



# POLICE ASSOCIATION OF NEW SOUTH WALES

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The Chair  
Committee on the Office of the Ombudsman and the Police Integrity Commission  
Parliament House  
Macquarie Street  
Sydney NSW 2000

June 17, 2010

Dear Mr Hickey

## **Improper Associations in the NSW Police Force**

I refer to your Committee's current inquiry into improper associations in the NSW Police Force. The Association has had the opportunity to review the terms of reference of the inquiry, as well as the NSW Police Force's *Conflicts of Interest (Improper Associations) Policy and Guidelines*. We have also perused the Police Integrity Commission's research paper *Improper Associations in the NSW Police Force: A Review of Compliance with Policies and Guidelines*.

We recognise that conflicts of interest issues are a particular concern for police officers who are given significant powers to preserve the peace and protect the public. We also recognise that public trust in police is essential for them to best carry out their duties. Being constantly in the public eye and under the watch of both public oversight bodies and private media, police must necessarily be aware of the impact that apparent and real conflicts of interest will have on their moral authority.

It is also a truism that recognizing conflicts of interest is not an innate skill. Complexities of relationships and transactions often need careful analysis to ensure that an officer's actions are not only ethical, but seen to be ethical. Many times, unfortunately, it has been apparent that some officers have been unable to ascertain why their activities have disclosed conflicts of interest. It is a topic that is not clearly understood and often it seems that officers acting in good faith are unable to perceive that conflict of interest. It is an area that should be subject to more than just cursory training.

The improper associations policy is even more challenging. This is compounded by the fact that the policy name itself is not neutral. "Improper" already assumes a level of impropriety and wrongdoing that may not be present in the association. Indeed, an "improper" association may be completely innocent and devoid of any real or potential wrongdoing. Unlike the general conflicts of interest policy, where potential conflicts are not identified as misconduct, the mere existence of certain associations is deemed to be improper.

As a result, the formal policy regarding improper associations is unnecessarily punitive in its language and approach to the issue. The policy states (at page 2):

*These associations could create a conflict of interest (actual or perceived) between the employee's responsibilities to the NSW Police Force and their private life activities.*

*These associations are deemed to be **improper** by the NSW Police Force.*

*These associations arise "because the person, group or organization you are associated with, is involved in (or perceived to be involved in) an activity that is incompatible with the NSW Police Force's role to uphold the law."*

The definition is far too broad. It does not make any distinctions regarding mere association and involvement with a person, group or organization. It does not address the officer's activities vis-à-vis the association. Nor does the policy clarify in any meaningful way what could constitute an activity that is incompatible with the NSW police Force's role to uphold the law.

An officer could be a member of a large social club that is under investigation for tax violations – is this an improper association? If an officer does volunteer work for a charitable organization involved in the rehabilitation of illicit drug users, is he or she in an improper association?

It becomes even more concerning where the officer is unfortunate to have a close family member involved in criminal activity – these associations are unavoidable, and to presume that an officer can simply cease to have a relationship with, for example a sibling or a parent, because the relationship is deemed "improper" is naïve.

The expression "improper associations" is unfortunate and implies to many officers an admission of misconduct or worse.

The focus of the policy should, we maintain, be on risk assessment and risk management, particularly where those associations that are of concern are to continue. The focus of the policy should also be on protecting and assisting officers who are not engaged in inappropriate behavior to report and manage any association that is of concern. It should be assumed that any officer who is engaged in inappropriate behavior of a corrupt or criminal nature is unlikely to report his or her improper associations. The policy should therefore have a preventative focus in the context of early intervention and risk analysis.

There should be no punitive consequences for any officer who merely reports an association of concern.

We would recommend the following:

1. The *Conflicts of Interest (Improper Associations) Policy and Guidelines* be reviewed and rewritten to better reflect an early intervention and risk assessment focus and to remove the current punitive focus.

2. The term "improper association" be replaced by "declarable association", as in the Victorian model, to better reflect the risk management focus.
3. The training of officers in conflicts of interest and declarable associations be reviewed and incorporated into all levels of officer training, beginning at recruit level.

We would be happy to assist the inquiry in its deliberations on this issue. If the Committee requires any further information, our Director of Research , Mr Greg Chilvers, can be contacted at the Association offices.

Yours faithfully,



Scott Weber  
President