

**REPORT OF PROCEEDINGS BEFORE**

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

**INQUIRY INTO IMPROPER ASSOCIATIONS IN THE NSW POLICE  
FORCE**

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**At Sydney on Tuesday 10 August 2010**

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**The Committee met at 10.30 a.m.**

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**PRESENT**

Mr K. A. Hickey (Chair)

**Legislative Council**

Ms S. P. Hale

The Hon. L. A. Foley

**Legislative Assembly**

Mr M. J. Kerr

Mr P. R. Pearce

**CHAIR:** Assistant Commissioner, thank you for appearing before the Committee on the Office of the Ombudsman and the Police Integrity Commission today for our inquiry into improper associations in the New South Wales Police Force. The Committee will be pleased to hear evidence.

**PAUL ANTHONY CAREY**, Assistant Commissioner of Police, Commander, Professional Standards Command, sworn and examined:

**CHAIR:** Please state your occupation and in what capacity you are appearing before the Committee?

**Mr CAREY:** I am Assistant Commissioner of Police and I head up the Professional Standards Command on behalf of the commissioner.

**CHAIR:** We have received the New South Wales Police Force submission into the inquiry. Do you want that submission to form part of your formal evidence?

**Mr CAREY:** Yes.

**CHAIR:** Would you like to make an opening statement?

**Mr CAREY:** Yes, thank you. Firstly, thank you for inviting me to the parliamentary joint committee inquiry into improper associations in the New South Wales Police Force and I welcome the opportunity to speak to the Committee in relation to New South Wales Police Force developments in this area. In that respect I would like to point out our position and highlight the work that the New South Wales Police Force has done in order to address this area of risk. Improper associations are a particular type of conflict of interest, which have the potential to negatively impact on the New South Wales Police Force in many ways, especially given that effective policing relies on good reputation in the New South Wales Police Force and good relations with the community. As a local area commander for 10 years I am well and truly aware of that role.

Improper associations where not properly addressed have the potential to compromise the reputation of individual officers, the integrity of the New South Wales Police Force and the public perception of the New South Wales Police Force, which, in turn, may have a negative effect on public cooperation with the day-to-day work of the New South Wales Police Force. The obligation to avoid improper associations has always been a requirement of a police officer, and in fact the oath or affirmation says 'uphold the law without fear or favour'. The New South Wales Police Force Code of Conduct and Ethics explicitly addresses this issue by requiring officers to take reasonable steps to avoid conflicts of interest, report those that cannot be avoided and cooperate in their management.

In practice, although the risk of harm relating to improper associations is high the prevalence of allegations is low. In 2004-2009 allegations of improper associations as a percentage of complaints received by the New South Wales Police Force remains consistently low and remains at between 1.5 to 2 per cent of all complaints received against sworn police officers. Nevertheless, in recognition that

the potential consequences of improper associations are high, considerable steps have been taken to improve the mitigation of those risks in recent years in order to ensure that the likelihood is kept low and is even further reduced. In 2006 the obligation in the code of conduct to avoid or manage improper associations was made more explicit by the production of the Conflicts of Interest (Improper Associations) Policy and Guidelines, and I can table a copy of that policy for the information of the Committee.

### **Document tabled.**

That policy was produced alongside a more generic conflict of interest policy and guidelines in an updated code of conduct and statement of values. Those new policies are bolstered by a series of awareness-raising measures, including mandatory training in the code of conduct; a requirement for all staff to acknowledge that they attended that training and were aware of the requirements of the code of conduct by signing a formal statement; training for commanders on the requirements of the new policies; an email to all staff to ensure awareness of the new policies; dedication of the full edition of the New South Wales *Police Weekly*—being an internal publication for all staff; case studies in subsequent *Police Weekly* editions on improper associations; the development of six-minute intensive training exercises, or SMITS, on the topic of improper associations and other promotional material.

Four years on from that not inconsiderable undertaking, the New South Wales Police Force is still continuing to take action to ensure that improper associations are managed effectively in the New South Wales Police Force and that compliance with the policy is enhanced. The recent review by the Police Integrity Commission of compliance within the New South Wales Police Force with improper association policies and guidelines, being the catalyst for this inquiry, has made several recommendations, which the New South Wales Police Force has favourably considered and is in the process of implementing. My command, being the Professional Standards Command, has been carrying out proactive research into the issue of improper associations in order to gain a more accurate understanding of the issues in the field.

The following tasks have been undertaken to this end: workplace reviews in commands; assistance in commands with the corruption resistance planning; and ANZPA research. The New South Wales Police Force is currently engaged in this research—ANZPA being the Australia and New Zealand Policing Advisory Agency, which is literally the secretariat to the commissioner's conference. I am a member of the Australian ANZPA Integrity Forum, which is a meeting of my peers—assistant commissioners or directors in charge of professional standards or ethical standards. Out of that forum New South Wales is charged with undertaking research in relation to declarable associations to ultimately develop a national standard that might be put into place across a range of law enforcement agencies. That research will be presented to the ANZPA Integrity Forum later this year.

As recommended by the PIC report and as supported by our own research, the New South Wales Police Force is considering changing the terminology from the current 'improper associations' to 'declarable associations'. The reasoning behind the first is acknowledging that New South Wales Police Force employees, as with all

other public official employees, have a range of associations outside of work, including family, social and community associations, most of which are not improper but some must still be declared. It also emphasises the fact that having a declarable association does not automatically mean that the officer is engaging in misconduct and it is only misconduct when not properly managed. For instance, in the case of family associations, declaring a conflict of interest may avoid the association being improper. In such cases the risk of such associations are able to be managed if properly declared. It is envisaged that the new terminology will take away some of the stigma of having a declarable association outside of work and encourage more employees to make declarations.

A further recommendation of the PIC report was that records were not kept centrally. The Professional Standards Command has worked with our BTS—business and technology—to develop a declared interest register, which will sit within the electronic human resources database, which is known as SAP. A register has been added to SAP and a user guide developed. That register is currently at the testing phase. This will allow for all declarable interests to be centrally recorded. The system will also allow for analysis of trends and issues over time and comparison between different geographical areas, duty types and demographics in the New South Wales Police Force.

We acknowledge there need to be improvements made in awareness training in terms of the need to report and manage improper associations. The research mentioned above has also shown that officers are still unclear about when to declare a certain association, for example, family associations. The training is therefore being revised to ensure further clarity and also to include the new recording system and terminology that I just spoke about in relation to SAP. Training tailored to commanders and managers is also being developed in recognition of their pivotal role in the management of improper associations. My command has set up a help desk, which is a telephone service for commanders and managers in the field, to be able to make professional standards-related inquiries including inquiries on how to properly manage improper associations.

As a result of the considerable research and review undertaken in this area and in recognition of the recommendations of the PIC report, Professional Standards Command is also undertaking an additional review of the conflicts of interest policy and guidelines and the Conflicts of Interest (Improper Associations) Policy and Guidelines to ensure their increasing relevance and effectiveness. Thank you.

**CHAIR:** Could you tell the Committee what types of risks are posed by police officers having an improper association?

**Mr CAREY:** The risk can be categorised into three areas: actual risks, perceived risks. We use the ICAC definition in relation to what a conflict of interest is, and that is where the public official has private interests which could improperly influence their performance of their official duties. So the risk is in that area in relation to the performance of their duties.

**CHAIR:** You did say three. You said actual and perceived. What is the third?

**Mr CAREY:** I will just refer to my notes. Perceived, actual and potential.

**Mr PAUL PEARCE:** Mr Chair, could I ask a question? It might be jumping around a little. You talked about the terminology and the declarable association. What is the actual nature of the declaration that the officer would be expected to make? Is it simply identifying person X, be it a family member, a friend or an associate, at that point or does it go the next step as to the nature of the activity that they believe this person is involved in which therefore makes them a declarable associate? If so, how do the police then respond? You cite examples one and two that relate to, essentially, social drug use. Does that declaration then provide grounds for the police to pursue the said declared associate?

**Mr CAREY:** In relation to gathered intelligence yes it does. It is about the commander and the manager with the officer declaring what that association is, developing what the depth of that association is, and I can give you some examples that I have had with officers who have members of their family who are criminals or who are members of outlaw motorcycle gangs and they will give you a great amount of detail in relation to the history of those people. In my experience the officers that I have dealt with absolutely limit the contact with those people.

**Mr PAUL PEARCE:** That is on the more serious end of the scale. The examples you give here from the public perception would be on the less serious end of the scale.

**Mr CAREY:** Yes.

**Mr PAUL PEARCE:** How does that sit in terms of the officer making the declared association the nature of the offence which is being committed by the declared associate? How does it then translate? Do the police at that point have an obligation to pursue the individual so named for the offence that has been identified?

**Mr CAREY:** We do have an obligation. I think it would depend on the detail that is provided and where that activity might be taking place and what evidence might be able to be gathered in relation to that particular offence. One of those examples is about an officer seeing a drug deal take place.

**Mr PAUL PEARCE:** I think that would be in a different category—the knowledge of someone consuming a certain drug.

**Mr CAREY:** That they have an associate who may be a drug taker and he or she becomes aware of that. Certainly there is an obligation in relation to that illegal activity to pursue that based on the information that is provided by the officer, but that would be gathered as information.

**Mr PAUL PEARCE:** What sort of counselling would be involved with the individual officers, because essentially what is being put upon the member of the Police Force at that stage is a very high standard that probably would not be applicable elsewhere in the community, notwithstanding common law offences in relation to misprision of felony, et cetera? What count would be involved in that, because that is essentially putting an onus in most cases upon a young man or

young woman—some of them in their early twenties—to essentially declare something against a family member or possibly a school friend for many years?

**Mr CAREY:** It is a dilemma that those people will face. It is not an ethical dilemma because if they have taken the oath of office by way of oath or affirmation on the parade ground—which people will do in about two weeks time—then they are obliged to report that matter.

**Mr PAUL PEARCE:** I am aware of the legal obligation. What I am talking about is the counselling associated with that. People can be aware of their legal obligation but still have an issue in terms of exactly how they deal with it in an emotional sense.

**Mr CAREY:** I think that advice starts when they are a student in the college, from my knowledge of the training that goes on in the college, certainly in relation to ethics. In week 14 I speak to the students in a fairly large gathering—in fact, I speak to them on Thursday morning—and talk about the role, function and oath of the office of constable and the duties they are about to undertake. It poses lots of questions in relation to the way they will conduct themselves and their lives, and points out it will have an effect on them, their families and friends. But if they take that public oath of office they are obliged to put that above their personal interests.

**CHAIR:** If an officer declares certain issues is counselling provided if the officer so chooses?

**Mr CAREY:** Not counselling in the true sense, but that declaration is made to the commander or the command management team. It might be made to another person but come to the attention of the commander. It is the responsibility of the commander and the officer's managers to provide further guidance about how they might manage that conflict once it has been declared.

**Ms SYLVIA HALE:** I would like to pursue that further. If, for example, a police officer has a relative or friend who is taking drugs and the officer reports it on the first occasion but the drug taking continues, are they obliged to continue to report it or, having done it once, is that the end of the matter?

**Mr CAREY:** If they come by information which indicates there is criminal activity or a breach of the law they are obliged to continue. If they have continuing contact or information about that sort of conduct, they are obliged to continue to report that. They have declared the association but if they are aware there is continuing criminal conduct they should provide that information.

**Ms SYLVIA HALE:** Are you aware that that happens?

**Mr CAREY:** I am not aware that that has particularly happened. I cannot give that evidence; I do not know, but that would be expected.

**CHAIR:** The New South Wales Ombudsman also suggested that additional guidance in regard to written declarations and the provision of a template to assist these declarations could encourage officers to make written declarations. In its

review, the New South Wales Police Force is looking at practical ways in which to assist officers in making declarations outside mere compliance issues. What is your view of that? The Ombudsman is saying there needs to be some guidance in regard to written declarations and the provision of templates to assist those making written submissions in regard to conflicts of interest. In its review the New South Wales Police Force is looking at particular ways in which to assist officers in making these declarations outside mere compliance issues. That is directly from the Ombudsman. What is your view on that?

**Mr CAREY:** Both the conflicts of interest policy and the conflicts of interest improper association policy—improper association is a conflict of interest but we thought it was so important that there are two policies—are being reviewed based on both the PIC recommendations and recommendations from the Ombudsman. If we can achieve better compliance by listening to and learning from both the Ombudsman and the PIC then that is what we will do. If there is an issue in relation to compliance and written declarations and there are improvements that can be made to both of those policies, that is what we will do. Both of those policies are up for review as is the training, and that is what we are doing at the moment.

**CHAIR:** Why does the New South Wales Police Force have these guidelines, how long have these guidelines been in place and how successful are they?

**Mr CAREY:** The specific guidelines have been in place since 2006. They were reviewed in 2008 and will be reviewed again. They are there because we see that improper associations, if not properly managed, are a high risk to the organisation. It is important that that policy stand alone and separately and it indicates to people that we recognise in the first instance there will be these associations and they need to declare them to us so that we can properly manage any conflict of interest. It is important; we have regularly reviewed and trained people over the last five years. We recognise that commanders and managers move on and that we recruit large numbers of new people each year and the training needs to be continuous. We are probably 60 per cent through some mandatory training in relation to improper associations. We have received some feedback about that training and we are going to review it. The training will continue and we will probably review it again next year and implement a new program.

**CHAIR:** How successful do you think the guidelines are?

**Mr CAREY:** We receive on average just over 100 complaints in relation to improper association. I note the data that is in the PIC report in relation to the allegations that they received.

**CHAIR:** It is 139, isn't it?

**Mr CAREY:** The average is just over 100 out of an average of about 5,000 to 5,500 complaints a year. The number of complaints received in the past financial year dropped again. Complaints about improper association are a very small percentage of that—about 1.5 to 2 per cent. It dropped below 1.5 per cent and has just bounced above 2 per cent in one year. The PIC report for the purpose of their research looked at 100 complaints across two years that have been received by the

New South Wales police in relation to improper association. Fifteen of those complaints were not investigated; in other words they were declined, so that was the end of them. Of the 85 matters that were investigated, only 24 were sustained. In fact, the commissioner removed four of those people. But 24 sustained matters out of 5,500 complaints is about half of 1 per cent. We understand the risk is very high but the number of allegations that come to our attention is very low.

**Ms SYLVIA HALE:** Have you read the PIC submission?

**Mr CAREY:** Yes.

**Ms SYLVIA HALE:** It makes the point on page 3 that the number of complaints received may bear very little relationship to the seriousness of those complaints. In the third paragraph on that page it says that given that the commission focuses on serious police misconduct it is possible that the complaints received and assessed by the commission are of a more serious nature than the overall sample of complaints referred to by the New South Wales Police Force. The submission then goes on to say that the commission is of the view that care needs to be taken when attempting to equate the number of complaints received with the prevalence or extent of an issue and that relying solely on complaints data is unlikely to provide a comprehensive understanding of a particular issue. What is your comment on that observation?

**Mr CAREY:** The data that PIC holds in relation to seriousness of complaints is not demonstrated in this report. They rely on complaints data and it may very well be that the data held by PIC are about very serious matters. I am not sure what happened to the 199 matters that PIC received and that are referred to in this report. We have a good working relationship with PIC that is separate and distinct, but it may very well be that some of those matters came to us and could have formed part of the 100 complaints we actually investigated. PIC is right, they are very serious matters and the consequences in terms of risk are high, which is why we have a separate policy, mandatory training and regular reviews of that particular policy.

It is also why I took the responsibility in relation to the national research. I think it is very important across all law enforcement agencies. There are two States that do not have improper association and declarable association policies in their law enforcement. They are under consideration. There are two States that have declarable association policies, which is what we are looking at, so I think it is very important. We do not rely solely on the low level of allegations or the low level of sustained findings, so I think we treat it very seriously.

**Ms SYLVIA HALE:** One of your earlier statements when you were giving evidence this morning referred to the low prevalence of allegations. Again, the issue is not the prevalence but the serious nature of the allegations. I can understand that from a media point of view to talk about the low prevalence of allegations is very useful because the implication is that all is well, but I think the point made by PIC is that it is not the number but the quality of the allegations. What do you do in order to determine which are the more serious and less serious allegations and how specifically do you follow up serious allegations of misconduct or conflicts of interest?



**Mr CAREY:** Are you talking about the receipt of a complaint?

**Ms SYLVIA HALE:** Yes.

**Mr CAREY:** All complaints are assessed by the command or the unit where those complaints are received and if the matter is assessed as a complaint it is placed on our central system—CATSI—and we can keep an eye on them in relation to their seriousness. The complaint is assessed in relation to part 8A and there is a way of dealing with a particular complaint and how we might investigate it. The allocation of resources to a particular complaint would depend on the nature and type of allegation and the information available. I would say that while there were only a low number of allegations, mostly managerial action was taken in relation to the 23 or 24 sustained matters relating to improper associations. In four of those cases the commissioner actually dismissed an officer, so those matters were treated very seriously. I do not know the full details of those briefs but I suspect that more than likely they were criminal briefs and we pursued those officers in relation to those activities and the improper association. They are very serious outcomes. If the allegation is made and the evidence is available we will pursue those matters very seriously.

**Ms SYLVIA HALE:** Are these allegations always pursued in-house or is there ever any independent assessment of those allegations and the investigation of them?

**CHAIR:** That is the PIC's role. Assistant Commissioner, you spoke about reviewing the guidelines. Can you tell the Committee what the terms of reference are, what is the timetable of the review and whether you are consulting outside bodies in regard to that review?

**Mr CAREY:** I cannot tell you what the terms of reference are. We certainly have used the PIC research paper, which was provided to us in draft form in September last year, as a basis for reviewing both the conflicts of interest policy and the improper association policy. They will be reviewed in that context and in light of the findings of this Committee. The consultation is wide and includes the Ombudsman, the Police Association and the PIC. That would be the parameter in relation to reviewing those guidelines. Both policies have been reviewed once since they were put in place.

**CHAIR:** Can we get a copy of the terms of reference of the review?

**Mr CAREY:** Under normal circumstances we would not develop terms of reference. We would review the policy based on what we had found or what PIC has found or what the Ombudsman might recommend. They should be reviewed annually. We can certainly provide you with information about how we are going to go about reviewing both those policies.

**Mr PAUL PEARCE:** Going back to the declarable associations, there is a risk with the oath that officers take, the nature of the declarations and the nature of the declarable associations, that police officers could face a level of social isolation vis-

a-vis the broader community, particular when you are talking about family members or long-term friends. In your review of the impact of the policy and the appropriateness of aspects of the policy will you be looking at whether that potential for social isolation translates into a culture of closeness within the Police Force that could in fact be as counterproductive as improper associations? By way of background, we have had several matters raised by the PIC of allegations that officers, because of the nature of their relationships, have turned a blind eye. I see that as a potential risk.

**Mr CAREY:** As part of the review we would consult the Police Association and those sorts of matters would be considered. When an individual decides to become a police officer they have to consider a range of matters. I know as a commander that through the college and in their first year as a probationary constable that is one of the issues that is raised with an officer in relation to their choice of career. It has that potential—that is, you will be isolated from those people you may have gone to school with and it may not be the preferred choice of your family. They are choices that individuals have to make. Along the way through their student days and certainly with their probationary Constable days there is an opportunity for them to think, 'Is this the career for me?' That is very clear to those people very early in her career whether it is or is not.

**Ms SYLVIA HALE:** Early in your career it would be easy to say, 'Of course I will behave appropriately and not associate with people' but as your career progresses it is less easy to do that. Do you find many people resign from the Police Force because of that realisation of a conflict of interest that they cannot reasonably result?

**Mr CAREY:** I can give this evidence. For the first 12 months of a police officer's career they are on probation and that is about completing both operational requirements and academic requirements. They are the more formal requirements. At the same time the organisation is looking at that individual in relation to their suitability to being in the organisation and commanders are talking to young people, mostly young people, about what the job means, what the oath of office and what it means in relation to their life. It is public interest first and private interest second. Certainly, there is that opportunity for people to leave the Police Force because they might feel that they become socially isolated. My experience also is that people will resign. I have had people resign from the Police Force because they have formed relationships with people. Most often because they have formed a relationship where they fall in love with someone and then they have disengaged from the Police Force because they cannot live that relationship. So, they make that choice.

**Ms SYLVIA HALE:** Other than that initial probationary period or when they join the police, later in their career in any individual discussion with any officers about their need to avoid conflicts of interest or improper associations is there ever any one-to-one engagements with police officers by you or other people in the branch about appropriate behaviour just as a matter of course rather than because someone has come to your specific notice?

**Mr CAREY:** Obviously, there is the formal training, the formal engagement and the expectations in relation to their role that is ongoing. I can only speak for

myself and I would expect that other commanders would do it, yes, there is ongoing engagement with individuals about their career and what they are doing.

**Mr MALCOLM KERR:** I take you to example two on page 7 of the Conflict of Interest: 'Constable A has a friend who decides to buy drugs from a dealer. It is a small quantity of drugs and the constable is off duty, so the transaction is ignored by the constable. Constable A warns the friend not to buy drugs in their presence again. A few months later the dealer contacts Constable A and asks for some confidential police information. He threatens to expose the constable for ignoring the previous drug deal if the information is not supplied. The constable was interested in maintaining a friendship despite the illegal activity of a friend. However, the association itself was improper and put Constable A in a compromising position.' Is there any problem in that example in Constable A ignoring the drug transaction while he was off duty?

**Mr CAREY:** Yes there is.

**Mr MALCOLM KERR:** What would happen if those statements were found to be correct in relation to Constable A?

**Mr CAREY:** If he brought it forward? If he came forward with the fact that he had seen it take place?

**Mr MALCOLM KERR:** It was established in some way that everything said in that example was true?

**Mr CAREY:** That matter would have been investigated based on the circumstances that came forward if there was a real incident in relation to that particular deal that had taken place and the constable had ignored his duties. That would be investigated as a complaint and the outcomes would be determined based on the evidence that was available about that particular incident.

**Mr MALCOLM KERR:** On page 4 in the same document under 'Failure to Comply'. It states, 'Failure to comply with this policy and related guidelines may be a breach of New South Wales Police Force code of conduct and ethics.' Because the word 'may' is used I take it that there would be occasions when there is a failure to comply with the policy and guidelines and it would not be considered a breach or acted upon as a breach?

**Mr CAREY:** Again, if there was a matter that came to our attention and it was investigated in relation to not declaring an improper association, it may be considered a breach. Again, it would depend on the circumstances: The officer's knowledge, the association. It would depend what the complaint found. It may very well be in the circumstances of that particular complaint, I do not know, that we may not take action against that officer for not declaring that association.

**Mr MALCOLM KERR:** I take it that improper associations always have been a problem in the Police Force?

**Mr CAREY:** Improper associations have been part of our history, I think will stop we have made a raft of changes in relation to the way we police and the way we practice and the way we manage. For example, the management of informants or sources has been a significant change and improvement in relation to the engagement of police officers with sources. That came out of the royal commission. There is a whole raft of checks and balances, if you like, in relation to those relationships.

**Mr MALCOLM KERR:** Prior to 2006 did something occur that brought about changes over the past four years?

**Mr CAREY:** I would have to take that question on notice. That precedes my time in relation to this particular field.

**Mr MALCOLM KERR:** You mentioned that two States do not have a mechanism for dealing with improper associations, is that correct?

**Mr CAREY:** Yes. I think it is Tasmania, just off the top of my head—someone will correct me if I am wrong—and the AFP both have policies in draft form.

**Mr MALCOLM KERR:** How does the situation in Victoria differ from New South Wales in dealing with the problems?

**Mr CAREY:** Their policy talks about the declarable associations. So, the terminology is different. How it works practically, I do not know at this stage.

**Mr MALCOLM KERR:** You have not discussed that with your counterpart in Victoria?

**Mr CAREY:** I have not. The head of the Ethical Standards Department has just changed in recent times. The new appointees Assistant Commissioner Emmett Dunne, who has visited half and spoken to us. I have had lots of conversations with him about professional standards and practices, but we have not yet got to improper associations or declarable associations.

**CHAIR:** The submissions the Committee has received all point out that the word 'improper' brings a negative terms suggesting misconduct and therefore discouraging officers from making these declarations. It has been suggested that the word 'declarable' be substituted for 'improper'. Have you considered this?

**Mr CAREY:** Yes, and that certainly forms the basis of the review of our own policies. I have undertaken and my research team, some of whom are in the back of the room, are doing that work nationally for ANZPA and it is about declarable associations will stop as I said, two States use that term. We do not. We think 'declarable' is a much more positive term because people clearly make the distinction that the association I have with my brother, sister or father is not improper. But if they have a criminal record or are involved in criminal conduct, it is an association we need to know about, so they need to declare it.

**Mr MALCOLM KERR:** You mentioned that you meet with your counterparts in relation to professional standards from other States?

**Mr CAREY:** Yes.

**Mr MALCOLM KERR:** How often does that occur?

**Mr CAREY:** It occurs 2 to 3 times a year. It comes under the auspices of ANZPA. It is the Australian Integrity Forum. The assistant commissioners or their equivalents meet as the Australian Integrity Forum. We met late last year, once early this year. Mr Dunn has just taken the chair of that forum. It sits in Victoria. We will meet again before the end of the year. It is two or three times a year.

**Mr MALCOLM KERR:** I take it that the problem of improper associations is universal. Is there any reason why they could not be a consistent national approach to the problem?

**Mr CAREY:** There is not. We are looking at providing information to ANZPA generically. Each State has different laws and different police Acts, and different complaints processes. Having a standard policy in detail would be difficult, but there certainly are generic statements that could be made in relation to a declarable association, which is the research we are looking at so we set a standard for all of the law enforcement agencies.

**Ms SYLVIA HALE:** Do the Australia Federal Police participate in ANZPA?

**Mr CAREY:** Yes.

**CHAIR:** The PIC research paper uncovered that 80 police officers was known improper associations have not made written declarations. What do you believe were the reasons for this non-compliance?

**Mr CAREY:** I would have to take that question on notice. I do not know. I note that in the report. I do not know why those individuals have not declared their associations. I would offer this in evidence, that the four officers the Commissioner dismissed were clearly involved in improper associations and were not going to declare them.

**The Hon. LUKE FOLEY:** Do you think some officers fail to declare improper associations because they feel unable to sever all contact with those associates, an obvious example being family members? In that situation, does that automatically mean in the force's view that the officer is behaving inappropriately by failing to declare the association?

**Mr CAREY:** As it stands at the moment, that is right. I think certainly in relation to the way the policy is framed in relation to declaring improper associations there are those negative punitive sort of connotations about that language. We feel there are officers who are not declaring associations that are not improper but need to be declared so that the command can manage and provide advice to that officer about how they might avoid the conflict. The evidence is in this research paper that

people are probably not declaring because of that label that it is an improper association.

**CHAIR:** Commissioner, Thank you for attending today.

**(The witness withdrew)**

**GREGORY THOMAS CHILVERS**, Director of Research and Resource Centre, Police Association of New South Wales, Level 4/154 Elizabeth Street, Sydney, and

**PHILIP THOMAS TUNCHON**, Assistant Secretary Legal, Police Association of New South Wales, Level 4/154 Elizabeth Street, Sydney, sworn and examined:

**CHAIR:** Thank you for appearing before the Committee on the Office of the Ombudsman and the Police Integrity Commission today for our inquiry into improper associations in the New South Wales Police Force. The Committee has received the association's submission to the inquiry. Do you want to make that submission part of your formal evidence?

**Mr CHILVERS:** Yes.

**CHAIR:** Would you like to make an opening statement?

**Mr CHILVERS:** No, we rely on the submission as presented.

**CHAIR:** The association's submission mentions that often police officers cannot gauge the damage that some of their actions can cause, and that they only receive cursory training in identifying conflicts of interest. Do you believe that more in-depth training needs to be given to police officers in this matter, and if so how would that training best be conducted?

**Mr CHILVERS:** First of all, I think we have three recommendations at the end of the submission, encompassing a number of issues. Certainly the training question is significant. I think the submission makes the point that conflict of interest is not an easy, natural thing to be understood by everyone. In fact, often it is more about perception, particularly for the honest police officer. A police officer who is engaged in improper activities—I stress that word 'improper'—is highly unlikely to bring it to the attention of his or her superiors. That is why we have the Police Integrity Commission. So we are talking fundamentally about perception, and about early intervention, for want of a better word. Can I flag early intervention and put it to one side, because I would like to raise that issue again at some stage.

We are talking about giving a police officer hints or skills to be able to identify what potentially might be causing them a problem in the future in their relationships and associations, or what may lessen the public's perception of police reputation, if you like. Sometimes this is not easy. Every occupation faces this problem. Indeed, members of the New South Wales Parliament have the same issues. So it is something that needs a fair bit of investigation, a fair bit of education and a fair bit of discussion. We really believe that this is significant, that it needs to be placed in its proper context.

Part of the problem is—as I think I heard Assistant Commissioner Carey mention already—that the name of the policy is awkward. It assumes that any association is improper, and impropriety assumes wrongdoing, certainly for the police officer. If a police officer does not believe he or she is doing anything wrong, they are not likely to bring it to anyone's notice. We are talking about perception, we

are talking about early intervention, and we are talking about giving police officers the ability to see that some associations may in fact cause them problems at some stage or cause members of the public to lose faith in the integrity of the police service. That is what we are really talking about.

We see the problem as encompassing three things. We think that the policy should be completely rewritten to take that into account, that the education program should be revamped and made more extensive, to give people the opportunity to discuss the real, underlying issues and the cause and reasons for the policy, and also that the name should be changed so that it is not threatening. It should be removed completely from having this disciplinary connotation, so that people can understand what the purpose is.

In one of the earlier questions I heard Mr Foley say that perhaps one of the reasons why people are not notifying these associations is that they do not want to cut off. I do not think it is an issue of cutting off, certainly not with familial relationships; it is an issue of managing them. They are the sorts of skills that people need to have. People need to be able to notify what might cause a problem, and then be given the skills and abilities to be able to manage them appropriately, not necessarily cut them off. If your brother is an improper association, can we realistically expect anyone to cut the relationship off? No; they need to manage it.

**Ms SYLVIA HALE:** When you say they need to manage it, what do you mean by 'manage' in that context?

**Mr TUNCHON:** Roger Rogerson is a classic example. He had a brother in the job who was directed not to associate with his brother. In fact, he was told, 'If you are to visit your mother, make sure that he is not there.' In a practical working sense, you just cannot do that.

**Mr CHILVERS:** But he might have had a talk with his superior, with his supervisor, and said, 'I am in a situation. I am in the Rogerson family. My brother is known. We are having Christmas dinner with the family. How do I manage that? I have told you about this relationship. I have told you I am going to Christmas dinner. What sort of things should I be conscious of? How do I manage it? How do we face the media?', and all those sorts of issues.

**The Hon. LUKE FOLEY:** Going back to the word change that you recommend, from improper association to declarable association, if the force were to make that change how much of an impact do you think that change, in itself, would have on the level of compliance by officers with the policy?

**Mr CHILVERS:** Associated with an appropriate training package, and engaging people to talk about it, I think it would have a big impact. 'Improper' has this punitive connection. Anyone who is engaged in improper activities automatically is down the disciplinary path; that is what the assumption is. It could be said, 'This is an improper association.' The reply would be, 'No, no, it is one that I had to declare, but I am quite innocent in this, I am managing it, everything is above board, everyone knows about it, everything is fine.' it is not improper; it is declarable.



**Mr MALCOLM KERR:** You mentioned the example of Roger Rogerson's brother. When did that occur, do you recall?

**Mr TUNCHON:** It is quite dated now. It would be in the last 10 years, I suppose.

**Mr MALCOLM KERR:** If it had occurred recently, given your understanding of the present policy, would that directive still be given?

**Mr TUNCHON:** I believe it would be, yes.

**Ms SYLVIA HALE:** In your submission you say on the second page, 'There should be no punitive consequences for any officer who merely reports an association of concern.' Are you aware of instances where people have suffered repercussions as a result of reporting improper associations?

**Mr CHILVERS:** I cannot quote exact ones now, but there would be a number of instances where people who have reported these associations have been given directions that could be interpreted as being punitive, and how to manage them—in other words, 'Don't do this and don't do that'—instead of sitting down with someone and saying, 'you have given us this declaration about the fact that you have associated with this person. What are the implications, what are the dangers, how are we going to manage this, should you in fact continue this relationship?' It is not a discussion—and that is what needs to happen in the organisation. People need to be engaged, they need to be brought into it to understand the implication of these associations, to understand what might happen and what might not happen.

**Ms SYLVIA HALE:** Assuming someone had been brought in and had the discussion, but they still continued with the contacts, what do you think the next stage should be for that person?

**Mr CHILVERS:** It would depend on what the continuation of that contact was and what the circumstances were. If it became an improper association, maybe it does need to be progressed further. But the mere reporting of it, in itself, should not be construed to be an improper association.

**Ms SYLVIA HALE:** But the mere reporting of it require that there be a surveillance of that relationship? Is the fact that one merely declares it the end of the matter? Or do you wait until such time as there seems to be evidence of something resulting from that association?

**Mr CHILVERS:** If you look at these sorts of things in the context of early intervention, an appropriate early intervention program, of which this should be logically a part, would involve sitting down with your supervisor or your manager and developing a plan to be able to, if you like, list the risks involved in that sort of relationship or whatever. Good management and good supervision means that an ongoing relationship has developed between the officer and his or her manager or supervisor, so that there would be regular updates or regular meetings. Early intervention, which is an area of interest to this Committee, is not a matter of a 'tick and flick'; it is a matter of developing good human resource management practices to

lessen the risks to both the individual and the organisation through a management plan. That is the sort of thing I am talking about.

**CHAIR:** Mr Chilvers, you spoke about a training package. What sort of package does the association believe is needed to give to the officers so that we can train them in a more specific manner?

**Mr CHILVERS:** I think it should start right at the beginning, when people are brought into the Police Academy.

**CHAIR:** Assistant Commissioner Carey said earlier he is to talk to the recruits this Thursday, so they are starting at that level. What package do you believe they need to provide to ensure that you see the outcome that you need to see?

**Mr CHILVERS:** Both Phil and I have had the advantage of a long history in this organisation, and we were present during the Police Integrity Commission investigation into Operation Abelia. Some of you may recall that; it was in relation to the use of illicit drugs and the abuse of legal drugs amongst police officers. One of the things that came through very clearly there was this question about improper associations and the inability of people, from the very time they entered the organisation, to distinguish between what might be called their private life and their professional life. They saw a clear line of distinction there; they could not see the problem or issue about engaging in these sorts of activities while at the same time being a sworn police officer.

So, right at the very beginning—it is not just a matter of having an hour's lecture—it really needs to be a fairly deep and ongoing discussion about conflicts of interest, and what the impact is, not only on the officer and the organisation but on the rule of law itself. When conflicts are significant conflicts of interest, it impacts on the independence and integrity of a police officer and his or her ability to carry out their functions as a sworn police officer and to carry out their duty to the law. So, right from the very beginning it should be part of their ongoing training. It should be a package that is very clearly within the area of management training, so that managers and supervisors—that is, sergeant and above—should have training in this so they are able to recognise in their junior officers where there are potential conflicts of interest and be taught how to work with their officers to be able to manage these conflicts.

It should be part of the ongoing training. I would suggest it should be part of the training that the training officers in the local area command should be able to do on a regular basis to keep it bubbling to the surface so that people are not scared about it and they do not see it as a threat. They just see it as part of the way they have to think when they work on a daily basis when they interact with people. This sort of question should be at the back of their head all the time. It should be second nature.

**Mr TUNCHON:** There are some elements of that training which fall into that category that is called the MCPE, mandatory continuing police education. This is one of those topics that functionally should sit in that category.

**CHAIR:** It should go hand in glove with the EIS program.

**Mr TUNCHON:** Absolutely, yes.

**Mr CHILVERS:** Do you want to talk about that?

**CHAIR:** We will get to that. I have noted it.

**Mr PAUL PEARCE:** I raised with the Assistant Commissioner the risk from these declarable associations, as they are currently termed, or improper associations of the social isolation of police officers, particularly younger police officers aged 19, 20, 21 who are just out of school and are told they have to declare an association possibly with a family member who is a bit dodgy or friends they went to school with. I think you have answered to some extent about the ongoing education side of it. How would that then relate to an internal police culture—because the only people they can safely associate with are other officers who are in a similar situation—and the potential problems that arise there? There have been several PIC matters where that has come up. Do you feel there may be a reluctance to make written declarations because of a concern the information may have a detrimental impact on an officer's future career? They are doing the right thing declaring an association with a family member or friends of longstanding. Is there a risk that may impact on their career, for example, in the police intelligence area? Has this been discussed by the association? What is the association's view on those aspects?

**Mr CHILVERS:** This issue about social isolation came up with the Abelia operation, particularly amongst young people who are living in an environment where their friends are probably experimenting with drugs and whatever. They are turning up at parties and suddenly realising, 'I can't turn up to these parties anymore, otherwise I will have to arrest everyone', which makes it somewhat difficult. So it is a significant issue. I do not have the answers for that but it is something that people need to talk about and develop strategies for their own comfort. You put someone in a uniform and give them all these powers and people automatically think that it is easy. These people have very, very difficult lives. They have conflicts all the time. They have this absolute independence of the office of constable and they have to exercise it within the context of maintaining integrity and their responsibilities to the law and balancing all these different and competing interests in a very complex society. We cannot assume that it is an easy profession. It ain't.

**CHAIR:** A few people in this room would agree with you.

**Mr PAUL PEARCE:** You are dealing with relatively young people who have just reached adult maturity.

**Mr TUNCHON:** It is broader than that. When you get out into the more countrified areas, the rural areas of the State, police officers mix and mingle and assimilate into the community. Sometimes they are single-person stations and they have to interact with the community. They build friendships. Again, this is an issue that is confronting them regularly—how they deal with what might be an improper conflict, if you like.

**Mr CHILVERS:** What was the second part?

**Mr PAUL PEARCE:** The second part related to a concern or reluctance amongst officers to make a written declaration because it may have a detrimental impact on their future career?

**Mr CHILVERS:** That really is an issue where the policy needs to be tightened up significantly. If you remove the idea of 'improper association' to a 'declarable association', I would have thought that people who had a number of declarable associations and a very clearly well-defined management plan would be a positive rather than a negative and it should be seen as such. A constable or sergeant has declared these things, this is the management plan he is operating on and everything has worked well. He would be a person I would be trusting in a position.

**Mr MALCOLM KERR:** In relation to the replacement of 'improper association' with 'declarable association', as it is in Victoria, are you aware of the approach or policies in Victoria?

**Mr CHILVERS:** I have seen them. I have not got them with me, I must admit. My understanding is that they have a fair amount of support from the association.

**Mr MALCOLM KERR:** How does the Victorian approach differ in other respects from that in New South Wales?

**Mr CHILVERS:** My understanding is that the policy is much more along the lines of what we are recommending, that is, that it is about effectively managing risks to the organisation and the individual rather than what I would call a punitive approach.

**Mr MALCOLM KERR:** Do you have a copy of the Victorian approach?

**Mr CHILVERS:** I could get it for you. I will take that on notice.

**Ms SYLVIA HALE:** The PIC in its submission says:

The Commission is of the view that the New South Wales Police Force should consider utilising a central repository of information regarding known associations and declared conflicts of interest for its officers.

Do you agree that would be a good idea? It seems to me it is endorsed by the Ombudsman. If such a central repository is created should people be able to have those declarations removed—for example, if the contact dies, moves interstate or overseas—or do you think that the public interest requires that those contacts be retained because it might be indicative of a subsequent trend in behaviour.

**Mr TUNCHON:** I do not see it as being necessary at all. If you go to those recommendations made by the PIC, they seem to cover themselves quite well. Recommendation 7 talks about a living, breathing document held at a local level that follows the officer if they are transferred. What is the point in having it duplicated somewhere else?

**Mr CHILVERS:** I have to admit, I am not greatly convinced. There are lies, damn lies and statistics. You can collect bunches of information on people. I am not entirely convinced that unless it is really carefully analysed and looked at that it can indicate anything apart from the fact that you have information on someone. You have people who have extensive complaint records, nothing sustained. They have just been very, very active police officers and people know how to use the system and make complaints. You have others that have one or two and they have been sustained and they are a much greater risk to the organisation. If someone declares a whole lot of things and they manage them well, that is very positive rather than an indication of risk. It means that they are very aware of what they are doing. What I am saying is that I am not necessarily convinced that just having piles of information is a good thing.

**Mr MALCOLM KERR:** Have you read the PIC's submission to this Committee?

**Mr CHILVERS:** Yes.

**Mr MALCOLM KERR:** Are there any areas of disagreement?

**Mr CHILVERS:** Probably Recommendation 8, I think, as Phil has already pointed out, is not necessary if you have got the living document following the police officer. That is probably sufficient.

**Mr MALCOLM KERR:** Did you hear Mr Carey's evidence?

**Mr CHILVERS:** No, only the last five minutes.

**Mr MALCOLM KERR:** Nothing to disagree with there, I take it?

**Mr PAUL PEARCE:** With this type of declaration and the balance that has to be struck between the fact that a police officer is a member of the broader community and has taken certain oaths to be a police officer, how does that sit with concepts such as community policing, which requires the police officer to integrate within a community? As a matter of course, if you are mixing with Joe Public you are going to be mixing with people who potentially have committed an offence or are likely to. That is a reality.

**Mr CHILVERS:** I would be disappointed if the policy said that every time you bumped into someone who is a known offender you have to declare it. I think that is a bit unrealistic. If it is more than a passing 'hello' and you form some sort of relationship with someone who has that sort of background, then certainly it needs to be declared and you need to know that you are conscious of the risks and you have a plan to be able to manage it and, if necessary, pull out of it when it becomes unmanageable. That is what we are talking about, I would have thought.

**Ms SYLVIA HALE:** If an officer does make a declaration, do you believe it is appropriate to be able to expunge that declaration in the event of circumstances changing?

**Mr CHILVERS:** I have not thought about it but I guess you make a declaration about what is happening at this point in time. 'At this point in time I am in this relationship. I have this ongoing relationship with organisation X. This is how it is going to be managed. I have spoken about it with my supervisor and everyone is comfortable with it.' Amen. If it changes in the future, expunging something implies that there is something bad there that you are going to expunge. This should not be a bad thing. It is just a declaration. If you declare that you have shares in X company on your parliamentary register, when you no longer have those shares is it expunged?

**Ms SYLVIA HALE:** I think in subsequent declarations you declare that you have sold them or that you no longer possess them. It is implicit that it has come to an end, whereas in this case you may have a declaration that is going to follow an officer throughout his entire career. I do have not a view one way or the other. I am just curious.

**Mr CHILVERS:** Maybe people can put, 'I no longer see this person'.

**The Hon. LUKE FOLEY:** In your correspondence to our Committee you state there should be no punitive consequences for any officer who merely reports an association of concern. Are you suggesting that currently there are punitive consequences for officers who simply report an association?

**Mr CHILVERS:** I think the mere fact that someone's record says that this person is involved in an improper association is by itself punitive.

**The Hon. LUKE FOLEY:** Do you think that changing the term from 'improper association' to 'declarable association' will overcome that problem?

**Mr CHILVERS:** Partly and by removing the recording of it from anything to do with any disciplinary procedures. Any disciplinary procedures that flow from anything in the organisation should be after something has occurred which changes the relationship from a declarable one to an improper one.

**The Hon. LUKE FOLEY:** The Ombudsman's submission to us contains a suggestion that officers could be assisted by the creation of a template to assist them in complying with the policy to declare associations. Does the association have a view on that suggestion?

**Mr CHILVERS:** What is the template?

**The Hon. LUKE FOLEY:** He suggests to us in passing that one way of providing additional guidance to officers would be for the Police Force to provide a template. His suggestion is that would lead to greater compliance or would help officers comply. Do you think that is a significant issue?

**Mr TUNCHON:** What if the circumstances do not fit the box?

**Mr PAUL PEARCE:** It could finish up a tick and flick.

**Mr CHILVERS:** That is right. That has always been part of our problem in the past to a certain extent and it was part of the problem identified as far back as the royal commission, that is, the organisation is often—not so much now but it has in the past—operated on a tick and flick model. 'Once all the boxes are crossed it is no longer part of my responsibility.' What we are saying is that along with the EIS and this sort of policy it is a two-way street. The officer makes the declaration, his or her manager or supervisor engages them and helps them to work through how to manage this. That is not a tick and flick thing. It is good human resource management, which is something that we are struggling within the organisation.

**CHAIR:** That brings us to our favourite subject, the EIS.

**Mr CHILVERS:** Unfortunately, Mr Chair, the last time this Committee met I was overseas on holidays. Phil gave evidence. Phil can probably talk about one of the significant issues that emerged.

**Mr TUNCHON:** I think I emphasised on that occasion that moving towards an acceptable EIS was the need for it to be independently funded. Well it should be no surprise to this Committee that that has not happened and there has been no progress on the matter at all.

**Mr CHILVERS:** We see that as significant. We have been pushing for a long time to have an appropriate early intervention system which is non-punitive, which is actually part of what I am talking about, that is, identifying risks to the officer and the organisation and having a plan so that people can work through and manage those risks. We have been extremely critical of the original early attempts to do that which were poorly thought through and punitive in their approach for the most. It strikes us that we are no closer to getting an appropriate system at this point of time, of which the subject that we are talking about today should be part, and we would certainly bring that to the notice of the Committee.

**Mr PAUL PEARCE:** Could I just follow up on that? What you are suggesting here is that information is being gathered, declarations are being made and associations being noted but they do not all feed into a common management model?

**Mr CHILVERS:** There is no management model. Local area commands and commands in general have to operate on an ad hoc basis on their own systems. It is not appropriate. Some are good and some are so terrible. And it is punitive. What we want is a system that is going to identify risks, is going to help officers to work through and develop strategies to be able to manage those risks—

**CHAIR:** And be part of the training package?

**Mr CHILVERS:** Absolutely.

**Mr MALCOLM KERR:** Have you been able to identify any obstacles to achieving that?

**Mr CHILVERS:** My understanding is that funding was put aside at some stage to achieve it but you might have to ask that question of senior management but up until this point in time I believe that funding has been directed elsewhere.

**Mr MALCOLM KERR:** Do you know where?

**Mr CHILVERS:** No, I do not.

**Mr TUNCHON:** It is certainly not on an EIS.

**Mr MALCOLM KERR:** That is one suspect eliminated.

**Mr PAUL PEARCE:** There is a crime problem in your seat.

**Mr MALCOLM KERR:** I have not noticed it, nor have the criminals.

**CHAIR:** I will take that matter on notice and will raise it with the appropriate bodies and see what answers we can get for you.

**(The witnesses withdrew)**



**JOHN WILLIAM PRITCHARD**, Commissioner, Police Integrity Commission, Level 3, 111 Elizabeth Street, Sydney, and

**ALAN GEOFFREY KEARNEY**, Director, Prevention and Information, Police Integrity Commission, Level 3, 111 Elizabeth Street, Sydney, affirmed and examined:

**CHAIR:** In what capacity do you appear before the Committee?

**Mr PRITCHARD:** I appear in the capacity of Commissioner of the Police Integrity Commission.

**Mr KEARNEY:** I appear in the capacity of Director, Prevention and Information, of the Police Integrity Commission.

**CHAIR:** The Committee has received the commission's submission into the inquiry. Do you want that submission to form part of your formal evidence?

**Mr PRITCHARD:** Yes, thank you.

**CHAIR:** Do you want to make an opening statement?

**Mr PRITCHARD:** I do not personally but Mr Kearney who is the director of the area that did the research would just like to emphasise some key points that come out of the submission and the paper that it relates to.

**Mr KEARNEY:** Perhaps if I could just touch on some of the key messages and issues that arose from the research.

It is important to keep in mind that having an 'improper association', as it is currently defined by the NSW Police Force, is not in and of itself an act of misconduct. However, failing to declare such an association can be considered an act of misconduct. The risks associated with an improper association are significant for the officers and for the NSW Police Force. Major corruption investigations by the PIC and by the NSW Police Force have arisen from an allegation or evidence of an improper association. The NSW Police Force policy on improper associations is reasonable and appropriate—its emphasis on identification and its non-punitive nature, in particular.

There does, however, appear to be a low level of compliance with the policy. This may be due to a lack of awareness of the policy and its implications, that is, that it is not intended to be punitive, and that there may not necessarily be any adverse consequences of making a declaration. There is also little indication of consistent management of risk in a significant proportion of cases—84 per cent—where sustained findings of improper associations have arisen in a complaint investigation.

While important in identifying and managing officers who have failed to declare an improper association, or who refuse to cooperate in the management of the risk, the complaint process should not be the sole means for dealing with and managing improper associations. Compliance with the policy ought to also be

actively encouraged. In addition, a further process should follow on from sustained findings of undeclared improper associations. This needs to be done in order that the risks associated with these relationships can be properly managed.

We therefore encourage the NSW Police Force to raise awareness, to provide balanced and consistent messages, to make changes to remove the potentially negative connotations of the policy and to manage the risk beyond the complaints process.

Initial assessment of the NSW Police Force response to PIC recommendations indicates a shared understanding of the importance of managing improper associations. The NSW Police Force appears to be in the process of either implementing or considering ways to implement all of the PIC recommendations.

I will talk a little further on the complaints system, about which our comments in the paper have led to considerable discussion between ourselves, the Ombudsman and the NSW Police Force. We suggest that it ought not be the sole means for dealing with and managing improper associations for a number of reasons, including to encourage a higher compliance rate with the policy and therefore reduce the need for investigations associated with non-compliance, and to ensure that the risks connected with these investigations are managed properly.

Where an improper association is declared in accordance with the policy then, absent an allegation of evidence of other misconduct, the matter is dealt with outside of the complaints process. It is a risk management issue for line management. In the event that a complaint is made about a declared and a managed association, while it would be registered as a complaint, in our view, again absent any allegations or evidence of other misconduct, that it can be declined on the basis that a breach of the policy has not occurred, and in recognition that the risk is being managed.

Broad awareness of the non-punitive handling of these matters, following a declaration, and sensitive and appropriate management of the risk, should support improved compliance.

If an improper association is not declared then the breach of the policy must be dealt with within the complaints process. However, it is our view that this cannot be the only means by which the improper association is dealt with. As I have noted, declarations following a complaint investigation in which evidence of an improper association has been found are rare—less than 16 per cent—which suggests the risks may therefore go unmanaged. There must be a further process ensuring declaration and management of the risk by line management.

Finally, the PIC believes there are several ingredients of a successful management strategy with regards to improper associations. One, policy—a strong policy which effectively communicates the NSW Police Force position and also encourages officers to make declarations. Two, communication—raising awareness of the relevant risks through training and education programs.

Three, accountability measures—senior officers tasked with managing improper associations must be accountable for their decisions in this regard. Four,

record keeping—strong information control through a central repository of information regarding associations et cetera is required to ensure there is consistency in management and effective identification of possible misconduct risks. Five, complaints—a robust complaints system is essential to assist in identifying existing and possible future trends. It is also needed to identify previously undeclared associations and be a step in a process towards adequate management of the risk associated with those relationships. Six, external oversight—involving the Police Integrity Commission and the Ombudsman in overseeing management practices is important to ensure that the systems in place are appropriate and effective from an independent perspective.

**CHAIR:** What were the circumstances and why did the Police Integrity Commission decide to research compliance with the conflicts of interest policy and guidelines?

**Mr PRITCHARD:** In short it has been an area we have had a particular interest in for some time. Anecdotally, from those investigations that the Commission takes on, we noticed that there appeared to be an element of some improper association in one form or another between a police officer and, in the most serious of cases, someone known to be involved in criminal activity. It also usually has been associated with some other categories of complaints such as release of confidential information, which is a type of allegation that has some prevalence. It was just part of a program that we have in areas where we would like to look at specific areas of misconduct risks within the Police, and that culmination of events meant that we had the appropriate skill sets, in terms of researchers, in order to do particular research in question. Those events coalesced and we had the opportunity to do it and we undertook the research.

**CHAIR:** Would it be fair to say that Police Integrity Commission was aware that non-compliance was such an issue before conducting the research?

**Mr PRITCHARD:** I do not know whether we would go as far as saying that. We saw enough, I suppose, from the investigation side to prick our interest. I would not go as far as saying we started the research knowing what the result would be. We had a fair idea—there were some themes too that were emerging that, I suppose, are familiar and we have seen. Obviously there is a strong commitment on behalf of the organisation as a whole at the executive level to address improper associations but, again, going to the next level where there is communication of that program or a campaign of awareness of a policy, that is where we felt there was a sense of déjà vu here, if you like, in relation to some of the aspects of the Police policies that are directed to misconduct risk. We thought it was worth having a look at that just to see whether those similar sorts of themes might emerge. No, I do not think we started with any preconceived idea that we were going to find a large level of non-compliance.

**CHAIR:** Did the research bring to light anything that Police Integrity Commission was not expecting?

**Mr KEARNEY:** I do not think so. Our interest in this area has been ongoing for quite some time. As I mentioned in opening, improper association features in

substantial investigations conducted by the Police Integrity Commission and the New South Wales Police, often in association with other offences or misconduct. It is a feature of the criteria that we use to sift through complaints, an improper association will draw our attention to a particular complaint and perhaps lead us to make further inquiries. It has been of interest for some time. It is of principle interest to my area because of the responsibility for prevention. What can we do in the prevention area that will reduce the need to undertake these more significant investigations? Are there earlier steps we can be taking in the process or in the system?

**CHAIR:** Do you see this working hand in glove with the EIS program, which should alleviate a lot of these problems?

**Mr KEARNEY:** There are some common elements; they are both focused on prevention. They are both focused on coming in early in the system, as it were, in order to prevent more serious matters arising in future.

**Mr PRITCHARD:** I think what Mr Kearney says is right. The whole idea is that if an interest is declared then nine times out of 10 there will not be an issue—because the whole idea is to declare the association so that it can then be properly managed. To that extent there is a sense of a similar theme with the EIS, which is designed to identify problematic behaviour before it turns into a complaint. So, yes, there are some correlations I suppose in that sense.

**Mr KEARNEY:** Absent significant research in the area—which had been planned—it would be difficult to say whether something like improper association and our reliance on it in our own target-selection process might equally apply within an EIS system.

**CHAIR:** What is your view between improper association and declared interest?

**Mr PRITCHARD:** I suppose improper association has that connotation. Immediately you start with a negative connotation because it has that word 'improper' associated with it, which is want to frighten people. I suppose an improper association is a form of declared interest but that is not a term or a concept that is used or familiar at least in New South Wales Police language. I think we mentioned in the submission that the Victorian's have a reference to a 'declarable' association, which is obviously meant to take away the sort of pejorative connotations that are carried. To that extent they are probably one way of labelling the same sort of activity but in a less threatening way.

**Mr PAUL PEARCE:** You mentioned, if I understood you correctly, when matters come to the attention of the Police Integrity Commission that, amongst other things, you would be looking at any declarations or inappropriate declarations et cetera. Am I correct in understanding that? Also, does that not by its nature cause a problem for a very junior officer in making that declaration for the fear that it may have an impact on their future career?

**Mr KEARNEY:** No, perhaps I did not express myself clearly. It is not so much a declaration of an improper association—the terminology is a bit problematic—that

mightn't draw our attention, in fact it probably will not draw our attention—it is a complaint of someone involved in a relationship with a person that might be inappropriate which would draw our attention.

**Mr PAUL PEARCE:** In terms of an improper association or a declarable association, whatever terminology may be used—I agree there is a certain concern about the nature of improper association terminology—do you see a risk of a certain degree of social isolation amongst police officers in that case? You are talking about relatively young people being involved, be it school friends, be it family members, who may be subject to that declaration, is there a risk of social isolation? And is there, flowing from that, a risk of a development in police culture that could see really their only associations being within the police force? Is there—as we saw from a couple of the reports from the Police Integrity Commission with the whistleblowers et cetera—a risk of officers then identifying with each other in that sort of culture? Are we creating potentially a bigger risk than the risk that may exist because of family members or school friends?

**Mr KEARNEY:** In so far as the policy might dissuade officers from coming forward and declaring their associations, it is our position that we should be moving away from that and we should be removing those negative connotations. It should be quite clear to officers that if they do come forward that it is going to be managed as a risk, that it will be managed sensitively and appropriately, and that they will not be punished for doing so.

**Mr PAUL PEARCE:** That is punished both in terms of promotion and career prospects?

**Mr KEARNEY:** Indeed. One of the responses highlighted in the policy is relinquishment of the association. Now that is not going to be practical in many circumstances. It is not going to be ethically right in many circumstances. I think there needs to be further development around the policy itself in order to elaborate what is meant, what is intended, but it needs to follow on in the messages that are communicated. The non-punitive aspect of the policy needs to be well and truly communicated to the officers concerned. It needs to be communicated to the officers who supervise and manage the process to ensure that it does not arise.

**Mr PAUL PEARCE:** The reason I raise that is because this particular document that you are familiar with—Conflicts of Interest (Improper Associations Policy and Guidelines)—is a fairly slim document and it is fairly prescriptive in its nature. I draw attention to the three examples on pages six and seven or pages seven and eight. You are in an area where I suspect there may be a real difficulty in terms of where you draw the line in a lot of this. If you add to that the positive aspects of community policing that require officers essentially to be involved in the community—the Police Association identified the circumstances of a one-officer station in a rural area who by their very nature are dealing with the community—how do you go about drawing a line between what is an improper declarable association and the possible consequences that would flow from that, not for the police officer but the person to whom they declared the association?

**Mr KEARNEY:** An element of common sense has got to come into this and context is going to be important. It will depend on the nature of the relationship. If it is a member of your family it is an unavoidable relationship. If it is a member of the community and the relationship is purely business it is a completely different kind of relationship and it does not necessarily have to be declarable.

**Mr PRITCHARD:** I think one of the features Mr Kearney referred to in setting out the six ingredients that we look at is the transparency aspect. That comes back to the idea that sometimes it will be a family member. You can pick your friends; you can't pick your relatives, as we always say. That does not necessarily mean that merely because someone might have a problematic family member that that means if at an initial vetting situation, as it were, when someone was joining the police force it has not presented a problem that means that the officer is not to have any contact at all. The whole idea of declaring it is that it is out there in the open and everybody knows—it is transparent—and it can be managed on the basis that it is information that is out there to be seen.

I take your point, Mr Pearce, about being too sort of cloistered as a life as a police officer. I am not sure what the research shows but I think the nature of policing is such that shift work and shared experiences probably means that police officers tend to associate with their own kind, as it were, outside of work in most respects anyway. You are right, I think there is a concern to be had that you cannot be suggesting that police are not to have contact with anybody whose moral compass might be slightly askew if only for the very reason that we know that from informants, for example, and running human sources, that they tend to be people who are involved in the criminal area and that is why they are good sources of information. It is similar, therefore, to the policy in relation to informant handling, contact reports, having a process of accountability and transparency.

**Mr PAUL PEARCE:** I was going to ask whether in fact there was a relationship between the two models.

**Mr PRITCHARD:** I think there are some themes; there are some similar sorts of concerns. The flipside of one means that a pro on one side could be a con on the other. Again, it is a balance, but I think that is probably why, again, the 'improper' word is probably worth considering abandoning because it suggests that merely declaring it means 'I am admitting that I am doing something wrong' when, in fact, the message to get out is, in fact, 'No, it is the opposite: it is the thing you should be doing'. But it does carry that badge of 'improper', which, particularly for young officers who think as soon as they start they got off to a wrong start because they are seen to be hanging out with the wrong crowd. So anything that can be done to get the message out that it is not improper to declare it—in fact, if anything, it is improper not to declare it. There is a certain conundrum in that if you declare it then you refer to an improper association when if you had not declared it no-one would have known.

**Mr PAUL PEARCE:** Do you have any comment on the association's concern that currently you have got, if you like, a bit of a mixed bag as to how it is managed from command to command, and should there be a more centralised method of controlling it so that it goes with the officer as they move from command to command?

**Mr KEARNEY:** That is the thrust of our recommendations, essentially, or rather one of the underpinning features. We would be looking for some further elaboration in the policy and in the training that then flows from the further development of the policy; and a centralisation of the reporting requirement documentation: the records might be held centrally in a secure manner—constrained access and the like.

**Mr PRITCHARD:** And that came out in the Manta review we did about the misconduct risks with individual commands, that it was quite apparent that there were different approaches taken by different commanders within particular local area commands to what they perceived to be the risks and how they handled them. So inconsistency is always referred to as the badge of unfairness. There is an element of some attractiveness, as Mr Kearney said, as one of the other ingredients is a central repository of this information so that when an officer moves from one command to another, to some extent, that the experience or the information does not get left behind.

**Mr PAUL PEARCE:** Would that not be more a case of consistency in management of the circumstances rather than consistency of the nature of the recommendations or the declarations, et cetera—a consistency in management from command to command?

**Mr PRITCHARD:** Yes.

**Mr PAUL PEARCE:** Which is not necessarily achieved by simply having a centralised records system?

**Mr PRITCHARD:** No.

**Mr KEARNEY:** Hence the training and education, communication of messages aspect to the recommendations. From our perspective I would like to see an officer declare an association early in the piece, sit down with their supervisor, talk through what the risks might be and have an opportunity to think about how they would react if the risk should eventuate and their family member, their friend, come to them for some inappropriate assistance at a time. Perhaps even set some boundaries within the relationship. You could conceive of having opportunities to have those kinds of discussions with the member of your family or the friend before the risk arises so they know where you stand.

**The Hon. LUKE FOLEY:** Assistant Commissioner Carey this morning told us that the policy and guidelines are currently under review. Has the PIC been included in that review process or been consulted with at all?

**Mr PRITCHARD:** I think the short answer is yes. As part of the response to the research paper the police indicated they were reviewing the policy. Mr Kearney may have more details about the program but we would play our normal role in relation to input into that policy and it is a collaborative arrangement so the police made us aware of that and we are currently engaged with them in reviewing policy.

**Mr KEARNEY:** We had a formal response to the paper on 27 July. That highlights the fact that a review is underway and they expect that it will be completed by the end of this calendar year. We would be involved in that process and engage with police during the further development of the policy and communication of messages and the like.

**The Hon. LUKE FOLEY:** We have also heard from the Police Association today and they assert that in their opinion police officers only receive cursory training, as they put it, in identifying conflicts of interest. Given your research, would you like to comment on that assertion?

**Mr PRITCHARD:** It is probably correct. I say that not with any sense of greatly informed opinion but I think it is probably a reflection of what we often see in these matters where there is no doubt that there is a strong commitment from the executive on behalf of the organisation for a particular message to be got out, if I can put it that way; improper associations is one of them. But from the limited research and the results that we saw from that there does appear to be a suggestion that there is a breakdown in communicating that in such a way that it results in awareness and compliance, but I would not be able to put any sort of firm view on that front other than to say that based on the research we saw there is probably something in that.

**Mr KEARNEY:** We have not examined the training program in any detail at all. I am aware that conflict of interest is a feature of some training but I am not sure of the extent of it. So there could be an issue there. It could be that officers do not know about the policy, and, in fact, during the research some officers did indicate they were not aware of the policy; some were not aware of the detail of the policy. I expect that there will be an element of the Police Force that does not believe that they will not be singled out and/or punished in some way for declaring an association. So you get some resistance there as well. It could be any or all of these issues which impact on compliance with the policy.

**Mr MALCOLM KERR:** Improper associations is a universal problem in terms of law enforcement agencies. Has the commission looked at ways of dealing with it in overseas jurisdictions and jurisdictions in other States?

**Mr KEARNEY:** As part of this research we have not canvassed very widely. I think we have one or two policies locally but have not canvassed any further. It was envisaged that we may look further afield as part of the engagement with NSW Police.

**Mr MALCOLM KERR:** In giving evidence the Police Association mentioned that the brother of Roger Rogerson, who was at the time a serving police officer, was directed not to associate with Roger Rogerson, and that direction would still be given under the present policy. I think you said, Commissioner, that you can pick your friends but you cannot pick your family. I am just wondering how you would envisage dealing with that situation where you have somebody who is well known and a serving police officer and close family.



**Mr PRITCHARD:** I am only familiar with that sort of situation from reading the media. In fact, I think Mr Rogerson was prevented from undertaking certain employment in the liquor industry or the security industry as a result of that association. I suppose that would have to be regarded as an extreme last resort, that to suggest that one cannot associate with family members is extreme. But there may be circumstances where that may be appropriate. One would think, though, that as a way of managing a situation like that if it is out there in the open and it is declared and the full details of it are declared there is no doubt it must impose an obligation on the particular officer in question to manage themselves in such a way—I mean, this is not unique to policing. There are many aspects of conflicts of interest that we all have that mean that we have to be careful in the way we conduct affairs and so on. But, again, I tend to think that that may be a special case, as it were. I do not know if Mr Kearney has any comments to make.

**Mr KEARNEY:** I think you have canvassed the area. I will just point out that the policy probably, to some extent, leaves it open. The interpretation you can place on it is that the employer, the New South Wales Police Force, thinks that the best option for managing an improper association is for the employee to relinquish the association. But I think context is going to be critical. A member of the family is someone you cannot relinquish an association with or it is inappropriate for you to do so. I think some elaboration around that whole area would be very helpful.

**Mr MALCOLM KERR:** It would be possible for somebody to marry somebody who is later convicted of a crime and the marriage to be sustained.

**Mr KEARNEY:** Or that you do not know had a previous conviction. A police officer cannot go and do a criminal history check on their proposed partner; it would be an inappropriate use of the system.

**Mr PRITCHARD:** I must say on the commission's own part we have had to decline to employ people because of their associations with family members. It might sound unfair but unfortunately there are some associations on that front which mandate that sort of response.

**Mr MALCOLM KERR:** A police officer could find themselves sleeping with the enemy.

**Mr PAUL PEARCE:** Does that not reinforce the view of some officers that by making this declaration in the first place it may adversely affect their career progress?

**Mr PRITCHARD:** Again I would probably suggest that that is a perception, which is half the battle, I accept, as opposed to assessing it in any substantive way other than arising because of a family relationship. But there is no doubt there is a perception associated with it that you are tarred because of guilt by association, for a shorthand sort of term. That is part of the reason why the language is very important. If you move away from that side of it then that could be a start.

**CHAIR:** It is a bit more than a perception if the officer wants to be the Commissioner of the Police Integrity Commission.

**Mr PRITCHARD:** I have found that in this industry it pays to lead a boring life, and I qualify very successfully on that front.

**Mr KEARNEY:** There is a balance there. These officers are choosing to take a risk of being caught for not declaring rather than risk the perceived adverse consequence of declaring. We would like to encourage them to declare.

**Ms SYLVIA HALE:** In many instances elected officials are required to make formal declarations of pecuniary interests, and also non-pecuniary interests in particular circumstances. I assume the onus is merely on a police officer to make a declaration once they become aware of a potentially improper association. Do you believe there should be a requirement for police officers to be asked at regular intervals as to whether they are aware of any improper associations and, if so, do you believe it is appropriate that if the declaration has been made there should be a provision that if the improper association no longer exists because, say, one person has died, for that declaration to be removed from the record?

**Mr PRITCHARD:** In relation to your first issue I am not sure whether the police have a rolling program of regular vetting checks. I understand that where an officer might move to a particular command, depending on the nature of the command—such as a counterterrorism command—in a lot of the commands or agencies within the State Crime Command dealing with drugs and organised crime and so on, there are further levels of a declaration that an officer must go through. But, as I said, a rolling program of checking every officer, I am not sure about that. We would have to check that.

**Mr KEARNEY:** I do not know if there is.

**Mr PRITCHARD:** No, I do not think there is.

**Ms SYLVIA HALE:** Do you think there should be?

**Mr KEARNEY:** I think it is one of those issues you would have to consider with police in developing the policy further. I think the reliance at the moment is on the existence of the policy and on local commanders-supervisors translating that policy into some sort of action. How you might develop that further, I am really not sure at this stage. We would need to engage further.

**Mr PRITCHARD:** There probably are some practical consequences too for an agency of some 15,000 to 16,000. It is not difficult to imagine that there would be quite an exercise involved in doing that, depending on how regular you wished to do it, and then I can only speak on behalf of the commission. We are an agency of just under 100 and we have a program of rolling regular checks to update necessary associations and so on. That in itself is a bit of an exercise.

**Mr KEARNEY:** I think our starting position would be that the message needs to be communicated. How that occurs would need to be determined. In our view, it is a message that would need to be communicated regularly.

**Mr PRITCHARD:** The nature of any conflict-of-interest situation is that you cannot escape that the onus is on the person with the interest because they are seized of the particular knowledge to know whether it is or not. The onus is on them to make the declaration. To a large extent I do not think you can escape that. As Mr Kearney said, the whole idea is to ensure that if they do that there is encouragement and the message is that that is the right thing to do. That is a positive message that the organisation can help to bring out those declarations. Your second issue was?

**Ms SYLVIA HALE:** Whether there should be a facility to remove a declaration if it is no longer valid?

**Mr PRITCHARD:** Again I think the onus would be back on the person to bring that to attention: family member dies or something like that. I would have thought that would probably follow, particularly if someone was keen to make it known that that association no longer existed.

**Ms SYLVIA HALE:** The Police Association seems to regard the centralisation of information and declarations as a needless duplication of effort, but in your issues paper you make a very strong case in support of it. If an officer moves from one local area command to another, if that information were centralised I assume that the supervisor or whomever was the commander at the second command would be able, and expected, to look at those declarations of declarable interest?

**Mr KEARNEY:** That assumes that they go there. At the moment they are a hard copy record and, as I understand it, they tend to remain within the command. They are part of the command's records. That is not to say that some do not go or copies do not go. There is no established process for ensuring that they go with officers.

**Ms SYLVIA HALE:** There must be an awful lot of paper floating around with so many members of the Police Force?

**Mr KEARNEY:** There are only 81-odd declarations that we are aware of.

**Ms SYLVIA HALE:** Only 81 out of how many employees?

**Mr PRITCHARD:** That was across the commands we mentioned, which was about 80 per cent of the total.

**Mr KEARNEY:** About 12,000.

**CHAIR:** The Assistant Commissioner of Police said that it was less than half a per cent.

**Ms SYLVIA HALE:** It is surprisingly small.

**CHAIR:** That is what the assistant police commissioner was trying to point out.

**Mr KEARNEY:** That is probably a misconception around the nature of the research and misunderstands the nature of the sample. It was a sample. In 100-odd complaints that we looked at, 85 per cent were investigated and 24 per cent indicated that an improper association existed. Out of that 24 per cent, only 16 per cent went on to actually declare the association, which leaves a gaping great hole in the management of the risks associated with those relationships.

**Mr PAUL PEARCE:** It strikes me that that would indicate a lack of understanding by individual officers as to what is an improper association? That document does not make it precisely clear what is and is not an improper association. Examples are given of where there may be the nature of an improper association, but given that the overall majority of police officers are not in the process of trying to disguise something that may be detrimental to their policing role, that would indicate that there may be a definition problem in that we do not see it as an improper association?

**Mr KEARNEY:** I think it gets back to the fact that we do not really know. There could be a whole range of factors that could be coming into play here: lack of clarity around the definition, lack of clarity around the messages delivered, a lack of belief that there will be no punitive aspects associated with this process once they declare. I think without further research we are probably just speculating.

**CHAIR:** The first recommendation of the PIC research paper is that the New South Wales Police Force should raise awareness of the policy, its requirements and the consequences for not following it. Does the PIC have any strategies on how this may be accomplished? That probably would educate the officers much better. How do you see that actually being pushed out to these officers?

**Mr KEARNEY:** We have not really engaged with police on the recommendations yet. They have a review underway. We are going to engage in that process. We are aware of certain things that came out of the findings around knowledge about the policy, about the messages that are communicated, concerns about the potential punitive nature, or the perception of the punitive nature of the policy. We have to work further with police and flesh some of those things out.

**CHAIR:** We were discussing how it is not half a per cent of the Police Force; it is bigger than that. Here we are saying that we need to push it out there and educate the force better. Surely the PIC has some role in educating officers?

**Mr KEARNEY:** I see what you mean. I misunderstood. Certainly. We participate in a range of training programs with New South Wales police. I have an officer who features regularly in training sessions with detectives undergoing complaint investigation training. It is certainly an area in which we can participate further. All manner of things come to mind: participation on constables' training courses, highlighting the fact that their lives have now changed, that their relationships can impact on their jobs, the way they do their jobs. We can have those kinds of roles, certainly.

**Mr PRITCHARD:** We also can take it even I suppose to a ground level because I know from my own experience when officers have been in the witness box

we have taken the opportunity to specifically ask them where the complaint or allegation may relate around an improper association, releasing confidential information, something of that kind, 'Are you aware of the policy?' Nine times out of 10 the answer is yes, but that is about as far as it goes. That is a start because, as Mr Kearney said, the idea is to disseminate a message in such a way that people start thinking about the concept.

**CHAIR:** Like the message before they get into the witness box?

**Mr PRITCHARD:** That is right. They may not necessarily know, and it comes back to the definition in point, 'Well, what is it?' but at least they are thinking about it. The idea is to at least get it front and centre in their minds to think 'Is this an improper association?' The nature of conflicts of interest, certainly from my experience not only here but from my previous experience at the ICAC, is that when these things actually are occurring we look back with hindsight, but as they are actually unfolding the people involved do not see it, yet they are the ones possessed with the information at the time. If anyone is to think that maybe this gives pause for thought, it is the very person involved. It is a message again about getting awareness out. It is a stop and think sort of situation: did you ever stop and think about someone you knew from school, who you knew had drifted off into a life of crime but nonetheless with whom you are associating, which on reflection seems pretty obvious one would have thought. You can see why some people see it in a different context because it is a longstanding relationship that friends et cetera see differently. But then the penny drops and they do see it in that way. Even at that level there is a way of trying to get the message out. You might not be able to define it all the time, but at least it is something about which you might stop and think, is this an association that might fall into that category. At least they might stop and think about it.

**Mr PAUL PEARCE:** This comes back to giving it a certain prominence in the training of officers.

**Mr PRITCHARD:** Yes. It is definitely part of the curriculum an officer cadet goes through. I think it is one of the basic things because it comes up in the vetting to get in. There is an initial obligation to declare associations, family and so on, which often can mean an officer not passing that vetting check, as I have referred to. It is there front and centre from the outset.

**Mr PAUL PEARCE:** One of the research paper's recommendations is that the New South Wales Police Force should discourage the use of the complaints process as the sole means of dealing with and managing improper associations. Do you think this is done consciously or are improper associations only being discovered after a complaint is made?

**Mr KEARNEY:** I am sorry, I do not quite understand the question?

**Mr PAUL PEARCE:** Earlier you quoted a series of percentages of complaints and flowing from those complaints identified that a certain percentage were improper associations?

**Mr KEARNEY:** Yes.

**Mr PAUL PEARCE:** Do you think there has to be a different mechanism to trigger this or are you only seeing the identification of improper associations as a consequence of a complaint? In other words, you are coming in at the tail of the process rather than at the front?

**Mr KEARNEY:** That is right. We would like these declarations to happen much earlier. Instead of using the complaint process solely as a means of identification, have other preventative strategies much earlier in the process encouraging officers to come forward and declare their associations and deal with the risks appropriately. The other aspect concerns the back-end of the complaint process. Once the complaint investigation is concluded, there needs to be another process that actually leads to the management of the risk. As I mentioned, of the 85 investigations we have reviewed, 24 showed evidence and lead to sustained findings that an improper association existed. The individuals of five of those were either sacked or subsequently left the police. Of the remainder, about 19, only three subsequently declared the association. There needs to be some process that picks up this other 84-odd per cent and then encourages the declaration to follow and then the risk managed.

**Mr PAUL PEARCE:** Do you think the change of terminology may assist?

**Mr KEARNEY:** Absolutely.

**Mr PAUL PEARCE:** You remove the implication that there is something severely wrong and move towards declarable association rather than improper association?

**Mr KEARNEY:** Yes. Accompanied with the right messages and the other strategies we have mentioned, absolutely. Yes.

**CHAIR:** This question needs to be posed. If I were an officer and made a declaration of improper association with Paul Pearce, would that not be listed on the EIS as well? If I wanted that improper association that I declared some five years ago expunged from my record, it would still show up on my EIS because I may then have formed an improper relationship with Sylvia Hale. That is starting to show a pattern of behaviour? I believe the EIS goes hand in glove with improper disclosures because they work together. That is why we need those programs to work together. I agree with you on centralisation, but if they are hard copies and not being generated on a computer and not being stored in a central location, it leaves it open to all sorts of issues. I am concerned about that. Maybe I have a conspiracy theory going on in my head, but I can see this happening.

**Mr KEARNEY:** I think it presupposes that improper associations would be picked up as an issue to be addressed or as a criteria that might be used within an EIS. My gut feeling is it would feature in some way.

**CHAIR:** There is an elephant in this room that we are not talking about.

**Mr KEARNEY:** Absent the research I cannot say categorically that improper association should feature in some way in the EIS. Gut feel, yes.

**CHAIR:** If I have been in the force for 20 years and I have had 15 inappropriate associations with certain elements in the community it shows a very clear issue.

**Mr KEARNEY:** I think you have probably overstepped the mark. I would need to do something about that.

**Mr PRITCHARD:** That would be relevant to the indicators that an EIS calls on.

**CHAIR:** Which then stops me from declaring those interests. I am not going to tell you I have an improper association with Malcolm Kerr.

**Mr PRITCHARD:** No, I agree, but that comes back to—I am not saying that is an improper association!

**Mr KEARNEY:** Context is everything.

**Mr PRITCHARD:** It comes back to the issue that Ms Hale raised that there is a certain onus on the person to raise the issue, which you are not really going to be able to escape in any conflict of interest policy. Short of a rigorous daily update of personal circumstances you are going to have to rely on an element of self-regulation, if I can put it that way, in that the person comes forward with it. In the example you give, yes, but again it is an indicator and the EIS again has the same sort of theory behind it: It is not punitive, it is not meant as punishment, it is just meant to identify something before it might turn into something worse. Again, there is a similar theme there so the idea would be to say, 'Don't feel you can't come forward and declare it because it will be used against you in an EIS, because that is not what an EIS is about.' That would be part of the message of getting that out, in terms of being positive.

**CHAIR:** Which leads me to my next question: Where is the EIS up to and what do you understand are the funding implications for the EIS?

**Mr PRITCHARD:** I have a sense you are asking a question you know the answer to.

**CHAIR:** Maybe.

**Mr PRITCHARD:** I just noted you had Mr Carey here this morning. The commissioner has recently written to advise that there are some funding problems with the police program with the EIS. The money that they have requested from Treasury in order to undertake the necessary IT arrangements has not been forthcoming. There was a breakdown in what was required between capital and recurrent. The capital funding was approved but the recurrent, the ongoing funding, was not approved at the levels that were required. In short, at the moment 'parked' is probably the best way to describe it.

**CHAIR:** Idling.

**Mr PRITCHARD:** Idling, yes.

**Mr KEARNEY:** We have sought further information from police about their intentions. They indicate that the EIS remains something they view has value and should the budget situation improve, they will review.

**Ms SYLVIA HALE:** I think the Ombudsman suggested—I stand to be corrected—that a template might be developed to enable officers to identify adequately and declare improper associations. The response to that has been it might merely be a return to a culture of tick and flick. Do you have a position in relation to such a proposal?

**Mr PRITCHARD:** The concern you indicated about tick and flick is a legitimate one. Again, it would depend on the template. The last thing would be to suggest there is a one-size-fits-all, but at the same time there are some criteria that are common to situations where it might alert someone to declare or suggest they are in the area of an improper association. In the absence of seeing specifically what form a template would take it is difficult to answer. There is no doubt that for ease of compliance that would go a long way to encouraging people because the first question would be, 'How do I do it?' The answer is, 'Here is a form', so there is some sort of appeal in that. The concern you raise is a legitimate one.

**CHAIR:** Thank you, Commissioner.

**(The witnesses withdrew)**

**(The Committee adjourned at 12.49 p.m.)**