



Premier of New South Wales



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014/09445

2013-497730

7 APR 2014

Ms Ronda Miller
Clerk of the Legislative Assembly
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Miller

I am pleased to provide you with the enclosed NSW Government response to the Report No. 7/55 of the Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission – 2013 General Meetings with the Police Integrity Commission, the Inspector of the Police Integrity Commission, the NSW Ombudsman and the Child Death Review Team.

Yours sincerely

Barry O'Farrell MP
Premier

Report No. 7/55 of the Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission – 2013 General Meetings with the Police Integrity Commission, the Inspector of the Police Integrity Commission, the NSW Crime Commission, the Information and Privacy Commission, the NSW Ombudsman and the Child Death Review Team

Recommendation	Government Response
<p>1 That the Police Integrity Commission and the Inspector of the Crime Commission develop protocols to ensure there is a clear understanding of lines of oversight and responsibility for the management of complaints made against the Crime Commission.</p>	<p>The Government supports cooperative arrangements between oversight organisations that improve their operational effectiveness.</p> <p>The Police Integrity Commission ("PIC") and the Inspector of the Crime Commission are independent statutory bodies and are not subject to the direction of the Executive.</p> <p>The Government notes the recent comments of the Inspector during the Committee's hearing of 17 February 2014 that there is an understanding with the PIC about jointly determining the management of complaints about the Crime Commission.</p>
<p>2 That the Police Integrity Commission and the Crime Commission jointly develop formal protocols to be followed in the event of any future disagreements between the two agencies, with the objective of promoting alternatives to litigation.</p>	<p>The PIC is an independent statutory body. It is open to the PIC and the Crime Commission to determine whether it would be appropriate to develop administrative arrangements, such as a protocol, concerning the resolution of disputes. In doing so, they may take account of Government policy as it affects other public authorities.</p> <p>The Government notes the recent comments of the Commissioner during the Committee's hearing of 17 February 2014 that there is an understanding between the Commissioner of the PIC and the Commissioner of the Crime Commission that any future litigation between the Commissions would be conducted in a way that is consistent with the policy set out in the Premier's Memorandum M1997-26.</p>
<p>3 That, in light of the specific history of the Police Integrity Commission and the Crime Commission, the Premier review the Premier's <i>Guidelines for Litigation involving Government Authorities: M1997-26</i> with a view to providing clarity about how agencies considering litigation should proceed in future. Consideration could be given to developing a new guideline that meets the more complex circumstances of litigation associated with oversight agencies.</p>	<p><u>Government position:</u> supported.</p> <p>Given the passage of time since the publication of Premier's Memorandum M1997-26, the Government will review the Memorandum and consider whether any clarification is now required to the policy set out in it.</p> <p>The Government notes, however, that the main purpose of a Memorandum is to</p>

		<p>record and communicate Government policy for all Ministers and for agencies that are subject to the direction of a Minister. Other public authorities are encouraged to comply to the extent that it is appropriate and relevant for them to do so.</p> <p>The Government notes the recent comments of the Commissioner during the Committee's hearing of 17 February 2014 that there is an understanding between the Commissioner of the PIC and the Commissioner of the Crime Commission that any future litigation between the Commissions would be conducted in a way that was consistent with the policy set out in the Premier's Memorandum M1997-26.</p>
4	<p>That the Minister for Police introduce amendments to the <i>Police Act 1990</i> to remove the scope for the Minister of Police to ask the Inspector of the Police Integrity Commission to review matters outside the Inspector's statutory jurisdiction.</p>	<p>Government position: not supported.</p> <p>In 2013, the Government determined to make no further referrals to the Inspector of the PIC under section 217 of the <i>Police Act 1990</i>.</p>
5	<p>That the Attorney General review the current system for granting surveillance device warrants, with the aim of strengthening integrity checks on affidavits submitted in support of warrants.</p>	<p>Government position: supported.</p> <p>The Government is currently undertaking a statutory review of the <i>Surveillance Devices Act 2007</i> (SDA). The integrity of affidavits in support of applications has been considered to a limited extent in the course of the statutory review. The review recommended by the Committee will require a more detailed consideration of the issue and specific consultation with relevant stakeholders. The Government will progress this recommendation upon finalising the statutory review of the SDA.</p>
6	<p>That the Premier revise the <i>Premier's Guidelines for Litigation Involving Government Authorities: M1997-26</i> to include guidance about the circumstances in which confidential court settlements may be entered into by NSW Government agencies.</p>	<p>Government position: supported in part.</p> <p>There are circumstances in which it is in the public interest for legal settlements involving a NSW agency to be kept confidential.</p> <p>The Government will review the Premier's Memorandum and make revisions if necessary.</p> <p>The Government will also review other executive documents which may be relevant to confidential court settlements by NSW Government agencies.</p>