

To:

The Honourable Bruce Lander QC
Independent Commissioner Against Corruption
South Australia
GPO Box 11066 Adelaide

Dear Mr Lander

Thank you for the invitation to make a submission to the 'Review of Legislative Schemes / Evaluation Practices, Policies and Procedures of Police Ombudsman'.

(In your invitation you mentioned the possibility of appearing at a public hearing. I would be interested in this option. However, I am in a new job with a significant new teaching load so, at this stage, I am not sure of my availability.)

The discussion paper accompanying the review raises a number of complex issues that are not easily resolved. Rather than address each point in turn, I would like to make a general submission about a model public sector integrity agency that I believe would have direct applicability in South Australia. The proposal is based on 25 years of empirical research on the topic, including visits to numerous agencies around the world. The model has value for maintaining and extending public sector integrity, even where jurisdictions already have outstanding records.

1. Effective public sector integrity systems require diverse institutions with complimentary and overlapping responsibilities to ensure adequate coverage of misconduct risks. At the core of a system is an independent public sector integrity agency – an 'integrity commission' – with significant powers and resources to engage in investigations and prevention.
2. The integrity commission should cover the whole public sector including police. While police are subject to particularly intense pressures and temptations towards misconduct, policing is by no means unique in regard to integrity risks and officers can feel unfairly treated through the operations of specialist police ombudsman type bodies. Vigilance in regard to police can be maintained by legislating a designated police unit within an integrity commission.
3. Investigating and resolving complaints will be a key function of an integrity commission. In order to engender adequate confidence in public sector integrity, the commission needs to directly and independently investigate all, or most of, the complaints made against politicians, public servants and staff in public corporations. This entails training and employing specialist 'civilian' investigators in place of seconded police. It also entails creating a clearer hierarchy of matters – with more serious matters designated for automatic independent processing; and remaining, lower level matters, subject to negotiation with complainants about which agency investigates the matter. Appeals against outcomes in the latter process should be dealt with by the integrity commission.
4. There also needs to be an efficient approach to investigations and adjudication. The integrity commission should prioritise an administrative and inquisitorial approach to matters, with criminal prosecutions only taken after administrative processes are complete.

The commission also needs to be able to direct or over-ride disciplinary decisions by government departments. This is essential to counter the tendency towards weak disciplinary responses when matters are dealt with in-house. There also needs to be a disciplinary matrix, on the public record, so citizens can see how offences align with sanctions.

5. At the same time, there needs to be a decisive shift towards the availability of an independent mediation option for complaints.
6. In order to take a much more substantive role in complaints management and engage in more effective public outreach, an integrity commission needs to regionalise its operations by setting up accessible offices in regional centres.
7. An integrity commission also needs to have a research and prevention role, and ensure that government agencies have effective in-house misconduct prevention mechanisms in place. Examples of the latter include complaints profiling and early intervention systems, and police video camera programs.
8. Some integrity commissions in Australia include major and organised crime in their mission. This function distracts from the core task of public sector integrity management and generates a substantial corruption risk.

To enlarge slightly, the model proposed here represents a blend of one of the most successful police oversight agencies in the world – the Police Ombudsman for Northern Ireland – and one of the most successful anti-corruption agencies – the Hong Kong Independent Commission Against Corruption.

For your convenience, I have attached copies of the following publications that review evidence related to the proposed model. I have also attached an updated CV. I am happy to supply copies of relevant publications listed in the CV.

1. Prenzler, T., & Porter, L.E. (2015, in press). Improving police behaviour and police-community relations through innovative responses to complaints. In S. Lister & M. Rowe (Eds.), *Accountability in policing: Contemporary debates*. Abingdon: Routledge.
2. Prenzler, T., Mihinjac, M., & Porter, L. (2013). Reconciling stakeholder interests in police complaints and discipline systems. *Police Practice and Research: An International Journal*, 14(2), 155-168.
3. Prenzler, T. (2011). The Evolution of police oversight in Australia. *Policing and Society*, 21(3), 284-303. Reprinted in L. Holmes (Ed.), (2014), *Police corruption: Essential readings* (pp. 551-570). Cheltenham: Edward Elgar.
4. Prenzler, T., & Faulkner, N. (2010). Towards a model public sector integrity commission. *Australian Journal of Public Administration*, 69(3): 251-262.
5. Prenzler, T. (2009). An Assessment of reform in politics, criminal justice and the police in post-Fitzgerald Queensland. *Griffith Law Review*, 18(3): 576-595.

Thank you once again for the opportunity to make a submission.

Yours sincerely,

Professor Tim Prenzler

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