

# **T R A N S C R I P T**

## **I N T E G R I T Y   A N D   O V E R S I G H T   C O M M I T T E E**

### **Inquiry into the Adequacy of the Legislative Framework for the Independent Broad-based Anti-corruption Commission**

Melbourne – Monday 25 August 2025

#### **M E M B E R S**

Dr Tim Read – Chair

Hon Kim Wells – Deputy Chair

Ryan Batchelor

Jade Benham

Eden Foster

Paul Mercurio

Rachel Payne

Belinda Wilson

## WITNESSES

Jeremy King, President, and

Estelle Petrie, Senior Lawyer, Australian Lawyers Alliance.

**The CHAIR:** We are resuming our public hearing into the Integrity and Oversight Committee's inquiry into the legislative framework for IBAC, and I am going to welcome Jeremy King, the President, and Estelle Petrie, Senior Lawyer, from the Australian Lawyers Alliance.

Bear with me – I just have to cover some formalities. Evidence taken by the Committee is generally protected by parliamentary privilege. You are protected against action for what you say here today, but if you repeat the same things elsewhere, including on social media, those comments will not be protected. Any deliberately false evidence or misleading of the Committee may be considered a contempt of Parliament.

All evidence given today is recorded by Hansard, and you will be provided with a proof version of the transcript to check when that is available. Verified transcripts will be placed on the Committee's website. Broadcasting or recording of this hearing by anyone other than Hansard is not permitted.

If you would like to make any brief introductory remarks, you can, and then we have got some questions.

**Jeremy KING:** Yes, we would like to make just a very brief opening statement, which I will cover in one part and Estelle will cover in the other. So first, I want to thank you, Chair, and thank all members of the Integrity and Oversight Committee for inviting the Australian Lawyers Alliance to appear at today's public hearing. My name is Jeremy King, Committee Member of the Australian Lawyers Alliance, and this is Estelle Petrie, who is a Senior Associate at Robinson Gill and also an active member of the Australian Lawyers Alliance. We have obviously put in some written submissions, and I do not necessarily want to bore you by reading out every word of those.

I would like to acknowledge the traditional custodians of the land on which this public hearing is taking place today, the Wurundjeri Woi Wurrung of the Kulin Nation, and I pay my respects to their elders past and present and to any Aboriginal and Torres Strait Islander people taking part in today's public hearing.

I just want to note that the ALA is a national association whose members are dedicated to protecting and promoting access to justice and equality before the law for all individuals. Our members and staff advocate for reforms to legislations, regulations and statutory schemes to achieve fair outcomes for those who have been injured, abused or discriminated against, as well as for those seeking to appeal administrative decisions. The ALA is represented in every state and territory across Australia, and we estimate that our 1500 members represent up to 200,000 people every year nationally.

We acknowledge the importance of the role that the IBAC has within Victoria's integrity system and firmly agree that public sector misconduct and corrupt conduct, especially within Victoria Police, should be comprehensively investigated. The ALA is concerned that IBAC's broad jurisdiction and resource constraints prevent it from effectively investigating what I would say is all misconduct, but particularly police misconduct, with most complaints referred back to Victoria Police despite the clear conflict of interest. This reliance, coupled with significant delays in assessments and investigations, undermines public confidence, highlighting the urgent need for independent, well-resourced oversight measures. The absence of a clear definition of 'police corrupt conduct' and the confusing drafting of related terms weakens IBAC's ability to properly investigate misconduct, so clearer, more inclusive definitions are needed to ensure that harmful practices such as excessive force or misuse of police powers are properly addressed.

I just want to pause for one minute there. Obviously you are all – I am sure everyone has addressed you about section 5 and section 4 of the IBAC Act. I was just doing a little google last night, and I did notice that the definition on the IBAC website about what it considers to be the types of police conduct that could be referred to it is heavily borrowed, in a good way, from a 2018 Parliamentary Committee report that was chaired by Kim, and it was a bipartisan report. I just want to make the point that that list of conduct that is on the website is actually quite encouraging in one respect, but it does not change the fact that the legislation is still the legislation. I think right now if someone were to complain to IBAC and they were to look at that website, which

not only has a broad list but also encourages them to complain to IBAC, but then IBAC took – as in my experience it invariably does – a pretty legalistic view of what it can and cannot do, it could turn them away at every single point, because the legislative definition is so broad, wide and narrow. Sorry, that was a point I thought of last night, so I just wanted to include that. Thank you. Over to Estelle.

**Estelle PETRIE:** Similar to issues around the definition of ‘police misconduct’, the ALA points out that public examinations are also essential to transparency, accountability and public trust, and particularly that is so in matters involving Victoria Police. Yet IBAC has shown a clear preference for private examinations, suggesting that the public interest is not being sufficiently considered by IBAC. Given Victoria Police’s reliance on section 194 of the IBAC Act in terms of exemptions for FOI, greater legislative clarity is also required regarding those provisions’ interactions with the *Freedom of Information Act*. Those are both transparency matters there. The ALA recommends that a robust, independent and well-resourced oversight body be established to investigate police misconduct, including that of police corruption. However, if the current model of IBAC is preserved, urgent reform is needed to strengthen oversight of police misconduct under the IBAC Act. This requires dedicated resources to reduce delays in both assessments and investigations, a clear statutory definition of ‘police corrupt conduct’ alongside amended definitions for police personnel ‘conduct’ and ‘misconduct’, greater use of public examinations and amendments ensuring Victoria Police referral files remain subject to FOI. We thank you for this opportunity to appear before the public hearing, and we are happy to take questions.

**The CHAIR:** Great. Thank you both. I will just start by asking: do you think that the definition of ‘corrupt conduct’ in the Act should be amended so that IBAC’s jurisdiction over public sector corruption is broadened, as multiple submissions have suggested? If that amendment is made, what effect might that have on IBAC’s ability to oversight police?

**Jeremy KING:** I think it would be a good move, but it would have a significant impact. I think it was in 2023–24 that 62 per cent of complaints made to IBAC involved Victoria Police, so clearly the vast majority of complaints going to IBAC involve police. But at the moment IBAC is not built to deal with those complaints. The other countereffect is that all the time it spends on doing the police work then detracts from doing other government corruption work, which obviously is what people would want it to be doing. In fact it is what it was designed for. Remember it is a corruption commission, not a complaint body. The complaint body has been sandwiched onto it following the demise of the OPI. The unhappy consequence of that has been that IBAC has an incredibly broad remit to do really whatever it wants, and the unintended consequences of that are that it cannot do the government sector corruption work that it wants to do, because it is trying to do the police work. Then when it tries to do the police work, it has not got the resources or the ability to do it, so it bounces it all back to police and takes something like 1 to 2 per cent of the complaints that are made. That cannot be a good result for Victorians, particularly those who want to complain about police misconduct. If you are complaining about police misconduct to IBAC, you are doing it for a reason, because you do not want to complain about the organisation that you have said has done some wrongdoing towards you. You want someone independent to do it, but invariably it is going to go back there and is going to be dealt with by police again.

**The CHAIR:** Thank you. Let us go to Kim Wells.

**Kim WELLS:** Thanks, Jeremy. You would have to get the gold star for public hearings when it comes to anti-corruption in this state. When you had your opening remarks, you spoke about the police corrupt conduct to be legislated. In your view, how is the current definition of ‘corrupt conduct’ insufficient to capture police corrupt conduct?

**Jeremy KING:** I think the good thing about being around long enough, Kim, is that I can remember the 2018 Parliamentary Committee Report, which was about this thick, was bipartisan and was a really great piece of work. If you took the time to read that, that Committee took a long time and the effort to go into it, and they had very good and very clear ideas about what should be happening with the definition of ‘police personnel misconduct’ and how it should be turned into ‘police conduct’ and ‘serious police misconduct’. In my view, this Committee is well in front because you are able to be standing on the shoulders of giants and going back to that bipartisan Parliamentary Committee Report and adopting many of the recommendations and suggestions that were made at that time about changing the definitions. But also until this Committee changes those definitions, there is no certainty for the community. We have many clients who come to us and say, ‘Should I complain to IBAC?’ and I invariably have to say, ‘What’s the point?’ You have no idea about whether they are

going to take the complaint or not, because it is so broad in terms of being able to wiggle out of it if they want to. That is why they can bounce 99 per cent of them back to Victoria Police. I have got no idea if IBAC are going to take something on or if they are going to bounce it back to VicPol, and that makes it very difficult to give ordinary people advice about what to do in terms of making a complaint.

**The CHAIR:** Great. Jade Benham.

**Jade BENHAM:** Thank you, Chair. So how then can the definitions of police misconduct and/or wrongdoing be improved in the IBAC Act but also the Police Act and *Public Interest Disclosures Act*? How can we massage that to improve them?

**Jeremy KING:** I think the excellent suggestions in that 2018 Parliamentary Committee Report should be adopted and should be adopted quickly. As I was saying at the start, it effectively has been adopted, it seems, by IBAC on its website. It just has not been enforced in legislation. I think that is a problem because even while well-meaning – IBAC seemingly wants to take on those matters, which are very similar to what was listed out in the 2018 report – they could still, if they wanted to, fall back on the legislation, which gives them get-out clause after get-out clause after get-out clause. That is what the ALA would be encouraging the Committee to do.

**Jade BENHAM:** Okay.

**The CHAIR:** Thanks. Rachel Payne.

**Rachel PAYNE:** Thanks, Chair, and thank you to you both for appearing before us today. Now, you mentioned any clients that you advise you say to them that you are not referring them to IBAC, but we hear as a Committee that a lot of police complaints that are referred to IBAC are delayed. What impact does that have on complainants?

**Estelle PETRIE:** Huge impacts. Not only is part of the complaint process seeking accountability – and obviously any delays can also impact on the accountability outcomes that you receive – but in my experience, I think there is also a therapeutic element to making a complaint and being heard. When they are met with delay, it feels like a brick wall – no-one is listening and no-one is taking into account the experiences of these people who make complaints.

**Rachel PAYNE:** Do you think there is enough communication that is happening during that complaint process as well, from what you are hearing from your clients?

**Estelle PETRIE:** I think it varies. I have seen some examples of IBAC being very responsive, and I have seen some examples of people not receiving much information at all from IBAC. Coupled with that as well is that people then receive these very scary letters from IBAC about the section 184 rules in terms of what they are not allowed to disclose and also their obligations under the *Public Interest Disclosures Act*. That is also a very sort of disenfranchising experience for people who are trying to make a complaint about what has happened to them – that there are these potential criminal offences they could be liable for if they speak about having made a complaint or what IBAC is doing.

**Jeremy KING:** The great and rich irony that is happening at the moment is that you may actually, despite my vehement philosophical opposition to police investigating their own, get a better result for your client if you refer a matter to VicPol as opposed to IBAC. Now, the level of communication will be similarly poor no matter who you complain to, but at the end of that process you will probably have a complaint letter that you can then lodge an FOI on and then potentially get documents through that process. At least you can probably try and peer behind the curtain somewhat to see what evidence was gathered, how they came to that conclusion and whether something might have occurred. Now, in the vast majority of cases, it does not. But that is at least one benefit through making a complaint to one of the two complaint bodies that you can go to in this state, whereas in IBAC you are not going to see anything at the end of it – you are not getting any documents, you are not going to get to peer behind the curtain, you are not going to get to know what happened and you are going to have a very bad experience, for want of a better word.

**Rachel PAYNE:** Thank you. Thanks, Chair.

**The CHAIR:** Thanks. Let us go to Belinda Wilson.

**Belinda WILSON:** That is me. Sorry, I was responding to something. I apologise. Why, in your view, should IBAC make greater use of public examinations in connection with its investigation of alleged police corruption and misconduct, and how can this be balanced with the civil liberties of witnesses and those who are being investigated?

**Estelle PETRIE:** Public examinations promote transparency, and that is good for public confidence. People want to see wrongdoing being investigated, and we think that that can be done through public examinations. Court hearings are public and there are various provisions through court processes in terms of protecting witnesses' interests. I do not see any great reason why those sorts of protections cannot be built into the process of public hearings. And IBAC does hold public hearings in other spheres. They just very rarely, if ever, hold them in relation to police misconduct.

**Jeremy KING:** And they can be very effective. Operation Gloucester and the public hearings that flowed from that, where Jack Rush was retained by IBAC to look into what happened in terms of the statement taking in regard to the charging of Jason Roberts, were an incredibly powerful investigation that did happen. There were good people behind it, there were good resources put to it, and the fact that it took place in public was incredibly important because so much of that was historical and happened behind the scenes. For the public to be made aware of what had happened and to be fully informed about what was a very significant event in Victoria's history was actually very powerful, I think, and was one of the most powerful forms of accountability that I have seen in my time working in this space.

**Belinda WILSON:** Thank you.

**The CHAIR:** Great. Let us go to Paul Mercurio.

**Paul MERCURIO:** I just want to go back. I am not sure if I misheard something you said, and so I just want a bit of clarification before I ask my question. Did you say that you could FOI a complaint or a case if it went directly to the police but not through IBAC?

**Jeremy KING:** Yes, that is correct. You cannot FOI IBAC.

**Paul MERCURIO:** Wow.

**Estelle PETRIE:** For example, you might receive the internal reports and processes that police have gone through to investigate a complaint, and often what people receive in response to a police complaint is an outcome letter that just says things like 'substantiated', 'not substantiated', and then all these other vague terms about what conclusion the police came to. But if you FOI, you can see a little bit more of the working behind that.

**Paul MERCURIO:** But if it goes through IBAC, you cannot because of section 194 in the IBAC Act?

**Estelle PETRIE:** That is right. The legislation was changed, I think in around 2017, to make it clearer that where IBAC bounced a complaint to Victoria Police to investigate, that should not cause section 194 to apply to the documents that police then compiled in response to that. However, in practice it seems that there are reports, even to this Committee recently, that police are still using 194 to interpret that they are exempt from FOI for those documents.

**Paul MERCURIO:** Right.

**The CHAIR:** Because it has been through IBAC.

**Estelle PETRIE:** Yes, because it has come from IBAC – like as a referral. Yes.

**Paul MERCURIO:** Wow. We might have answered the question I was going to ask. In your submission you say that the ALA remains concerned that there is still no legislative clarity on whether section 194 of the IBAC Act means that the exemption from freedom of information applies when a matter is concerning police conduct. Do you want to sort of elaborate more on that?

**Estelle PETRIE:** Yes. I think that there was a push to make it clear that 194 should not extend to the documents held by police or created by police in their investigation, but unfortunately that is not what has happened and it is not clear enough and police are interpreting 194 on occasion. I am sure maybe there are some variances there, but there are reports, even to this Committee, that police are relying on section 194 to exclude themselves from the FOI Act.

**Paul MERCURIO:** You also say that you strongly support amending section 194. What does that look like? What would that amendment be?

**Estelle PETRIE:** To make it clear that 194 should not apply to complaints that are referred from IBAC to police to investigate. But equally, to Jeremy's point earlier, you can FOI your police complaint. So where IBAC are investigating police complaints – you know, we appreciate there may be matters in which FOI should not apply because of the level of, I do not know, seriousness of what is going on, not to diminish what police complaints are about, but perhaps section 194 could be more nuanced in terms of what it applies to, so that some aspects or some complaints to IBAC are FOI-able, so people can understand what IBAC did and what they found out about what they have reported on.

**Jeremy KING:** Just on that point as well, obviously there is a significant opacity in terms of what the public can see about what IBAC does. I do not know how many complaints they are taking at the moment, I do not know how many complaints they have taken over the last year, I do not know how many they have investigated and I do not know how many they have charged. I assume I would probably know that, because it would be in the public sphere, so my guess would be none. But in terms of what IBAC and police actually do with complaints and where they go sits behind a big brick wall. The community has no idea about what is going on there and that is a significant problem in terms of transparency, because we should know what type of complaints are being taken on, when they are being taken on, when they are being substantiated, when they are being escalated to criminal charges and when they are being escalated to a public hearing. That is something that I think is significantly concerning.

**Paul MERCURIO:** I just go back and think of the work we did last year on the *Freedom of Information Act*. We wanted to change the name, do a new one, and call it 'right to information'. I think that is still a good idea. Thanks.

**The CHAIR:** Thank you very much. Let us go to Eden Foster.

**Eden FOSTER:** Thank you, Chair. Thank you both for coming in today. On page 14 of your submission you mentioned that:

there should be more specific resources and structure dedicated to investigating police corrupt conduct ...

How might this be done and how do you envisage this working in practice?

**Estelle PETRIE:** Our position is that there should be an independent body that is not IBAC investigating police misconduct. As Jeremy has already canvassed somewhat, the police misconduct or police complaints aspect of IBAC is really a tack-on onto an anti-corruption body, and it is not doing either of those roles well. Particularly what we see is that it is not doing the police misconduct investigation well. A model that is often pointed to – I am not going to be able to spell out what the acronym is – is called PONI in Northern Ireland, the Police Ombudsman for Northern Ireland, and it is often considered a pretty good model for an independent police complaints body.

**Jeremy KING:** Just to play that out further, the reason why we feel that way is obviously because we want there to be strong independent oversight of police, but also we do want there to be strong, independent oversight of government corruption. We want that to be investigated, and we want that to be dealt with appropriately by IBAC. But at the moment IBAC has just got the biggest remit. It is trying to do everything, and whenever you try and do everything, inevitably you fail at most things. Until that is siphoned off, really, or dealt with in a completely different way, in my view IBAC will never be able to be effective. It will never be able to function in the way that the community needs.

**Eden FOSTER:** Thank you.

**The CHAIR:** All right. Ryan Batchelor.

**Ryan BATCHELOR:** Thank you. The first one, quickly, is on metrics. If there are particular metrics that you think should be reported that are not being reported, I am sure the Committee would be happy to receive a further submission from you on what those would look like. I do not want to put you on the spot now to name them, but I am sure we would be interested.

**The CHAIR:** Yes, I think we would.

**Ryan BATCHELOR:** We agree on that. You mentioned Northern Ireland. The submission talks about Canada. Victoria has had a history of putting police oversight in, taking it out, putting it in, taking it out. Is there another Australian jurisdiction that you think does it well?

**Jeremy KING:** I think it is all about political will and the powers that are given at the time. I think in some ways, when it was given proper resources and proper jurisdiction, LECC in New South Wales was an interesting example of where it could do more. But as with these things, it is always about what is the political will, what are the resources and what is the mood of the community at the time. But within Australia I would say that there is no one model that particularly does it brilliantly.

**Ryan BATCHELOR:** Did things work in Victoria before IBAC was created in terms of police oversight?

**Jeremy KING:** I think the OPI had some ups and downs in terms of its history, but having a standalone body was certainly preferable as opposed to trying to sandwich it with a corruption commission. Having a standalone body that is effectively an ombudsman also fits more nicely with police complaints, which are human-based complaints about police officers. I think that there are some things in our past that we could certainly grab onto and utilise, but that particular institution had a little bit of a torrid history. I could not say that there was anything you could look to that would perfectly encapsulate what should be utilised in the future.

**Ryan BATCHELOR:** Citing the Northern Ireland example, do you think that the deficiencies that you see in the way that police oversight is operationalised here in Victoria have been overcome in Northern Ireland?

**Jeremy KING:** Absolutely, because in Northern Ireland they actually have independent police oversight and – I do not want to be cynical here.

**Ryan BATCHELOR:** But it would solve the problem that you are trying to fix.

**Jeremy KING:** Absolutely, because right now in Victoria you have an independent organisation, which is IBAC, that does 1 per cent and – that is what they say; maybe 1 to 2 per cent – and the rest of it is dealt with by Victoria Police. I just do not know in what world you could ever say that we have meaningful independent police oversight in Victoria when 98 to 99 per cent of that gets dealt with by the very organisation about which you are complaining. If you did have an independent ombudsman, like in Northern Ireland, that dealt with all –

**Ryan BATCHELOR:** So you are saying all complaints.

**Jeremy KING:** They deal with all complaints. They do not do any of the investigations. They then hand it over to their version of the OPP if there are any criminal charges involved. If they do all the investigations, then absolutely that would be a good way of also freeing up an organisation like IBAC to concentrate on government corruption. It would also make sure that you had a human rights compliant ombudsman that really dealt with the issues that were being put before them in terms of police complaints, and at the moment IBAC – again, I do not want to be too cynical, but maybe you get cynical the more you do these, Kim.

**Ryan BATCHELOR:** He is not cynical at all.

**Jeremy KING:** The longer this goes on, the more cynical I do get about change, because obviously all of these issues were put forward to Parliament in 2018; there was a great report written. It has all been put before Yoorrook. Yoorrook wrote a ripping report about the state of police oversight in Victoria. But something has got to change, and I am not convinced that just giving IBAC a new lick of paint and an outhouse or a different house out the back is really going to change anything, to be honest.

**Ryan BATCHELOR:** Thanks, Chair.

**The CHAIR:** Great. Thank you very much. Any further questions? We will say thank you very much for making the effort to come in and appear and answer all of our questions. It was a very useful discussion.

**Witnesses withdrew.**