

**REPORT OF PROCEEDINGS BEFORE**

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

**GENERAL MEETING WITH THE COMMISSIONER OF THE POLICE INTEGRITY COMMISSION**

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**At Sydney on Monday 21 May 2012**

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**The Committee met at 11.30 a.m.**

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**PRESENT**

The Hon. C. Cusack (Chair)

**Legislative Council**  
The Hon. S. Mitchell

**Legislative Assembly**  
Mr K. J. Anderson  
Mr L. J. Evans (Deputy Chair)  
Mr P. G. Lynch

**BRUCE MEREDITH JAMES**, Commissioner of the Police Integrity Commission, sworn and examined;

**ANDREW STUART NATTRESS**, Assistant Commissioner and Director Operations, Police Integrity Commission,

**ALLAN GEOFFREY KEARNEY**, Director of Prevention and Information, Police Integrity Commission, and

**MICHELLE MARGARET O'BRIEN**, Commission Solicitor, Police Integrity Commission, affirmed and examined:

**CHAIR:** Before the proceedings commence I remind everyone to switch off their mobile phones as they can interfere with the Hansard recording equipment. If your phone is on silent please switch it off completely. I now declare open the hearing in relation to the Review of the Police Integrity Commission Annual Report 2009-10 and the Police Integrity Commission Annual Report 2010-11. It is a function of the Committee on the Office of the Ombudsman and the Police Integrity Commission to examine each Annual Report and other Reports of the Police Integrity Commission and report to both Houses of Parliament in accordance with section 195 (1) (c) of the Police Integrity Commission Act 1996. The Committee welcomes the Commissioner of the Police Integrity Commission along with the Assistant Commissioner, the Commission's Solicitor and the Director Prevention and Information. Commissioner, I convey the thanks of the Committee for your appearance today.

**Mr JAMES:** Thank you.

**CHAIR:** Commissioner, the Committee has received detailed responses from you in relation to questions on notice relating to the Police Integrity Commission Annual Report 2009-10 and the Police Integrity Commission Annual Report 2010-11. Do you wish these responses to form part of your evidence today and to be made public?

**Mr JAMES:** Yes I do.

**CHAIR:** Would you like to make an opening statement before the commencement of questions?

**Mr JAMES:** No, I do not wish to make an opening statement.

**Mr PAUL LYNCH:** Commissioner, what is the status of the Police Integrity Commission inquiry into the NSW Crime Commission?

**Mr JAMES:** The PIC investigation into the Crime Commission, to which the name Operation Winjana has been given, has reached the stage where very, very extensive written submissions have been exchanged and the process of exchanging submissions is still continuing. After the submissions are completed a Report will be prepared. It has taken a long time but there is a great deal of evidence and the submissions, as I have said, are very, very extensive.

**Mr PAUL LYNCH:** Is there any indication of when that process might come to an end?

**Mr JAMES:** It is certainly our hope that a Report will be lodged this calendar year but I do not think I can be any more specific than that.

**Mr PAUL LYNCH:** Is there any uncompleted litigation between the Crime Commission and the Police Integrity Commission?

**Mr JAMES:** Not at present.

**Mr PAUL LYNCH:** I note your guarded answer to that. One other thing that interests me is that the relationship between the PIC and the Inspector of the Police Integrity Commission has variously been described previously as poisonous or toxic. How do you think that might be overcome? There is clearly a tension between an agency and an oversight body. My sense is that the tension has been far greater than one would have expected. How do both bodies now go forward?

**Mr JAMES:** I would like to think that my relationship with the present Inspector is a constructive one. We do know each other but I am sure that any past acquaintance between the Inspector and me will not deter the Inspector from discharging his duty. However, I would hope that the relationship between us will remain civil and courteous. In my view, maintaining a courteous relationship is in no way incompatible with the proper discharge of both our functions. I would like to think, and I do think, that the present relationship between the Commissioner and the Inspector is much better than it was in the past.

**Mr PAUL LYNCH:** Turning to another topic, there has been some public discussion of an incident in Kings Cross on 21 April, which I am sure you are aware of, and a call for the Police Integrity Commission to conduct the investigation into that incident. What is your response to those calls?

**Mr JAMES:** There were calls for the Police Integrity Commission to investigate that incident. I might mention that Mr Shoebridge called upon the PIC to conduct the investigation. He wrote us a letter and we took the step of writing a lengthy reply to him. We sent a copy of our reply to this Committee. Briefly, what we said was this: The Police Integrity Commission does not presently have the resources or the structure to investigate Police Critical Incidents. We referred in particular to the absence on the part of the Police Integrity Commission of any rapid response structure. That incident in Kings Cross occurred at four o'clock in the morning. In our view it is essential to a successful investigation that the representatives of the investigating body get to the scene of the incident within minutes of it happening. The Police are able to achieve that. We simply do not have the resources.

We made the point in the letter that the total number of investigators the Commission has is only eight. Apart from the small number of investigators, we do not have any investigator who has recently conducted an investigation into a homicide or into an incident involving serious personal injury. We do not have any specialist Officers such as crime scene examiners, ballistics experts, vehicle examiners or fingerprint experts. In the letter we assert and I repeat it here, we do not have the capacity to investigate Police Critical Incidents and what resources we have have been marshalled towards discharging what we see as our principal function, which is detecting and investigating Police misconduct, particularly allegations of corrupt Police misconduct. Our resources are fully applied in that task.

**CHAIR:** Would you have any objection to the Committee making that letter public?

**Mr JAMES:** None at all. We sent copies of the letter to a number of parties.

**CHAIR:** We understand that but we just seek your permission first. Thank you.

**Mr PAUL LYNCH:** I think it flows from the last part of your answer that even if the resources were made available to you, you would not actually want them because you do not see that as your primary role?

**Mr JAMES:** We did not write that letter seeking to expand our role. There are quite a number of Police Critical Incidents each year. It is unfortunate, but there are. According to information supplied to me there are about 40 Critical Incidents each year in the State and of course some of them are in country areas. We would need a very, very much larger organisation to be able to investigate all of them. I have of course said that we are not really equipped to investigate any of them. I am not seeking an expanded role for the Commission.

**Mr PAUL LYNCH:** Bearing all that in mind, I am wondering then if you have given any consideration to a broader systemic inquiry into Critical Incidents to see whether there are any factors in common that might be mitigated or altered to reduce the number of Critical Incidents, rather than investigating particular ones?

**Mr JAMES:** I think that our Prevention section has been looking at that with a view to determining whether there are statewide factors bearing on Critical Incidents. We would regard it as part of our function to conduct such an inquiry as distinct from investigating a specific Critical Incident.

**Mr PAUL LYNCH:** Is there any sense of when that work might be carried out, or is going to come to a conclusion?

**Mr JAMES:** I am informed it is embryonic at present but it is certainly something that we would regard as properly part of our function.

**Mr PAUL LYNCH:** I think the Committee would be interested in the fullness of time hearing more about that. In the letter that has been referred to you mentioned that there was a Police Integrity Commission investigation arising out of the death of Adam Salter?

**Mr JAMES:** Yes.

**Mr PAUL LYNCH:** Can tell us where that inquiry is up to?

**Mr JAMES:** That inquiry has been progressing and the process of investigation has been virtually completed. I am able to tell you that there will be public hearings in that investigation. The sort of timetable we are looking at is public hearings at the end of August.

**Mr PAUL LYNCH:** I understand that those Officers that were the subject of criticism by the coroner in relation to the Salter matter continue to work in the Critical Incident Response Unit?

**Mr JAMES:** I do not think so.

**Mr KEARNEY:** I think those Officers are general duty Officers.

**Mr JAMES:** The Officers were general duty Officers.

**Mr KEARNEY:** And they can be called upon in the event that there is a Critical Incident.

**Mr PAUL LYNCH:** That was my mistake in terms of the way I asked the question. What I should have asked was, those Officers from the Critical Incident Response Unit who did the investigation and were also subject to criticism, have they continued to be involved in the Critical Incident Response Unit investigation?

**Mr JAMES:** I believe they do. Our investigation is at two levels or perhaps at more than two levels, but it is an investigation into the conduct of the general duties Officers at the site. Our investigation also extends to an investigation into the Police investigation of the incident and the subsequent vetting of the Police investigation of the incident.

**Mr PAUL LYNCH:** It has been put to me that those Officers who were part of the Critical Incident Response Unit who did the investigation that has been subject to criticism, not only continue to work in that area but indeed are involved in the investigation of the April Kings Cross incident. Is that something within your knowledge?

**Mr JAMES:** I understand that Officers are assigned to a particular Critical Incident on an ad hoc basis as distinct from being standing members of a Critical Investigation Team.

**Mr PAUL LYNCH:** So what I have been told may not be accurate then is the indication I am getting from that.

**Mr JAMES:** I am not sure what you have been told but it seems to me it might be inaccurate.

**CHAIR:** One of the roles of the Police Integrity Commission was to receive and assess all matters by the Police Royal Commission that were incomplete or required further follow up. Are there any matters outstanding now in relation to the work of the Royal Commission?

**Mr JAMES:** I am assured by the Solicitor that there are no matters from the Royal Commission still outstanding.

**CHAIR:** In relation to the Police Association motions that have been passed concerning the Police Integrity Commission, what do you understand the Police Association's concerns to be and what would be your response?

**Mr JAMES:** Is it a resolution by the Police Association of a lack of confidence in the Police Integrity Commission or a more specific one?

**CHAIR:** Yes, correct and a request that there be more transparency, a suggestion by the Association that the Police Integrity Commission requires standards of the Police Service that are not being adhered to by the Police Integrity Commission. These are a series of allegations that they are making and I just wondered if you could respond to those?

**Mr JAMES:** I consider that the criticisms are not warranted. I would say this though, I am very conscious that accusations have been made in the past of a lack of procedural fairness on the part of the Police Integrity Commission and I do consider that it is incumbent on me to make sure that procedural fairness is observed. There is no dispute at all that the Police Integrity Commission is obliged to accord procedural fairness. The difficulty is in determining what is the content of procedural fairness. In the case of a criminal trial the requirements of procedural fairness are settled, they have been settled by almost hundreds of years of experience. In the case of an investigative body like the Police Integrity Commission, there might be room for some argument about what procedural fairness requires in a particular case. Nevertheless, it would be my view that we should strive to accord procedural fairness. I do think the Police Association's resolution was, in part, based on some of the Reports by the previous Inspector.

**CHAIR:** We talked earlier with the Inspector during the public hearing about Emblems and one of the issues that arose was the amount of time some of these investigations take to bring to a resolution.

**Mr JAMES:** Did you refer to Emblems?

**CHAIR:** Yes. This is a case where an anti-corruption taskforce has led to another task force, has led to another taskforce, has led to another taskforce, and it has been going on for 14 years, and there are clearly a large number of matters still unresolved which have now landed on his desk. Do you have any comments on the issue of governance and timeliness?

**Mr JAMES:** I have no personal knowledge of Emblems. In the short time available I have tried to acquire some second or third hand knowledge of it. I think it is fair to say that Emblems is a special case. It was particularly complex because, as I understand it, the Police Force itself, its internal affairs, the Police Integrity Commission and the Crime Commission to a considerable extent were involved. My understanding is that there was a Police Force taskforce inquiry which was given the name Task Force Emblems and the Emblems Report, as I understand it, is a Report made by the Police Force; it is not a Report made by the Police Integrity Commission.

**CHAIR:** Correct.

**Mr JAMES:** Then, as I understand it, there was a Report by Mr Mervyn Finlay at some stage. It is unclear to me on the information I have whether Mr Finlay made that Report in the capacity of being the Inspector of the Police Integrity Commission or whether he made the Report as being an independent person who was asked to make that particular Report but not in the capacity of being the Inspector of the Police Integrity Commission. I am unsure about that. It is my understanding that nothing really has happened in the Emblems matter, using the Emblems matter generically, for quite a number of years. It has been revived recently, particularly perhaps with the change of government and the fact that there is a Police Minister who used to be a Police Officer and who said certain things while he was in opposition. I think it would be unfair to regard the Emblems matter generically as a typical example of delay. I do think it is a very special case.

**CHAIR:** What do you think is the resolution of the Emblems matter?

**Mr JAMES:** As far as the Police Integrity Commission is concerned, I do not think the Police Integrity Commission has any part at all to play in any decision to release the Police Emblems Report. As far as Mr Finlay's Report is concerned, as I have said, it is unclear to me whether that really has anything to do with the Police Integrity Commission either. I have the understanding that an application was made to the Supreme Court for listening device warrants and that the evidence relied on in support of that application and on the basis of which the warrants were granted remains secret or at least not public. It is unclear to me in the limited amount of time I have had whether the evidence remaining secret is attributable in any way to the Police Integrity Commission or whether it is attributable to the Crime Commission or whether it is attributable to some other cause.

**CHAIR:** If it is not attributable to the Police Integrity Commission, is it a matter that the Police Integrity Commission should have reviewed?

**Mr JAMES:** It is my understanding that the Police Integrity Commission played some part in an operation which was called Operation Florida. The parties to Operation Florida were the New South Wales Police Force, their internal affairs, the Crime Commission, and the Police Integrity Commission did play a part. Because the Police Integrity Commission did play a part it may be that the Police Integrity Commission is disqualified from making some kind of objective appraisal of what happened.

**Mr PAUL LYNCH:** Can I just interrupt there and say I think the original application, according to the Inspector, was made for the warrants by a member of the Crime Commission or by the Crime Commission and the Police Integrity Commission would not have had jurisdiction to inquire into that, I suspect, in 2000. It was only two years ago that you got jurisdiction over the Crime Commission?

**Mr JAMES:** Yes.

**Mr PAUL LYNCH:** That is probably the answer.

**CHAIR:** In relation to an affidavit which is confidential, what transparency and accountability is there for the veracity of affidavits that have been sworn before Supreme Court Judges?

**Mr JAMES:** I used to be a Supreme Court Judge. If one is an authorised Judge, and I think all Judges in the Common Law Division are, you are presented with the affidavits—and I am confident that my practice is no different from the practice adopted by other Judges, at least at that time—it was that simply on the papers, without ever seeing your deponents, on the face of the evidence you made a decision whether to grant the warrant. I have to say it is a fact that almost all applications are granted.

**CHAIR:** Is there any testing of an affidavit that can ever be undertaken?

**Mr JAMES:** I think a Judge could require a deponent of the affidavit to attend before the Judge. The Judge would be unlikely to have any information outside the affidavit with which to confront the deponent so that getting the deponent in and speaking to the deponent might not achieve very much.

**CHAIR:** So the basis of all authorisations for listening devices is through this process. I am interested in the integrity of this process. If false information was put before a Supreme Court Judge, I am assuming that it would be difficult for a Judge not to accept a sworn affidavit?

**Mr JAMES:** Yes.

**CHAIR:** Then that affidavit becomes secret so it is never seen to be tested or if a crime was committed by someone swearing a false affidavit, is there any possibility of ever detecting that crime or making a person accountable for it?

**Mr JAMES:** I think it is unlikely to be detected. The Listening Devices Act has been replaced by the Surveillance Devices Act, but there is no difference in principle with regard to the matters that we are talking about. I suppose there is the possibility that if a warrant is granted and evidence is obtained through the use of the device and there is subsequently a trial, there is the possibility of evidence of events emerging at the trial which would show that some of the contents of the affidavit are not true.

**CHAIR:** But the affidavit is not available at the trial, is it?

**Mr JAMES:** No, the affidavit is not available at the trial.

**CHAIR:** So it cannot be tested there either, can it?

**Mr JAMES:** I think what you say is at least generally correct. I am told that oversight agencies can get access to the affidavits. There was a problem in this case because the Police Integrity Commission had some personal involvement. I am assured that oversighting agencies have the power to gain access to the affidavits relied upon for the issue of surveillance device warrants.

**CHAIR:** Which was the oversight agency in this case?

**Mr KEARNEY:** At the time there was no oversight agency responsible for it.

**Mr JAMES:** There was no oversight agency for the Crime Commission at all.

**Mr KEARNEY:** With the exception, of course, of the Independent Commission Against Corruption, which has a general oversight, predominantly with a prevention and education focus.

**Mr KEVIN ANDERSON:** You indicated that the Police Integrity Commission had a personal involvement at the time. What was that personal involvement?

**Mr JAMES:** I said "at the time", but I am not sure that it had any involvement at the time of the application for a warrant or the granting of a warrant. But it did at least have a personal involvement at a time subsequent to that.

**Mr PAUL LYNCH:** It provided a courtroom or hearing room.

**Mr JAMES:** Yes. I simply made the point that at the time there was no involvement, but subsequently there was some involvement. I was suggesting that some direct involvement by the Police Integrity Commission in the events would have made it difficult for it to exercise an independent oversight role.

**Mr KEVIN ANDERSON:** It has been indicated by Mr Lynch that you provided a room and that was the personal involvement. Is that it?

**Mr PAUL LYNCH:** It was a bit more.

**Mr JAMES:** I do not know; I suspect we might have done a bit more than that.

**CHAIR:** I think you relied upon the evidence that was collected.

**Mr JAMES:** Yes. We apparently instructed counsel at a hearing that was conducted in our hearing room. However, I am told that the hearing was based on evidence that had been collected by the Crime Commission.

**CHAIR:** I return to the basis of the warrants that have been issued. My understanding is that the Crown Solicitor provided advice that a person the subject of a warrant does not necessarily have to have committed a crime or be suspected of committing a crime. In fact, they do not even have to have knowledge of a crime in order to be captured within the purview of a warrant for a listening device; it can include anyone.

**Mr JAMES:** I think the applicant has to demonstrate that there are grounds for suspecting that a crime has been committed.

**CHAIR:** Yes.

**Mr JAMES:** The warrant will authorise surveillance of the person suspected, but that may also involve surveillance of communications between that person and third parties about whom there is no suspicion. However, there is a possibility of the communication between the person whom I might describe as the target and the third party containing evidence tending to incriminate the target.

**CHAIR:** The warrant can include the innocent third party?

**Mr JAMES:** It can. A listening device warrant can involve some invasion of the privacy of an innocent third party.

**CHAIR:** That is why I am eager to understand the veracity of the affidavits sworn. I am not comfortable with the checks and safeguards in place given such a broad application. These warrants can be issued against anyone.

**Mr JAMES:** I accept that there is a problem. In my own experience as a Judge, I recall refusing to issue a warrant where I thought its use would invade a communication or a possible communication between the

suspected person and a legal adviser. Of course, that is a fairly clear case and there would be client legal privilege. But, short of a case like that, I think there is a genuine problem.

**CHAIR:** Who would protect the public interest in that case? I understand the role of the Judge.

**Mr JAMES:** The Judge is supposed to do it, but he or she has only the materials that one party—that is, the applicant—has presented. I am reminded that all applications for surveillance devices go to the Solicitor General's office before they come before the Judge. One of the documents that a Judge looks for is a document evidencing that the matter has been before the Solicitor General or the Solicitor General's office. I would have to say that I do not think there is any close scrutiny of an application in the Solicitor General's office.

**Mr KEVIN ANDERSON:** Why has this matter been dragging on for so long?

**Mr JAMES:** I tried to indicate previously that the events involved in Strike Force Emblems, as I understand them, happened quite some years ago and then nothing, or nothing of any significance, happened for quite a number of years until recently. It is not a matter of the issue dragging on over a period of 10 or 12 years, but events happening and then virtually nothing happening for an extended period. I said before, and I am still of the view, that Strike Force Emblems is not a typical example. It is made atypical by the number of agencies involved.

**Mr KEVIN ANDERSON:** Do you think the complexity of the agencies involved and the spaghetti mess that everybody is now facing is contributing to the position we are in now?

**Mr JAMES:** Yes, to some extent. I think it would have been better if some person or agency had had oversight of the Crime Commission at the time. On the other hand, I appreciate that there are problems in the multiplication of the entities. I understand that there is to be an Inspector of the Crime Commission. We will have the Police Integrity Commission and the Inspector of the Police Integrity Commission, the Crime Commission and the Inspector of the Crime Commission and the Ombudsman. That multiplication of agencies and individuals can lead to problems. It requires, at the least, goodwill on the part of the holders of those Offices and that goodwill is not always forthcoming.

**Mr PAUL LYNCH:** Have you seen a draft bill about the Inspector of the Crime Commission?

**Mr JAMES:** I have seen Mr Patten's Report and I have been working on the assumption that his recommendations will be adopted.

**Mr PAUL LYNCH:** But you know nothing further about it?

**Mr JAMES:** No, we do not.

**CHAIR:** As you have indicated, co-operation is needed between the different agencies and there seem to be a number of joint operations as well.

**Mr JAMES:** Yes.

**CHAIR:** I know that Emblems is fairly unique, but because of the joint operations you end up in a situation, when things go awry, that there is no-one independent to review.

**Mr JAMES:** I have been told that joint operations to which the Police Integrity Commission is a party have been very rare and there have been none for quite a number of years, and there is no anticipation that there will be any more.

**CHAIR:** Does the Police Integrity Commission have the resources it needs to do its job?

**Mr JAMES:** I consider that the Police Integrity Commission has the resources to do its job if its job is confined to the detection, investigation and prevention of serious Police misconduct, and particularly corruption, but if the Police Integrity Commission is expected to perform other functions, particularly the investigation of Critical Incidents, it does not have the resources.

**CHAIR:** These are references that can be made to you separately by Government. Is that correct?



**Mr JAMES:** Our work comes from many sources. We get complaints from members of the public. We get matters referred to us by government bodies. We get matters referred to us by Members of Parliament—a constituent has written to a Member of Parliament and it is referred to us. We get quite a number of complaints from Police Officers. In some ways, it is pleasing that the culture of not dobbing in is not as strong as it once was. On the other hand, I have to say that I am told that quite a number of the complaints by Police Officers relate to matters of promotion and they are not entirely in the public interest.

**CHAIR:** Why do you think Police Officers are not complaining to internal affairs?

**Mr JAMES:** Are or are not?

**CHAIR:** Are Police Officers misdirecting their complaints when they go to you? Should they not be directing their complaints to internal affairs, unless it is an allegation of corruption?

**Mr KEARNEY:** If I can elaborate, the Commissioner has mentioned that we get our complaints from a range of different sources. By and large, the largest source is NSW Police itself. They are required under legislation to have in place a system on which Police are required to record all complaints of Police misconduct. We view that system and are able to pull off those complaints that require further assessment, and a small proportion of those will be taken over by the Police Integrity Commission and investigated, so the majority of the complaints that we say originate from New South Wales Police Officers are often derived from their own systems.

**CHAIR:** The ones I was interested in are the ones that are not the core role of the Police Integrity Commission, in terms of getting back to my earlier question about having the resources to do your job.

**Mr KEARNEY:** They come from a variety of different sources. We get many low-level complaints from members of the public and from their representatives, from other agencies, and there is a process in place by which we divert those to NSW Police to be dealt with internally generally with oversight by the Ombudsman.

**CHAIR:** In the 2010-11 year the number of Police complaints assessed increased fairly significantly to 1,154 from 948. Are you saying that Police complaining about Police would have been the major source of the increase?

**Mr KEARNEY:** No.

**Mr JAMES:** Is this really the first question on notice?

**CHAIR:** Yes.

**Mr JAMES:** Our view is that there is no significance in the difference between the total number of complaints in that year and the total number of complaints in the previous year. We do not discern any trend. It is simply a fluctuation from year to year.

**Mr KEARNEY:** May I just add that it is fair to say that complaints by Police Officers is something that has been increasing over time and it has probably reached a stable sort of figure about now, but it is true that it has been going on for quite some period of time.

**Mr KEVIN ANDERSON:** In 2006-07 the number was 1,208 and in 2010-11 it was 1,154. Is there a trend in terms of the type of complaints or the nature of complaints coming through?

**Mr JAMES:** I might refer that to Mr Kearney.

**Mr KEARNEY:** Probably a better question directed to the Ombudsman, as they review all complaints and there would be 3,000 to 4,000 of those each year. We tend to focus on the more serious matters and those complaints that are of a kind that might lead to more serious misconduct. For example, we might look at allegations of drug dealing or green-lighting drug dealers, but we would also look at relatively low-level complaints, complaints of inappropriate relationships. Why? Because those sorts of relationships, relationships with criminals, might indicate that there is something beyond the obvious, that there may be a corrupt relationship involved.

**CHAIR:** Do you have any statistics breaking down the nature of complaints that you are dealing with?

**Mr KEARNEY:** Yes, we look at around 1,000 to 1,200 complaints per year and they tend to be at the top end of seriousness, and they are broken down in each Annual Report.

**CHAIR:** And they are fairly stable in their trend?

**Mr KEARNEY:** I cannot say. Could I take that on notice and perhaps come back to you with a response?

**CHAIR:** Yes. What is a fair performance indicator for the performance of the Police Integrity Commission? How can the public know that it is doing its job?

**Mr JAMES:** The number of complaints that are investigated, the number of hearings that are held, the number of Reports that are published by the assessments and prevention section, and participation by the representatives of the Commission at public forums or forums having some public dissemination. Reports by the assessments and prevention section are disseminated to academics, to agencies having some part in law enforcement and to public interest groups. I think that is about it.

**CHAIR:** What about catching corrupt Police as an outcome? Is that a fair indicator of the effectiveness of the PIC?

**Mr JAMES:** Other indicators would be the number of matters that are referred to the Director of Public Prosecutions for possible prosecution, and at any one time there are a number of matters that have been referred. A matter that was recently concluded—I am not sure whether I should refer to specific matters in a public session—but the matter of Laycock was a matter that attracted some publicity. Apart from that, after we have conducted an investigation we often communicate with the Police Force itself with recommendations that action be taken by the Police under the Police Act.

**CHAIR:** Do you follow up whether those recommendations have been implemented?

**Mr JAMES:** Yes, we do. If we make a recommendation we are very interested in knowing whether the recommendation has been adopted and, if the recommendation has been adopted, whether it has been implemented. Sometimes we will get a response that a recommendation has been adopted but nothing much seems to happen.

**CHAIR:** So you do track these things.

**Mr JAMES:** We do.

**CHAIR:** Are we able to know how successful you are in having those recommendations taken up?

**Mr JAMES:** In our Annual Report we did report on the implementation of recommendations that we have made.

**Mr PAUL LYNCH:** Your jurisdiction over the Crime Commission is a comparatively recent addition. How have you dealt with that, what things you are doing differently, granted that you have that extra jurisdiction?

**Mr JAMES:** It has almost completely been absorbed by Operation Winjana. Operation Winjana was the investigation into the practices and procedures of the Crime Commission on applications under the Criminal Assets Recovery Act and also an investigation into the activities of one particular employee. It commenced—I withdraw that. Mr Cripps was appointed as an Assistant Commissioner in 2010 purely for the purpose of conducting the Winjana investigation. Private hearings were held in 2011. While Mr Cripps was actually the Acting Commissioner public hearings were conducted. When I became Commissioner at the beginning of the year it was thought appropriate that because Mr Cripps had this long experience of the matter I should re-appoint him as Assistant Commissioner. He has been pretty fully engaged with Operation Winjana up to the present. I refer to the extensive submissions—they run to hundreds of pages. We did have an operation that we

called Operation Caesar but that also dealt with the Criminal Assets Recovery Act and became absorbed in Operation Winjana.

**Mr PAUL LYNCH:** I understand the importance of Winjana and the issues there, but I would have thought there might be a whole range of other corruption risks involved with the Crime Commission, Mark Standen being a salient example. Are there other things that you are thinking that ought be done?

**Mr JAMES:** Yes. I am informed that we are conducting some other operations into the Crime Commission in matters not related to either criminal assets recovery or Mr Standen.

**Mr PAUL LYNCH:** Has an audit been done of the potential corruption risks in the Crime Commission? Has anyone done that sort of work?

**Mr KEARNEY:** There have been two assessments conducted in regard to the Crime Commission. First was Rhodium, which was a broad-based look at the organisation and how they manage their risks of misconduct. We identified a number of areas where there were some risks. As a result of those, one of those risks was selected for further work and that became project Caesar, which has now been subsumed into Winjana. As to whether we take on a number of the other areas that are identified in Rhodium, that would need to be discussed further in the organisation. I think at the moment we are devoting a bit of attention to that organisation and I think we would need to defer anything more detailed just for the time being. That is my personal view.

**The Hon. SARAH MITCHELL:** I wanted to come back to some of the questions asked by my colleague earlier in relation to the effectiveness of your organisation. In the 2009-10 Annual Report the then Commissioner gave some examples which he thought demonstrated a lack of effective communication between your organisation and the NSW Police Force. Do you want to make any comments on that and if in your opinion there is a satisfactory approach to communication between the Police Force and the Commission?

**Mr JAMES:** I think there is a satisfactory approach on our part. The Police Force is a very large organisation. We find that the occupants of senior positions in the Police Force change fairly often. We find that some people we deal with in the Police Force are very receptive to what we put; we find that some people in the Police Force that we deal with are much less receptive or at least give the appearance of being less willing to cooperate fully with us. There is I suppose also often a degree of inertia. It is a large organisation and one has to keep pressing sometimes in order for anything to happen.

**Mr LEE EVANS:** Regarding the Commission's response to the Committee's questions on notice about the percentage of female staff members who have the opportunity to perform higher duties, while the Committee understand the rationale, which is explained in the explanation, do you have any measures or strategies that might be able to improve that?

**Mr JAMES:** In our answer we did point, for example, to the imbalance between the sexes in our investigations section. We have to rely on people applying to be investigators and it is a fact that we get very few applications by females to become investigators. It is not a happy situation but I do not think there is much we can do that we are not already doing. We do have to work subject to constraints but we can only appoint people who have the necessary experience and skills and who want the job. As we point out in our answer, we have a number of female employees who are content with part-time or special arrangements jobs because it enables them to achieve some kind of balance between their work and their home life.

**CHAIR:** Does the prohibition on recruitment to the NSW Police Force add to the problem?

**Mr JAMES:** It may do, but I strongly support the continuation of the prohibition. I am aware that the Police Association, for example, has submitted that there should be an end to the prohibition. My views are perhaps coloured by the fact that I was in the law prior to the Wood Royal Commission. I know the Wood Royal Commission operated entirely with Officers who were not and had not been members of the Police Force. I support the continuation of that prohibition.

**CHAIR:** Would you like to make any other comments in relation to the recent amendments to the Police Integrity Commission Act?

**Mr JAMES:** Not really. We have accepted that there be an Inspector. I do not think there are any further comments I would like to make about recent amendments to our Act.

**CHAIR:** Are there any resources issues arising from that?

**Mr JAMES:** Nothing specially arising out of that. Like all government bodies we have been informed that our funds will be cut and cut and cut again from year to year.

**CHAIR:** What sorts of cuts are you facing?

**Mr JAMES:** It is something called the efficiency dividend, which means that the amount of money we get each year is reduced. We are talking about a small percentage cut but year after year it means, for example, that we have to look very carefully at whether we replace employees who cease employment with us.

**Mr KEVIN ANDERSON:** Can I take you back to Strike Force Emblems and the comment you made that it has been revived after so many years? Why do you think it has been revived?

**Mr JAMES:** I think—this is only speculation on my part—that a fairly large number of Police Officers feel that they were badly done by and that the Police Force in general thinks that those Officers were badly done by. That does not particularly explain why the matter has been revived now, but I think many Police Officers regard it as a genuine grievance that apparently Police Officers, against whom no allegation of criminal conduct is made, found that conversations they had might be intercepted and recorded. My understanding is that there was one particular informer who was a Police Officer or a former Police Officer and it was contemplated that he might have conversations with any one of a very large number of people and the members of that very large group of people were included in the application for the warrant and in the warrant itself. That is supposition on my part but that is my understanding. I can well understand how Police Officers who discovered or who thought their conversations might be intercepted and recorded would feel a sense of grievance.

**CHAIR:** It just gave the appearance of a trawling exercise.

**Mr JAMES:** Yes. I am only speculating. I really do not have information on which I could offer an opinion on that.

**Mr KEVIN ANDERSON:** Has the Police Integrity Commission been aware of any further information of late which may indicate there is a revival of interest in this particular issue?

**Mr JAMES:** One thing I might say is that I have seen some assertions in the media that the Minister for Police has recently referred the matter back to the PIC. We have not received any referral. I have seen in media reports that the matter has been referred again to the PIC.

**CHAIR:** Our understanding is that the Inspector has received a copy so perhaps that was an erroneous media report.

**Mr JAMES:** Yes, it might have been a reference to the Commission rather than to the Inspector.

**Mr KEARNEY:** We had no special advice as to the status of that Report.

**CHAIR:** I ask Members for a resolution that we publish the transcript of the witnesses' evidence on the Committee's website after making corrections of recording inaccuracy, the answers to any questions taken on notice in the course of today's hearing, and including the letter to Mr Shoebridge.

**Mr JAMES:** Yes, including the letter to Mr Shoebridge.

**Motion agreed to.**

**CHAIR:** Is there anything the Committee can do to assist you in your work or any suggestions you can make to the Committee?

**Mr JAMES:** Nothing specifically occurs to me.

**CHAIR:** Will you accept any further questions on notice that we may have?

**Mr JAMES:** Yes.

**CHAIR:** Thank you for appearing before the Committee. It is very much appreciated.

**(The witnesses withdrew)**

**(Luncheon adjournment)**