



ABN 22 870 745 340

Our Ref: 31561/7

16 March 2016

Ms Dora Oravec
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 Oravec

Questions taken on notice at the 2016 Review of the Annual Report of the Police Integrity Commission

I set out hereunder the Commission's answers to the questions taken on notice at the Review by the Committee on 29 February 2016 of the Annual Report of the Police Integrity Commission.

1. The Hon Adam Searle asked questions about the fluctuations from year to year in the number of full investigations arising from complaints as shown in part of table 7 on page 16 of the Commission's Annual Report for 2014-2015.

The figures which were referred to in the questions were, as stated in table 7, the figures for 'full investigations arising from complaints' and did not include investigations arising from sources other than complaints or investigations which were preliminary investigations as distinct from full investigations. Complaints are one way, but only one way, in which the Commission receives information that may lead to investigations. Other sources of information that may lead to investigations include other investigative agencies, judicial officers and members of parliament.

The number of complaints the Commission receives and the number of preliminary investigations the Commission commences and the number of full investigations the Commission commences vary from year to year. The Commission does not consider that the figures in table 7 to which attention has been drawn show any significant trend.

2. The Chair of the Committee asked if the planned upgrade of information technology software and systems detailed in the 2014-2015 Annual Report will benefit the LECC.

The long lead time has allowed the Commission to plan for transitioning to the LECC. All non-critical changes to ICT systems and infrastructure have been implemented with this transition and viability within a new organisation in mind.

3. Members of the Committee asked questions about whether notices to produce had been given by the Commission which required the production of documents or things

forthwith. The Commission has already responded to these questions in its letter to the Committee of 2 March 2016, a copy of which is enclosed.

4. Dr McDermott referred to students of policing at the Police Force Academy. He expressed the view that the Police Integrity Commission has jurisdiction only over sworn officers and asked whether the Commission considered that it should have jurisdiction over students of policing.

The Commission agrees that it does not have jurisdiction over students of policing. As to whether the Commission should have such jurisdiction, the Commission notes that students do not exercise police powers. If a student engaged in conduct which, if he or she was a police officer, would be police misconduct, then the NSWPF would be well placed to investigate and deal with the misconduct. In such circumstances there would not appear to the Commission to be any need for the exercise of any of the Commission's special powers. Accordingly, the Commission would not seek to have conferred on it jurisdiction over students at the Police Force Academy.

Yours faithfully

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

The Hon Bruce James QC
Commissioner



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2 March 2016

Our Ref: 31561/4

Dora Oravec
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 Oravec

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

The Hon Bruce James QC
Commissioner