

Budget Estimates 2024-2025

Law Enforcement Conduct Commission

Answers to Questions on Notice

Questions on Notice – pages 75-76

Ms ABIGAIL BOYD: I will start with Mr Johnson. We spoke in the last estimates about the excellent report you did reviewing NSW Police Force responses to domestic and family violence incidents, which happened to come out at a similar time as the Auditor-General's report into police responses to domestic and family violence. Since then, unfortunately the numbers of people coming to my office with stories of abuse by police officers as domestic and family violence perpetrators has increased. What are you seeing and what are you doing to make sure that we're investigating more of those, given the recommendations in your report and the Police Force's failure to take them up?

PETER JOHNSON: We have clearly an ongoing interest in this, as indeed, I think, the whole community would. Domestic violence is everywhere and it affects police families as well. We have an ongoing process of liaising with the police about these developments. I can't at this point indicate to you whether there has been an increase in the number of complaints in this area that has come to our attention, but could I take that on notice?

Ms ABIGAIL BOYD: It would be very useful.

PETER JOHNSON: It's sufficient to say that we can only make recommendations. We've got no powers to compel anything. We have expressed strong views in the past in this area for a number of reasons, including the concern of the partner of a police officer as to whether there'll be a truly independent investigation of their complaints. I think this is a subject matter that we might have discussed at an earlier hearing as well. We maintain lines of communication to the police, both visible and not so visible in this area. They now have a better structure to deal with domestic violence generally, I think. There are quite impressive senior female officers in charge of it that I'm aware of. But it's a question of what's happening down the line, so to speak, in the Police Force. Complaints, of course, end up being considered in the region and not by the centralised Professional Standards Command, and so practices may be uneven in regions. I can only answer in a general way that we are looking at this because it is a matter of considerable concern to us. It may be that I could take on notice the general response too, to see if there is anything further that I could add. I'm conscious of your ongoing interest in this issue and I will see what I can do to give additional information later.

1) What are we seeing.

In June 2023, the Commission published its *Review of NSW Police Force responses to domestic and family violence incidents (2023 D&FV Review)*.

In 2023 the Commission received and reviewed 63 matters alleging police perpetrated domestic and family violence. The Commission has no outstanding concerns regarding the NSW Police Force's handling of the 63 matters.

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In 2024 the Commission received and reviewed 54 such matters, of these the Commission is satisfied with the NSW Police Force handling of 52 matters with 2 matters awaiting final triage by the NSW Police Force.

2) What are you doing to make sure that we're investigating more of those, given the recommendations in your report and the Police Force's failure to take them up?

In June 2023, the Commission published its *Review of NSW Police Force responses to domestic and family violence incidents (2023 D&FV Review)*. In that year, the Commission received 63 complaints containing allegations of domestic and family violence offences where the alleged offender was a NSW Police Force officer. That number decreased in 2024 with 54 such complaints received. These figures include complaints made to the NSW Police Force as well as complaints made directly to the Commission.

The NSW Police Force has primary responsibility for the investigation of allegations of departmental misconduct or criminal conduct by its officers, however, under the *Guidelines issued pursuant to the s 14 Agreement between the Law Enforcement Conduct Commission and the Commissioner of Police*,¹ the Commission is to be notified of complaints about domestic and family violence matters where the alleged offender is a NSW Police Force officer.

Matters involving police investigations of domestic and family violence related misconduct are reviewed as a priority by Commission officers. Such matters may be reviewed by the Intake and Assessments Team for consideration of referral to the Complaint Action Panel (CAP), which includes the Chief Commissioner, Commissioner, Executive Director Operations, Director Investigations and Intelligence, and Director Oversight. They may also be reviewed by the Commission's Misconduct Review and Monitoring Team.

Following assessment of the complaint and review by the CAP, the Commission may decide to monitor the police misconduct investigation. As part of its monitoring function, the Commission will review police policy and can suggest an Interim Risk Management Plan be put in place for an officer alleged to have committed D&FV offences if one does not already exist. The IRMP may include measures such as the officer not having access to their service firearm, working from a different location, or being under increased supervision. The Commission may recommend that personal firearms are also removed.

If the Commission has concerns about the way an investigation has been conducted by the NSW Police Force or around the outcome of an investigation, we may request:

- additional information under s 102 of the *Law Enforcement Conduct Commission Act 2016* (NSW) (LECC Act)
- that the NSW Police Force re-investigate the matter (s 104 LECC Act), or
- that the NSW Police Force reconsider their decision/finding (sustained/not sustained) and increase the level of management action imposed (s 105 LECC Act).

¹ <https://www.lecc.nsw.gov.au/pdf-files/about-us-nswpf/guidelines-issued-pursuant-to-the-section-14-agreement-between-the-lecc-and-the-commissioner-of-police.pdf/>

As well as reviewing all complaints received the Commission has commenced a second D&FV project. The project was noted by Chief Commissioner Johnson SC at the 26 February 2025 hearing,²

The project builds upon the 2023 D&FV Review and will involve the Prevention and Strategic Intelligence teams working collaboratively to consider the way in which police respond to allegations of domestic violence perpetrated by police employees, including any changes to police practice since the first review. This will include consideration of how the Commission and the NSW Police Force can better identify coercive control offences being committed by NSW Police Force officers.

It is expected that this project will culminate in a further public report by the Commission.

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Ms ABIGAIL BOYD: Thank you. Just a final one on this – and again I am doing my best to draw themes out of stories but I understand that they are at this point just tales told to me rather than things that are statistically known. I am also being told that a lot of police are being let off or avoiding scrutiny for domestic and family violence charges by being checked in for a PTSD diagnosis effectively. I say that reluctantly because I am well aware that many police officers most validly have PTSD and I can't understand how most of them can do that job without getting PTSD. But the idea of that sort of charge or that evidence being brought followed shortly by medical leave and a diagnosis – is that something that you have any visibility of the data of?

PETER JOHNSON: Could I take that on notice? My general response at this stage would be, of course, if there is criminal conduct which is said to have occurred, it should be investigated. The fact that the person who is said to be the perpetrator says they need some sort of medical treatment is no answer, whether it's a police officer or an ordinary civilian. So far as the Police Force is concerned, it should not be a complete answer or a barrier to there being a proper investigation. I can't give you any numbers. I will, if I can, take that on notice and see if I can give you a more meaningful response.

Ms ABIGAIL BOYD: Very useful, thank you.

Response:

The Commission does not hold data of this type.

² Transcript, Budget Estimates Hearing – Portfolio Committee No. 1 – Premier and Finance, page 76.