

**REPORT ON PROCEEDINGS BEFORE**

**COMMITTEE ON THE OMBUDSMAN, THE LAW  
ENFORCEMENT CONDUCT COMMISSION AND THE  
CRIME COMMISSION**

**2022 REVIEW OF ANNUAL AND OTHER REPORTS OF  
OVERSIGHTED BODIES**

**At Macquarie Room, Parliament House, Sydney on Wednesday 28 September 2022**

**The Committee met at 3:15 pm**

**PRESENT**

The Hon. Wes Fang  
(Chair)

**Legislative Council**

The Hon. Aileen MacDonald  
The Hon. Adam Searle

**Legislative Assembly**

Mr Dave Layzell (Deputy Chair)  
Dr Hugh McDermott  
Mr Paul Lynch  
Mrs Leslie Williams

**The CHAIR:** Good afternoon everyone and welcome to this hearing for the Committee on the Ombudsman, the Law Enforcement Conduct Commission, and the Crime Commission's 2022 Review of the annual and other reports of oversighted agencies.

I would like to acknowledge the Gadigal people of the Eora nation, who are the traditional custodians of the lands on which we are meeting today. I pay my respects to the Elders past, present, and emerging, and extend that respect to Aboriginal and Torres Strait Islander people who are present or viewing the proceedings via the internet.

This public hearing is the first of two hearings the Committee will be conducting as part of its 2022 review. Today, the Committee will be hearing from the Inspector of Custodial Services, the Law Enforcement Conduct Commission, and the Inspector of the Law Enforcement Conduct Commission. I thank the witnesses who are appearing before the Committee today, and we'll begin with our first witness, the Inspector of Custodial Services.

**FIONA RAFTER**, Inspector, Office of the Inspector of Custodial Services, affirmed and examined

**The CHAIR:** Would you like to make a short opening statement?

**Ms RAFTER:** Yes, thank you. Thank you for the opportunity to appear before you today. I would like to firstly acknowledge the Gadigal people of the Eora nation, and Elders past, present, and future.

The Inspector of Custodial Services is an independent statutory office created in October 2013 pursuant to the *Inspector of Custodial Services Act 2012*. I have a legislative mandate to inspect each custodial facility every five years and juvenile justice centre every three years in New South Wales. My focus is the treatment and conditions of people in custody, and improving custodial practice. I commenced in the role in April 2016.

A significant focus of 2021 and 2022 has been responding to the significant threat posed by COVID-19 to the custodial environment. My office responded to the challenges of the COVID-19 pandemic by implementing the Inspector of Custodial Services COVID-19 plan in early 2020. The plan has been updated throughout the pandemic, and has been aimed at ensuring the safety of my staff, Official Visitors, and stakeholders, and to ensure business continuity for the duration of the pandemic. It has enabled us to respond and adapt to emerging issues in the custodial environment, and maintain the continuity of the Official Visitors Program.

The plan is available on the Inspector of Custodial Services website, and outlines how our office operates during the pandemic, having regard to applicable legislative requirements, international human rights standards, NSW Health Directives, and applicable workplace health and safety requirements. We have adopted a 'do no harm' approach to our activities throughout the pandemic. At times this has involved postponing inspections or utilising technology to complement onsite inspection activities. It has also seen a reduction in the frequency of Official Visitor visits at times.

The last two and a half years have been challenging times for everyone. It has been extremely difficult for custodial staff, non-custodial staff, and health staff who work in custodial settings, whether that be in the 24-hour court cells, regional centres, or the busy metropolitan remand and reception centres, and I think it is important to acknowledge their work during the pandemic.

I would also like to acknowledge the Official Visitors. My office manages the largest Official Visitors Program in Australia and with the cooperation of Corrective Services New South Wales and Youth Justice we have kept the program operating during the pandemic. Albeit, we have had to make some adjustments to the program, and some Official Visitors were not able to visit, but the majority of this very dedicated group of people have continued to visit custodial facilities throughout the pandemic.

It has also been extremely difficult for people in custody and their families, as people, including children and young people, had to spend periods in quarantine and/or medical isolation, and centres or parts of centres have gone into lockdown due to COVID-19 outbreaks or due to staff shortages.

Finally, I would like to acknowledge my staff who have continued to visit and inspect centres throughout the pandemic. Since the beginning of the pandemic in February 2020 we have undertaken 114 liaison visits and 41 inspections. This year alone we have undertaken inspections of seven correctional centres, 12 24-hour court cells, and five Youth Justice centres, and we have another four inspections scheduled before the end of 2022. We also tabled seven reports in the 2021 financial year, and five reports in the 2021-2022 financial year. Thank you.

**The CHAIR:** Thank you very much. I will invite Committee members to ask the first question. Mr Lynch, would you—

**Mr PAUL LYNCH:** I'm fine.

**The CHAIR:** You're fine? Thank you. Dr McDermott, would you care to—

**Mr PAUL LYNCH:** No, I have no questions.

**The CHAIR:** You have no questions? Okay. Deputy Chair?

**Mr DAVE LAYZELL:** No questions from me, thank you, Chair.

**The CHAIR:** Thank you. I might just kick off then, if that's okay.

**Ms RAFTER:** Of course, Mr Chair.

**The CHAIR:** I noted that during the opening statement that you made you spoke about the COVID challenges that were, I guess, tackled by you and your team. Are you able to expand a little bit more on what some of those challenges were, and how particularly you used technology to perhaps conduct the oversight role that you have, in what was a challenging time?

**Ms RAFTER:** At the beginning of the pandemic in 2020, well before we had vaccinations available, we

had an inspection planned of a small minimum-security centre. That report was tabled during the annual reporting period of 2021. With the known vulnerabilities of the prison population, at that point we were very concerned that we could potentially take—introduce COVID into that environment. So, we worked very closely with Corrections to actually conduct the inspection remotely using technology.

We did that through conducting the interviews with staff through telephone interviews. Teams wasn't, as well—the Teams and Zoom that we've all become very familiar with had not developed and been implemented so much at that point. It was that early on in the pandemic, so we did a lot of telephone interviews, and we also arranged to do confidential telephone interviews with many of the people in custody at that particular centre, which was Oberon Correctional Centre, which is very—it's one of the remotest centres in New South Wales, in the Blue Mountains.

So, we were able to conduct a four-day inspection doing that, and then when some of the restrictions eased, and that we were feeling more comfortable, we then actually did go onsite, to just check some of the areas that we were—we thought it was necessary to view in person. We also had the centre actually make some video—CCTV, and video footage for us, of particular processes that we were interested in seeing as well, so we used those, and then we also did ultimately go onsite as well, but it proved quite effective.

In more recent times, we've had to postpone or shorten some of our inspections, and what we've done is we've adapted our methodology, and where we've—there are certain—we've continued to do our onsite component, but where there have been particular interviews, usually with staff, and certainly in the bigger correctional centres, it's not generally as easy to coordinate doing in-person remote interviews with people in custody. It can be organised in some circumstances, but it's not as easy. A minimum-security environment makes that easier. But with the staff, we'll do some of those interviews, not onsite but we'll do them through Teams, and using all of the technology that we've all become far more familiar with over the course of the pandemic.

**The CHAIR:** Before I ask my next question, I'm just going to make everybody aware that we are advised that there is an audio issue with the live broadcast. Now, given the circumstances that we have had to delay a number of the hearings and we are time-pressured, as to the end of the Parliamentary term, I'm going to elect to continue the hearing at this stage, and we're hoping it will be fixed shortly. So, as long as everybody has no objection, I'll continue in that vein.

**Ms RAFTER:** I've got no objection, and it's ironic, because we're talking about technology.

**The CHAIR:** I think this is part of what has—we've had a lot of learnings out of this, and I guess that leads in very nicely to the next question I was going to ask, which is, now that you've had, I guess, the opportunity to see the technology implemented in your role and then, I guess, the opportunity to then ground-truth it by doing some site inspections, either in a limited capacity or perhaps a more—a broader capacity, as restrictions have been lifted, have you had the opportunity to form a view around what has worked, what might need work, and into the future, are there perhaps efficiencies and not only just in a dollar term, but also with time, around the implementation of technology that might make your role more efficient and easier, but still provide the same level of oversight which is required?

**Ms RAFTER:** That is a really good question. There's been significant improvement and introduction of technology in custodial facilities during the course of the pandemic. Most recently in corrections, in adult corrections, there's been the introduction of tablets. They've been rolled out in a number of centres. The private Clarence Correctional Centre, one of the private centres, it was one of—I think it was the first to actually introduce the use of tablets.

Now, those tablets allow requests to be logged, they allow for information, general information to be provided to people in custody, it allows for requests and complaints, but probably one of the most important things it allows for is for people to stay in contact with their families without—during the time that they're in their cells or rooms, depending on the type of facility, into the evening. That's been a significant change in custodial environments. There has also been an increase in the use of AVL equipment and that's been very important, and I've made recommendations around increasing the use of AVL equipment, and that's for court and for legal visits.

There have been some challenges with that during the pandemic, with COVID-19 outbreaks and staff shortages that have occurred across the centres, that have created challenges for literally moving people from their cell to actually be able have their legal visit, or to have the court AVL visit, but the use of that technology is to be encouraged. It can reduce the amount of movement in the system, it can reduce the amount of—reduce the need for people to be transferred, to appear in court. That will always be appropriate and necessary in some circumstances, but for a lot of matters, there's been a change in culture and practice more broadly that I've observed with legal practitioners and courts and the centres that there is a lot of—there is greater scope for people to appear via audio-visual link.

**The CHAIR:** I might offer the committee another opportunity just to ask some questions. The members online—and I'll just check online. Mrs Williams, do you have anything that you would care to ask? If not, I'll pass

to Mrs MacDonald.

**Mrs LESLIE WILLIAMS:** Thanks, Chair. I actually did have a question in relation to the Official Visitors Program. I noted that the Committee—after the last annual review report, the Committee noted the need to increase diversity in the Official Visitors Program. I just wondered if you would be able to provide us with a bit of an update on the progress on that.

**Ms RAFTER:** Thank you. Thank you for that question, and I've just got some up-to-date—there's figures in the 2021 annual report, but the most recent figures that I have, that of the 12 Youth Justice Official Visitors, we have currently eight men and four women, and we have—seven of those Official Visitors are Aboriginal Official Visitors. This is a significant change from when I commenced in the role in 2016. At that time, we had no Aboriginal Official Visitors in Youth Justice, and I approached the Minister at the time, some years ago, and sought additional funding and approval for the appointment of an Aboriginal Official Visitor for every Youth Justice centre, and that did occur at that time.

Then, since that time, we've actually increased it to seven Aboriginal Official Visitors. In the adult correctional centres, we have 80 Official Visitor appointments, and 21 of those appointments are filled by Aboriginal Official Visitors, including one Aboriginal state-wide position. We are continuing to do targeted recruitment to attract Aboriginal people to take on these roles. We have an Aboriginal inspection liaison position in our office, and it's been—having that position, and having that person in my office has allowed us to engage more broadly with Aboriginal peak bodies and organisations in many different areas, many different areas throughout the state, and many regions throughout the state, and through our targeted recruitment practices we've been able to identify many more applicants for these roles.

As far as the gender breakdown goes, we now have 30 women and 23 men involved in the Official Visitors Program for the adult correctional centres. You will note that there are fewer people than appointments, and particularly in regional areas. We have several people who were appointed to visit multiple centres who are happy to take on those roles.

**Mrs LESLIE WILLIAMS:** Thank you, Inspector. I think considering the obviously overrepresentation of Indigenous people in our correction centres, I really commend you for those increases. I think it's really important. So, thank you.

**Ms RAFTER:** Thank you, and again, when I started in the role I think we—well, I know we had three.

**Mrs LESLIE WILLIAMS:** Well done.

**Ms RAFTER:** Thank you.

**The CHAIR:** Mrs Williams, do you have any more questions that you would like to pose? No?

**Mrs LESLIE WILLIAMS:** Not at this point.

**The CHAIR:** Thank you. I'll pass the call to Mrs MacDonald.

**The Hon. AILEEN MACDONALD:** I guess mine is a follow-up to Mrs Williams's question. Prior to entering this House, I was in a corrective services environment, although from a community point of view, so I'm very interested in what you have to say today. I was just wondering, in your annual report you noted that you're developing some inspection standards for Aboriginal people in custody, and as Mrs Williams said, they are overrepresented in that environment. I wondered if you had finished putting together those inspection standards and what consultation—whether they're culturally aware, or appropriate, sorry. So, I was just wondering where you are up to with that. Thank you.

**Ms RAFTER:** Thank you for that question. I can actually give you some detail around the consultation. Thank you again for that question and it is really important. I mentioned the position that I now have in my office, the Aboriginal Inspection and Liaison position, which is modelled on a similar position that the Western Australian Inspector of Custodial Services has in their office. That's been critical to the development of standards for Aboriginal people in custody. They are not yet published.

I have done extensive consultation around the development of those standards. I did an initial draft in—it's probably—well, it would be—it's November 2021, I did an initial draft, and then sought feedback from the primary stakeholders, as is my usual practice, and then as a result of that, I then actually consulted with the Aboriginal policy units in the—the primary stakeholders being Youth Justice, Justice Health, and Corrective Services, but then consulted with a number of the Aboriginal staff in—particularly in Corrections, and some Aboriginal people who were at Governor level in Corrections, and I also consulted with Brendan Thomas, who is Deputy Secretary, Transforming Aboriginal Outcomes in the Department of Communities and Justice.

We also consulted with Aboriginal Legal Service about—to seek their input as well, and then I've been incorporating some—and I received some really, really good feedback to the standards. I was really happy with

the quality of the feedback that we received, and then we've spent time incorporating that. I'm really getting very close to being able to publish those standards. Because everybody had different suggestions and points of view, I've proceeded to send those out to the primary stakeholders again, just so that they could see them before I publish, and I've had responses from two of the agencies, and I'm just waiting for a Corrective Services response. I gave them an extension of time because—well, they asked for an extension of time, so I gave them an extension of time, but ultimately, I'm hopeful that they'll be published quite soon.

**The CHAIR:** Ms McDonald, would you have any further questions that you'd like to ask? No?

**The Hon. AILEEN MACDONALD:** Not at this stage.

**Mr PAUL LYNCH:** What's the state of play with the implementation of OPCAT [The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment]?

**Ms RAFTER:** Thank you. My understanding with the implementation of OPCAT is that a number of states around Australia have nominated NPMs [National Preventive Mechanisms], and to the best of my knowledge—and this is from information that's now a couple of weeks old, so there could have been some other things that have happened in other states, but my understanding was that New South Wales, Victoria, and Queensland are yet to announce NPMs, and I believe that there are still, I gather, funding arrangements to be determined between the Commonwealth, and the state Attorneys-General.

**Mr PAUL LYNCH:** Is there any indication of when New South Wales would make an announcement? Have you heard anything about that?

**Ms RAFTER:** No, I have not. The deadline, which was extended from January 2022 to January 2023, was—it was extended to January 2023.

**Mr PAUL LYNCH:** Do you think it will be extended beyond that?

**Ms RAFTER:** I don't know. I don't know. I hope not. I hope not; I hope there can be a resolution.

**Mr PAUL LYNCH:** So do we all.

**Ms RAFTER:** But it's difficult to say.

**The CHAIR:** I'm just going to do one final pass-around with the members of the Committee, noting that we apparently still have some issues with the broadcasting audio. If we don't have any further questions, it's my intention to draw this session to a close slightly early, just to allow some work to go onto the system before we bring our next witnesses in at 4.00 pm. So, I'll just do a quick check-around of the members of the Committee.

If there's no further questions for our witness, I'd like to thank you for appearing today before the Committee. Obviously, given the shortened timeframe that we've had to provide some questions to you and the lack of opportunity, I guess, for you to provide us with some responses, what we might do is send you some additional questions in writing, which is standard practice, if they come up. Your replies will form part of the evidence and they will be made public. Are you happy to provide written responses to any further questions if required?

**Ms RAFTER:** Oh yes, Mr Chair.

**The CHAIR:** Thank you very much. The Committee staff will organise for the next witnesses to appear at 4pm. Thank you.

**Ms RAFTER:** Thank you, Mr Chair, and Committee members.

**(The witness withdrew.)**

**(Short adjournment)**

**GARY KIRKPATRICK**, Executive Director Operations, Law Enforcement Conduct Commission, sworn and examined

**ANINA JOHNSON**, Commissioner, Law Enforcement Conduct Commission, affirmed and examined

**PETER ANTHONY JOHNSON**, Chief Commissioner, Law Enforcement Conduct Commission, sworn and examined

**CHRISTINA ANDERSON**, CEO, Law Enforcement Conduct Commission, affirmed and examined

**The CHAIR:** Thank you. Could I invite you to make an opening statement?

**Chief Commissioner PETER JOHNSON:** Yes. Thank you. Thank you, Mr Chair.

As this is the first occasion on which Commissioner Johnson and I appear before this Committee in the exercise of its important oversight function concerning the Commission, I would like to make a number of comments about the workings of the Commission, our own observations, and where things are up to.

At the outset, we wish to acknowledge the outstanding leadership and service of former Chief Commissioner Blanch and former Commissioner Drake, which has laid a sound platform for us to assume the offices of Chief Commissioner and Commissioner. Both of the Commissioners have been impressed by the capacity, dedication, hard work, and expertise of the staff of the Commission, who fulfil a wide range of important functions. Since July 2022, we have undertaken consultation with stakeholders, including the Commissioner of Police, the NSW Crime Commissioner, the Inspector for the Commission, and the NSW Director of Public Prosecutions.

In addition, there have been meetings with legal stakeholders, including the Redfern Legal Centre, the Office of General Counsel within the NSW Police Force, the Public Interest Advocacy Centre, and the Youth Justice Coalition, which included an Aboriginal Legal Service representative. Meetings are scheduled with others, including Legal Aid NSW, the ALS, the Independent Commission Against Corruption Chief Commissioner and Commissioners, the NSW Ombudsman, and the State Coroner. Regular periodic meetings will be held separately with the Inspector, the Commissioner of Police, the NSW Crime Commissioner, and the NSW Director of Public Prosecutions.

It is proposed, as well, to have regular user group meetings between officers of the Commission and legal stakeholders, to assist the Commission, and lawyers who interact with the Commission in different ways, including representation of complainants, and addressing areas of possible reform. A revised Memorandum of Understanding [MoU] has been entered into between the Inspector and myself, on behalf of the Commission. Consideration is being given to revision of other Memoranda of Understanding to which the Commission is a party. The scope of the work of the Commission is reflected in the 2020/2021 Annual Report. The 2021/2022 Annual Report, to be presented in late October, will outline the work of the Commission for the concluding part of the term of former Chief Commissioner Blanch.

Extensive work continues to be undertaken in the assessment of complaints, and the use of the Commission's powers and functions to meet the various objects contained in section 3 of the *Law Enforcement Conduct Commission Act 2016*, including the very important prevention and education function of the Commission. Oversight and monitoring of critical incident investigations by the Police Force are important parts of the work of the Commission. Private examinations have recently been held in aid of an investigation. With that general introduction, we will seek to do our best to assist the Committee in responding to questions from members of the Committee. Thank you.

**The CHAIR:** Thank you very much for that opening statement. Does any other witness wish to make a short opening statement? If not, I will pass over to the Committee members for questions. Mr Lynch.

**Mr PAUL LYNCH:** Chief Commissioner, in your opening statement you mentioned a revised MoU between the Commission and the Inspector.

**Chief Commissioner PETER JOHNSON:** Yes.

**Mr PAUL LYNCH:** In what way was it revised? What are the changes?

**Chief Commissioner PETER JOHNSON:** There are a couple of things. Firstly, both the Inspector and myself thought it was appropriate to have a Memorandum of Understanding signed by the two current occupants of the positions, but secondly, there were some areas of, fine-tuning, I think is probably the term to use. There had been in the past a practice, where contact by the Inspector with the Commission would sometimes take place with informal contact with particular persons within the Commission.

We both thought that was important, so that not all points of contact are funnelled through me, for

example, but it was thought best to identify a number of respects; firstly, that this related to general topics, and seeking information and identifying, again in general terms, the particular offices within the Commission by title, not by name, who would be the point of contact.

Other changes I think were largely in the category of tidying up. There was nothing substantial. The Memorandum of Understanding, of course, can be made available to the Committee. It was only signed by both of us yesterday, so it's fresh, and it was reached after some discussion, both within the Commission, and of course with the current Inspector.

**Mr PAUL LYNCH:** Thank you for that. On another topic, the Commission previously produced a report in relation to Operation Monza, which dealt with some quite scandalous behaviour by the [Strike Force] Raptor squad. Previous Commissioners have suggested that personnel had changed, and the behaviour had changed, and that the attitude perhaps displayed by Raptor, members of Raptor, had also changed. I'm wondering whether you've had an opportunity to form a view as to whether that's correct, whether things have improved, and whether things are likely to get better into the future.

**Chief Commissioner PETER JOHNSON:** The observations I've made in that respect are twofold, I suppose. One, from obtaining information from senior members of the Commission about the past, and some general familiarity with past practice, but also, seeing the range of complaints which come before us on a weekly basis. Many would be familiar with the system of the Complaint Action Panel, every Thursday a substantial document stating a wide range of complaints are put before that panel, and it provides a good snapshot from week to week of what the complaints are.

Historically, there is no doubt, as you've observed, that there were issues, I think, with Operation Raptor. I think there are areas of improvement which have occurred, I think, at the leadership of Operation Raptor, has led to that. Certainly, in the period that I've been Chief Commissioner, which is since early July, I have not noted in the chronicles of complaints coming before us on a weekly basis any pattern. That's not to say there haven't been any, but from the point of view of that being a type of sample that I've been able to look at, it hasn't indicated an ongoing pattern.

There is no doubt, however, that the very nature of the work of Raptor has a potential for risk in every interaction with people, and it may be that some, in the past, hopefully just in the past, acted excessively from time to time. I don't know if there is anything that could be added to that by Gary Kirkpatrick, who I have to say has an encyclopaedic knowledge of the work of the Commission, and has done sterling work for many years. If I have questions of that type, I have to say he's the first person I speak to about it. So, I just invite him to add anything if he wishes.

**Mr KIRKPATRICK:** Thanks, Chief Commissioner. Mr Lynch, myself and the Director of Investigations have had a number of discussions during and since the Commission's Investigation Monza with the Commander of Raptor. We appreciate in this Commission that, as Mr Johnson said, the type of work that Raptor conduct is a touchpoint. It is a risk point with the New South Wales Police, and we are alive to that in our complaint assessment program. I am satisfied that what I've seen for the last, since—during and since Monza, that the manner in which police are managing Raptor, and how they are recruiting and training into Raptor, has been enhanced, in part I think because of Monza, but the risk remains, because of the nature of the work, and we are alive to that during our complaint assessment period.

**Chief Commissioner PETER JOHNSON:** Thank you. That's all, Mr Chair.

**The CHAIR:** Thank you. I'm just looking for other members online. I'll give the members online an opportunity to ask any questions. Dr McDermott, Mrs Williams, do you have any questions?

**DR HUGH MCDERMOTT:** I don't have any further questions.

**Mrs LESLIE WILLIAMS:** Thank you. Thank you, Mr Chair. I do have a question in relation to critical incident investigations. I have two questions, actually. I note that you have—it's been noted in the report, that police officers continue to refuse LECC investigators to observe their interviews in relation to critical incident investigations. Would you—I know it's early in your term, but would you like to see some legislative changes, in order to see that change that situation?

**Chief Commissioner PETER JOHNSON:** This is a topic which has been a talking point in police under investigation in different ways in the past. For my part, I would have thought that there is something to be said for measures which would require responses, and having LECC officers present. If that was to be the position, there would have to be appropriate statutory safeguards built in as well. Within the limits of my own direct experience so far, that's probably as far as I would wish to go.

I can indicate, and the Commission—and the Committee may already be aware of this—that there is a special report that will be presented to Parliament, and hopefully before the end of the year, involving an examination of five years of critical incidents investigation for the period between 2017 and 2021. A lot of work



has gone into it, and that may well pick up that topic, but that report is not ready to be tabled just yet, but it's not too far off, as I understand.

**Mr PAUL LYNCH:** Are we talking weeks, Chief Commissioner?

**Chief Commissioner PETER JOHNSON:** I couldn't put a time on it, I'm afraid. What I prefer to say is hopefully by the end of the year. One could count that in weeks I suppose, but it would be the same period.

**The CHAIR:** Mrs Williams, can I invite you to ask any further questions you might have?

**Mrs LESLIE WILLIAMS:** Yes. The other question I was going to ask was in relation to the announcement by the Government about the new funding arrangements for, not just the LECC, but other integrity agencies. I just want to know if you want to make any comment about that.

**Chief Commissioner PETER JOHNSON:** Yes. I could make these observations about it. The experience of the LECC is that there is no difficulty being experienced in those arrangements. The Commission has had actual expenditure below budget in every year of its operation. The change in the funding arrangement removes efficiency dividends as a factor, which might see lessening of the budget, and the budget for LECC for this year is satisfactory. As part of the new arrangements, the Commission has received funding for five new positions, as well as an increase in other operating expenses, and that includes for consultants to undertake a re-baselining exercise, as required under the new funding model for integrity agencies.

The Commission has engaged KPMG to undertake the re-baselining exercise. The project started in early September, with an expected completion date of the end of October, which will align with the 2023-2024 budget submission process, if required. Treasury has been informed throughout the process. The new arrangements do not cause any difficulty for the Commission, and the re-baselining exercise is one which hopefully will be productive and provide updated information for the purpose of the next stage of funding.

**Mrs LESLIE WILLIAMS:** Thank you. I don't have any further questions, Chair.

**The CHAIR:** Thank you. Chief Commissioner, I noted in your opening statement reference to the MoU that Mr Lynch previously asked you about, with the Inspector, but I think you also identified a number of other opportunities that you've identified that streamlining the interactions between the Law Enforcement Conduct Commission and other external agencies, there's opportunity there for that to occur. Could you perhaps provide us some greater insight as to where you see those opportunities and how did that come about? Was it through contact from the external agency proposing it or was it something that's occurred from your agency looking at the way that you engage with external organisations?

**Chief Commissioner PETER JOHNSON:** A combination of both. When I commenced at the beginning of July, one of the things that I was conscious of was that there were a number of Memoranda of Understanding of different vintages, it must be said, between the Commission and other agencies - with the Inspector, the State Director of Public Prosecutions, with the Crime Commission, and there have been some with other agencies I think, including some Commonwealth agencies who have contact with the Commission as well— the Australian Commission for Law Enforcement Integrity, I think. I think Independent Broad-based Anti-corruption Commission in Victoria; there are some issues in common that have that.

My concern was to make sure that, firstly, all of these were identified and reviewed, and it did seem to me to be sensible that, as the occupant of the position of Chief Commissioner now, we look at them again and see; are they fit for purpose, are they up to date, and that there actually be a written memo between the current occupant of—who is the head of the other agency and our agency. It actually provided an opportunity for some reassessment of what should be in such documents.

There are further issues being undertaken, as part of discussions we've commenced and will have with the Director of Public Prosecutions, for example, and other agencies as well. It seemed to me to be necessary just to make sure that, firstly, everyone knew these documents existed, and secondly, they were fit for purpose. So, there has been some—it's largely been because of some questions that I've asked within the Commission, that these issues have arisen, but also other agencies have raised the question as well.

There is a document, described I think as the Section 14 Agreement or Memorandum with the New South Wales Police Force, which is quite an important document that identifies categories of conduct which would be subject of investigation. That document has been under review for some time. It's very close to being settled. The Commission has indicated its position, the police have—are indicating their position, I understand. It's close. I wouldn't attempt to say how close except I'm told it's close, and that's important too.

There has to be a fundamental understanding of the relationship between the Commissioner of Police and the Commission, as part of its important process of assessment. There are many matters that come before us, because the Commission gets to see everything that's effectively a matter of complaint involving the police, not just the most serious ones. I'll just once again pause and see if there's anything that Gary Kirkpatrick wishes to

add to that particular aspect.

**Mr KIRKPATRICK:** Thank you, Chief. Nothing more insofar as the MoUs that are under negotiation. The Chief has explained, that's why I have nothing further on that.

**Commissioner ANINA JOHNSON:** I might just add in, Mr Chair, that the other interactions that we've been undertaking are with external stakeholders, rather than external agencies, organisations such as Legal Aid, Aboriginal Legal Service Redfern, and looking to consider whether there are other agencies, other stakeholders that interact regularly with the Commission, often as advocates on behalf of complainants, either legal representatives, or other forms of advocacy groups.

A lot of those relationships existed with previous Commissioners and we are reviving them; some of them got sideswiped by COVID, and we are rebuilding them, but also looking to refocus some of those engagements to see if we can get some strategic advice, and a strategic overview of the kinds of things that people are seeing on the ground, to make sure that the Commission is aware of upcoming issues and can focus our complaints assessment process and our investigations with that in mind.

**Chief Commissioner PETER JOHNSON:** If I could just add to that, that in relation to the various legal officers who are interacting with the Commission in different ways, and there's a wide number of them, many of whom I have mentioned in the opening comments. I went back to my own experience on the Court where when I was the possession list judge with the mortgage default list, going back some years, between 2005 and 2009 we set up a users' group—didn't exist before—and it was just a matter of getting a range of people involved with the work, possession list, in the same room regularly, to discuss a wide range of issues.

The Court does it with other areas too, in the Court of Criminal Appeal – a corporations list and other things, and it seemed to me that the concept of a users' group, via the Redfern Legal Centre, ALS, Legal Aid, other agencies, and individuals who regularly meet with officers of the Commission, is a good way of making sure the contact points are not—are far more than just a letter of complaint from a particular office and then some discussion in that context, or occasionally making submissions on issues of reform, or in areas where there's a report in the prevention and education area. Because there are many people with very detailed knowledge about aspects that affect the Commission, and the best way of trying to make sure the Commission is doing its job effectively, I think, is to have practical conversations on an ongoing basis.

Now, that's the plan, and we're really going through the process having a range of people with more to come, and then set it in train. Something close to that, I think, may have happened in the past, pre-COVID, but I think it might have been a bit more ad hoc in those days. What I'm hoping to do is get it a little bit more regular as part of a process of engagement by the Commission, particularly with those who have a close interest in matters involving policing, not just acting for complainants, but having valuable suggestions to make, with respect to policy reform.

**The CHAIR:** Thank you for that and thank you for the clarity around some of the MoU processes with stakeholders versus agencies. I guess when I turn my mind to it, my thought goes to when you have an interagency MoU that's being proposed or adopted by, for example, an oversight agency, where it has engagement with another statutory agency or another body which has, I guess, a very formal linkage to its engagement, when you generate an MoU such as you're undergoing the process of now, what oversights do you put into that MoU process to ensure that the engagements that are dictated by that MoU are appropriate for the outcomes that both you seek and also the other agency may seek?

Because obviously, if you've got two agencies that are generating an MoU between themselves, you have the potential that there's a disconnect between what the role might be from a public view versus what the agency might deem as efficiencies or appropriate. So, how have you been engaging, and have you got, I guess, a higher oversight of the process to make sure that what's happening is ensuring that the roles are covered?

**Chief Commissioner PETER JOHNSON:** The starting point with most of these documents is that we've got one already, so I suppose the starting point is we're not inventing something. It's a question of determining—take the Inspector's one, and I think you'll hear from the Inspector a little later today—but as I saw it, we both agreed it was an opportunity to see what needed to be improved or changed. No doubt he viewed it from his perspective, and we did from ours, but there is an interrelationship because of the statutory relationship between the Inspector and the Commission.

An assessment of what the most effective documented Memorandum of Understanding was undertaken. For our part, I made sure that the views were sought from everyone in the Commission, all the senior people in the Commission, what in their view needs to be improved, amended. Because these are not statutory documents, it's not like enacting a law, it's a working document which is meant to assist the particular relationship you have, Commission with the Inspector, the Commission with the DPP, Commission with the Commissioner of Police, et cetera.

So, the starting point, I suppose, is what is the relationship, and what are the points of contact. But for our part, it's been making sure that there's an informed assessment of everything that the Commission considers which ought to be in it. As to oversight of it, I suppose there's the ultimate oversight that we're all trying to ensure that the end product is the most effective form of Memorandum of Understanding. As again, as I said a moment ago, it's not a statute so if you need to change it in some way, you of course just draft another one and settle that, so things aren't frozen in time. In a sense, they are always going to be evolving documents which are sought to be the best assessment by the particular parties as to what's needed at a particular time.

Now, that's probably a rather longwinded way of seeking to answer what you asked, but you look at the relationship and you think well, what is our relationship, for example, with the state DPP, and what does the current Memorandum of Understanding say, how can that be improved, and again, seeking views within the Commission about ways in which it could be improved. Likewise, the Director, I'm sure, was doing the same within her agency.

**The CHAIR:** It could almost be a bit of a quiz or a puzzle almost because we are the Committee that is oversighting the I guess oversighting agencies. So, we have a discussion around MoUs between two oversighting bodies or agencies or stakeholders; however, those interactions are between your organisation and external bodies. But when you change the—whether it be an MoU or you change legislation, talking about extremes of the way that we look at the documented interactions between an agency, there still I guess needs to be some level of oversight to ensure that whatever is changed is appropriate and is being driven by a goal.

And so that's why I'm just curious as to when you're coming into a role and you're putting fresh eyes on it, which is what you've done and you've appropriately said these are documents that have been in place for a while, they're perhaps not fit for purpose or need some adjustment. What advice and what view you put onto it when you're seeking that change to ensure that it's actually driving an outcome that the people of New South Wales are expecting their oversight agencies to actually deliver to them. So, I guess it's one of those philosophical questions that we could go round and round about but it's just interesting to actually get an insight into the process so that we as a Committee can understand how that goes.

I'll now provide Committee members an opportunity to perhaps ask some more questions, if they have any. Deputy Chair.

**Mr DAVE LAYZELL:** Thank you, Mr Chair and thank you all for appearing today. My question is really about the Commission's access to New South Wales Police video storage systems. I believe there is an issue there. Just to tease out your thoughts, of, do you need that rectified, is it—and maybe some of the reasons why New South Wales Police have concerns about providing that access.

**Chief Commissioner PETER JOHNSON:** I might say something, but then invite Gary Kirkpatrick to say something about it as well. Let me say at the outset that the availability and the use of body-worn video by operational police is a most important development, and the work of the Commission is much assisted by the availability of body-worn video footage in the assessment of complaints, and the prospect of factual disputes is greatly reduced or eliminated where body-worn video footage is available. Where body-worn video footage is not available and there is a significant factual dispute as to what occurred in an incident involving police and a member of the public, there is a greater prospect that the Commission will use its investigative powers and conduct examinations for the purpose of resolving factual disputes.

So, all of that amounts to an indication that the use of body-worn video by police is in the public interest, and assists the community, as well as police and members of the public involved in a particular incident. Added to that is the need for the Commission to be able to access, in a timely fashion, the body-worn video holdings of the New South Wales Police Force. The Commission has been working towards securing that material in the most timely fashion. Part of that may involve the Commission having access to certain areas of body-worn video, with clear parameters as to what the Commission is using it for, clearly for the purpose of assessing complaints and matters of that sort.

There is an ongoing discussion with the Police Force concerning this issue. At this point, I might see if Gary Kirkpatrick can throw more light on the topic to assist you in answering that question.

**Mr KIRKPATRICK:** Thank you, Chief Commissioner, Deputy Chair. The police video systems include body-worn video that officers use, body-worn cameras on their person when they are involved in operational duties. There's also CCTV in docks, and other parts of police stations. When LECC is considering a complaint, it is useful for this Commission, in a timely fashion, to have access to those video systems, so that we can see what actually happened, and whether that coincides with the complaint or not. In fairness to the officers concerned, but also to assist the Commission in efficiencies, direct, or as direct as possible, access to those systems is useful and would be paramount.

LECC can, under its statutory powers, whether it be an investigation, or whether it's an assessment, can access these systems from the police. but there is a period of time that it takes to make that request, to obtain the

video evidence from the police, and then have the assessment officer or investigator re-establish what were the circumstances, so they can put the circumstances with the video and compact it together.

So, as the Chief Commissioner has already said, we've been involved, engaged with police with some discussions. They are ongoing, and again I stress the immediacy of access is going to assist both the Police, the police officer, and the Commission in the outcome that is going to occur anyway. It's just the longer it takes us to access the product, the longer it takes us to resolve the issue.

**Mr DAVE LAYZELL:** Can I ask just as a sample of what sort of time period is that process taking? Is that a-

**Mr KIRKPATRICK:** It varies, because the product may be somewhere in New South Wales. It may be metro Sydney; it might be somewhere else. So, it takes at least some days, and it may take some weeks, on occasions, to obtain that product.

**Mr DAVE LAYZELL:** So, the Commission would seek to have access to that, the video systems, to be able to access it through their own [inaudible].

**Mr KIRKPATRICK:** To have controlled auditable access in a narrow field that gives particular parts of the Commission access would be useful, but again, we are having those discussions with police.

**Mr DAVE LAYZELL:** Okay. Thank you.

**The CHAIR:** Any final questions, Mr Lynch?

**Mr PAUL LYNCH:** Yes, thanks, Chair. Chief Commissioner, Commissioner, the LECC, under its previous leadership, when it issued reports, would almost always deidentify the police officers involved and the witnesses. I'm not necessarily being critical of that, but I'm interested to know whether that's a practice you intend to continue, and if so, what's the justification for it?

**Chief Commissioner PETER JOHNSON:** The deidentifying of persons, or use of pseudonyms, is something which struck me when I first came to the Commission, coming from the court, where that tended to be on a case-by-case basis. I wanted to acquire a greater understanding of why it was happening. Clearly, for members of the public, complainants, in particular if they are young people and that sort of thing, and type of reasoning that sometimes occurs in ordinary courts might see the use of pseudonyms.

With respect to police officers, it seems to me that a case-by-case assessment is required, and indeed, on that topic generally, the power to do it, I think, appears to arise as a type of implied power flowing from restriction on publication, matters of that sort. On my part, having embarked upon many lines of thought in the last three months, of which this is one, it seems to me that a blanket approach is not the appropriate approach, but a case-by-case approach. There may be circumstances in particular cases why it's done, but there should be an assessment of what those circumstances are.

Now, that probably sums up where my thinking is right now, that if there was—ought to be a blanket approach, where that's the way it's always done, then I don't think that's the correct way of doing it, and of the correct way of running courts - of course the Commission is not a court, its examinations are not trials, it's reports and not judgements, it's an entirely different process. But at the same time, the publication of what has happened, including identities, can serve a useful purpose at times, but probably having uttered a number of generalities, I'd stop there at the moment. I hope that answers the question, so far as my approach to this issue in the future.

**Mr PAUL LYNCH:** Perhaps doesn't but it goes far enough for today.

**Chief Commissioner PETER JOHNSON:** All right. Thank you.

**The CHAIR:** If there's no other questions from members, I note that we are approaching the end of the session, so I wanted to thank the witnesses who have appeared today. We may send you some additional questions in writing. Your replies will form part of your evidence and will be made public. Would you be happy to provide a written reply to any further questions?

**Chief Commissioner PETER JOHNSON:** Certainly.

**The CHAIR:** Thank you very much. The Committee staff will now organise for the next witnesses to appear, which may take a few minutes. I want to thank all the witnesses who have appeared today. Thank you very much.

**Chief Commissioner PETER JOHNSON:** Could I thank all members of the Committee for this first visit we've made here, but the first of what I suspect will be many.

**(The witnesses withdrew.)**

**BRUCE ROLAND McCLINTOCK**, Inspector, Office of the Inspector of Law Enforcement Conduct Commission, affirmed and examined

**The CHAIR:** Thank you Mr McClintock. I invite you to make a short opening statement.

**Mr McCLINTOCK:** I hadn't intended to, but as a result of listening to the evidence from Chief Commissioner Johnson, I thought I might just say two things. The first is in response to Mr Lynch's question about the anonymisation of the names. That was an issue that struck me as soon as I commenced as Inspector on 1 July, and in particular in relation to one report. I thought it—I personally think it's inappropriate, and I think the position should be prima facie everyone is named, unless there's a good reason not to name them.

I haven't expressed that view to the Chief Commissioner yet, but in the correspondence back and forth about one particular complaint to me about the Commission, I raised queries as to why every name in the report had been anonymised, particularly in view of the fact that, just from reading the report and the information that was actually in the report, you could work out who one of the people was without any difficulty at all, and the person in question had already been the subject of reference in the media in relation to the very matter in question.

Now, it's obvious from what the Chief Commissioner said that he's taken the issue as it were under advisement, but I do propose to keep checking on that to make sure that it is appropriate. It just seems very odd that reports like that should be completely anonymised. There's obviously issues about it, and it seems to me that the public, generally speaking, does have a right to know who the subject of these matters are, and it may also assist in the improvement of the quality of the police by naming them. That's the position I take in relation, that I've made inquiries of the Chief Commissioner.

The other issue was about the Memorandum of Understanding. I had the benefit of the previous one, by my predecessor Mr Buddin with the previous Chief Commissioners, and so on. It was updated to take account of the issues that both the Chief Commissioner, and indeed Ms Delahunty and I, saw at the time. The principal benefit of it, or if I could put it, the principal purpose of it, is to ensure that information flows to my office, as Inspector, so that I find out what actually is happening, and that's the reason why there are obligations in the memorandum to report to me information that they receive, such as complaints, and so on. Subject to—I don't know whether the Committee would wish to see a copy of it. Subject to clearing it with the Chief Commissioner, who of course is obviously a counterparty to it, I'd be perfectly happy to supply a copy to the Committee.

**The CHAIR:** That would be useful.

**Mr McCLINTOCK:** I'll check it with the Chief Commissioner, but I can't see any reason why he would not want that. It's the fourth Memorandum of Understanding I've entered into now; one for the New South Wales ICAC, two for the Northern Territory ICAC, because I'm Inspector of Northern Territory ICAC as well, and now this one, so I'm getting some experience in these documents. They are significant and valuable because they actually record—they impose an informal obligation of reporting, indeed on both sides, and consulting, and that is important that it actually be recorded. They're not statutes, as the Chief Commissioner said several times, but it is important to formalise the relationship between the agency and the supervising agency, which of course is me.

That's all I wish to say by way of—the only other thing I should say is I'm now three months into the job, I'm still learning, no question. It's had its challenges. It's been, I would honestly say, more work than as Inspector of the ICAC. There's—it's in the sense—it receives—I haven't quite worked out why that is the case, but I suspect it's because of the nature of the work, and the fact that it's the agency—is the Commission supervises the police, and an agency that supervises the Police Force is clearly going to be different from an agency like the ICAC that deals with—in a sense, deals with corruption issues in relation to government departments and local government and so on. But it has been more work, no question.

What I did was I—as the Committee probably doesn't know, I terminated my fulltime role as a barrister on 30 June, sold my chambers, and don't intend to take any more work—there might be some run-off stuff, but I then was basically fulltime as Inspector throughout July until I decided I—with a view to freeing myself to take a break, which I did in August, did a tour around Australia saying goodbye to old friends from the bar in Canberra, Melbourne, and Adelaide.

[Interruption]

**Mr McCLINTOCK:** And over dinner, but then I've been—since the—then I was in Darwin last week, in my role as Inspector up there. The role is not intended to be fulltime. It was only fulltime in July so I could get on top of it. It is intended to be part-time, perhaps one-and-a-half, two days a week.

**The Hon. ADAM SEARLE:** Chair?

**The CHAIR:** I'll pass it to The Hon. Adam Searle.

**The Hon. ADAM SEARLE:** Is there any particular pattern to the complaints that you are seeing, or where do they seem to be arising, or is it just more?

**Mr McClINTOCK:** It's just more. I haven't yet discerned a pattern, Mr Searle, in the nature of the complaints. There has been a lot of them, as I said, considerably more than I got as—and some of them are harder to deal with too, than the ICAC ones. The ICAC ones you could very quickly determine whether there was any basis for them at all, and then if there wasn't, write a polite letter dismissing a complaint. These require sometimes more work and more consideration, and some of them have been really quite difficult.

**The Hon. ADAM SEARLE:** Are most of the complaints in the nature of people who might have had an issue with the police, they've gone to the LECC seeking some kind of action, and the LECC hasn't acted for one reason or another, and they're coming to you to try and agitate the matter further? Is that the essential nature of most of these complaints?

**Mr McClINTOCK:** Yes, or that they are dissatisfied with what LECC did. That's the—it's both LECC refusing to take action, and then complaints about what it did do, that is, complaints about the report that LECC produced. As I said, I can't—that's what they are. I can't discern a particular pattern in relation to—yet. I may but I haven't done so far.

**The CHAIR:** Further questions from Committee members? I'll ask the members who are online so that they have an opportunity. Dr McDermott, Mrs Williams?

**Mrs LESLIE WILLIAMS:** I have no questions, Chair.

**DR HUGH MCDERMOTT:** No questions.

**The CHAIR:** Thank you.

**Mr DAVE LAYZELL:** Look, I do have a question, just in regard to the covert investigative powers. In May this year, the former Inspector tabled a special report, on an audit of LECC's acquisition and use of assumed identities and other matters relating to the system of oversight of covert investigative powers in New South Wales. The former Inspector made three recommendations, including that the New South Wales Government consider a review of the legal framework concerning the use and oversight of covert powers, and that a dedicated agency be established to provide oversight of the use of AI by law enforcement agencies. As the current Inspector, what are your views on those recommendations in the report?

**Mr McClINTOCK:** I support them. I don't believe that any action has been taken at least yet as a response to those recommendations. On a related topic, perhaps I should have mentioned this in the opening remarks, the other difference between the role as Inspector of the ICAC and Inspector of LECC of course is that I am in control of the secure monitoring, whose job is to in effect audit a whole range of intrusive powers, in general terms, under various—under the New South Wales and indeed under the Commonwealth Telecommunications Interception legislation, which of course was something I had no experience of in my previous role. That is very related to that, obviously. But as I said, I support those recommendations.

**Mr DAVE LAYZELL:** Thank you.

**The CHAIR:** In relation to the, I guess, role that you're now in, and accepting that it being a very short period, and even shorter when you're factoring in, I guess, a farewell tour, the complaints that you're actually receiving about the LECC, is it from members of the public primarily, or is it more members of say, the police force who feel that the investigation hasn't accurately viewed or assessed what has occurred? I'm just curious as to how those two processes where you have one body being the police force that's obviously—their conduct is being investigated, but then you've also got the public who have the police force engaging with them and out of that can be born a complaint process, but then ultimately ends up at the LECC. Is there an equal feeling that there is perhaps concern as to—on those two bodies as to how the LECC is conducting itself?

**Mr McClINTOCK:** The complaints come from both sources. You get complaints from members of the public who feel that their complaint about the police has been dismissed and that they think the complaint is justified. There are also complaints from police who complain about the processes and about the result. I'm not in a position to give you a proportionate breakdown of what they are. Perhaps Ms Delahunty might be able—yes, but we can take—can't do it right now, we could take that on notice, but they do come from both sources. The police complain about not being accorded procedural fairness and things like that.

**The CHAIR:** But it hasn't struck you that there is one of those two bodies that is primarily the source of your—I guess the investigative role that you need to do, i.e., it's not primarily the police that feel that the LECC is perhaps not providing procedural fairness and it's not the public that feels as if the LECC isn't representing their views, it's about an equal amount?

**Mr McClINTOCK:** I can't say it's equal, and I'll be interested to know what the actual—the precise answer actually is myself. My instincts, and from what I've observed, tell me that there's more coming from the

public than there are from the police, and the probable reason is that there are more people who are not police in New South Wales than there are police, and that there's only a very small minority of police actually end up before LECC, whereas there are many more complaints from the public. The existence of the agency seems to be relatively well known, and people know that they—ordinary citizens know that they can make complaints about what they perceive as police misconduct, or officer misconduct, to the Law Enforcement Conduct Commission. It's quite clear they know.

**The CHAIR:** Perhaps I should have rephrased it. While the number obviously might be greater on the side of the public just given the sheer weight of the different proportionalities of numbers, I suspect that a lot of the public complaints may not be perhaps relevant or appropriate to be viewed by your—yourself or the LECC, but where there's been issues of procedural fairness, is it much harder to—sorry, let me rephrase it. Where I would expect it would be a lot harder to make determinations quickly, do you find that the proportionality of the work that you do falls more onto the policing side and the procedural fairness issues or around the decisions or not to actually investigate a matter that's come from the public?

**Mr McClINTOCK:** I can't really give an allocation of the amount of work involved, Mr Fang. It's—every—obviously, there are complainants who—there are complaints you receive that have no merit, and you can obviously detect them very quickly, and deal with them relatively quickly, although the material that they supply often can be very—can be bulky.

**The Hon. ADAM SEARLE:** Are you getting the same emails as me?

**The CHAIR:** I suspect we're all getting them.

**Mr McClINTOCK:** Look, it's one of the things about public life, and in office, about, that you do get people whose attachment to reality seems to be a little remote, shall I say, but of course, I read every one of them and I consider them fairly, and Ms Delahunty does as well. I suspect that probably the ones that come from police are more complex, and perhaps more difficult to deal with but I can't—but that's only a feeling, rather than a hard piece of information.

**The Hon. ADAM SEARLE:** I find that interesting, Mr McClintock, because there are of course procedural fairness requirements on the LECC, the reports are anonymised, and unless I'm mistaken, I think in the whole time the LECC has existed it has not used its powers to conduct any public hearings, totally contrary, for example, to your experience at the ICAC where public hearings are quite frequent. So police, even the ones found to have engaged in unsatisfactory conduct, in one sense are not in the same position as a person in front of the ICAC found to have also done wrong. Their names are withheld.

**Mr McClINTOCK:** Yes, but there is a difference though because they can be dismissed.

**The Hon. ADAM SEARLE:** They can be.

**Mr McClINTOCK:** Whereas ICAC can't. ICAC simply makes a finding. I'm not suggesting that...

**The Hon. ADAM SEARLE:** It tends to have the same effect though.

**Mr McClINTOCK:** It can have the same effect, but indirectly. But I'm not suggesting a finding of corrupt conduct by the ICAC is a pleasant thing to have happened to anyone, but I think what you're really—and you're right, as I understand it, that there have been no public hearings. I do remember Chief Commissioner Adams in 2016 informally consulting me about a particular matter where he thought it might be appropriate to have the very first public hearing, but it didn't go ahead, as I recall. Ms Delahunty reminds me there was a public hearing in Operation Tambora. Perhaps we should—perhaps I should write a letter to you or write a letter to the Chairman expressing—mentioning what that matter was.

**The CHAIR:** That would be very interesting.

**Mr McClINTOCK:** I will. I will.

**The Hon. ADAM SEARLE:** Thank you, Mr Chair. Thank you.

**The CHAIR:** So, looking at when the LECC is then generating its Memorandum of Understanding that it's potentially going to be doing with other agencies into the future, do you seek to then take an interest in those agreements that the LECC may form with—and we heard today, stakeholders, with other agencies, indeed with Commonwealth agencies...

**Mr McClINTOCK:** DPP, yes.

**The CHAIR:** Yes. To ensure that the pattern of complaints that you might receive may be reduced or that you can perhaps have a better understanding of the information that's being exchanged in order for the LECC to then form its view before deciding whether to proceed with an investigation or not?

**Mr McClINTOCK:** I don't—I do have—I would be interested to know, to see the formal arrangement

between the Commission and the New South Wales Police Force. I haven't yet done anything about that yet because as I said, it's early days. I'm not so concerned about—I wouldn't be so concerned about the arrangements with, say, the New South Wales DPP, because I can guess what the—I know what will be in there, and I know that will be about arrangements to provide provision of information and so on, and conduct of cases and provision of witnesses and so on. That would not be so important for the day-to-day operations of the Commission, which of course is my principal focus and function. I probably will at some stage ask to have a look at the arrangements between the Commission and the Police Force, and I'm grateful for actually—to you, Mr Chairman, of reminding me of that aspect, putting it in my mind.

**The CHAIR:** I wish I could take credit for having done it deliberately. However, as somebody who's always looking to be honest, it would have been accidental. However, I will take it. I will just look around the Committee again to see if there's any questions that may have arisen from the testimony we've heard to this point. Members online? In the circumstances that you've provided some fantastic feedback and noting obviously that the role—you've only recently commenced in the role and perhaps there's a lot more that you'll be looking to do in the role, we may conclude the session today at this point. We thank you for both appearing today. We may send you some additional questions if they arise, in writing. Your replies will form part of the evidence today and will be made public. Are you happy to provide written answers if required?

**Mr McClINTOCK:** More than happy, Mr Fang, and I'll also—I'll check with the Chief Commissioner about the Memoranda of Understanding and forward it to you, if there's no problem with him. We'll also—we took under advisement the question about the breakdown of proportions of the complaints and so on, so we'll take—we'll forward that to you as well when we have a response.

**The CHAIR:** Thank you very much.

**Mr McClINTOCK:** I think that was all that we needed to follow up.

**The CHAIR:** Thank you very much. Well, that concludes the public hearings for today. I would like to place on record my thanks to all the witnesses who have appeared, and in addition, I'd like to thank the Committee members for making themselves available today, the Committee staff, and the staff of the Department of Parliamentary Services for their assistance in conducting the hearing. That concludes the hearing for today. Thank you.

**(The witness withdrew.)**

**The Committee adjourned at 5:30 pm.**