

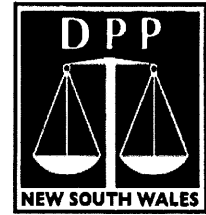
OUR REFERENCE

DIRECTOR'S CHAMBERS

YOUR REFERENCE

DATE

23 June, 2015



Andrew Tink AM
Review of Police Oversight
Locked Bag 5111
Parramatta
NSW 2124

Dear Mr Tink

Police oversight review

Thank you for the invitation to make a submission on your review of Police oversight in New South Wales.

The Office of the Director of Public Prosecutions (ODPP) has responsibility for the prosecution of serious criminal offences in NSW. From its inception the ODPP has also taken on the role of the prosecution of serving police officers charged with criminal offences and created a specialised unit, Group 6, to undertake this task. The ODPP also has a role in providing advice to the Police and the Police Integrity Commission (PIC) about the availability of criminal charges against serving police.

It is uncontroversial that the roles of the agencies currently involved in oversight of the Police Service have evolved piecemeal since the Wood Royal Commission. It seems inherent in this evolution that complexity, overlap and inefficiencies may manifest themselves in the system. For this reason it is timely and healthy to conduct a review of the system to adjust and rectify the processes where necessary. However in this process it is important not to lose sight of the work of the Royal Commission and the knowledge, skills and expertise that has developed within the oversight agencies.

Because the current system appears to be overly complex the idea of a single oversight body appears to be an attractive one. However tackling the complexity of this issue by creating one body may not solve the problem, as it is likely that complexity is unavoidable when addressing the wide ranging nature of the type of complaints that may be made against police and the powers that police exercise.

Alternative systems

I do not propose to make detailed submissions doubt what an alternate system could be but make the following general observations and suggestions.

I note in the foreword of 2013/4 Annual Report of the Independent Police Complaints Commission (UK) (IPCC) that the Chair of the Commission complains about being a relatively small organisation in relation to the police service and the volume of complaints and having to turn away cases they would like to investigate. They struggle to complete as many investigations as they open. They also face considerable frustration and delay when police

attend for interview and refuse to answer questions. A research paper “Towards greater public confidence, A personal review of the current police complaints system for England and Wales” (March 2014) by former the Commissioner Deborah Glass analyses in depth the strengths and weaknesses of the IPCC. The paper highlights that the IPCC is yet to achieve a satisfactory oversight system and I note that in the Annual Report there is detailed action plan to improve the system.

Former Commissioner Glass recommends a number of improvements from her analysis of what happens in other jurisdictions which are worth considering in the NSW context. She makes the following observations about a centralised complaints referral system:

“Many complaints systems in other jurisdictions and other professions single out complaints that concern real “fitness to practice” issues from lesser misconduct, performance or quality of service issues. There is no jurisdiction of significant size where the independent body investigates all complaints against the police. But it is striking that in many of the more recently reformed systems, the independent body receives all complaints and carries out some form of triage before less serious cases are referred back to the agency involved”¹.

From the point of view of transparency and improving the avenues for complaint, I agree that it would be useful in NSW to have a single point where complaints can be made and a single approach would promote consistency in the way complaints are handled. However I would not be in favour of any system that over bureaucratized the process and delayed swift resolution of less serious matters. The IPCC also has a function of dealing with certain appeals about the way a complaint has been handled by the police, this function may have features that could improve on the Ombudsman’s current role in overseeing the complaint process.

Yours faithfully

Lloyd Babb SC
Director of Public Prosecutions

¹ At page 26