to the judicial arm to get search warrants, and that is part of a protection mechanism, is it not, for individual citizens?

Mr LEVINE: Whenever law enforcement officers are required to get any form of warrant, under judicial fiat, yes.

Mr RON HOENIG: They have to satisfy the judicial officer or appropriate person usually by material contained in an affidavit that there are reasonable grounds?

Mr LEVINE: Yes.

Mr RON HOENIG: In respect of the structure of the Act, do you think it is appropriate that a Commissioner, who is actually part of the executive branch, should be able to issue their own warrants?

Mr LEVINE: Well, is it efficient, I suppose. I prefer to take that on notice, if I may. Section 40 was obviously enacted for a reason. I would have to go back to see if it was the subject of debate or anything.

ANSWER

If the power is properly exercised and in good faith I see no reason why its efficiency should not be recognized.

QUESTION 2

Mr ADAM MARSHALL: Clause 4.2 of the MOU talks about regular meetings between the individuals to address some of the issues which we have been touching on. Clearly in your 2014-15 annual report you report that there were no meetings whatsoever. You have elucidated on that in some of your evidence today. What concerns me, and what I am interested in, is what recourse there is when either party refuses to play its role in accordance with 4.2 of the MOU, and what should we do, or, if there is no recourse, what can be done to ensure that that MOU is fulfilled by both individuals. Clearly when it is not fulfilled—as it has not been in this case—it can be a recipe for problems.

Mr LEVINE: I am not sure of the precise terms of that clause.

CHAIR: Do you have the MOU there?

Mr ADAM MARSHALL: No; I wrote down the numbers without bringing the document with me.

CHAIR: It is a clause which requires you to have a meeting. I think it is three times a year.

Mr LEVINE: No, that was changed. I believe that was changed to make it more general—that we would meet from time to time, when required.

Mr ADAM MARSHALL: "Periodically", I think, from memory, was the word used.

Mr LEVINE: Yes. I think we were in agreement that to be bound to monthly meetings was unnecessary. The reality is that the period has extended over a couple of years without any meetings.

Mr ADAM MARSHALL: In response to a question from my colleague Mr Patterson, you have said already that those meetings and that constant contact is integral to both roles fulfilling their functions properly. What can be done to ensure—you have an MOU and that is a key part of it—that that actually does happen and you do not have an instance—it does not matter who the individuals are—where one individual or both decide not to meet? For me that is an untenable situation.

Mr LEVINE: I agree. We might as well not have an MOU. I do not have an MOU with the Commissioner of the Police Integrity Commission. I cannot think—without having the actual document—of anything of value that would have been achieved had the MOU been followed. That says a lot about the MOU as being almost not worth the paper it is written on—which, generally, can often be the whole purpose of writing an MOU.

Mr ADAM MARSHALL: If you want to take this question on notice that is probably the best way to go. I invite you to comment on the value of that MOU, particularly that clause, and whether the outcomes that it seeks to achieve could be achieved better by another means.

Mr LEVINE: I am happy to do that.

ANSWER

I confirm that none have taken place. As to outcomes being achieved in some better way, I am of the view as I indicated during the course of the hearing on the 14th of March, that the arrangement similar to that which exists vis-a-vis PIC be in place so that right from the beginning the Inspectorate is informed of every matter with which the ICAC is dealing and of the progress in each case.