Inquiry into the command, management and functions of the senior structure of Victoria Police
Inquiry into the command, management and functions of the senior structure of Victoria Police
The Victorian Government has vested the State Services Authority with functions designed to foster the development of an efficient, integrated and responsive public sector which is highly ethical, accountable and professional in the ways it delivers services to the Victorian community.

The key functions of the Authority are to:
- identify opportunities to improve the delivery and integration of government services and report on service delivery outcomes and standards;
- promote high standards of integrity and conduct in the public sector;
- strengthen the professionalism and adaptability of the public sector; and
- promote high standards of governance, accountability and performance for public entities.

The Authority seeks to achieve its charter by working closely and collaboratively with public sector departments and agencies.

**contact us**
at the State Services Authority

Email: info@ssa.vic.gov.au
Phone: (03) 9651 1321
Fax: (03) 9651 0747

Postal Address:
3 Treasury Place
Melbourne 3002

www.ssa.vic.gov.au

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<td>AC</td>
<td>Assistant Commissioner</td>
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<tr>
<td>ANZPAA</td>
<td>Australia New Zealand Policing Advisory Agency</td>
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<tr>
<td>BITS</td>
<td>Business Information and Technology Services</td>
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<tr>
<td>BERC</td>
<td>Budget and Expenditure Review Committee of Cabinet</td>
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<td>BOCC</td>
<td>Building Organisational Capability and Capacity</td>
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<td>CCP</td>
<td>Chief Commissioner of Police</td>
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<td>CIO</td>
<td>Chief Information Officer</td>
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<td>CLEDS</td>
<td>Commissioner for Law Enforcement Data Security</td>
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<td>DC</td>
<td>Deputy Commissioner</td>
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<tr>
<td>ERC</td>
<td>Expenditure Review Committee of Cabinet</td>
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<tr>
<td>ESB</td>
<td>Enterprise Service Bus</td>
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<tr>
<td>FIMS</td>
<td>Forensic Information Management System</td>
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<td>HRMS</td>
<td>Human Resource Management System</td>
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<td>IMSSD</td>
<td>Information Management Standards and Security Division</td>
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<td>I&amp;IT</td>
<td>Infrastructure and Information Technology</td>
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<td>IT</td>
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<td>KPI</td>
<td>Key Performance Indicator</td>
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<td>LEAP</td>
<td>Law Enforcement Assistance Program</td>
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<td>MPS</td>
<td>Metropolitan Police Service</td>
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<td>OPI</td>
<td>Office of Police Integrity</td>
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<td>PAEC</td>
<td>Public Accounts and Estimates Committee</td>
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<td>PALM</td>
<td>Property and Laboratory Management Program</td>
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<td>PDA</td>
<td>Professional Development and Assessment</td>
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<td>PIMS</td>
<td>Policing Information Management System</td>
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<td>PIPP</td>
<td>Policing Information Process and Practice Reform to Support a Modern Police Force</td>
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<td>PPSM</td>
<td>Police Practice Standards Model</td>
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<td>SAU</td>
<td>State Administration Unit</td>
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<td>SPMP</td>
<td>Seized Property Management Project</td>
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<td>SSA</td>
<td>State Services Authority</td>
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<td>TPU</td>
<td>Transfer and Promotions Unit</td>
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<td>VGPB</td>
<td>Victorian Government Purchasing Board</td>
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<td>VPE</td>
<td>Victoria Police Executive</td>
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<td>Victoria Police Leadership Group</td>
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executive summary

introduction

establishing the Inquiry

On 9 May 2011, the Premier announced the Government would establish a special inquiry (the Inquiry) into the command, management and functions of the senior structure of Victoria Police.

On 23 May 2011, the Premier wrote to the Chairperson of the State Services Authority (SSA) directing, in accordance with section 52 of the Public Administration Act 2004, that the SSA conduct such an Inquiry. The Terms of Reference were attached to the letter and read as follows:

“To inquire into the following matters relating to the structure, operations and administration of the senior command of Victoria Police:

1. The effectiveness and functions of the senior structure of Victoria Police command.

2. The extent to which the senior command structure of Victoria Police provide the future capabilities to deliver best practice policing.

3. The extent to which Victoria Police has the command management structures to deliver major IT and administrative functions.”

The Premier directed that a report, findings and recommendations of the Inquiry be made within six months of the direction, that is, by 23 November 2011.

On 24 May 2011, the Governor In Council appointed Mr John (Jack) Rush QC, a Commissioner of the SSA from 25 May 2011 until 24 November 2011 to conduct the Inquiry.

events surrounding the Inquiry

Events immediately preceding the announcement of the Inquiry highlighted a perception that the effectiveness of the senior command of Victoria Police was compromised by dysfunctional relationships of those in senior command positions.

On 6 May 2011, the then Chief Commissioner Mr Simon Overland directed that Deputy Commissioner Sir Ken Jones take leave, effective from close of business on 6 May 2011. Sir Ken Jones had, previously, on 2 May 2011 announced his intention to resign from Victoria Police, with the resignation to take effect on 5 August 2011. The resignation of Sir Ken Jones, and the direction that he take leave, was preceded by many weeks of speculation in the media about tensions between members of the senior command of Victoria Police.

Mr Overland was appointed Chief Commissioner of Police in March 2009. He resigned on 16 June 2011. His resignation followed the release of a report by the Ombudsman earlier that day, Investigation into an allegation about Victoria Police crime statistics.

On 27 October 2011, the Office of Police Integrity released a report Crossing the Line that further highlighted the history of disunity in senior command in the months before the resignations of Sir Ken Jones and Mr Overland.

This history, combined with a succession of reports, both internal and external, identifying chronic and costly mismanagement across important sections of the administration of Victoria Police, brought into question the effectiveness of the senior command structure and administration of Victoria Police and its ability to deliver best practice policing. The Inquiry was established in the light of this background.
process and method

The Commissioner was supported by SSA employees and counsel assisting, Ms Melinda Richards.

Background consultations were held with senior public servants, current and former members of Victoria Police, commissioners and senior police of interstate police organisations, business and management consultants and others. Formal interviews under section 53 of the Public Administration Act 2004 were conducted with senior police, senior public servants and others including Mr Overland and Sir Ken Jones. In all 79 people were consulted and/or interviewed.

Relevant documentation was summoned from Victoria Police and provided from a number of other sources. Submissions were received from key interest groups and individuals.

At the time of the establishment of the Inquiry there was speculation as to the matters the Inquiry may investigate. At an early stage the Inquiry consulted with the Ombudsman, Mr George Brouwer, the Director of the Office of Police Integrity, Mr Michael Strong, and the Auditor-General, Mr Des Pearson, to ensure, as far as possible, there was no overlap in investigations. The Terms of Reference of the Inquiry, although wide, focus on the structure and effectiveness of the senior command of Victoria Police and its ability to administer the organisation. This has been the focus of the Inquiry.

Victoria Police overview

The role of Victoria Police is to “provide a safe, secure and orderly society by serving the community and the law”.1 Victoria Police has grown to become the second largest police organisation in Australia with a full time equivalent workforce of 15,062.9 as at 30 June 2011.2 The workforce of Victoria Police, like that of other police organisations in Australia, is largely made up of sworn police (79 per cent of the workforce) and public servants (18 per cent of the total workforce).

Victoria Police was allocated approximately $2.88 billion in output funding in the 2011-2012 State Budget. The funding is allocated for the delivery of policing services that reflect government priorities: to reduce the overall incidence of crime, reduce fear of crime and enhance the safety of individuals and families.3


future capability

culture

The culture and values of Victoria Police reflect the health of the organisation and its ability to change and adapt.

There are great strengths in the culture and values of Victoria Police – organisational pride, courage, loyalty, resilience, a high commitment to public safety. However there are elements of police culture counterproductive to efficient modern policing. The Inquiry identified a number of negative aspects of police culture – insularity, a resistance to change, a disinclination to accept external review.

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1 Victoria Police, Code of Conduct, Victoria Police, Melbourne, p. 1
3 Department of Treasury and Finance (2011), Budget Paper No. 3: Service Delivery 2011-12, Table 3.13, p. 237
The Police Association is highly resistant to reform and change. The Association has assumed a role well beyond the legitimate interests of its members. The views of the Association have, over the years, received disproportionate weight creating a hurdle to appropriate reform.

The Inquiry identified a need for much greater emphasis on better working relationships and integration of operational sworn police and public service employees. There should be one culture in Victoria Police, motivated by the common goal of the provision of best practice policing in Victoria.

**Corporate and Strategic Planning**

The Inquiry found that Victoria Police strategic and corporate planning was fragmented and does not identify objectives and milestones in the short or long term. Victoria Police has made recent attempts to address this deficiency with the development of a new integrated planning model. Importantly the funding of Victoria Police, based on numbers of sworn police officers, is a handicap to workforce flexibility and planning. A consequence of the funding model is that sworn police are assigned to non-operational roles that do not require the exercise of police powers. This is despite significantly increased costs for a sworn police member, compared with a public servant.

**Workforce Flexibility**

Two areas were particularly identified by the Inquiry as demonstrating inflexibility of workforce:

- Victoria Police does not currently utilise lateral entry, the practice of recruiting police from outside its existing workforce to ranks above constable; and
- the right of appeal of sworn police to the Police Appeals Board against decisions concerning transfer and promotion.

Lateral entry is seen by the Inquiry as an effective method of recruiting experienced police. The Police Association is the principal opponent to lateral entry, based on arguments that Victoria, as a policing jurisdiction, is unique. This view is out of step with policing in other jurisdictions where lateral entry is actively promoted.

A police member who has unsuccessfully applied for a position may appeal against the selection to the Police Appeals Board. A single unsuccessful applicant may appeal against multiple selection decisions. The Police Appeals Board conducts a rehearing and may consider material not available to the initial selection panel. The appeal process is time consuming, “freezes the organisation” and is a severe constraint on the ability of senior command to deploy the workforce in a timely and effective way. Public servants employed by Victoria Police (or elsewhere in the public sector) have no such appeal rights.

**Leadership Development**

Victoria Police has in place sound measures to develop and promote future leaders, although its strategies lack formal endorsement.

While significant efforts are directed at training and development of the sworn police workforce, development opportunities and training for public service employees, particularly at lower levels, are unstructured and haphazard. The benefits of such training and opportunity in the workplace are obvious. Furthermore it would improve the morale and unification of the culture of Victoria Police.

**Performance Management and Discipline**

In recent years the OPI has conducted detailed reviews of Victoria Police’s discipline and complaints handling systems, and has made recommendations designed to replace the outmoded disciplinary system for sworn police with a less adversarial, more developmental and ultimately more effective
model. The Inquiry endorses the OPI’s conclusions about the need for reform of police discipline and its recommendations for achieving reform.

Victoria Police has introduced the Professional Development and Assessment (PDA) system, an important step in the shift from a punitive, adversarial discipline system to a performance management culture. The system covers both sworn police and public servants.

The PDA system needs to be complemented by an effective discipline system that enforces ethical and professional standards for Victoria Police. The current discipline system for sworn police has been justifiably described as “archaic, punitive, bureaucratic and slow”. It remains in need of reform.

Public servants in Victoria Police are subject to a fair and simple discipline process, leading to a determination by the Chief Commissioner. For a public servant, Fair Work Australia is the arbiter for unfair dismissal claims and the ultimate step in the dispute resolution process for lesser disciplinary matters. By contrast, a police member who is disciplined may seek review of the outcome by the Police Appeals Board. The Inquiry considers it anomalous that disciplinary decisions made in relation to public servants may be reviewed by Fair Work Australia while sworn police members only have access to a review tribunal dealing exclusively with Victoria Police sworn members.

The difference between disciplinary arrangements for sworn police and public servants should be reduced or eliminated and the role of the Police Appeals Board reviewed.

**legislative reform**

The constitution of Victoria Police is still largely based on that established by Victoria’s first police legislation in 1853. The current legislation, the *Police Regulation Act 1958*, has been amended well over 100 times since it was first enacted. The result is a piecemeal statute without a coherent structure that is poorly suited to the demands of modern policing.

Recent attempts to replace or substantially amend the *Police Regulation Act 1958* have not succeeded, primarily because of opposition from The Police Association. By contrast, almost every other Australian state has enacted new police legislation since 1990.

The *Police Regulation Act 1958* should be repealed and replaced with a new Police Act that will provide the basis for a modern, responsive and accountable police force for Victoria. Key features of this new Police Act should include:

- articulation of the relationship between Victoria Police and Government;
- a statement of the constitution and role of Victoria Police;
- provisions enabling a more flexible workforce for Victoria Police; and
- improved provisions for performance management and discipline.

**Victoria Police and Government**

The relationship between Victoria Police and Government is at present poorly defined by a combination of convention, legislation, and administrative and financial accountability mechanisms. Currently, the communication of Government policy priorities to Victoria Police is haphazard. Given that the effectiveness of the senior command is judged in the context of this relationship, there is a

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4 Office of Police Integrity (2007), *A fair and effective Victoria Police discipline system*, p. 3
need for the Government’s policy priorities to be communicated clearly to Victoria Police. There is a corresponding need for Victoria Police to be accountable for the achievement of those priorities.

To meet these needs, Victoria’s new police legislation should articulate clearly the relationship between the Government, through the responsible Minister, and Victoria Police, through the Chief Commissioner. It should enable the Minister to direct the Chief Commissioner on matters of policy, while preserving the operational independence of Victoria Police.

**roles and functions**

The constitution, role and functions of Victoria Police are not well defined in the *Police Regulation Act 1958*. The new Police Act should incorporate this, in addition to describing the role, responsibilities and functions of the Chief Commissioner.

**Governor in Council appointments**

At present, both the Chief Commissioner and Deputy Commissioners are appointed by the Governor in Council. The Inquiry found that the appointment of Deputy Commissioners by the Governor in Council creates confusion about where a Deputy Commissioner’s accountability lies. As a Deputy Commissioner is appointed by the Governor in Council, and not the Chief Commissioner, a Deputy Commissioner may see accountabilities to both the Chief Commissioner and the Government, a situation that is fraught with difficulty.

The Chief Commissioner is accountable under the legislation for the control and management of Victoria Police; there should be no possible confusion about the accountability of other senior officers, including Deputy Commissioners. The new Police Act should therefore provide that Deputy Commissioners are appointed by the Chief Commissioner, rather than by the Governor in Council.

The Inquiry does not recommend any change to the provisions concerning the appointment and removal of the Chief Commissioner.

The development of a new Police Act for Victoria also presents an opportunity to make the changes needed to implement recommendations of the OPI for:

- reform of appeals to the Police Appeals Board against transfer and promotion of police;
- replacement of the out-dated discipline system for police with a more effective model that places greater emphasis on performance management than on punishment.

**structure of senior command**

A poor organisational structure can blur focus, hamper the flow of information and work, cloud accountability, reduce the speed of decision making and responsiveness and frustrate the people who work in the organisation. However, changing structure is not necessarily the solution for any real or perceived failure of the organisation to work effectively. In the end organisational performance relates to the quality of leadership and particularly the qualities of the Chief Commissioner. Good leaders will make a bad structure work, but they should not have to.

Victoria Police in recent years has experienced diverse organisational structures:

- Former Chief Commissioner Comrie required four direct reports. Under this model two Deputy Commissioners and an Executive Director had line accountability for Assistant Commissioners and department heads.
- Former Chief Commissioner Nixon created an Executive Corporate Committee comprising 25 senior managers as the senior strategic decision making group within Victoria Police. Deputy Commissioners and the Executive Director were removed from line management and responsibility
Inquiry into the command, management and functions of the senior structure of Victoria Police

for department heads and Assistant Commissioners. Instead each member of the Corporate Committee (over 25) reported directly to Ms Nixon and was accountable to her for performance of their respective portfolios. The Corporate Committee was supported by a number of steering committees.

- Former Chief Commissioner Overland significantly reduced the number of direct reports to the Chief Commissioner and reintroduced line management responsibilities for the Deputy Commissioners and Executive Directors. A smaller Victoria Police Executive was established in place of the Corporate Committee.

There is no perfect senior command structure and the Inquiry does not see it as appropriate to impose on a Chief Commissioner an internal command model. Nevertheless the Inquiry recommends a more traditional command structure that the Chief Commissioner may wish to consider. The Inquiry recommends:

- a Corporate Advisory Group, drawn from the most senior levels of Victoria Police, government and the private sector;
- the continuation of the existing three Deputy Commissioner model, with the Deputy Commissioner, Strategy and Development having a more clearly defined focus on organisational capability and reform, with no operational responsibilities; and
- a single Chief Operating Officer, responsible for all corporate services, reporting directly to the Chief Commissioner.

**Corporate Advisory Group**

The recommended changes are designed to address the issues identified by the Inquiry in relation to IT and progress other strategic reform areas highlighted in this report. Although Victoria Police has recently implemented a number of initiatives in procurement and project management, which have seen a marked improvement in its compliance with government purchasing guidelines and reporting requirements, there is a risk that this progress may not be sustained. It is of the utmost importance to ensure that the government and the community can have confidence that the positive reforms already underway will continue. Therefore the Inquiry recommends external oversight, a mechanism to maintain the momentum of reform, and a source of strategic advice for the organisation, in the form of a Corporate Advisory Group.

**Deputy Commissioner, Strategy and Development**

Further, there are a range of critical reforms in the areas of cultural change, workforce flexibility, performance management and discipline, legislative reform and information management that Victoria Police will need to undertake in the short to medium term to meet its future capability requirements. Given the significance of this work program for the organisation, a dedicated non-operational Deputy Commissioner position is seen as an appropriate way to ensure oversight and accountability for these goals.

**Chief Operating Officer**

It is important that the corporate services departments within Victoria Police work together. Having three Executive Directors, each accountable for specific parts of Victoria Police’s corporate functions, has created silos between these areas. Under current arrangements each Executive Director reports individually to the Chief Commissioner in relation to their particular responsibilities. A more efficient structure would have a single voice presenting a consolidated and integrated view on all corporate matters to the Chief Commissioner. It would also serve to reduce the Chief Commissioner’s time in having to synthesize any issues between corporate areas. This could be achieved by consolidating the Executive Director positions into a single Chief Operating Officer role, sitting over all corporate functions.
information technology

The Inquiry has concluded that Victoria Police, at present, does not have the capacity to deliver the major IT projects necessary to provide future capability for best practice policing.

LEAP replacement

The Inquiry investigated the major IT project at Victoria Police in recent years, the replacement of the Law Enforcement Assistance Program (LEAP), the core information system used by police to support operational policing.

LEAP is based on out-dated technology, requires large amounts of time of operational police (time otherwise spent on core policing duties) filling in forms and completing administrative tasks related to data entry. These forms are then faxed to a central data entry bureau where data entry staff work around the clock keying the information into the LEAP system. LEAP is highly inefficient, burdensome and expensive.

In 2005, the Government promised funding ($60.5 million) for a LEAP replacement project. A business case was delivered for the replacement of LEAP in February 2006. The business case was written to fit the budget. The first steering committee meeting for the LEAP replacement was convened in November 2006.

In 2011 the LEAP replacement project was abandoned, badly mismanaged, massively over budget and with the consequent loss of tens of millions of dollars to police and ultimately the Victorian community. Whilst the Inquiry acknowledges that Victoria Police is not alone in the mismanagement of major IT, the investigations of the Inquiry into the LEAP replacement and two other IT projects at Victoria Police revealed a lack of project management methodology and discipline leading to systemic mismanagement.

The Inquiry identified a culture within Victoria Police that cost overruns were acceptable but above all, there was a lack of any form of strategy to define the IT needs and requirements of Victoria Police for the future.

At the time the LEAP replacement project was abandoned a consultant’s report indicated the cost of completion would be close to $160 million (initial budget $60.5 million). As late as August 2011 there was a demonstrated confusion within the senior command of Victoria Police as to the outcomes and benefits the LEAP replacement would provide. Not even the manner in which police would enter the data into the new system had been determined after five years of planning.

The Inquiry was informed that the $60.5 million budget for the LEAP replacement is either spent or otherwise committed. It is not clear what amount of money has been lost as a consequence of the abandonment; it is likely to be of the order of $30 million. The Inquiry has recommended that Victoria Police provide a full accounting of expenditure on the LEAP replacement by the end of the year.

IT strategy and rigorous external review

The Inquiry acknowledges a number of recent initiatives have been undertaken by Victoria Police to address long standing shortcomings in the IT and business areas. These initiatives include the introduction of proper procurement and project management practices and more specifically one ‘business owner’ for operational IT applications. Further there is now an acceptance at Victoria Police of the importance of developing an overarching information management strategy for the organisation prior to embarking on further major IT projects and expenditure.

Of all the persons consulted by the Inquiry no-one argued against the need for external independent assessment, review, audit and advice as an adjunct to all future major IT procurement and implementation by Victoria Police.
The Corporate Advisory Group recommended by the Inquiry will oversee both the development of an information management strategy for Victoria Police and major IT procurement and project management. At the project level, external independent oversight and input on the steering committee, and an independent project auditor with unrestricted access to project information and the project team is required.

Major IT projects require experienced, talented personnel/organisations, particularly at the project management level. To avoid the senior management turnover in IT, endemic over the past five years, Victoria Police will need to attract and retain such persons with remuneration and conditions commensurate with market requirements.
## Recommendations

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<th>Recommendation</th>
<th>Chapter</th>
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<td>1.</td>
<td>That Victoria Police implements the Integrated Planning and Risk Management Model in the year commencing 1 July 2012.</td>
<td>3 – future capability</td>
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<td>2.</td>
<td>That Victoria Police undertakes a ten year strategic workforce plan based on a whole of workforce approach and an assessment of the future policing needs of the Victorian community.</td>
<td>3 – future capability</td>
</tr>
<tr>
<td>3.</td>
<td>That the Government cease basing the Victoria Police budget allocation on fixed numbers of sworn police.</td>
<td>3 – future capability</td>
</tr>
<tr>
<td>4.</td>
<td>That the Government request the Department of Treasury and Finance, the Department of Justice and Victoria Police to develop a transparent funding framework for Victoria Police that allows Victoria Police to effectively plan for the mix of sworn police and public servants it requires to deliver policing services.</td>
<td>3 – future capability</td>
</tr>
<tr>
<td>5.</td>
<td>That Victoria Police undertakes its workforce planning to allow for lateral entry at all ranks and for reappointment at rank, and recruits suitable applicants from outside Victoria Police when appropriate.</td>
<td>3 – future capability</td>
</tr>
<tr>
<td>7.</td>
<td>That Victoria Police formally endorses the planning documents guiding its leadership development strategies.</td>
<td>3 – future capability</td>
</tr>
<tr>
<td>8.</td>
<td>That Victoria Police undertakes a review of development and training for its public servants, with an emphasis on improving opportunities at levels below Grade 5.</td>
<td>3 – future capability</td>
</tr>
</tbody>
</table>
| 9.  | That the Government fully implement the recommendations of the Office of Police Integrity for reform of the discipline system for police, made in its reports *A fair and effective Victoria Police discipline system* (2007) and *Improving Victorian policing services through effective complaint handling* (2008), with a view to:  
  • reducing or eliminating the differences between the disciplinary arrangements for police and public servants;  
  • reducing the complexity and speeding up the process; and  
  • streamlining and simplifying review and appeal rights. | 3 – future capability |
| 10. | That Victoria Police continues to implement the recommendations of the Office of Police Integrity for reform of the discipline system for police.                                                                                                                                                                  | 3 – future capability |
| 11. | That the Government consider enlarging the referral of Victoria’s industrial relations powers to the Commonwealth to enable Fair Work Australia to hear unfair dismissal applications by police and to deal with disputes about transfer, promotion and discipline decisions concerning police. This reconsideration should occur in conjunction with the review of the Police Appeals Board recommended by the Office of Police Integrity in its report *Enabling a flexible workforce for policing in Victoria* (2011). | 3 – future capability |
| 12. | That the *Police Regulation Act 1958* be repealed and replaced with a new Police Act that will provide the basis for a modern, responsive and accountable police force for Victoria. Key features of a new Police Act should include:  
  • articulation of the relationship between Victoria Police and Government;  
  • a statement of the constitution and role of Victoria Police;  
  • provisions enabling a more flexible workforce for Victoria Police; and | 4 – legislative reform |
<table>
<thead>
<tr>
<th>No.</th>
<th>Recommendation</th>
<th>Chapter</th>
</tr>
</thead>
</table>
| 13. | That the new Police Act for Victoria articulate the relationship between the Government, through the responsible Minister, and Victoria Police, through the Chief Commissioner, by including:  
  • a power for the Minister to direct the Chief Commissioner on matters of policy, qualified so as to safeguard the independence of the Chief Commissioner in relation to operational matters and decisions concerning individual employees;  
  • a requirement for the Minister to obtain and consider the advice of the Chief Commissioner before making a direction;  
  • a requirement that any directions be in writing and be published;  
  • an obligation for the Chief Commissioner to give effect to any directions received from the Minister; and  
  • a power for the Minister to require information from the Chief Commissioner, and a corresponding obligation for the Chief Commissioner to provide information when required by the Minister. | 4 – legislative reform |
| 14. | That the new Police Act contain provisions that clearly outline the status, constitution and functions of Victoria Police by:  
  • recognising the existence of the body known as Victoria Police;  
  • stating that Victoria Police is comprised of persons appointed under the Police Act and persons employed by the Chief Commissioner under the Public Administration Act 2004;  
  • stating the functions of Victoria Police, in terms similar to those used in the police legislation in Queensland, South Australia, the Northern Territory and New Zealand and in the mission and objectives in the Victoria Police Code of Conduct; and  
  • describing the role, responsibilities and functions of the Chief Commissioner. | 4 – legislative reform |
| 15. | That the new Police Act provide that Deputy Commissioners are appointed by the Chief Commissioner rather than the Governor in Council. | 4 – legislative reform |
| 16. | That the new Police Act provide that Deputy Commissioners and Assistant Commissioners are to be appointed by the Chief Commissioner. The maximum term of appointment should continue to be 5 years. There should be no limit on the maximum number of Deputy Commissioners and Assistant Commissioners. | 4 – legislative reform |
| 17. | That the new Police Act implement the legislative changes recommended by the Office of Police Integrity for:  
  • reform of appeals against transfer and promotion of police, in its report *Enabling a flexible workforce for Victoria Police* (2011); and  
  • reform of the discipline system for police, made in its reports *A fair and effective Victoria Police discipline system* (2007) and *Improving Victorian policing services through effective complaint handling* (2008). | 4 – legislative reform |
| 18. | That the Minister for Police and Emergency Services and the Chief Commissioner establish a Corporate Advisory Group to provide strategic advice to the Chief Commissioner on reform of Victoria Police and oversight of strategic projects and key corporate services. | 5 – structure of senior command |
| 19. | That the Minister for Police and Emergency Services and the Chief Commissioner jointly appoint to the Corporate Advisory Group:  
  • from Victoria Police – the Chief Commissioner, the Deputy Commissioner, Strategy and Development, and the Chief Operating Officer;  
  • from Government – the Secretaries of the Departments of Premier and... | 5 – structure of senior command |
<table>
<thead>
<tr>
<th>No.</th>
<th>Recommendation</th>
<th>Chapter</th>
</tr>
</thead>
</table>
| 20. | That the role of the Deputy Commissioner, Strategy and Development be more clearly defined, with a narrower focus limited to the following critical capability building areas:  
- strategic planning, building on the recent adoption of Victoria Police’s Priorities and Standards document;  
- workforce planning, developing organisational and values based leadership capability;  
- developing a comprehensive information management policy and strategy for Victoria Police;  
- legislative reform; and  
- cultural reform. | 5 – structure of senior command |
| 21. | That the Chief Commissioner consolidates the three existing Executive Director positions in Business Services, People and Infrastructure and IT into a single Chief Operating Officer, such that there is a single direct report to the Chief Commissioner on all corporate matters. | 5 – structure of senior command |
| 22. | That Victoria Police provide a report to the Minister for Police and Emergency Services by the end of 2011 with a full breakdown and acquittal of expenditure on the LEAP replacement project to date, including any identifiable, continuing benefits to Victoria Police from such expenditure. | 6 – information technology |
| 23. | That the Deputy Commissioner, Strategy and Development:  
- by July 2013 develop an overarching strategy for Victoria Police information management to 2030; and  
- by July 2013 produce a business case for an IT project that incorporates replacement of the LEAP system. | 6 – information technology |
| 24. | That Victoria Police undertakes the recruitment of a senior executive with the expertise required to deliver major IT projects, as a matter of urgency. | 6 – information technology |
| 25. | That Victoria Police secures external assistance for any future major IT project, including by:  
- appointing to the project steering committee at least one person from the Department of Treasury and Finance, one person from the Department of Justice and one person from outside government, each with appropriate experience in IT procurement and implementation; and  
- appointing a project auditor to assist the steering committee in its oversight of the project, and ensuring that the project auditor has unrestricted access to information about the project and to the project team. | 6 – information technology |
1 introduction

On 23 May 2011, the Premier directed the State Services Authority (SSA) to conduct a special inquiry into the command, management and functions of the senior structure of Victoria Police (the Inquiry) in accordance with section 52 of the Public Administration Act 2004. This report presents the findings and recommendations of the Inquiry.

Box 1 outlines the terms of reference for the Inquiry.

Box 1: Terms of Reference

To inquire into the following matters relating to the structure, operations and administration of the senior command of Victoria Police:

1. The effectiveness and functions of the senior structure of Victoria Police command.

2. The extent to which the senior command structures of Victoria Police provide the future capabilities to deliver best practice policing.

3. The extent to which Victoria Police has the command management structures to deliver major IT and administrative functions.

1.1 Inquiry approach

The Inquiry was led by Mr John (Jack) Rush QC, who was appointed as a Commissioner of the SSA for the duration of the Inquiry. Commissioner Rush was supported by SSA employees and counsel assisting, Ms Melinda Richards.

The Inquiry held background consultations with senior public servants, current and former Victoria Police officers and leaders of interstate police organisations, business consultants and advisers and IT experts. Formal interviews conducted under section 53 of the Public Administration Act 2004 were undertaken with a number of individuals, including senior members of Victoria Police, former Chief Commissioners Ms Christine Nixon and Mr Simon Overland, former Deputy Commissioner Sir Ken Jones, the Commissioner for Law Enforcement Data Security, Mr David Watts and the Secretary of The Police Association, Mr Greg Davies. A list of those consulted or interviewed as part of the Inquiry is included at Appendix A.

The Inquiry invited comment and submissions from relevant persons and entities identified as being able to assist the Inquiry. Members of the public were able to make submissions or comment to the Inquiry via email. The Inquiry received 22 submissions. Some submissions were not relevant to the terms of reference.

The Inquiry reviewed a range of relevant documents and reports, including academic journals, reviews by other government agencies and inter-jurisdictional police command models. A bibliography is at Appendix B. In addition, the Inquiry accessed a wide range of internal materials and working documents from Victoria Police and other government agencies to provide background information and detail relating to specific Victoria Police projects and internal procedures.

The Inquiry acknowledges with thanks the co-operation it received from the many people and agencies who made information and insights available to it. Particular thanks are due to Victoria Police, the Department of Justice, the Department of Treasury and Finance, the Office of Police Integrity (OPI), the Ombudsman, the Auditor-General and the Commissioner for Law Enforcement Data Security.
1.2 background to the Inquiry

In the weeks prior to the announcement of the Inquiry, there was intense media scrutiny of issues concerning Victoria Police senior command. This included speculation about tensions between the then Chief Commissioner Mr Simon Overland and Deputy Commissioner, Sir Ken Jones.

On 2 May 2011, Sir Ken Jones resigned from his position, effective from August 2011. His resignation came two years into his five year contract. On 6 May 2011, Chief Commissioner Overland directed him to immediately stand down on leave with full pay until the end of his term.

In the media release accompanying the terms of reference to the Inquiry, the Premier indicated that the government was concerned about the “apparent difficulties that exist at the command level of Victoria Police” and the events that took place on 6 May 2011. In addition, there had been a number of recently reported issues regarding Victoria Police IT difficulties. These included time and cost over-runs relating to the LINK project for the replacement of the Law Enforcement Assistance Program (LEAP) database and other matters relating to the accuracy of record-keeping and crime statistics.

On 16 June 2011, Mr Overland resigned from his position as Chief Commissioner. His resignation followed the tabling of the Ombudsman’s report Investigation into an allegation about Victoria Police crime statistics earlier that day.

In October 2011, the Ombudsman released a report titled Investigation into the Office of Police Integrity’s handling of a complaint. The report examines OPI’s handling of a complaint of serious misconduct about former Deputy Commissioner Jones. The investigation focussed on the actions and processes of the OPI, rather than the motives of the Victoria Police staff who complained to the OPI, or the validity of the complaint itself. The Ombudsman notes in the report that these matters are expected to be the subject of a separate Ombudsman investigation.

Later in October 2011, the Office of Police Integrity released a report Crossing the Line that further highlighted the history of disunity in senior command and the necessity for an understanding within that command that the fundamental allegiance is to the Chief Commissioner.

1.3 recent reports and research

There have been multiple reviews and reports into various aspects Victoria Police’s operations over recent years. Key reports relevant to the Inquiry are included in Table 1.

Table 1: Key reports relevant to the Inquiry

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ombudsman Victoria</td>
<td>Investigation into the Office of Police Integrity’s handling of a complaint</td>
<td>October 2011</td>
</tr>
<tr>
<td>Ombudsman Victoria</td>
<td>Investigation into an allegation about Victoria Police crime statistics</td>
<td>June 2011</td>
</tr>
<tr>
<td>Ombudsman Victoria</td>
<td>Own motion investigation into the tendering and contracting of information and technology services within Victoria Police</td>
<td>November 2009</td>
</tr>
<tr>
<td>Ombudsman Victoria</td>
<td>Crime statistics and police numbers</td>
<td>March 2009</td>
</tr>
<tr>
<td>Office of Police Integrity</td>
<td>Crossing the Line</td>
<td>October 2011</td>
</tr>
</tbody>
</table>
As directed by the terms of reference, the focus of this Inquiry has been the senior structure of Victoria Police. In particular, the Inquiry examined how the senior command structure could be improved to better support delivery of future policing capability; as well as enhance its capacity to undertake major procurement in information technology.

A number of key themes and issues emerged from the Inquiry’s research and interviews. These include the need to:

- improve corporate planning, workforce planning, mobility, performance management and discipline practices to allow Victoria Police to respond to a changing service delivery environment;
- undertake cultural reform to ensure a cohesive, unified senior leadership team and better integrate operational requirements with corporate resource support;
- modernise Victoria’s police legislation to clearly define the organisation’s role, objectives and relationship with government;
- streamline the structure of senior command to drive reform initiatives and better integrate corporate resource support; and
- introduce enhanced oversight and accountability mechanisms for information technology.

In addition, the Inquiry considered the roles, responsibilities and accountabilities of senior command and identified potential opportunities to improve governance of senior command and alignment of functional business areas to support Victoria Police to deliver on its stated business and corporate objectives.
2 Victoria Police overview

2.1 role

The role of Victoria Police is to “provide a safe, secure and orderly society by serving the community and the law”. The rationale is articulated in Victoria Police’s most recent business plan and Statement of Priorities and Standards:

Victoria Police delivers a range of policing services to the people of Victoria. We do this to ensure a just and peaceful society and to reduce or prevent a variety of community harms. These are the very reasons for our existence.

The emphasis on crime prevention, like professionalism and discipline, reaches back in time to 1829 when Sir Robert Peel created the ‘new police’ in London.

2.2 legislative overview

Three Acts are of particular relevance to the management and administration of Victoria Police.

2.2.1 Police Regulation Act 1958

Prior to 1853, multiple police forces were responsible for policing in Victoria. With the assent to An Act for the Regulation of the Police Force on 8 January 1853, a single Chief Commissioner could be “charged and invested with the general control and management of the Police Force of the said Colony”. In this way, Victoria Police was formed.

Subsequent amendments to the original legislation were consolidated into the Police Regulation Act 1958, which continues to this day. It provides for police:

- appointments, promotions and transfers;
- duties and enforcement;
- discipline and dismissal arrangements;
- complaints and investigations; and
- superannuation.

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5 Victoria Police, Code of Conduct, Victoria Police, Melbourne, p. 1
8 R Haldane notes that “no fewer than seven autonomous bodies of police had jurisdiction in Victoria, including the City Police..., Geelong Police, Gold Fields Police, Water Police, Rural Bench Constabulary, Mounted Police and Gold Escort. These forces were funded and operated separately, without co-operation or even regular communication with each other.” See Haldane, R (1986), The People’s Force, p. 27-28
Although the Police Regulation Act 1958 is silent on the role of Victoria Police, Schedule 2 of the Act specifies the oath that all members must take. This is shown in Box 2.

**Box 2: The oath taken by sworn police officers**

I swear by Almighty God that I will well and truly serve our Sovereign Lady the Queen as a member of the Police Force of Victoria in such capacity as I may be hereafter appointed, promoted, or reduced to without favour or affection malice or ill-will for the period of ... from this date, and until I am legally discharged; that I will see and cause Her Majesty's peace to be kept and preserved; and that I will prevent to the best of my power all offences against the same, and that while I shall continue to be a member of the Police Force of Victoria I will to the best of my skill and knowledge discharge all the duties legally imposed upon me faithfully and according to law.

Other legislation relevant to the management and administration of Victoria Police includes the Financial Management Act 1994 and the Public Administration Act 2004.

### 2.2.2 Financial Management Act 1994

The purpose of the Financial Management Act 1994 is to:

- improve financial administration of the public sector;
- make better provision for the accountability of the public sector; and
- provide for annual reporting to the Parliament by departments and public sector bodies.

Victoria Police is a “public body” subject to the Financial Management Act 1994.

### 2.2.3 Public Administration Act 2004

The objectives of the Public Administration Act 2004 are to:

- ensure the maintenance of an apolitical public sector;
- foster a public sector that:
  - responds to government priorities in a manner that is consistent with public sector values;
  - provides effective, efficient and integrated service delivery;
  - is accountable for its performance;
- establish values and principles to guide conduct and performance within the public sector;
- ensure that employment decisions in the public sector are based on merit;
- promote the highest standards of governance in the public sector;
- promote the highest standards of integrity and conduct for persons employed within the public sector;
- strengthen the professionalism and adaptability of the public sector; and
- promote knowledge and understanding of good public administration within the Victorian community.
Victoria Police is defined as a ‘special body’ under section 6 of the *Public Administration Act 2004*. As a special body, Victoria Police is exempt from:

- particular types of reviews conducted by the State Services Authority (conducted under sections 50 or 56); and
- the public sector values in:
  - section 7(1)(a)(i) - demonstrating responsiveness by providing frank, impartial and timely advice to the Government; and
  - section 7(1)(c)(iii) - demonstrating impartiality by implementing Government policies and programs equitably.

Victoria Police shares ‘special body’ status with a range of other public sector organisations including a department of the Parliament of Victoria, the Office of the Ombudsman, the Office of Police Integrity, the Victorian Civil and Administrative Tribunal and the Victorian Auditor General’s Office.

### 2.3 funding

Victoria Police was allocated approximately $2.88 billion in output funding in the 2011-2012 State Budget, or 47 per cent of the total funding allocated to the Justice portfolio. The funding is allocated for the delivery of policing services that reflect the Government’s focus on:

- reducing the overall incidence of crime;
- reducing fear of crime; and
- enhancing the safety of individuals and families.

The policing services provided by Victoria Police, and associated performance measures, are outlined in the State Budget Papers and summarised in Table 2.

#### Table 2: Policing services provided under the Public Safety and Crime Reduction Output

<table>
<thead>
<tr>
<th>Policing Services</th>
<th>Performance Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Detecting and investigating offences and bringing to justice those responsible for committing them</td>
<td>Quantity&lt;br&gt;  • Crime prevention and community safety checks conducted</td>
</tr>
<tr>
<td>• Supporting the judicial process to achieve efficient and effective court case management, providing safe custody for alleged offenders and ensuring fair and equitable treatment of both victims and alleged offenders</td>
<td>Events responded to&lt;br&gt;  • Reduction in crimes against the person&lt;br&gt;  • Reduction in property crime</td>
</tr>
<tr>
<td>• Responding to calls for assistance in matters of personal and public safety, including emergencies, serious incidents and routine</td>
<td>Quality&lt;br&gt;  • per cent of community satisfied with policing services</td>
</tr>
</tbody>
</table>

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10 Ibid., p. 239
Policing Services

- Providing community safety and crime prevention programs such as the authorised release of criminal history information in the interests of public safety
- Promoting safer road user behaviour and enforcing road safety laws

Performance Measures

- per cent of drivers tested complying with alcohol limits
- per cent of drivers tested complying with posted speed limits
- per cent of drivers tested returning a clear result for prohibited drugs
- per cent of successful prosecution outcomes
- per cent of the community with confidence in police

Timeliness

- per cent of crimes against the person resolved in 30 days
- per cent of property crime resolved in 30 days

Cost

- Total output cost

Source: Department of Treasury and Finance (2011), Budget Paper Number 3, p. 239

2.4 workforce

Victoria Police has grown to become the second largest police organisation in Australia, with a ‘full time equivalent’ workforce of 15,062.9 as at 30 June 2011. Over time, the proportion of women in the workforce has increased from 26.5 per cent in 2004-2005 to 30.8 per cent in 2009-2010. The workforce of Victoria Police, like that of other police organisations in Australia, is largely made up of sworn police and public servants:

- Sworn police are appointed under the Police Regulation Act 1958 and account for approximately 79 per cent of the total workforce;
- Public servants in Victoria Police are appointed under the Public Administration Act 2004. In 2010-11 Victoria Police employed 2,740.9 full time equivalent public servants, which accounted for approximately 18 per cent of the workforce.

The Public Administration Act 2004 sets out the values and employment principles that underpin the operations and culture of the Victorian public sector. In addition to the values and employment principles, public servants employed by Victoria Police are subject to the Code of conduct for Victorian public sector employees of special bodies. The Code of Conduct guides behaviour within an organisation and promotes adherence to the public sector values. It is binding on all public sector employees to whom it applies and breaching the Code of Conduct may constitute misconduct.

The public sector values underpin and reflect the behaviours essential to the relationship between the public sector and the government, the public sector and the community and between those who work in the public sector. All public sector employees and other public officials must adhere to the values.
and employers must promote them in their organisations. The values state that public officials should demonstrate:

- responsiveness;
- integrity;
- impartiality;
- accountability;
- respect;
- leadership; and
- human rights as set out in the *Charter of Human Rights and Responsibilities Act 2006*.

There is no equivalent statement of Victoria Police values in the *Police Regulation Act 1958*. Victoria Police has, however, developed a Code of Conduct that states that the Victoria Police mission is to provide a safe, secure and orderly society by serving the community and the law. The Code of Conduct goes on to state that sworn police have the duty to:

- preserve the peace;
- protect life and property;
- prevent offences;
- detect and apprehend offenders; and
- help those in need of assistance.¹⁷

The Code of Conduct also sets out Victoria Police values of integrity, leadership, flexibility, respect, support and professionalism.

### 2.5 regions

Victoria Police delivers policing services to Victorians through four regions, which were aligned with the Victorian Government regional boundaries in 2010 to enhance emergency management. These are shown in Table 3.

**Table 3: Victoria Police Regions**

<table>
<thead>
<tr>
<th>Victoria Police Region</th>
<th>Alignment with Victorian Government Regions</th>
<th>Local Government Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southern Metro</td>
<td>Southern Metropolitan Region</td>
<td>Bayside, Cardinia, Casey, Frankston, Glen Eira, Greater Dandenong, Kingston, Mornington Peninsula, Port Phillip, Stonnington</td>
</tr>
<tr>
<td>North West Metro</td>
<td>North West Metropolitan Region</td>
<td>Banyule, Brimbank, Darebin, Hobson’s Bay, Hume, Maribyrnong, Melbourne, Melton, Moonee Valley, Moreland, Nillumbik, Whittlesea, Wyndham, Yarra</td>
</tr>
<tr>
<td>Eastern</td>
<td>Eastern Metropolitan</td>
<td>Alpine, Bass Coast, Baw Baw, Benalla, Boroondara, East Gippsland,</td>
</tr>
</tbody>
</table>

¹⁷ Victoria Police, *Code of Conduct*, p. 1
<table>
<thead>
<tr>
<th>Victoria Police Region</th>
<th>Alignment with Victorian Government Regions</th>
<th>Local Government Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Region, Gippsland Region, Hume Region</td>
<td>Greater Shepparton, Indigo, Knox, Latrobe, Manningham, Mansfield, Maroondah, Mitchell, Moira, Monash, Murrindindi, South Gippsland, Strathbogie, Towong, Wangaratta, Wellington, Wodonga, Whitehorse, Yarra Ranges</td>
<td></td>
</tr>
<tr>
<td>Western</td>
<td>Barwon South West Region, Grampians Region, Loddon Mallee Region</td>
<td>Ararat, Ballarat, Buloke, Campaspe, Central Goldfields, Colac-Otway, Corangamite, Gannawarra, Glenelg, Golden Plains, Greater Bendigo, Greater Geelong, Hepburn, Hindmarsh, Horsham, Loddon, Macedon Ranges, Mildura, Moorabool, Mount Alexander, Moyne, Northern Grampians, Pyrenees, Queenscliff, Southern Grampians, Surf Coast, Swan Hill, Warrnambool, West Wimmera, Yan Yean</td>
</tr>
</tbody>
</table>


Victoria Police employs a model to divide its resources across these very diverse regions. The model includes 12 key criteria:

- population size;
- number of households;
- age of population;
- cultural and linguistic diversity (number of people who speak a language other than English at home);
- number of retail employees;
- family violence reports;
- number of liquor licences held by hotels and restaurants;
- number of black spot intersections;
- custody requirements at police stations;
- court requirements; and
- number and type of police stations.\(^\text{18}\)

### 2.6 senior command responsibilities

In addition to the Chief Commissioner, the senior command structure of Victoria Police includes six key positions:

- Deputy Commissioner, Regional and Road Policing (with responsibility for regional service delivery, as well as state emergency co-ordination and operations support);

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• Deputy Commissioner, Crime and Operations Support (with responsibilities including crime, intelligence and covert support, ethical standards, forensic services, media and corporate communications, and legal services);

• Deputy Commissioner, Strategy and Organisational Development (with responsibilities including corporate strategy, governance and police numbers);

• Executive Director, Business Services (with responsibilities including financial services and procurement);

• Executive Director, People (with responsibilities including people development and employee relations); and

• Executive Director, Infrastructure and Information Technology (with responsibilities including Information Technology operations, radio and telecommunications, and finance and risk management).

2.7 Justice portfolio

The Department of Justice was created on 6 October 1992 under the Administrative Arrangements Order (No. 114) 1992. The Department:

• combined the former Ministry of Police and Emergency Services with the Attorney General’s Department, Office of Corrections, and Ministry of Consumer Affairs; and

• ‘merged and rationalised’ the management structures of the constituent elements;

• was “a key element in the implementation of the Government’s law and order policies”; and

• part of a wider program of public sector reform.

The Justice portfolio brings Victoria Police together with a range of other statutory entities and business units involved with emergency services, criminal justice, civil justice, regulation and enforcement. The Department of Justice supports five Ministers, as outlined in Table 4.

Table 4: Justice Portfolio – Ministerial Portfolios

<table>
<thead>
<tr>
<th>Ministerial Portfolio</th>
<th>Minister</th>
</tr>
</thead>
</table>
| Minister for Police and Emergency Services
Minister for Bushfire Response | The Hon Peter Ryan MP |
| Attorney-General | The Hon Robert Clark MP |
| Minister for Corrections
Minister for Crime Prevention
Minister Responsible for the Establishment of an Anti-Corruption Commission | The Hon Andrew McIntosh MP |
| Minister for Gaming
Minister for Consumer Affairs | The Hon Michael O’Brien MP |

19 Victorian Government (Friday 9 October 1992), Gazette No. S 53, Victorian Government, Melbourne, p. 7-16

20 Department of Justice (1993), Report of the Department of Justice for the Year ended 30 June 1993, Department of Justice, Melbourne, p. 7, 9

21 Department of Justice (2010), Annual Report 2009 – 2010, Department of Justice, Melbourne, p. 3
Two areas within the Department of Justice play a key role in relation to Victoria Police. The Finance area co-ordinates the Justice portfolio budget and manages the relationship with the Department of Treasury and Finance from a budget and financial management perspective, including:

- co-ordinating Victoria Police’s input to budget updates;
- savings submissions;
- output certification; and
- overall budget reconciliation.

The second area is Police Resources and Governance. It manages the overall relationship with Victoria Police, and advises the Minister for Police and Emergency Services on matters associated with policing, community safety and justice related issues impacting upon policing and general community safety and enforcement activities. This includes:

- providing high-level, strategic policy advice and analysis in relation to policing related issues and the budgetary, financial planning, contractual and service arrangements involving Victoria Police;
- providing advice on the *Police Regulation Act 1958* and associated oversight legislation;
- preparing Ministerial correspondence, possible Parliamentary Questions and responses to Questions on Notice and Adjournment Debates;
- Victoria Police Enterprise Bargaining Agreement negotiations;
- monitoring, reviewing and reporting on compliance with Government and portfolio wide reforms in the area of policing, undertaking strategic financial analysis of the Police Budget, and providing informed comment and recommendations regarding the critical risk factors affecting Victoria Police’s overall performance; and
- developing, implementing and managing essential communications between the Minister, central government agencies, national and inter-jurisdictional committees and councils, other emergency services, Victoria Police and within the Department of Justice.

### 2.8 reporting arrangements

Victoria Police provides a range of information in internal reports and external publications.

#### 2.8.1 internal reporting

Internal reporting arrangements attempt to ensure that Victoria Police senior command is well placed to:

- monitor and review the progress of individual projects, service delivery initiatives and divisions against targets;
- issue immediate and corrective action to address emerging issues; and
• endorse or amend proposed courses of action.

Internal management information can take a variety of forms, including Compstat and TeamMate reports.22

Victoria Police also provides management information to the Department of Justice and Department of Treasury and Finance, as outlined in Table 5.

**Table 5: Information provided by Victoria Police to the Department of Justice and Department of Treasury and Finance**

<table>
<thead>
<tr>
<th>Information</th>
<th>Frequency</th>
<th>Response by the Department of Justice and Department of Treasury and Finance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requests</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Victoria Police components of the Budget and Expenditure Review Committee (BERC) submissions | Annual cycle23 | • Provides guidance on the development of the submissions  
• Undertakes quality assurance, including review of costings  
• Integrates the Victoria Police components into the overall Justice submission to BERC  
• Liaises with the Department of Treasury and Finance  
• Prepares input for the budget papers and media releases |
| Reports     |           |                                                                                |
| Briefings for the Public Accounts and Estimates Committee (PAEC) Inquiry into Budget Estimates | Annual cycle24 | • Integrates the Victoria Police input into the Department of Justice response to the PAEC Budget Estimates Questionnaire  
• Incorporates the contributions from Victoria Police into the Ministerial briefings and presentation to the Inquiry |
| Asset Investment Program | Monthly | • Enters data into the Business Intelligence Project Performance Reporting system  
• Discusses report (with Victoria Police) at meetings of the Justice Asset Committee |
| BERC Funded Programs | Monthly | • Incorporates Victoria Police data into the Justice monthly report  
• Discusses report (with Victoria Police) at monthly meetings of the BERC Implementation Steering Committee, which oversees the implementation of Justice projects funded by BERC |
| Finance and budget | Annual cycle | • Co-ordinates the Justice portfolio budget and manages the relationship with the Department of Treasury and Finance  
• Co-ordinates Victoria Police input to budget updates, savings submissions, and output certification processes |


23 Key dates in the annual cycle are set by the Department of Treasury and Finance

24 Key dates in the annual cycle are set by the Public Accounts and Estimates Committee (PAEC)

25 The Justice Asset Committee of the Department of Justice sets and drives asset investment and management policy, strategy, systems and processes to enable the Justice Portfolio to meet its service delivery objectives effectively.

26 The Budget and Expenditure Review Committee (BERC) Implementation Steering Committee oversees the implementation of projects within the Department of Justice which have been funded by BERC.
Inquiry into the command, management and functions of the senior structure of Victoria Police

13

Information

Frequency

Response by the Department of Justice and Department of Treasury and Finance

- Incorporates Victoria Police data into the reconciliation of the Department of Justice budget
- Works with Victoria Police, and collates its changes to output statements and performance measures
- Compiles departmental reports to the Department of Treasury and Finance. Examples of reports include the Output Performance Report and Appropriation Invoice which:
  - advises how well the department is meeting its objectives as stated in Chapter 3, Budget Paper No. 3 - Service Delivery, including:
    - specific achievements against your objectives
    - challenges in meeting objectives and strategies in place to mitigate these
    - how outputs are supporting departmental objectives
    - how departmental objectives are contributing to Government policy statements, strategies or priorities
  - provides information on significant areas of improvement / achievements
  - provides information on material underperformance in an output and/or performance measure, as well as strategies in place to rectify issues
  - provides detailed information and explanations for outputs that have failed to meet half or full year targets, are at risk of not meeting full year targets and/or are unable to be wholly measured

Declaration of surplus property

As needed

- Prepares documentation to gain endorsement for the transfer or disposal of property
- Department of Treasury and Finance manages disposal of surplus property on behalf of Victoria Police

2.8.2 external reporting

Victoria Police publishes information on its performance in a range of documents, including its Annual Report to Parliament, the Annual Report of the Department of Justice, Budget Paper 3 and the Productivity Commission’s Report on Government Services. Performance information published in Budget Paper 3 and other sources is scrutinised by PAEC. PAEC is a joint investigatory committee of the Victorian Parliament under the Parliamentary Committees Act 2003.27

Table 6: External performance reporting

<table>
<thead>
<tr>
<th>Report</th>
<th>Performance information</th>
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| Victoria Police Annual Report | • Total crime statistics  
|                          | • Five year trends in key crime categories  
|                          | • Family violence statistics  
|                          | • Road safety statistics  
|                          | • Connecting the community performance results  
|                          | • Output results  
|                          | • Performance against occupational health and safety indicators                          |

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<thead>
<tr>
<th>Report</th>
<th>Performance information</th>
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<tr>
<td></td>
<td>• Workforce statistics</td>
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<td>• Disciplinary Action</td>
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<td>• Operating Statement</td>
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<td>• Balance Sheet</td>
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<td></td>
<td>• Cash Flow Statement</td>
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<td>Department of Justice Annual Report</td>
<td>• Outputs</td>
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<td>• Performance Measures</td>
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<td>• Expected Outcomes</td>
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<td>• Actual Results</td>
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<td>Budget Paper 3: Service Delivery</td>
<td>• Outputs</td>
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<td>• Performance Measures</td>
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<td>• Actual Results</td>
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<td>Productivity Commission Report on Services</td>
<td>• Expenditure</td>
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<td></td>
<td>• Workforce statistics</td>
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<tr>
<td></td>
<td>• Public opinions on policing and safety</td>
</tr>
<tr>
<td></td>
<td>• Recorded and unreported crime statistics</td>
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<tr>
<td></td>
<td>• Deaths in police custody</td>
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<td></td>
<td>• Costs awarded against police</td>
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</table>
3 future capability

To be a successful, forward-looking police organisation, Victoria Police need the organisational capability to respond to highly complex issues in uncertain and changing circumstances. The needs of the future extend beyond the historic capabilities associated with managing police work, and include high-level proficiencies in responding to challenges associated with:

- continually increasing demands for responsive services;
- sophisticated, high value procurement initiatives;
- effectively managing a recurrent budget of $2.88 billion; and
- ensuring that the workforce has sufficient flexibility to respond to future needs.

The senior command of Victoria Police is responsible for shaping strategic direction and ensuring the development of organisational capability required to deliver high quality policing services, into the future.

While there are numerous elements that contribute to an organisation’s overall capability, the Inquiry focussed on the following key areas:

- culture;
- corporate and strategic planning;
- workforce planning;
- workforce flexibility;
- leadership development; and
- performance management and discipline.

These topics were raised with the Inquiry as areas requiring particular attention and focus in order for Victoria Police to meet its future challenges.

3.1 culture

The ability of senior command to deliver best practice policing is interlinked with the culture and values of Victoria Police. The culture of the personnel, both the sworn police and public servants, impacts on the way in which the organisation accepts change, adapts to new systems and procedures, and accommodates community expectations. Culture reflects the health of Victoria Police.

There are great strengths associated with the culture of Victoria Police. During the course of the Inquiry, a number were identified – loyalty, resilience, courage, adaptability, self-reliance, and an unwavering commitment to public safety. In a recent United Kingdom report, police culture was described as: 28

“… a culture of determination, courage, hard work and achievement, of facing any challenge or danger and confronting it with full measure. There is a considerable degree of goodwill in the

28 Winsor, T (2011), Independent Review of Police Officer and Staff Remuneration and Conditions - Part 1, The Secretary of State for the Home Department, United Kingdom, p. 10
police, in making sacrifices – personal and otherwise – to protect the public, deter crime, disrupt criminal networks, apprehend criminals and to make communities safer. Nothing should be done which might jeopardise that.”

These features of police culture in the United Kingdom are found in equal measure in Victoria Police. The Inquiry recognises and affirms the importance of these aspects of police culture to the future capability of Victoria Police to deliver best practice policing.

The Inquiry’s consultations, however, demonstrated the existence of other elements of police culture that are counterproductive to efficient, modern policing.

The Inquiry found within some sections of Victoria Police the strongly held view that police are unique, a contention largely based around the sworn officer possessing the powers and responsibilities of the office of constable. The Inquiry acknowledges the importance of this office as the foundation of an independent police force. Whilst many of the qualities of Victoria Police flow from the independent office of constable, which requires police to exercise their own judgement in difficult and sometimes dangerous situations, some police interpret the office in a way that is productive of insularity and conservatism. This manifests itself in a general way as a resistance to change and disinclination to accept external review. The acknowledgment of the importance of the office of constable is not a bar to necessary change and reform.

The Police Association is justifiably committed to protecting the interests of its members. The Inquiry was informed that 98 per cent of sworn police are members of The Police Association.29 The commitment to what it perceives to be its members’ interests leads The Police Association to be highly conservative and inward-looking in its approach to reform and change. The views of The Police Association are naturally to be considered in matters affecting its membership. The Inquiry, however, found those views gained a disproportionate consideration and influence within senior command, largely because of the perceived industrial strength and political influence of The Police Association. Indeed The Police Association has assumed a role and been permitted influence well beyond the legitimate interests of its membership. The Police Association has been a significant hurdle to appropriate reform.

In consultations the Inquiry observed the following negative aspects of police culture:

- an over-emphasis on the length of service and the police number, as the indicator for promotion rather than merit;
- a negative attitude to lateral recruitment; and
- a resistance to implementing initiatives of senior command.30

A significant issue relating to culture observed by the Inquiry relates to a continuing lack of a shared understanding within Victoria Police of the roles of sworn police and public servants. The Inquiry identified a need for a much greater emphasis on better working relationships and the integration of the operational and corporate arms across the organisation. There should in reality be one culture for Victoria Police and a recognition that, allowing for their different roles and responsibilities, sworn police and public servants have one common goal – the provision of best practice policing in Victoria.

The issue of cultural change, particularly as it relates to the working relationships between sworn police and public servants, needs to be ‘owned’ by the Chief Commissioner. It is strong, values-based leadership from the top that will drive cultural change and reform.

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29 Submission of The Police Association to the Inquiry
30 An example is the cultural resistance encountered in implementing the Performance Development and Assessment system introduced in 2008, discussed at 3.6.1.
A number of the recommendations that follow are made in an effort to address negative aspects of the culture of Victoria Police.

The Inquiry received evidence that the recent disunity of senior command has adversely impacted on the morale of Victoria Police. Cohesiveness, unity and loyalty of senior command is vital to efficient operations and the morale of Victoria Police, it is an essential requirement for the leadership necessary to ensure the organisation abides by the values\(^{31}\) that underpin police culture\(^{32}\).

As important as any recommendation in this report, is the necessity for the Chief Commissioner to inspire within Victoria Police, the confidence to take on and accept change.

### 3.2 Corporate and strategic planning

Planning is synonymous with foresight, prudence and judgement. The Department of Treasury and Finance has developed the *Strategic Management Framework for the Victorian Public Sector* which outlines a series of key questions to guide the planning process. These are:

- What are the vision and goals of the organisation and are there clear links to the objectives that government is seeking to achieve?
- What is the output mix with the highest potential impact on government objectives, taking into account the activities of other groups?
- What needs to be planned for now to ensure that medium to longer term goals are achieved?
- Are sufficient systems and processes in place to monitor and report on success and has an evaluation been factored into the plans?
- How will the services or capital investment be provided to achieve the best value for money taking into account different models of delivery, and what funding and resources are required? Is a market based solution available?\(^{33}\)

Victoria Police has developed a series of overlapping strategic planning documents, as outlined in Table 7.

#### Table 7: Strategic planning documents

<table>
<thead>
<tr>
<th>Planning Document</th>
<th>Key Features</th>
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| The Way Ahead: 2008 – 2013 | - Sets the five year strategic direction from 2008 to 2013  
- Establishes three priorities:  
  - a safer Victoria (with a focus on crime, public safety, road safety)  
  - connecting the community  
  - valuing our people  
- Links priorities to performance measures from Budget Paper 3 |
| Victoria Police Business Plan 2011 – 2012 – Uphold the Right | - Outlines the operational priorities for 2011-2012 relating to a safer Victoria:  
  - responding to public safety, especially on public transport  
  - reducing and preventing crimes against the person  
  - fighting serious crime and organised crime  
  - policing our roads |

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\(^{31}\) Victoria Police’s organisational values are: flexibility; leadership; integrity; professionalism; respect; and support. Victoria Police (2011), Annual Report 2010–2011, Victoria Police, Melbourne, p. 5

\(^{32}\) The development of a ‘compact’ by senior command of the values and principles that shape its leadership can be a powerful methodology to ensure a united and cohesive leadership team.

\(^{33}\) Department of Treasury and Finance (2011), Strategic management framework, p. 4
These documents are fragmented, and fail to integrate the strategic intent of operational and corporate areas. Specifically, the existing corporate planning documents are silent on:

- objectives and milestones for the short, medium and long term timeframes;
- strategies to address cross-jurisdictional issues and leverage potential partnership opportunities;
- strategies to derive maximum value from investment decisions; and
- detailed targets and quantifiable measures which would enable progress to be forecast and performance evaluated.

This fragmentation has been recognised by Victoria Police. *Victoria Police Priorities and Standards 2011-2012* sets an objective for the Corporate Strategy and Governance department to create, during the current year, “an end to end planning process integrating business planning, risk management, audit outcomes, Compstat and tasking and coordination.”

In pursuit of this objective, Victoria Police is developing a more coherent corporate planning process, through a project for the development of a model to enhance corporate planning by better integrating strategic intelligence processes and corporate support activities with service delivery demand. The new planning process will be known as the Integrated Planning and Risk Management Model. The Acting Deputy Commissioner, Strategy and Organisational Development, Ms Lucinda Nolan, told the Inquiry that implementation of the project is proceeding well and that the new integrated planning model will be implemented in the next financial year.
The Integrated Planning and Risk Management Model will involve a strategic assessment across five standard domains:

- operating environment;
- reputation management;
- service demand and delivery;
- people issues (capacity and capability); and
- business issues and risks.

This assessment will result in identification of priorities, risks and actions for each division, which will then inform the determination of regional/departmental priorities, risks and actions and ultimately organisational priorities and risks. The action plans for each division, region and department will be finalised in light of the organisation’s priorities and risks, which will also form the basis for the Victoria Police Business Plan.

Figure 1 was provided to the Inquiry by Victoria Police to demonstrate the operation of the Integrated Planning and Risk Management Model.

**Figure 1: Victoria Police Integrated Planning and Risk Management Model**

The project plan for development of the integrated planning model includes post implementation monitoring and evaluation of the model. The model itself should include ongoing monitoring and evaluation against in built performance measures.

The development of this integrated planning model is a positive step, for which the Inquiry commends Victoria Police. When implemented, the model will place Victoria Police well to pursue measurable success into the future.
3.3 workforce planning

Like all large public sector organisations, Victoria Police faces challenges in adapting to a changing environment. Pressures to respond to demographic, economic, social and technological changes are just some of the factors that will continue to shape the nature of policing services into the future.

To meet and address these challenges, Victoria Police requires the ability to strategically plan for and align its future workforce with service delivery requirements. Most importantly, senior command needs to be able to determine the desired number and type of staff (i.e. the appropriate mix of skills and capabilities) and deploy them across the organisation.

The fundamental steps of workforce planning are:\(^{34}\)

- workforce analysis;
- forecasting future needs;
- analysing workforce gaps;
- strategy development to meet gaps;
- implementation of strategies; and
- monitoring and evaluation of strategies.

While senior command should be planning for its whole workforce (both sworn and public service staff), current efforts are focussed on sworn police. This is largely a result of Victoria Police being funded on the basis of numbers of sworn police officers. Explaining the impact of this funding framework, one senior executive interviewed by the Inquiry commented “I feel like we run a business with our hands tied behind our back.”

In 2006, the Auditor General identified the different funding arrangements for sworn police and public servants as a significant constraint on the ability of Victoria Police to plan its workforce effectively. While increases in the number of sworn police are determined and funded by Government, any increase in the number of public servants must be funded by Victoria Police from within its annual budget allocation. Victoria Police cannot choose to change direct funded police positions to public servant support positions.\(^{35}\) The Auditor General commented:\(^{36}\)

“"These separate arrangements for sworn and unsworn staff make workforce planning difficult for Victoria Police. It needs the flexibility to determine the numbers and mix of sworn and unsworn officers it requires. Without this flexibility, it cannot gain the optimum advantage from its workforce planning. Benefits can be achieved if decisions to recruit more sworn officers are linked to the need for more unsworn specialists to work with these officers."
Five years later, this constraint remains in place. In its recent report *Enabling a flexible workforce for policing in Victoria*, the Office of Police Integrity (OPI) found that the focus on funding raw numbers of sworn police makes it “practically impossible” for Victoria Police to properly plan its workforce. The OPI recommended that budget allocation based on fixed numbers of sworn police should cease.\(^{37}\)

The Inquiry agrees with the Auditor General and the OPI on this issue. In particular, it is clear to the Inquiry that funding an increase in the raw number of sworn police does not necessarily result in a corresponding increase in the number of police performing frontline, operational duties. To the contrary, the Inquiry finds, as the OPI found, that:\(^{38}\)

> "Budget allocations with a focus on raw figures of sworn police have also meant many operational police have been assigned non-operational duties in roles perfectly capable of being undertaken by public servants."

Sworn members of Victoria Police are trained and paid to perform operational roles, and that is where they should be deployed. However, because Victoria Police is funded on the basis that it will employ fixed numbers of sworn police, and because it has non-operational work that must be performed, it has little choice but to assign sworn police to fill non-operational roles that do not involve the exercise of police powers.

This is despite the fact that it costs the public a great deal more for a sworn member than for a public servant to perform the same work. For example, the current base salary for a senior sergeant ranges from $89,460 to $95,240,\(^{39}\) while the salary range for an equivalent public servant at Grade 4 is $66,235 to $75,151.\(^{40}\) Sworn police also have significantly more generous entitlements to allowances, leave and superannuation than public servants.

In 2010 Victoria Police was funded by Government for a project known as Building Operational Capability and Capacity (BOCC). The BOCC project involved identifying 200 non-operational positions being filled by sworn police, returning the sworn police to operational roles and funding the employment of public servants in non-operational positions. During the first year of the project 154 sworn police were returned to operational roles, at the cost of funding the salaries for public servants to fill their non-operational roles. Regrettably, funding for the BOCC project was discontinued in 2011.

\(^{38}\) Ibid., p. 17
\(^{39}\) Victoria Police Workplace Agreement 2007, Schedule A - Salary Schedule - Ordinary Rate of Pay (effective 6 September 2010)
\(^{40}\) Victorian Public Service Agreement 2006 (2009 Extended and Varied Version), Schedule B, Salaries - VPS (effective 1 October 2010). The comparison is made based on the Victoria Police Capability Framework.
3.4 workforce flexibility

Closely related to the need for sound workforce planning is the need for a flexible workforce. The Inquiry identified two inflexibilities of particular concern:

- resistance to lateral entry of sworn police; and
- rights of appeal against the transfer and promotion of sworn police.

3.4.1 lateral entry

Lateral entry refers to the ability of sworn police to transfer at rank from one policing agency to another. It can also be used to facilitate the re-entry into policing of persons with prior policing experience and can assist the recruitment of those with special expertise to specific positions.

Victoria Police does not currently recruit police from outside its existing workforce to any rank from senior constable to commander. Sworn police must join Victoria Police as constables and work their way up the ranks. For this reason it is usual for members of senior command to have worked for Victoria Police throughout their entire career of more than 30 years. In recent years a handful of external applicants have been recruited to Victoria Police in the roles of Chief Commissioner, Deputy Commissioner and Assistant Commissioner.

In the Victorian public service and in the broader workforce, professional mobility across all forms of organisations and sectors is commonplace. The nationwide advertising of vacancies of senior policing positions of state, territory, and federal police services has seen an increasing frequency of ‘outside’ applicants seeking positions in all jurisdictions. The justification for this process is, simply, selection of the best person for the job.

There are many examples of lateral entry at senior positions into state and federal police forces, normally between Australian police services, although there are a number of examples of recruitment from overseas, typically the United Kingdom.

There are also many examples of temporary cross jurisdictional transfers of police at lower rank levels in the case of emergencies. Most recently, immediately after the February 2011 earthquakes in Christchurch, New Zealand, 323 Australian police officers were deployed to assist local police and were sworn in on arrival. Similarly during the Queensland floods, 100 police officers from Victoria,
New South Wales and South Australia were deployed to Queensland to assist in emergency response and recovery.

The reasons why Victoria Police does not make wider use of lateral entry are not entirely clear.

The Police Regulation Act 1958 contemplates lateral entry to Victoria Police. Section 8(1) of the Police Regulation Act 1958 enables the Chief Commissioner to appoint, as well as to promote and transfer, so many officers (commanders, chief superintendents, superintendents, chief inspectors, inspectors) and so many senior sergeants, sergeants, senior constables and constables as the Governor in Council may think is necessary. The Police Regulations 2003 permit appointments to Victoria Police following satisfaction of certain non-rank requirements such as good character, medical examination, written examination, employment history or current employer. Under the legislation, a person satisfying the appropriate criteria may be appointed from outside Victoria Police to any position within Victoria Police.

The Chief Commissioner’s power under the legislative regime to appoint a person from outside Victoria Police to any rank appears to be restricted by two policies, the Mobility policy and the Transfer and Promotion System policy. These policies also constrain the Chief Commissioner’s ability to re-appoint a former police member to the rank they held before leaving Victoria Police; at present such a person must re-enter Victoria Police as a constable.

The policies are given legal effect by a Deed of Agreement entered into in 2007 between the Chief Commissioner of Police and The Police Association. The Deed of Agreement was entered into in conjunction with the Victoria Police Workplace Agreement 2007. The matters contained in the Deed of Agreement, including the policies, were not able to be included in a workplace agreement under the then Workplace Relations Act 1996 (Cth), hence the resort to a side agreement.

The Deed of Agreement will end when the Victoria Police Workplace Agreement 2007 is replaced with a new agreement. A new Victoria Police Force Enterprise Agreement 2011 has been agreed, subject to approval by The Police Association’s membership and Fair Work Australia. While the new agreement contains provisions concerning the placement and movement of employees, it should not operate to fetter the Chief Commissioner’s discretion to appoint suitable applicants from outside Victoria Police, or to reappoint former police, to any rank.

The principal arguments against lateral entry put to the Inquiry are:

- each policing jurisdiction is culturally unique and as a consequence it is difficult, near impossible, for a lateral entrant to adapt to the expectations of the community and of Victoria Police;

- lateral entry, particularly at senior command levels, adversely impacts on the morale of Victoria Police; and

- lateral entrants who don’t understand the structure, and organisation of Victoria Police, or who lack operational experience, can put police members at risk.

These views were expressed to the Inquiry principally by The Police Association.

The submission of The Police Association to the Inquiry contended that “… the experiment of bringing senior police from other jurisdictions into Victoria has been an unmitigated disaster”. This assertion is not accepted by the Inquiry. The Inquiry interviewed all those members who currently hold senior command positions with Victoria Police after lateral entry or re-appointment. All these persons, prior to

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41 Police Regulations 2003, reg 5. Regulation 6 permits the Chief Commissioner to appoint people with special “… qualifications or expertise” without being required to pass the previously identified tests but such appointments can only be made to the Police Air Wing, Police Bands and Technical Support Unit, Covert Support Division.

42 The Police Association Submission to the Inquiry
appointment, had undergone a competitive interview process. All impressed the Inquiry, both in general competence and in commitment.

Other comments to the Inquiry generally supported the concept of lateral entry. Deputy Commissioner Walshe observed:

“We prided ourselves at one stage that, you know, we had – Bill Horman as the Commissioner in Tasmania, Mal Hyde in South Australia, Noel Newnham in Queensland, Bob Falconer in Western Australia. They’ve all been in Victoria Police and gone out there. I think people thought that was great, but they don’t like it when it comes the other way round”.

The cultural barrier as a hurdle to lateral entry argued by The Police Association was disputed. A number of interviewees referred to lateral entry as providing a benefit of new ideas, a broadened sense of what is available in a policing career. In the United Kingdom transfer between police organisations is commonplace across the ranks. Police officers must gain experience in two different jurisdictions before they are eligible to apply for the position of Chief Constable.

Former Deputy Commissioner Jones provided the following reasons for his support of lateral entry to the Inquiry:

“The consequences of it [experience in different jurisdictions] are that people arrive in a new challenge, in a new command, without the bag and baggage of whatever has gone on before. It allows people, I think, to become more rounded leaders. One of the consequences of people not moving is a failure, really, to have their minds and eyes open to new ideas elsewhere.”

“It’s also a good check and balance against corrupt relationships.”

“Particularly when you look at the dangers that Australia faces in terms of natural disaster. So management of bushfires, for example, there ought to be routine exchange of people at that level, particularly between New South Wales and Victoria and South Australia. It’s just crazy that there isn’t.”

Former Chief Commissioner Overland also supported lateral entry. He stated to the Inquiry:

“I think it refreshes an organisation to have different people coming in. I think it allows cross pollination so good ideas in one jurisdiction to sort of move to another jurisdiction with that person. We are a single employer industry and particularly as you get to the top … your career options become somewhat limited and I think that sometimes drives … behaviour that does not reflect well on individuals because the chances are few and people are prepared to do extraordinary things to further their own career. Whereas if you redefine ‘career’ more broadly and they see that they’ve got a broader range of options you might actually get a change in some of the behaviour.”

The Office of Police Integrity has supported the concept of lateral entry:

“There are significant benefits to lateral entry particularly in environments of rapid growth. The benefits of bringing experience from other jurisdictions at a senior level are just as valid at more junior levels. Similarly lateral entry should be available for those returning to the workforce after an absence from policing.”

The Inquiry does not accept the proposition that Victoria, as a policing jurisdiction, is so different to other jurisdictions, or that the expectations of Victorians in relation to their police service are such that lateral entry of officers from differing jurisdictions will not work in this State. Indeed, policing the different regions of Victoria brings the necessity of adaptation of policing skills and techniques to the particular conditions, circumstances, cultures of the regions both in front line policing and in the overall management of the regions.
The submission of The Police Association is out of step with other policing jurisdictions and represents an overly parochial view of policing in Victoria. Details of the lateral entry arrangements of interstate police organisations are given in Box 3.

**Box 3: Interstate practices**

In 2006, New South Wales (NSW) Police introduced a scheme to fast track the lateral entry of officers from other Australian States and New Zealand into the NSW Police force. The Police Professional Mobility Course requires interstate and New Zealand police to undertake an eight week course familiarising themselves with the NSW police force. In July 2011, 16 police completed this course. Of the lateral entrants, most enter NSW Police with a rank equivalent to that most recently held in their former jurisdiction.

Western Australia Police conducts a similar ‘lateral entry (transitional)’ program for lateral entrants from Australian and New Zealand jurisdictions.

South Australia Police provides a lateral entry scheme for interstate, New Zealand and United Kingdom police officers.

The Inquiry recognises significant benefits of lateral entry, including:

- recruitment of experienced police officers at times of rapid expansion;
- more rounded leaders with wider experience;
- potentially addressing the parochial or insular aspects of the culture within Victoria Police; and
- check and balance against corrupt relationships.

The Inquiry notes the concern expressed by The Police Association that lateral entry at senior command level impacts on the morale of Victoria Police. Any such concern should be ameliorated by the understanding that the selection process for senior command positions is merit-based, thorough and robust, directed at ensuring the best possible person for the job.

Despite its opposition to lateral entry, The Police Association supports the establishment of an Australian Police Registration Board, in part, to ensure police ranks across the country have the same qualifications. The Inquiry is not persuaded that a Police Registration Board is necessary to enable Victoria Police to recruit suitably qualified police from other jurisdictions to all ranks. Victoria Police is able to determine for itself the competencies required at different ranks and for specific positions, without the involvement of an external agency.

The concept of police as a profession has been in contemplation, and the subject of discussion between policing agencies for many years. As part of these discussions Victoria Police is sponsoring an initiative known as Police Practice Standards Model (PPSM) through the Australia New Zealand Policing Advisory Agency (ANZPAA). The PPSM initiative aims to develop an agreed model that will standardise the competencies and education requirements of police officers in Australia and New Zealand, with a view to policing becoming a national profession with mobility between jurisdictions. ANZPAA supported the recent initiative in New South Wales.

Whilst this initiative will enhance the mechanics of lateral entry across the jurisdictions the apparent difficulties surrounding an agreement to establish the PPSM should not stand in the immediate way of lateral entry into Victoria Police. Pending the establishment of the PPSM, proper processes of interview and assessment will enable lateral recruits, suitably experienced and qualified, to enter Victoria Police.
In 2006 the Auditor General recommended that Victoria Police should expand its recruitment approach to provide more flexibility in the recruitment of experienced applicants.43 The OPI has recently urged Victoria Police to undertake its workforce planning, bearing in mind the inevitability of national mobility for police.44 This Inquiry also recommends that Victoria Police should undertake its workforce planning to allow for lateral entry at all ranks and for reappointment at rank, and should recruit suitable applicants from outside Victoria Police when appropriate.

Recommendation 5

That Victoria Police undertakes its workforce planning to allow for lateral entry at all ranks and for reappointment at rank, and recruits suitable applicants from outside Victoria Police when appropriate.

3.4.2 transfer and promotion

The legislation provides that the Chief Commissioner may transfer and promote police members to all ranks. Vacancies in sworn positions may be filled by transfer, by promotion after advertisement, or for ranks below sergeant, by promotion without advertisement. It is a feature of employment as a sworn member of Victoria Police that members are “liable to immediate transfer to any part of the State.”45 In this area also the Chief Commissioner’s apparently wide legislative powers of transfer and promotion are constrained by the Mobility policy and the Transfer and Promotions System policy, currently given legal effect by the 2007 Deed of Agreement. These policies are premised on the understanding that each police member must ‘own’ a position. The Transfer and Promotions System policy makes detailed provision for the process to be followed in filling a vacancy in a position. For vacancies at the rank of sergeant and above, this generally involves advertisement and a merit-based selection process administered by the central Transfer and Promotion Unit.

An unsuccessful applicant for a sworn position "who considers that he or she has a better claim to promotion or transfer" than the successful applicant may appeal to the Police Appeals Board.46 It is the practice of Victoria Police to advertise and fill multiple vacancies for a particular rank at the same time. This means that a single unsuccessful applicant may appeal against multiple selection decisions.

The Police Appeals Board conducts a rehearing, and may consider material that was not available to the selection panel. A determination is made on the basis of the Police Appeals Board’s assessment of the relative efficiency of the appellant and the successful applicant. In 2010, 10 per cent of appeals against transfer and 4 per cent of appeals against promotion were allowed; in 2011, 11 per cent of appeals of appeals against transfer and 3 per cent of appeals against promotion were successful. Hearing and determination of appeals against promotion or transfer takes on average 11 to 12 weeks.47 In the meantime, the vacancies under appeal remain unfilled. A senior executive at Victoria Police told the Inquiry that appeals against transfer and promotion “freezes the organisation.”

The position of public servants employed in Victoria Police is very different from that of sworn police. Public servants are assigned duties rather than ‘owning’ a position, and are generally able to be

43 Auditor General of Victoria (2006), Planning for a capable Victoria Police workforce, Recommendation 3
44 Office of Police Integrity (2011), Enabling a flexible workforce for policing in Victoria, p. 23
45 Police Regulation Act 1958, s 8(1); Police Regulations 2003, reg 21.
46 Police Regulation Act 1958, s 8AA(1); Police Regulations 2003, Part 5, Division 2. No appeal lies for the ranks of superintendent and above, or for general duties constables and senior constable positions.
assigned other duties consistent with their classification, skills and capabilities, as the Chief Commissioner sees fit.\textsuperscript{48} This is subject to the public sector employment principles, which include treating public sector employees fairly and reasonably,\textsuperscript{49} and to an obligation to consult about proposed changes to existing work practices.\textsuperscript{50} Promotion of public servants in Victoria Police is generally the result of a merit based selection process.

There is no right of appeal for a public servant who is not selected for a position. Any grievance may be dealt with in accordance with the Victorian Public Service Agreement 2006, which sets out a stepped procedure commencing with internal discussion and review, and moving to conciliation and arbitration by Fair Work Australia.\textsuperscript{51} This difference in rights of review is problematic and unfair in cases where a position is open to both sworn police and public servants – as may occur for many non-operational positions throughout Victoria Police.

The OPI has recently examined the mobility mechanisms for sworn police, including transfers and promotions, and made a number of recommendations for their improvement. Some of these recommendations have been addressed in the new enterprise agreement just reached between Victoria Police and The Police Association. Others require legislative change.

While the Inquiry has not attempted to replicate the work already done by the OPI, it is in general agreement with OPI’s recent findings as to the need for reform to enable Victoria Police to adopt more contemporary work practices and enhance the flexibility of its workforce.\textsuperscript{52} Of particular concern to the Inquiry is the right of appeal against transfer and promotion of sworn police members. The appeal process is a severe constraint on the ability of the senior command of Victoria Police to deploy the workforce effectively and in a timely way. It should be reformed, at a minimum, by limiting the rights of appeal to process issues in the way recommended by the OPI.\textsuperscript{53}

The Inquiry also agrees with the OPI that, as a matter of fairness and good employment practice, all Victoria Police employees should have access to the same appeal rights and processes.\textsuperscript{54} The current legislative arrangements prevent this. As discussed later in this chapter, in relation to discipline, it is time to reconsider whether sworn police should have the same access to Fair Work Australia as do public servants.

**Recommendation 6**


3.5 leadership development

Planning for leadership capability is a fundamental human resource management challenge for Victoria Police, especially given its complex operating environment. Leadership development planning

\textsuperscript{48} Public Administration Act 2004, s 31A
\textsuperscript{49} Public Administration Act 2004, s 8
\textsuperscript{50} Victorian Public Service Agreement 2006 (2009 Extended and Varied Version), clause 9
\textsuperscript{51} Ibid., clause 10
\textsuperscript{52} Ibid.
\textsuperscript{53} Ibid., p. 42
\textsuperscript{54} Ibid., p. 41
ensures the organisation can address, rather than just react to, business and environmental change now and into the future.\textsuperscript{55}

The process of developing leadership capability is an integrated one of identifying, securing and developing leadership capabilities that support and achieve an organisation’s current and future mission. Leadership capability requirements in an organisation should align with stated organisational goals and skills requirements.\textsuperscript{56} This process of strategic alignment is critical for organisational success in delivering current and future objectives.

The process requires collaboration amongst key personnel within an organisation including senior leaders, human resource professionals, business unit managers and employees.\textsuperscript{57}

Effective leadership planning allows an organisation to:

- respond quickly and strategically to change, as the organisation recognises emerging challenges in the workforce and the marketplace more broadly;

- improve efficiency, effectiveness and productivity, because leaders possess the right skills and are a good fit for the job; and

- strengthen its capability to support the achievement of business outputs, both current and future.

Efforts toward leadership development at Victoria Police sit within the broader strategic context of people development. While several corporate planning documents in this area have been formally endorsed by senior command, a number are at ‘draft for consultation’ stage and have not been formally adopted. Table 8 outlines the status of the key corporate documents guiding the leadership development system.

\begin{table}[h]
\centering
\begin{tabular}{|l|l|l|}
\hline
Document & Description & Status \\
\hline
\textbf{People Development Plan 2008-2013} (strategic people plan) & Strategic policy document for building workforce capability, including the development of leadership capabilities within the organisation & Endorsed by senior command in 2008 \\
\hline
\textbf{People Development Plan 2011-2014} (strategic people plan) & Strategic policy document for building workforce capability, including the development of leadership capabilities within the organisation – includes specific measures evaluating implementation & Draft for Consultation – not endorsed by senior command \\
\hline
\textbf{Leadership Excellence Framework} & An overarching corporate framework for leadership development that maps a holistic process for the organisation to strategically progress its leadership development activities.\textsuperscript{58} & Endorsed by senior command but not widely adopted \\
\hline
\end{tabular}
\caption{Leadership development planning documents}
\end{table}

\textsuperscript{55} State Services Authority (2006), Workforce Planning Resource Kit, State Services Authority, Melbourne
\textsuperscript{56} State Services Authority (2007), Developing Leaders: Strengthening Leadership in the VPS, State Services Authority, Melbourne, p. 40
\textsuperscript{57} State Services Authority (2006), Workforce Planning Resource Kit
\textsuperscript{58} For an example of a leadership development framework in the policing context, Victoria Police could reference the Victorian Leadership Development Centre’s VPS Leadership Framework. The Scottish Police Service also has a Leadership Development Framework for an example tailored to the policing context.
While significant effort and progress has been made to advance leadership development initiatives, a key element of the system, the *People Development Plan 2011-2014*, is awaiting finalisation and endorsement by senior command. As a result, the Inquiry recognises sound measures are in place to develop and promote future leaders but that more time is required before the system is formally implemented.

As a first step to addressing this issue, Victoria Police should formally endorse the high-level planning documents guiding its leadership development strategies.

### Recommendation 7

That Victoria Police formally endorses the planning documents guiding its leadership development strategies.

#### 3.5.1 Leadership training

There are no formal educational prerequisites for senior sworn Victoria Police officers, including rank of Chief Commissioner. Leadership training is focussed at the ranks of Inspector and Victorian Public Service (VPS) Grade 5 level and above.

Victoria Police internally delivers a significant volume of leadership training through its Airlie Leadership Development Centre. Leadership training opportunities for senior members of Victoria Police (both sworn and public servants) include:

- a face to face promotional course for Inspectors, combining incident and emergency management with broader leadership/management principles and approaches, as well as the submission of an academic paper and a promotional examination;

- the Rising Talent Program, which identifies high potential members at inspector level and above, using a range of assessment data including psychometric testing, assessment centre methodologies and data from the Talent Identification System;

- the Senior Managers Leadership Development Program;

- the Victoria Police Executive Development Secondment/Exchange Program, which provides inspectors and superintendents with a 12 month experience in a private sector organisation or other policing jurisdictions, in order to grow skills, knowledge and experience of benefit to Victoria Police; and

- various programs for mentoring, coaching and 360 degree feedback.

In addition, there are a range of externally provided leadership development opportunities for senior sworn police and public servants. These are summarised in Table 9.59 see p.18 of the Victorian Leadership Development Centre’s *Leadership Excellence Framework* for a complete list.
Inquiry into the command, management and functions of the senior structure of Victoria Police

Table 9: Summary of leadership training opportunities

<table>
<thead>
<tr>
<th>Program</th>
<th>Level (police rank/VPS Grade)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian and New Zealand School of Government</td>
<td></td>
</tr>
<tr>
<td>Executive Masters in Public Administration</td>
<td>Superintendent / VPS 5 and above</td>
</tr>
<tr>
<td>Executive Fellows Program</td>
<td>Assistant Commissioner / EO3</td>
</tr>
<tr>
<td>Australian Institute of Police Management</td>
<td></td>
</tr>
<tr>
<td>Police Management Development Program</td>
<td>Inspector / VPS 6</td>
</tr>
<tr>
<td>Police Executive Leadership Program</td>
<td>Superintendent / VPS 5 and above</td>
</tr>
<tr>
<td>ACACIA Program</td>
<td>Assistant Commissioner / EO3</td>
</tr>
<tr>
<td>Cranlana Foundation</td>
<td></td>
</tr>
<tr>
<td>Cranlana Colloquium</td>
<td>Assistant Commissioner / EO3</td>
</tr>
<tr>
<td>Leadership Victoria</td>
<td></td>
</tr>
<tr>
<td>Williamsons Community Leadership Program</td>
<td>Inspector / VPS 6 and above</td>
</tr>
<tr>
<td>Victorian Leadership Development Centre</td>
<td></td>
</tr>
<tr>
<td>Executive Leadership Program</td>
<td>Assistant Commissioner / EO2 and EO3</td>
</tr>
</tbody>
</table>

Public servants have access to both internal Airlie courses as well as external leadership programs, and the Inquiry commends Victoria Police for encouraging their attendance at internal flagship training courses such as the Airlie Senior Leadership Development Program. The Inquiry encourages Victoria Police to continue and strengthen this practice, as it also provides opportunities to foster integration and shared understanding between sworn police and public servants.

3.5.2 training and development for Victoria Police's public service workforce

Victoria Police provides significant training and development for its sworn workforce. Those entering the organisation at recruit level have clearly defined career pathways and processes for advancement. The Inquiry recognises the efforts of The Police Association to encourage more rigour into promotion courses for sworn officers.

This is not the case for Victorian public servants who enter Victoria Police at lower levels (e.g. VPS Grades 1 and 2), where development opportunities and training are much less clear and unstructured.

Relative to other public service employer agencies, Victoria Police employs a significant number of public servants at these lower levels. Of the 2,740.9 (full time staff equivalent) public service positions at Victoria Police, 43.5 per cent (1,192.8 full time staff equivalent positions) are at VPS Grades 1 or
2. The percentage of VPS Grade 1 and 2 employees across the wider public service is much lower, approximately 13 per cent.61

Assistant Commissioner (People Development) Mr Kevin Scott told the Inquiry that:

“…our VPS development is underdone. We need to put more attention into it … The areas that I lament or feel sorry for is where the VPS are in the mainstream sworn areas like the regions and things like that, they can get easily overlooked in those sort of environments.”

Similarly, the Community and Public Sector Union told the Inquiry:

“There is very little budget for unsworn staff … That really determines what can and can't be delivered, what can be developed and … that it gets totally sucked into the blue shirt side of the organisation leaves I think the organisation somewhat lopsided.

”[It would be positive] if there could be something developed that allowed people who might be a Grade 2 but would like an opportunity to be considered for promotion to Grade 3, but that has a supervisory function, giving them an opportunity to have some of the principles about supervision but you do not have any of that now.”

Further effort to more systematically invest in the development of public servants at lower levels could enable Victoria Police to increase the skills and capability of its public service workforce.

**Recommendation 8**

That Victoria Police undertakes a review of development and training for its public servants, with an emphasis on improving opportunities at levels below Grade 5.

3.6 **performance management and discipline**

Performance management and discipline systems enable the assessment of individual performance, facilitate development opportunities and serve to ensure high levels of performance and behaviour are maintained by staff. Victoria Police needs a robust performance management culture as well as an effective system to deal with misconduct that is not able to be addressed through the performance management process. These key initiatives underpin the effectiveness of the senior command of Victoria Police and its ability to deliver best practice policing.

In recent years the OPI has conducted two detailed reviews of Victoria Police’s discipline and complaints handling systems:

- A fair and effective Victoria Police discipline system (2007); and
- Improving Victorian policing services through effective complaint handling (2008).

The reports that resulted from the 2007 and 2008 reviews made recommendations with the following themes:62

- moving from discipline to professional conduct;

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60 Victoria Police (2011), Annual Report 2010-2011, p. 59
61 State Services Authority (2009), State of the Public Service in Victoria Report 2008-09, State Services Authority, Melbourne, p. 62
• local responsibility and empowerment;
• using complaints to improve service delivery; and
• strengthening performance management.

The OPI recently reviewed the progress made in implementing its recommendations. Its findings are set out in its May 2011 report *Improving Victoria Police discipline and complaint handling systems: a progress report*. The report noted that the legislative changes recommended by the OPI to reform Victoria Police's discipline system had not been made. The OPI found that Victoria Police had made some progress towards implementing those recommendations within its control, although further work remained to be done.

The Inquiry endorses the conclusion reached by the OPI in its earlier reports that Victoria Police’s outmoded discipline system should be replaced with a less adversarial, more developmental and ultimately more effective model. The Inquiry agrees with the recommendations made by the OPI for reform of the discipline system for sworn police members, and recommends their full implementation. This would assist in addressing the wide divergence in employment arrangements for sworn police and public servants, which the Inquiry considers contributes to the cultural division between these two groups of Victoria Police employees.

**3.6.1 performance management**

An effective performance management system is necessary for assessing and developing the capabilities of Victoria Police’s workforce. It is also essential to enable Victoria Police to make the shift from a punitive, adversarial discipline system to a strong performance management culture.

In 2007 the OPI recommended that Victoria Police review its systems for assessing competency and managing underperformance, with the aim of providing an effective system for regular opportunities to appraise an individual’s performance, identify strengths to assist skill and career development, and identify early measures to address performance and behavioural difficulties.63

In August 2008 Victoria Police introduced the Professional Development and Assessment System (the PDA System). The PDA System covers both sworn police and public servants, and compares well with performance management systems in operation elsewhere in the Victorian public sector.

Several internal and external reviews of the PDA System, however, have found that use of the PDA System is yet to be fully embraced by supervisors throughout the organisation. There remain concerns with the level of compliance with the system and the willingness of managers to provide feedback and have difficult conversations with employees.64

Recently Victoria Police has revised and considerably simplified its capability framework for sworn police and public servants. This measure should make it easier for managers to assess the capabilities of employees as required by the PDA System.

Victoria Police should continue to embed the PDA System across the organisation with training to assist supervisors and managers to adopt a developmental and coaching style of management when needed, which is very different from the traditional command and control style of management. It should also continue to hold its managers and senior managers accountable for compliance with the PDA System, and undertake regular evaluation of the implementation and effectiveness of the system.

63 Office of Police Integrity (2007), *A fair and effective Victoria Police discipline system*, Office of Police Integrity, Victoria, p. 75
3.6.2 discipline

While an effective performance management system will work to develop staff, and to correct poor performance and unsatisfactory behaviour, it is not a panacea. There will inevitably be occasions when Victoria Police needs to consider whether to continue to employ a person who has continued to perform poorly, despite performance management measures, or who has engaged in misconduct. Victoria Police’s PDA System must be complemented by an effective discipline system that supports and enforces ethical and professional standards for Victoria Police. Without such a system, the integrity, efficiency and morale of the organisation is placed at risk and the ability of senior command to lead Victoria Police is compromised.

In its 2007 report the OPI described the discipline system for police as “archaic, punitive, bureaucratic, and slow” and the review and appeals processes “numerous, inconsistent, excessively formal and slow”. The Inquiry agrees with these descriptions, and observes that the discipline system for sworn police is fundamentally the same in 2011 as it was in 2007. Of particular concern to the Inquiry is the fact that there are separate, widely divergent discipline systems within Victoria Police for sworn police and for public servants.

There are six key processes in the existing Victoria Police disciplinary system for sworn police. These are outlined in Table 10.66

Table 10: Key disciplinary processes

<table>
<thead>
<tr>
<th>Process</th>
<th>Outline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management</td>
<td>Local managers may resolve customer service issues and minor complaints using alternative discipline resolution processes67</td>
</tr>
<tr>
<td>Intervention Model</td>
<td></td>
</tr>
<tr>
<td>Breach of discipline</td>
<td>A member may be charged with a breach of discipline, an inquiry is held and, if the charge is found proven, a determination is made ranging from reprimand to dismissal68</td>
</tr>
<tr>
<td>Criminal charge found proven</td>
<td>If a member has been charged with a criminal offence punishable by imprisonment and the charge is found proven, the Chief Commissioner may take action ranging from reprimand to dismissal69</td>
</tr>
<tr>
<td>Commissioner’s no</td>
<td>The Chief Commissioner may dismiss a member who the Chief Commissioner is satisfied is unsuitable, having regard to the member’s integrity and the potential loss of community confidence if the member were to continue70</td>
</tr>
<tr>
<td>confidence power</td>
<td></td>
</tr>
<tr>
<td>Fitness for duty</td>
<td>An inquiry may be held into a member’s fitness for duty and, if the member is found to be unfit, a determination is made to transfer, reduce the rank or dismiss the member71</td>
</tr>
<tr>
<td>Probationary officers</td>
<td>The Commissioner may terminate an appointment at any time during a period of probation72</td>
</tr>
</tbody>
</table>

The Police Appeals Board can review some of the outcomes of these processes, as noted in Table 11.

65 Office of Police Integrity (2007), *A fair and effective Victoria Police discipline system*, Office of Police Integrity, Victoria , p. 3, 14
66 A detailed exposition of these processes is set out in Appendix Two of Office of Police Integrity (2007), *A fair and effective Victoria Police discipline system*, p. 81-94
68 Police Regulation Act 1958, Part IV, Division 2
69 Ibid., Part IV, Division 3
70 Police Regulation Act 1958, Part IV, Division 1
71 Ibid., Part IV, Division 4
72 Ibid., s 8(5)
Table 11: Provisions for Police Appeals Board review

<table>
<thead>
<tr>
<th>Process</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breach of discipline</td>
<td>Review determinations ranging from imposing a period of ineligibility for promotion and transfer to dismissal by conducting a rehearing; either affirm decision, set aside decision and substitute a new decision (including reinstatement of a dismissed member), or set aside decision and refer matter to Chief Commissioner for determination in accordance with the Board’s directions73</td>
</tr>
<tr>
<td>Criminal charge found proven</td>
<td>Review determinations as for breach of discipline</td>
</tr>
<tr>
<td>Commissioner's no</td>
<td>Review dismissal and, if satisfied that the decision to dismiss was not “sound, defensible or well founded”, order reinstatement or payment of compensation of up to 12 months remuneration74</td>
</tr>
<tr>
<td>confidence power</td>
<td>Review determinations as for breach of discipline</td>
</tr>
<tr>
<td>Fitness for duty</td>
<td>Review determinations as for breach of discipline</td>
</tr>
</tbody>
</table>

In addition, the Supreme Court of Victoria has supervisory jurisdiction over these disciplinary processes.

By contrast, public servants employed in Victoria Police are subject to a much simpler disciplinary process. The prescriptive, statutory disciplinary regime that once applied to Victorian public servants was repealed on the commencement of the Public Sector Management Act 1992. Although the current legislation, the Public Administration Act 2004, contemplates that regulations may be made to establish procedures for dealing with allegations of unsatisfactory performance or misconduct,75 no such regulations are in force.

Instead, clause 17 of the Victorian Public Service Agreement 2006 (2009 Extended and Varied Version)76 sets out the process by which the employer of public servants working for Victoria Police, the Chief Commissioner, can manage unsatisfactory work performance and misconduct. Where an employee is alleged to have engaged in misconduct, a three step process must be followed:77

- an investigation of the allegations, to determine whether the allegations are substantiated or not substantiated;
- an opportunity for the employee to respond to the findings of the investigation and a recommendation about a proposed discipline outcome; and
- a determination of the discipline outcome by the Chief Commissioner.

The same process may be used to address repeated, continued or serious poor performance, although the agreement provides a separate process for managing unsatisfactory work performance.78

The Inquiry considers that this discipline process balances simplicity with fairness, in a way that can produce timely outcomes that are not possible for sworn police.

There are also notable differences between the two discipline regimes in the areas of:

- concurrent criminal processes;

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73 Ibid., ss 91F and 91G
74 Ibid., ss 68B-68D
75 Public Administration Act 2004, s 22
76 An agreement certified under the Workplace Relations Act 1996 (Cth), now a transitional instrument for the purposes of the Fair Work Act 2009 (Cth)
77 Victorian Public Service Agreement 2006, clause 17.8.1
78 Victorian Public Service Agreement 2006, clause 17.7.3
• the range of possible discipline outcomes;
• organisational arrangements within Victoria Police; and
• external review.

concurrent criminal processes

Where the allegations of misconduct against a public servant are also the subject of a criminal investigation or criminal proceedings, there is no requirement to delay or cease the process of investigation and determination. The Chief Commissioner may make a decision about the continued employment of the public servant without awaiting the outcome of the criminal process.

This contrasts with the practice of Victoria Police in relation to sworn police facing criminal investigation or charges. In their case disciplinary charges are held in abeyance until the criminal process is concluded, due to a concern to avoid any risk of interfering with members’ concurrent rights to silence, to be presumed innocent and to receive a fair hearing. This cautious approach is compounded by section 86Q of the Police Regulation Act 1958, which enables the Chief Commissioner to direct a member to answer questions concerning a possible breach of discipline. Exercise of this power when there are criminal charges possible or pending is regarded by Victoria Police to be incompatible with the right to silence. The result is years of delay in the determination of serious disciplinary charges against sworn police, during which time the member concerned remains suspended, possibly with pay.

discipline outcomes

The possible discipline outcomes for public servants range from no action, through performance management, counselling and warning, to assignment (by agreement) to a lower classification level and termination of employment. They do not include the more punitive determinations of fines, imposition of a period of ineligibility for promotion or transfer, unlimited reduction in rank, seniority or remuneration or transfer to other duties, which remain in the list of determinations for sworn police. The list of determinations for police members should be revised.

organisational arrangements

Victoria Police itself deals with allegations of misconduct against police members and public servants separately, in different parts of the organisation. Allegations of misconduct against a public servant are investigated and determined in the People Department, while allegations of misconduct against a police member are investigated by the Ethical Standards Department and determined by a formal inquiry held under the Police Regulation Act 1958.

Reform of the discipline system applying to sworn police should include establishing consistent disciplinary arrangements for the entire workforce of Victoria Police, to be handled by one part of the organisation. In staffing this single disciplinary unit, Victoria Police can utilise both the human resources expertise within its People Department and the operational knowledge and investigative skills to be found within the Ethical Standards Department.

79 Victorian Public Service Agreement 2006 (2009 Extended and Varied Version), clause 17.8.3
80 Notwithstanding that any answer given may not be used as evidence in criminal proceedings: Police Regulation Act 1958, s 86Q(3)
81 Ibid., ss 70(2)(c) and 79(2)(c)
82 Victorian Public Service Agreement 2006 (2009 Extended and Varied Version), clause 17
83 Police Regulation Act 1958, s 76(1)
external review

A public servant whose employment is terminated by the Chief Commissioner for misconduct may make an unfair dismissal application to Fair Work Australia, on the basis that the dismissal was harsh, unjust or unreasonable.\footnote{Fair Work Act 2009 (Cth), Part 3-2} A dispute over a lesser discipline outcome may be heard by Fair Work Australia as the final step in the dispute resolution process under the Victorian Public Service Agreement 2006 (2009 Extended and Varied Version)\footnote{Victorian Public Service Agreement 2006 (2009 Extended and Varied Version), clause 10} Fair Work Australia, the successor to the Australian Industrial Relations Commission, is a generalist industrial relations tribunal with a broad, national jurisdiction across the public, private and community sectors.

By contrast, a police member who is dismissed by the Chief Commissioner may seek a review by the Police Appeals Board of that determination. Review may also be sought of the lesser determinations of imposition of a period of ineligibility for promotion or transfer, reduction in rank, seniority or remuneration, or transfer. The Police Appeals Board is established under Part V of the Police Regulation Act 1958 to hear appeals by police members. Its jurisdiction is confined to a limited range of matters arising under the Police Regulation Act 1958.\footnote{Police members may refer some disputes to Fair Work Australia for conciliation and arbitration under clause 11 of the new Victoria Police Force Enterprise Agreement 2011, which provides for dispute resolution. However, the clause excludes matters where there is a right of review or appeal to the Police Appeals Board, including the enlarged role given to the Police Appeals Board by clause 12 of the Agreement.}

The Inquiry considers it appropriate that disciplinary decisions made by Victoria Police, in particular a decision to dismiss, should be subject to external review. It is anomalous, however, that disciplinary decisions made in relation to public servants may be reviewed by Fair Work Australia, while sworn police members only have access to a review tribunal that deals exclusively with Victorian police members. The OPI noted this anomaly in its 2007 report, and specifically recommended that police members should have access to external review of a decision to dismiss, on the basis that the decision was harsh, unjust or unreasonable.\footnote{Office of Police Integrity (2007), A fair and effective Victoria Police discipline system, p. 63-66, 74}

There are a variety of arrangements for external review of discipline outcomes in Australian jurisdictions and in New Zealand. Notable features of these arrangements are:

- Only Victoria, South Australia and Tasmania rely exclusively on a specialist police appeals tribunal to review discipline outcomes.

- Fair Work Australia reviews the dismissal of members of the Australian Federal Police and the Northern Territory Police Service; it does not review the dismissal of members of any state police force.

- The state industrial relations commission reviews all discipline outcomes in New South Wales and Commissioner’s loss of confidence dismissals in Western Australia, while the generalist Employment Relations Authority reviews discipline outcomes in New Zealand.

- The Queensland Civil and Administrative Tribunal exercises both first instance and appeal jurisdiction over a range of police discipline matters.

- There is no provision for review of discipline outcomes short of dismissal federally or in South Australia.

Table 12 provides a comparison of arrangements for external review of discipline outcomes for Australia and New Zealand.
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Dismissal</th>
<th>Other outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victoria</td>
<td>Police Appeals Board</td>
<td>Police Appeals Board</td>
</tr>
<tr>
<td>Commonwealth</td>
<td>Fair Work Australia(^{88})</td>
<td>Not available</td>
</tr>
<tr>
<td>New South Wales</td>
<td>Industrial Relations Commission of New South Wales(^{89})</td>
<td>Industrial Relations Commission of New South Wales(^{89})</td>
</tr>
<tr>
<td>Queensland</td>
<td>Official misconduct(^{91})</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Queensland Civil and Administrative Tribunal (QCAT) Appeal Tribunal(^{92})</td>
<td>QCAT Appeal Tribunal</td>
</tr>
<tr>
<td></td>
<td>Other misconduct(^{93})</td>
<td></td>
</tr>
<tr>
<td></td>
<td>QCAT(^{94}) or</td>
<td>QCAT or</td>
</tr>
<tr>
<td></td>
<td>A commissioner for police service reviews(^{95})</td>
<td>A commissioner for police service reviews</td>
</tr>
<tr>
<td>South Australia</td>
<td>Police Review Tribunal(^{96})</td>
<td>Not available</td>
</tr>
<tr>
<td>Western Australia</td>
<td>Western Australian Industrial Relations Commission(^{97}) or Police Appeal Board(^{98})</td>
<td>Police Appeal Board</td>
</tr>
<tr>
<td>Tasmania</td>
<td>Police Review Board(^{99})</td>
<td>Police Review Board</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>Fair Work Australia (^{100}) or Disciplinary Appeal Board(^{101})</td>
<td>Disciplinary Appeal Board</td>
</tr>
<tr>
<td>New Zealand</td>
<td>Employment Relations Authority(^{102})</td>
<td>Employment Relations Authority</td>
</tr>
</tbody>
</table>

There is also a notable difference between the industrial relations systems in place in Victoria and the other states. In 1996, Victoria referred its industrial relations powers to the Commonwealth, while at

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\(^{88}\) *Australian Federal Police Act 1979 (Cth)*, ss 28, 40TE; *Fair Work Act 2009* (Cth), Part 3-2

\(^{89}\) *Police Act 1990 (NSW)*, s 181E, on the grounds that the dismissal was harsh, unreasonable or unjust

\(^{90}\) Ibid., s 174, on the grounds that the outcome was beyond power, or was harsh, unreasonable or unjust

\(^{91}\) Allegations of “official misconduct” against a police officer – i.e. allegations involving a criminal offence or a disciplinary breach providing reasonable grounds for termination – may be referred to QCAT for hearing and decision: *Crime and Misconduct Act 2001* (Qld), s 219F

\(^{92}\) Ibid., s 219M; *Queensland Civil and Administrative Tribunal Act 2009* (Qld), Chapter 2, Part 8

\(^{93}\) Police Service Administration Act 1990 (Qld), s 7.4

\(^{94}\) *Crime and Misconduct Act 2001* (Qld), s 219G

\(^{95}\) *Police Service Administration Act 1990* (Qld), Part 9

\(^{96}\) *Police Act 1998* (SA), Part 8, Division 1.

\(^{97}\) *Police Act 1892* (WA), Part IIB, Division 3 – appeal against removal of by Commissioner of Police due to loss of confidence in a member’s suitability to continue as a member, on the ground that the removal was harsh, oppressive or unfair

\(^{98}\) Ibid., s 33E

\(^{99}\) *Police Service Act 2003* (Tas), s 60 – the right of appeal is available only to a police officer of or below the rank of inspector.

\(^{100}\) *Fair Work Act 2009* (Cth), Part 3-2; see e.g. Isles *v Northern Territory Police, Fire and Emergency Services* [2010] FWA 9147

\(^{101}\) *Police Administration Act 1978* (NT), s 94

\(^{102}\) *Policing Act 2008* (NZ), s 56; *Employment Relations Act 2000* (NZ), Part 9, on the ground that the dismissal was unjustifiable based on an objective assessment of what a fair and reasonable employer could have done in all the circumstances.
the same time abolishing the Employee Relations Commission, Victoria’s generalist industrial relations tribunal. Other states did not refer industrial relations powers to the Commonwealth until 2009, and each referring state has retained its own state industrial relations tribunal.\(^{103}\)

In addition, Victoria has referred more of its industrial relations powers to the Commonwealth than any other Australian state. In New South Wales, for example, the referral of industrial relations powers excludes matters relating to State public sector employees, law enforcement officers and local government sector employees,\(^{104}\) and the Industrial Relations Commission of New South Wales continues to exercise jurisdiction in relation to the NSW public sector. The other referring states made similar exclusions from their referrals.\(^{105}\) By contrast, Victoria has referred powers in relation to the State’s public sector, including in relation to law enforcement officers. Only those matters considered essential to maintaining the integrity of the State are excluded from the referral.

Most police in Victoria are members of the Police Federation of Australia, an organisation of employees registered with Fair Work Australia. Like public servants who work for Victoria Police, their terms and conditions of employment are established by a federally certified agreement. Disputes about the operation of the current agreement are resolved by Fair Work Australia, and negotiations for a new agreement took place within the framework established by the *Fair Work Act 2009* (Cth). Fair Work Australia, however, may not at present review discipline decisions made in relation to police. Nor can it deal with disputes about promotion or transfer of police members. This is because the terms of the referral of Victoria’s industrial relations powers to the Commonwealth exclude matters “pertaining to probation, promotion, transfer from place to place or position to position, physical or mental fitness, uniform, equipment, discipline or termination of employment of law enforcement officers.”\(^{106}\)

The Inquiry recommends reconsideration of whether this exclusion is necessary to maintain “the integrity of state laws governing law enforcement officers”.\(^{107}\) This reconsideration should occur in conjunction with the review of the Police Appeals Board recently recommended by the OPI.\(^{108}\) The range of possible outcomes of this reconsideration include:

- retaining the Police Appeals Board as the external review body for police, while reforming its jurisdiction and processes in the ways recommended by the OPI;
- replacing the Police Appeals Board with external review by a combination of the Victorian Civil and Administrative Tribunal and the Independent Broad-based Anti-corruption Commission, in an adaptation of the model used in Queensland;
- enlarging the referral of industrial relations powers to the Commonwealth to enable Fair Work Australia to hear and determine unfair dismissal applications by police, while retaining the Police Appeals Board to review a limited range of matters concerning transfers, promotions and discipline outcomes short of dismissal; or
- utilising Fair Work Australia as the sole external review body for police, in the same way that it is currently available for public servants with a grievance concerning promotion, transfer or a discipline outcome or with an unfair dismissal claim.

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\(^{103}\) Western Australia has not referred its industrial relations powers to the Commonwealth.

\(^{104}\) *Industrial Relations (Commonwealth Powers) Act 2009* (NSW), s 6

\(^{105}\) *Fair Work (Commonwealth Powers) and Other Provisions Act 2009* (Qld), s 6; *Fair Work (Commonwealth Powers) Act 2009* (SA), s 6; *Industrial Relations (Commonwealth Powers) Act 2009* (Tas), s 6

\(^{106}\) *Fair Work (Commonwealth Powers) Act 2009*, s 5(2)(b)

\(^{107}\) *Victorian Parliamentary Debates, Legislative Assembly*, 2 June 2009, p. 1437

Recommendation 9

That the Government fully implement the recommendations of the Office of Police Integrity for reform of the discipline system for police, made in its reports A fair and effective Victoria Police discipline system (2007) and Improving Victorian policing services through effective complaint handling (2008), with a view to:

- reducing or eliminating the differences between the disciplinary arrangements for police and public servants;
- reducing the complexity and speeding up the process; and
- streamlining and simplifying review and appeal rights.

Recommendation 10

That Victoria Police continues to implement the recommendations of the Office of Police Integrity for reform of the discipline system for police.

Recommendation 11

That the Government consider enlarging the referral of Victoria’s industrial relations powers to the Commonwealth to enable Fair Work Australia to hear unfair dismissal applications by police and to deal with disputes about transfer, promotion and discipline decisions concerning police. This reconsideration should occur in conjunction with the review of the Police Appeals Board recommended by the Office of Police Integrity in its report Enabling a flexible workforce for policing in Victoria (2011).
4 legislative reform

4.1 overview

An Act for the Regulation of the Police Force was first assented to by the Lieutenant-Governor of Victoria in January 1853. That Act enabled the Lieutenant-Governor to appoint a Chief Commissioner of Police and other officers of police for the colony of Victoria. The constitution of Victoria Police today is based on the constitution of the police force first established by the 1853 Act.

Victoria’s police legislation was consolidated in 1865, in 1873, in 1890, in 1915, in 1928 and most recently in 1958. Since the current legislation, the Police Regulation Act 1958, was first enacted it has been amended well over 100 times. The result is a piecemeal statute without a coherent structure that is poorly suited to the demands of modern policing.

Two examples serve to illustrate the pressing need for revision of the Police Regulation Act 1958:

- Section 5 is headed “Authority of the Chief Commissioner and officers”. Section 5(1) provides that the Chief Commissioner has, subject to the directions of the Governor in Council, the superintendence and control of the force. Section 5(2) gives the Chief Commissioner explicit power to determine the uniform and equipment to be worn or carried by members of the force. Other express powers of the Chief Commissioner, which deal with more weighty matters than uniform and equipment, are scattered throughout the Act; and

- Part III of the Act contains various historic provisions about the pension entitlements of police, including provisions applicable to police appointed before 25 November 1902. Police superannuation entitlements have long been provided for in the Emergency Services Superannuation Act 1986.

In 2001 the Johnson Review found a need for “a comprehensive review of the police administrative legislation and the introduction of contemporary laws suitable for a modern, properly regulated police service”. Recommendation 11 of the Johnson Review was for the preparation of new police legislation:

“In view of the inadequate and piecemeal nature of the Police Regulation Act 1958, based on legislation that stems back to 1853, new and comprehensive legislation for the good governance of Victoria Police be prepared for a contemporary, properly regulated police service responsive to the requirements of the government, the courts, police officers and the community.

- The Police Regulation Act 1958 be repealed and replaced by new legislation that has as its centrepiece the relationship between the Government through the responsible Minister and the Chief Commissioner, governed by the proposed arrangements set out in Recommendations 1 to 10.

- The proposed legislation be developed in consultation with key stakeholders including Victoria Police, The Police Association, the Community and Public Sector Union, the Ombudsman, the Department of Justice, the Police Appeals Board (or the Police Career Service Commission) and other areas of Government administration, and the wider community.”

This recommendation was accepted by the then Government, and work commenced on preparation of legislation to replace the Police Regulation Act 1958. A draft Victoria Police Bill was circulated to stakeholders for consultation in July 2004, following which The Police Association objected strongly to aspects of the draft Bill. The Bill was never presented to Parliament.

Substantial amendments to the Police Regulation Act 1958 were proposed in the Police Regulation Amendment Bill 2008. Again, The Police Association opposed many of the proposed amendments in the 2008 Bill and campaigned vigorously against it. The 2008 Bill was defeated in the Legislative Council in October 2009.

By contrast, every Australian state other than Western Australia has enacted new police legislation since 1990. Police legislation federally and in the Northern Territory dates from the late 1970s, while New Zealand recently replaced its Police Act 1958 (NZ) with the Policing Act 2008 (NZ).

**Recommendation 12**

That the Police Regulation Act 1958 be repealed and replaced with a new Police Act that will provide the basis for a modern, responsive and accountable police force for Victoria. Key features of a new Police Act should include:

- articulation of the relationship between Victoria Police and Government;
- a statement of the constitution and role of Victoria Police;
- provisions enabling a more flexible workforce for Victoria Police; and
- improved provisions for performance management and discipline.

**4.2 relationship between Victoria Police and Government**

The relationship between Victoria Police and Government sets the context in which the effectiveness of the senior command of Victoria Police is judged. At present the relationship is poorly defined by a combination of convention, legislation, administrative and financial accountability mechanisms. The Inquiry considered existing arrangements in Victoria and models adopted elsewhere in Australia and New Zealand as a basis for the model it recommends for inclusion in the new Police Act.

**4.2.1 convention**

Victoria Police is part of the Executive arm of government. Under the Westminster system of ministerial accountability, the Minister for Police and Emergency Services is responsible to Parliament for the performance of Victoria Police.

Sworn members of Victoria Police exercise the powers of the independent office of constable to keep the peace, to prevent crime and to detect and apprehend offenders. In order to perform their law enforcement duties police are permitted to use coercive powers, including use of reasonable force, the power of arrest, the power to enter and search premises and the power to seize and hold property.

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110 Western Australia still operates under the Police Act 1892 (WA)
There is longstanding recognition that police are independent and not subject to direction in the performance of their duties and the exercise of coercive powers.\textsuperscript{111}

There is a tension between the democratic accountability of police to the political institutions of government and the independence of police in the performance of their law enforcement duties.\textsuperscript{112} Resolution of this tension is left largely to an unwritten convention or "rule of thumb" that Government is responsible for setting policy objectives, while Victoria Police is responsible for operational matters. As the Johnson Review noted:\textsuperscript{113}

"While this principle is widely accepted, its application in specific instances can be quite vexed and create confusion between Government and the Police and, consequently, within the community."

The Inquiry agrees that over-reliance on convention can create confusion and may obscure certainty and transparency in the relationship between Government and Victoria Police.

Victoria Police recognises the convention that the Minister has a general right to seek and obtain information, and that it is responsible for keeping the Minister informed about matters within the police portfolio. Victoria Police has attempted to document agreed procedures for communication between the Office of the Minister and the Office of the Chief Commissioner that reflect this convention, although the document provided to the Inquiry was a draft of uncertain status. This presents scope for greater certainty and transparency.

### 4.2.2 Legislation

The Police Regulation Act 1958 contains two principal mechanisms that define the relationship between Victoria Police and Government:

- the Chief Commissioner and the Deputy Commissioners are appointed by the Governor in Council;\textsuperscript{114} and

- the Chief Commissioner’s superintendence and control of the force is subject to the directions of the Governor in Council.\textsuperscript{115}

The Inquiry is not aware of any instance in which the Governor in Council has formally exercised the power to direct the Chief Commissioner.

The Police Regulation Act 1958 currently contains no statement of the respective roles and responsibilities of Victoria Police and the Chief Commissioner on the one hand, and the Government on the other. There is no recognition in the Act of the Minister’s responsibility to Parliament for the performance of Victoria Police. There is no established process in the Act by which the Minister can direct Victoria Police to pursue specific policy objectives or require it to account for its performance.

In addition to the Chief Commissioner’s role as operational head, the Chief Commissioner is also the chief executive officer of Victoria Police. In this capacity, the Chief Commissioner is:

- the accountable officer for Victoria Police under section 42 of the Financial Management Act 1994; and

\textsuperscript{111} R v Enever (1906) 3 CLR 969; Attorney-General for New South Wales v The Perpetual Trustee Company (Limited) (1952) 85 CLR 237
\textsuperscript{113} Ibid., p. 37.
\textsuperscript{114} Police Regulation Act 1958, ss 4(1) and 4(2)
\textsuperscript{115} Ibid., s 5(1)
the employer of public service staff employed in Victoria Police, by virtue of section 16 of the Public Administration Act 2004.

4.2.3 **administrative and financial accountabilities**

The terms and conditions of appointment of two of the last three Chief Commissioners have required the Chief Commissioner to, among other things:

- develop and implement policing strategies which are in accord with Government priorities; and
- ensure that Victoria Police manages its resources within its overall budgetary allocation in accordance with Government policies and priorities.

These requirements for the Chief Commissioner to act in accordance with Government priorities are entirely appropriate. The means by which Government priorities are communicated to the Chief Commissioner, however, were described by one former incumbent as “haphazard”. In practice, the Chief Commissioner gleans Government priorities from a variety of sources, including:

- policies announced by the Government prior to its election;
- communication during the regular meetings between the Chief Commissioner, the Minister and the Department of Justice;
- policing strategies discussed at interview prior to appointment as Chief Commissioner;
- media reports; and
- acceptance by Government of statements of priorities by Victoria Police, such as the current strategic plan *The Way Ahead 2008-2013*.

The haphazard communication of Government priorities to the Chief Commissioner is compounded by the fact that there is no regular, formal appraisal of the Chief Commissioner’s performance by anyone within Government. This contrasts with the position of departmental secretaries and other agency heads across Victorian Government, whose performance is assessed at least annually against agreed performance plans.

The absence of any regular performance appraisal of the Chief Commissioner by Government was attributed to the fact that the Chief Commissioner’s remuneration package does not include a performance related incentive component. The Inquiry agrees that remuneration of the Chief Commissioner should not include a performance component, because of the potential for this to compromise the Chief Commissioner’s operational independence. This should not, however, prevent regular appraisal of the Chief Commissioner’s individual performance against stated expectations, in the same way as other agency heads.

There is a need for the Government’s policy priorities to be communicated clearly to the Chief Commissioner and for the Chief Commissioner, as the head of Victoria Police, to be held accountable for the achievement of those priorities. In the Inquiry’s view Government priorities should be communicated by a more transparent means than a private performance agreement between the Chief Commissioner and Government.

The most detailed statement of Government’s expectations of Victoria Police is to be found in the annual budget papers. As noted in Chapter 2, in the current financial year Victoria Police was allocated a budget of $2.88 billion for the provision of specified policing services. It is held accountable for the delivery of those services against 12 agreed performance measures, under the headings of Quantity, Quality and Timeliness. The same performance measures are set out in the Victoria Police Business Plan 2011-2012, in the context of a statement of Victoria Police’s operational priorities for the current year. The process by which these performance measures for Victoria Police are determined is opaque.
Victoria Police reports its performance against these measures to the Department of Justice, which in turn reports to the Department of Treasury and Finance. This information is scrutinised by the Public Accounts and Estimates Committee (PAEC).

4.2.4 other models

Police legislation elsewhere in Australia and New Zealand contain provisions that articulate, in various ways, the relationship between government and police.

In both Queensland and South Australia, the legislation provides that the Commissioner of Police has responsibility for the control and management of the police service, subject to any written directions from the Minister regarding administrative matters. Similar provisions are found in the Australian Federal Police Act 1979 (Cth), under which the Minister may give written directions to the Commissioner with respect to the general policy to be pursued in relation to the performance of the functions of the Australian Federal Police.

New Zealand’s Policing Act 2008 contains an explicit statement as to the responsibilities of the Commissioner, including giving effect to any lawful ministerial directions and matters in which the Commissioner must act independently of any Minister of the Crown.

Appendix C provides detail of the specific provisions contained in the Queensland, South Australian, New Zealand and federal police legislation regarding the relationship between government and police.

By contrast, in each of New South Wales, Tasmania and the Northern Territory, the police legislation states simply that the Commissioner is subject to the direction of the Minister. In Western Australia the Commissioner of Police is charged with the control and management of the police force, and is not subject to Ministerial direction.

Recommendation 13

That the new Police Act for Victoria articulate the relationship between the Government, through the responsible Minister, and Victoria Police, through the Chief Commissioner, by including:

- a power for the Minister to direct the Chief Commissioner on matters of policy, qualified so as to safeguard the independence of the Chief Commissioner in relation to operational matters and decisions concerning individual employees;
- a requirement for the Minister to obtain and consider the advice of the Chief Commissioner before making a direction;
- a requirement that any directions be in writing and be published;
- an obligation for the Chief Commissioner to give effect to any directions received from the Minister; and
- a power for the Minister to require information from the Chief Commissioner, and a corresponding obligation for the Chief Commissioner to provide information when required by the Minister.

116 Police Service Administration Act 1990 (Qld), s 4.8(1), s 4.6(2); Police Act 1998 (SA) s 6, s 7
117 Police Act 1990 (NSW), s 8(1); Police Service Act 2003 (Tas), s 7(1); Police Administration Act 1978 (NT), s 14(2)
118 Police Act 1892 (WA), s 5
4.3 constitution and role of senior command

At present the constitution and legal status of Victoria Police is not clearly defined in the Police Regulation Act 1958, and there is no statement of the role and functions of Victoria Police and the Chief Commissioner. This section examines the relevant provisions of the Police Regulation Act 1958, looks at models in other Australian jurisdictions and in New Zealand, and recommends a model for inclusion in a new Police Act for Victoria.

An issue of concern to the Inquiry has been the appropriateness of the current mechanisms for making senior appointments to Victoria Police, in particular whether Deputy Commissioners and Assistant Commissioners should be Governor in Council appointments. This issue is discussed separately.

4.3.1 current provisions

Section 4(1) of the Police Regulation Act 1958 enables the Governor in Council to appoint a Chief Commissioner of Police, and suspend, reduce, discharge or dismiss any such Chief Commissioner. The Governor in Council may also appoint up to four Deputy Commissioners and up to ten Assistant Commissioners. Each of the Chief Commissioner, the Deputy Commissioners and the Assistant Commissioners may be appointed for a term of up to 5 years. The Chief Commissioner in turn may appoint members of the force at ranks ranging from constable to commander, in such numbers “as the Governor in Council thinks necessary”.

Victoria Police itself is not established or given any recognition by the Police Regulation Act 1958. The Act defines “the force” to mean “officers and other members of the police force of Victoria whether employed upon land or water”, a definition which probably excludes the public servants employed in Victoria Police.

The Chief Commissioner is the legal person with the overall superintendence and control of the force, on whom the powers and functions set out in the Act are conferred. These powers and functions may be delegated by the Chief Commissioner, with few restrictions. In addition a Deputy Commissioner, by virtue of section 6, may exercise the powers and functions of the Chief Commissioner.

The Police Regulation Act 1958 contains no statement of the role of Victoria Police or the Chief Commissioner. As already noted, the powers and functions of the Chief Commissioner are scattered throughout the Act without any apparent structure or underlying principle. The past three Chief Commissioners have had a detailed position description, but this has not been a public document.

In 2001 the Johnson Review examined these provisions and recommended that new police legislation for Victoria should include:

- a statement of the role and functions of Victoria Police;
- a new, contemporary role statement for the Chief Commissioner, including responsibility for command and management of Victoria Police to ensure the effective, efficient and ethical performance of the organisation’s role and conduct of its operations; and
- a non-exhaustive list of specific functions for which the Chief Commissioner is responsible.

119 Police Regulation Act 1958, s 4(2)
120 Ibid., ss 4(1), 4(2AA)
121 Ibid., s 6
122 Ibid., s 3(1)
123 Ibid., s 6A
124 Ibid., s 6(1)
125 Johnson, J (2001), Ministerial Administrative Review into Victoria Police Resourcing, Operational Independence, Human Resource Planning and Associated Issues, Recommendations 1, 2 and 3
4.3.2 Other models

The police legislation in each of New South Wales, Queensland, South Australia and the Northern Territory contains provisions that set out the functions of the police service in that jurisdiction. Functions common to these police forces are upholding the law, preserving peace and good order, preventing and detecting crime, protecting persons and property, and emergency management. These are similar to the mission and objectives of Victoria Police set out in its Code of Conduct.

The police legislation in New South Wales, Queensland and South Australia also sets out the main responsibilities of the Commissioner.

Section 8 of the Australian Federal Police Act 1979 (Cth) lists the functions of the Australian Federal Police, with the Commissioner’s command powers set out in Part IV of the Act.

In New Zealand, the Policing Act 2008 sets out the functions of the New Zealand police service which are similar to those outlined in the Queensland, South Australia, New South Wales and Northern Territory police legislation. The Act also sets out the responsibilities and independence of the Commissioner.

Appendix D outlines in more detail the specific provisions mentioned above.

The Western Australian Police Act 1982 is similar to the current Victorian Act, in making no provision for the establishment, legal status or description of the role of the police force.

The Police Service Act 2003 (Tas) establishes the Police Service for Tasmania and lists the ranks that comprises the Police Service. While the Tasmanian legislation contains no statement of the role and functions of the Police Service, section 7 lists the main responsibilities of the Commissioner.

**Recommendation 14**

That the new Police Act contain provisions that clearly outline the status, constitution and functions of Victoria Police by:

- recognising the existence of the body known as Victoria Police;
- stating that Victoria Police is comprised of persons appointed under the Police Act and persons employed by the Chief Commissioner under the Public Administration Act 2004;
- stating the functions of Victoria Police, in terms similar to those used in the police legislation in Queensland, South Australia, the Northern Territory and New Zealand and in the mission and objectives in the Victoria Police Code of Conduct; and
- describing the role, responsibilities and functions of the Chief Commissioner.

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126 Police Act 1990 (NSW) s 6; Police Service Administration 1990 (Qld) s 2.3; Police Act 1998 (SA) s 5; Police Administration Act 1978 (NT) s 5.2
127 See Section 2.4
128 Police Act 1990 (NSW) s 8; Police Service Administration 1990 (Qld) s 4.8; Police Act 1998 (SA) s 6;
129 Policing Act 2008 (NZ) s 9
4.4 senior police appointments

This section of the report examines arrangements for the appointment and termination of the Chief Commissioner, Deputy Commissioners and Assistant Commissioners of Victoria Police. The power to appoint and remove the most senior police officers is central to the relationship between Government and Victoria Police. The arrangements also bear on the effectiveness of senior command.

The Inquiry has considered the current arrangements in light of:

- the need to maintain and protect the operational independence for Victoria Police;
- the role of the elected Government in setting and achieving policy objectives for police, in part by having input into the selection, appointment and, if necessary, removal of senior police officers;
- the Chief Commissioner’s accountability for the performance of Victoria Police;
- the accountabilities of other senior police officers; and
- the broader need for accountability of Victoria Police to the community through the Minister, the Government and the Parliament.

4.4.1 chief commissioner

The Chief Commissioner is appointed by the Governor in Council, under section 4 of the Police Regulation Act 1958. “Governor in Council” means the Governor with the advice of the Executive Council,130 the elected Government.

In practice, all full time statutory appointments are brought by the responsible Minister to Cabinet for approval before advice is tendered to the Governor in Council. Consistent with this practice, the appointment of the Chief Commissioner is made following a decision by Cabinet.

The appointment of the last three Chief Commissioners by the Governor in Council was preceded by a selection process involving:

- public advertisement seeking applications for the position and an international search by an executive recruitment firm;
- an interview by a panel comprising the Secretary of the Department of Premier and Cabinet, the Secretary of the Department of Justice, a senior police officer from another jurisdiction, and eminent persons from the community or private sector; and
- a further interview by a panel including the Premier and the Minister for Police and Emergency Services.

The Inquiry considers that the Chief Commissioner should continue to be appointed by the Governor in Council. The position is one of the most significant positions in the Victorian public sector, and is integral to the rule of law and to the peace, order and good government of Victoria. The current arrangements for appointment of the Chief Commissioner are consistent with those for appointments to other significant offices within the justice system. Judges, magistrates, the Director of Public Prosecutions and the Director of Police Integrity are all appointed by the Governor in Council.131

130 Interpretation of Legislation Act 1984, s 38
131 Constitution Act 1975, ss 75B(2) (Supreme Court judges), 87AB (Director of Public Prosecutions); County Court Act 1958, s 8 (County Court judges); Magistrates Court Act 1989, s 7 (magistrates); Police Integrity Act 2008, s 10 (Director of Police Integrity)
The requirement that the Chief Commissioner be appointed by the Governor in Council is also generally consistent with the appointment of police heads in other Australian jurisdictions, as outlined in Table 13.

**Table 13: Appointment processes for senior police**

<table>
<thead>
<tr>
<th>Jurisdiction and rank</th>
<th>Governor in Council / Governor</th>
<th>Governor (on recommendation of the Minister)</th>
<th>Governor (on recommendation of other body)</th>
<th>Governor (on recommendation of Commissioner)</th>
<th>Commissioner of Police</th>
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The Inquiry has no difficulty with the selection of the Chief Commissioner of Victoria Police being a decision for the elected Government of the day. It sees no need for legislative prescription of the selection process, given the robust selection processes that have been undertaken in the past and the process currently being undertaken.
4.4.2 deputy commissioners

Deputy Commissioners of Victoria Police are also appointed by the Governor in Council.132

It is not clear why this is the case. Historically, all members of Victoria’s police force except constables were appointed by the Governor in Council or, under the 1853 Act, by the Lieutenant Governor. When the Police Regulation Act 1958 was first enacted the appointment of officers and sergeants was still a matter for the Governor in Council; the Chief Commissioner had power to appoint only “constables first constables and senior constables”.133 The Chief Commissioner now makes appointments to all ranks from constable to commander.134

When the position of Deputy Commissioner was created in 1962, the Act was also amended to authorise a Deputy Commissioner to exercise the powers of the Chief Commissioner.135 The conferral of the Chief Commissioner’s powers on Deputy Commissioners is often put forward as the reason why Deputy Commissioners should be appointed by the Governor in Council.136 It was on this basis that the Johnson Review concluded that Deputy Commissioners should continue to be Governor in Council appointments.

The appointment of Deputy Commissioners by the Governor in Council is generally consistent with the appointment of Deputy Commissioners in other Australian jurisdictions as outlined in Table 13. In New South Wales and Queensland, however, the appointment of a Deputy Commissioner is made by the Governor in Council on the recommendation of the Commissioner of Police.

The Inquiry sought the views of interviewees as to whether Deputy Commissioners should continue to be appointed by the Governor in Council. Their responses raised different, and more difficult, issues than those considered by the Johnson Review.

Former Chief Commissioners Christine Nixon and Simon Overland were strongly of the view that the appointment of Deputy Commissioners should be a matter for the Chief Commissioner, not for the Governor in Council. Ms Nixon said, that since she had been given the responsibility to run the organisation and all the powers of Chief Commissioner, it was an anachronism that she did not have power to appoint her deputies. Mr Overland told the Inquiry that it potentially confused the accountabilities at the top level. He said:

“At the end of the day the Chief Commissioner is responsible for the running of the organisation and has the statutory responsibility for that. I can’t see why you distinguish deputy commissioners from assistant commissioners or anyone else. My view is that the Chief Commissioner of the day should be able to appoint the people he/she wants into those roles and it should be a matter exclusively for the Chief Commissioner of the day to do that. I think that those people are then subject to the same employment arrangements as the assistant commissioners are, which essentially means they’re on a contract and that is as it should be.”

“I think it’s important though that some of the other things that we talked about happened in that context so that there is a powerful ministerial direction, so on and so forth. So, it is absolutely about ensuring that the Chief Commissioner of the day is properly accountable for delivery of legitimate government objectives and priorities but then it’s absolutely a matter for the Chief Commissioner as to how they go about that. I think the current framework just can

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132 Police Regulation Act 1958, s 4(2)
133 Ibid., (as enacted), ss 4, 8
134 Ibid., s 8
135 Ibid., s 6(1), inserted by the Police Regulation Act 1962, s 2(b)
136 See for example the discussion in Johnson, J (2001), Ministerial Administrative Review into Victoria Police Resourcing, Operational Independence, Human Resource Planning and Associated Issues, p. 59
create confusion in some people's minds as to where responsibilities begin and end and it is best to be absolutely clear about these things.”

Former Deputy Commissioner Jones, on the other hand, urged the appointment of both Deputy Commissioners and Assistant Commissioners by the Governor in Council, as “part of a check and balance of a very, very important function within our democracy”. He explained his reasons for holding this view:

“… if you have too much patronage you finish up with blind loyalty, you finish up with collusive cultures, and you finish up with a situation where people feel unable/unwilling to challenge a chief or a deputy, and there’s a lot of nodding goes on. I think in policing it’s so important in a democracy - police exercise so much power over the cities and they have so much influence over peoples’ day to day lives that there needs to be some thought about how you manage the power you give to a Chief Commissioner, to his or her senior people.”

“I think that one of the ways of doing that within policing, and it happens in the UK, where the police authority appoints assistants and deputys. And in Victoria it would be better, in my opinion, if assistants and deputys were appointed by the Governor in Council. Providing they understood what that meant. And that means that their ultimately loyalty is to the law, their ultimately loyalty is to do what's right, and not blind loyalty to the boss.”

Asked where he saw his accountabilities as a Deputy Commissioner appointed by the Governor in Council, Sir Ken Jones said:

“In day to day terms, to the Chief. I was there to assist him to direct and control the organisation, but in the broader sense I'd be accountable, ultimately, to the community, clearly. But obviously I had some accountability to the government as well.”

By contrast, other interviewees who have held the office of Deputy Commissioner said that they were accountable to the Chief Commissioner alone. Deputy Commissioner Kieran Walshe acknowledged the potential for dual accountabilities – to the Chief Commissioner on the one hand, and to the Government and the community on the other – but said:

“I see that if I ensure my accountability and responsibility to deliver what the Chief Commissioner directs me to or asks me to, if I do that then I will meet the accountabilities of the others, in terms of government and in terms of the community.”

The Inquiry considers that the appointment of Deputy Commissioners by the Governor in Council does potentially, and has actually, created confusion about where a Deputy Commissioner's accountability lies. As a Deputy Commissioner is appointed by the Governor in Council, and not the Chief Commissioner, it may be reasonable for a Deputy Commissioner to feel accountable to both the Chief Commissioner and to the Government. Any such dual accountability is, however, fraught with difficulty. To whom in Government is a Deputy Commissioner accountable? In what circumstances should a Deputy Commissioner provide advice or information directly to Government, independently of the Chief Commissioner?

The potential difficulties are amply illustrated by the history recounted in the Office of Police Integrity’s (OPI) recent report Crossing the Line. The OPI has recommended that Victoria Police policy and protocols be strengthened to ensure that personnel at executive level have a clear understanding of their respective and proper roles in communication with Government. While the Inquiry has no difficulty with this recommendation, it considers that more fundamental reform is required.

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137 Office of Police Integrity (2011), Crossing the Line – Report of an investigation into the conduct of a member of Victoria Police undertaking secondary employment as a Ministerial Adviser and his relationship with a Deputy Commissioner of Victoria Police, in particular p. 11-12; and p. 31-51
The Inquiry is of the view that Victoria Police should be accountable to the Government through the relationship between the Chief Commissioner and the Minister for Police and Emergency Services. It recommends that this relationship should be articulated with more clarity and given greater transparency than is currently the case. The elected Government should be able to select the Chief Commissioner, to give him or her direction as to the policies and priorities to be pursued by Victoria Police, to require and receive information and reports and, ultimately, to remove a Chief Commissioner from office. It is the Chief Commissioner who is accountable under legislation for the control and management of Victoria Police. There should be no potential confusion about the accountability of other senior officers, including Deputy Commissioners.

The appointment of Deputy Commissioners by the Governor in Council has not, in practice, been used as a check or balance on the power of the Chief Commissioner. Both Ms Nixon and Mr Overland selected the people who were appointed Deputy Commissioners during their respective times as Chief Commissioner. Notably, Mr Overland told the Inquiry that it was on his recommendation that Sir Ken Jones was appointed Deputy Commissioner. The selections were made following a merit based selection process conducted by Victoria Police, and were subsequently approved by Cabinet and appointed by the Governor in Council. An earlier difference of opinion between Chief Commissioner Comrie and the Government as to who should be appointed a Deputy Commissioner was resolved in favour of the person recommended by Mr Comrie.

There are existing checks and balances on the power of the Chief Commissioner, including:

- the power of the Governor in Council to direct the Chief Commissioner as to the superintendence and control of Victoria Police;
- the ability of the Governor in Council to remove or suspend the Chief Commissioner from office;
- the financial accountability of the Chief Commissioner under the Financial Management Act 1994;
- oversight by the Office of Police Integrity, which must investigate any complaint of substance made about the conduct of the Chief Commissioner;\(^{138}\) and
- the Ombudsman’s power to investigate public interest disclosures made under the Whistleblower’s Protection Act 2001.\(^ {139}\)

The Inquiry has recommended that the first of these checks should be enhanced by better articulating the relationship between Victoria Police and Government. It is Government policy to transfer the functions of Office of Police Integrity to the proposed Independent Broad Based Anti-Corruption Commission. With these changes, the Inquiry considers that there are adequate checks and balances on the power of the Chief Commissioner. Continuing the appointment of Deputy Commissioners by the Governor in Council is neither an effective nor a necessary additional protection against abuse of that power.

**Recommendation 15**

That the new Police Act provide that Deputy Commissioners are appointed by the Chief Commissioner rather than the Governor in Council.

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\(^{138}\) Police Integrity Act 2008, s 40(4)(a)
\(^{139}\) Whistleblowers Protection Act 2001, Part 5
4.4.3 assistant commissioners

Although section 4 of the *Police Regulation Act 1958* provides for the appointment of Assistant Commissioners by the Governor in Council, this power is not utilised. Instead, Assistant Commissioners are employed by the Chief Commissioner under contract pursuant to the *Public Administration Act 2004* for periods up to 5 years.\(^{140}\) For the purposes of the *Public Administration Act 2004*, Assistant Commissioners are considered ‘executives’, with the Chief Commissioner having ‘agency head’ (i.e. ‘employer’) functions and powers in respect of Assistant Commissioners.\(^{141}\) Assistant Commissioners are employed by the Chief Commissioner on the same basis as the unsworn executives who work for Victoria Police.

A variety of arrangements apply in other Australian jurisdictions for the appointment of Assistant Commissioners, as outlined in Table 13.

Given that the Chief Commissioner is the operational head and chief executive officer of Victoria Police, and is ultimately accountable for its performance, the Inquiry agrees that the Chief Commissioner should be able to appoint senior managers, both sworn police and public servants. The Inquiry considers that the Chief Commissioner should have the power to appoint Assistant Commissioners, in the short term by continuation of the current arrangement, and in the longer term by including that power in the new Police Act.

At present there is a legislative maximum of ten Assistant Commissioners. The rationale for this limit is unclear. The Inquiry considers that the Chief Commissioner should be able to assemble a senior management team without this apparently arbitrary constraint.

**Recommendation 16**

That the new Police Act provide that Deputy Commissioners and Assistant Commissioners are to be appointed by the Chief Commissioner. The maximum term of appointment should continue to be 5 years. There should be no limit on the maximum number of Deputy Commissioners and Assistant Commissioners.

4.5 termination of senior officers

Currently the Governor in Council has power to suspend, reduce in rank, discharge or dismiss the Chief Commissioner or a Deputy Commissioner.\(^{142}\) The exercise of this power does not depend on the existence of specified grounds or cause for removal. While the power is unfettered, procedural fairness must be observed before it is exercised.\(^{143}\)

As the employer of Assistant Commissioners under the *Public Administration Act 2004*, the Chief Commissioner may dismiss an Assistant Commissioner. If Deputy Commissioners were also appointed by the Chief Commissioner, the power to dismiss a Deputy Commissioner would then reside with the Chief Commissioner.

Table 14 shows comparable provisions in other Australian jurisdictions.

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140 *Public Administration Act 2004*, Part 3, Division 5 and s 104(3)(c)
141 This was made possible by a declaration made on 12 April 2005 under s 104 of the *Public Administration Act 2004* that Assistant Commissioner of Police is a “declared authority” and specifying the Chief Commissioner of Police as the relevant public service agency head.
142 *Police Regulation Act 1958*, s 4(1), 4(2)
143 *Jarratt v Commissioner of Police (NSW)* (2005) 224 CLR 44
Table 14: Grounds for suspension, reduction in rank, discharge or dismissal of the Chief Commissioner and a Deputy Commissioner

<table>
<thead>
<tr>
<th>Grounds</th>
<th>VIC</th>
<th>NSW</th>
<th>QLD</th>
<th>SA</th>
<th>WA</th>
<th>TAS</th>
</tr>
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<tbody>
<tr>
<td>No reason required</td>
<td>✓</td>
<td>✓*</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Incapacity</td>
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<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Incompetence/unsatisfactory</td>
<td></td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>performance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Conviction</td>
<td>✓</td>
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<td>✓</td>
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<td>✓</td>
<td>✓</td>
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<tr>
<td>Bankruptcy</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Breach of contract</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Misconduct</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Outside employment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Although a reason for the Commissioner’s removal from office is not required, a recommendation for removal may only be made after the Minister has notified the Police Integrity Commission and has given them a reasonable opportunity to comment on the proposed recommendation.144

The Inquiry sees no need to prescribe in legislation the grounds on which the Chief Commissioner may be removed or suspended from office. As discussed earlier in this chapter, the power to remove or suspend the Chief Commissioner is one of the checks on the power of the Chief Commissioner, and is the ultimate means by which the Government can hold the Chief Commissioner to account. Advice from the Executive Council to the Governor to exercise the power would only be tendered following a decision by Cabinet, for which the Government would be politically accountable.

4.6 future capability

In Chapter 3, the Inquiry has recommended the implementation of a number of recommendations made by the Office of Police Integrity that will improve the future capability of Victoria Police. Legislative change is needed to implement some of these recommendations, in particular those for:

- reform of appeals to the Police Appeals Board against transfer and promotion of police;145 and
- replacement of the out-dated discipline system for police with a more effective model that places greater emphasis on performance management than on punishment.146

The development of a new Police Act for Victoria presents an opportunity to make these necessary changes.

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144 Police Act 1990 (NSW) s.28
145 Office of Police Integrity (2011), Enabling a flexible workforce for Victoria Police, p. 42
146 Office of Police Integrity (2007), A Fair and Effective Victoria Police Discipline System, p. 73-75
Recommendation 17

That the new Police Act implement the legislative changes recommended by the Office of Police Integrity for:

- reform of appeals against transfer and promotion of police, in its report *Enabling a flexible workforce for Victoria Police* (2011); and

- reform of the discipline system for police, made in its reports *A fair and effective Victoria Police discipline system* (2007) and *Improving Victorian policing services through effective complaint handling* (2008).
5 structure of senior command

Changing the way in which an organisation is structured is not necessarily a solution for any real or perceived failure of the organisation to perform effectively. However, a poor structure can blur an organisation’s focus, hamper the flow of information and work, cloud accountability, reduce the speed of decision-making and responsiveness, and frustrate the people who work in it.

Good leaders will always find a way to work around a poor structure, but they should not have to. Structural change should not be viewed as an intermittent or one off event but rather a continuous process of review and alignment with the organisation’s strategies, business vision and changing operating environment. In other words, the organisation’s structure should be regularly reviewed to ensure it contributes to (or at least does not hamper) the organisation’s effectiveness in achieving its goals.

In examining options for a future structure of senior command, the Inquiry began with a first principles assessment of organisational structure and design. The Inquiry also considered other relevant factors, including:

- the role and desirable qualities of the Chief Commissioner of Victoria Police;
- lessons learned from changes to the senior command structure of Victoria Police under recent Chief Commissioners;
- the effectiveness of the current structure, composition and governance arrangements of senior command; and
- senior command structures in other Australian jurisdictions.

5.1 structure and design principles

The structure of an organisation refers to the way the various parts of the organisation are arranged and is most commonly reflected in an organisational chart. The organisational structure of a police force generally outlines the divisions, units, departments and other components of the organisation and the hierarchy of the key positions, including reporting lines.

There is no single best structure for any organisation, whether public or private. All structures have inherent strengths and weaknesses and all organisations have different capabilities and strategic considerations. Different structures will suit different operating environments and contexts. There are a number of important principles, however, that should inform an organisation’s structure:

- clear lines of accountability;
- no duplication of functions;
- manageable number of direct reports, between three and eight (appropriate span of control); and
- clarity of role and responsibilities.

Discussions with interviewees during the Inquiry clearly demonstrated that there is no universally accepted way to structure the senior command of any police organisation. Various models were put forward by interviewees, each with their own advantages and disadvantages. Inevitably, it is to be expected that there will be debate by individuals about the effectiveness of whichever model is adopted by Victoria Police, based on personal philosophies, experiences and beliefs. As long as logical organisational design principles are adhered to, minor differences in structure are generally not material to the organisation’s overall performance.
In the end, the way in which a police force is structured is only one of a number of significant factors that contribute to its overall effectiveness. A number of those people interviewed commented that structure only comprises around ten per cent of the performance of an organisation. A range of other factors have a much more significant impact on the effectiveness of senior command. For instance:

- culture;
- behaviour;
- morale;
- professionalism; and
- leadership.

It is the people and their conduct within the organisation that ultimately drive business outcomes. Therefore, having the right people with the appropriate skills and capabilities in suitable positions within the organisation is far more important than structure alone. Collaboration between senior officers and a commitment to a unified and cohesive senior leadership team is also essential to organisational success. Clear roles and decision-making processes that enable different parts of an organisation to work effectively together are also necessary to drive accountability and organisational performance.

Organisational performance is therefore dependant on three critical elements – structure, individual capabilities, roles and collaboration. It requires a process that starts with structure, proceeds to staffing that structure and then defining the roles and collaboration necessary to make that structure work effectively (see Figure 2). When structure, individual capabilities and roles and collaboration are in alignment and tightly linked with an organisation’s strategy, that organisation is geared for performance.147

Figure 2: Key elements of organisation design148

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147 Kilmann, J; Shanahan, M; Toma, A and Zielinski, K (2010), Demystifying Organization Design, Understanding the Three Critical Elements, Boston Consulting Group, p. 4
148 Ibid., p. 1 (The diagram has been slightly modified)
5.2 **role of the Chief Commissioner**

The Inquiry recognises the role of the Chief Commissioner as head of Victoria Police is a complex and difficult one. The privilege of leading Victoria Police carries great responsibility. As society changes, so does the role and function of policing. The government and community demand greater accountability of police, while the level of public scrutiny of the police force and in particular the Chief Commissioner is high. There is no doubt that the role of the Chief Commissioner is more challenging than ever before.

In an often turbulent and sometimes uncertain environment, the Chief Commissioner must present as a strong, dynamic and values based leader. That leadership must be demonstrated in two important ways. First, the Chief Commissioner must be capable of developing in the Victorian community a confidence that Victoria Police will protect and safeguard that community. Secondly the Chief Commissioner must lead Victoria Police so as to ensure that the morale and commitment of its members is of the highest professional standard, whilst continuing to drive innovation and reform in organisational policies, practices and services.

In order to lead effectively, the Chief Commissioner must also be able to delegate, empower people to make decisions and hold them to account. Exemplifying integrity and the highest ethical standards, the Chief Commissioner must be able to develop and lead an effective team, cultivating productive working relationships. Ideally, the Chief Commissioner will have the operational experience so important in identifying with and motivating operational police, but also the ability to adapt to contemporary policing models of ‘partnership,’ ‘community’ and ‘intelligent’ policing.

The Chief Commissioner bears ultimate responsibility for a recurrent budget of approximately $2.88 billion. Together with the operational aspects of the role, the Chief Commissioner requires the management expertise to ensure appropriate governance and leadership of Victoria Police as a large public service delivery agency.

The Chief Commissioner must also be able to maintain appropriate working relationships with external bodies – the government, police forces in other jurisdictions, other public sector organisations, the private sector, interest groups and the media. It is important that the Chief Commissioner be able to communicate effectively and with influence.

5.3 **historical changes to senior command**

The senior structure of Victoria Police has undergone some significant changes under its recent Chief Commissioners. This section of the report examines the senior command structures under former Chief Commissioners Comrie, Nixon and Overland.

5.3.1 **Chief Commissioner Neil Comrie (1993-2001)**

The senior command structure under Mr Comrie reflected a traditional command and control model. Accountability for decision making resided in a small group of senior members. Strategic decision making and performance accountability utilised a two tiered executive model:

- Executive Command; and
- Command.

Executive Command comprised four members: the Chief Commissioner, two Deputy Commissioners and an Executive Director. These four members met on a daily basis. The key function of Executive Command was to address immediate issues of strategic importance to Victoria Police.
The Command group comprised the senior executives of Victoria Police, including the Executive Command members, six Assistant Commissioners and two unsworn directors. Command met on a weekly basis.

For the majority of his time as Chief Commissioner, Mr Comrie had four direct reports:

- Deputy Commissioner (Operations);
- Deputy Commissioner (Policy and Standards);
- Executive Director (Corporate Services); and
- Director (Media and Communication).

Each Deputy Commissioner and the Executive Director in turn had line accountability for Assistant Commissioners and/or Department Heads.

Interviewees who had either worked under or had knowledge of this model expressed strong support for it highlighting:

- its simple, streamlined structure, which included only a small number of direct reports to the Chief Commissioner;
- a unified senior command team, achieved by investing key decision-making in only a small group; and
- transparent reporting lines, enabling clear accountability for decisions made.

Some interviewees, however, expressed concern that this model isolated Command by failing to incorporate a wider body of personnel in major organisational decisions.

5.3.2 Chief Commissioner Christine Nixon (2001 – 2009)

Significant changes to the senior structure were introduced by Ms Nixon. An Executive Corporate Committee was established with the express purpose of breaking down the hierarchical chain of command to facilitate a more collegiate and collaborative approach to corporate decision-making. The Corporate Committee comprised in excess of 25 senior managers from across the organisation as the senior strategic decision-making group within Victoria Police.

The Corporate Committee was supported by a number of Standing Committees. These Committees met to discuss matters prior to the monthly Corporate Committee meetings. In some departments and regions, Boards of Management were introduced to replace the individual role of an Assistant Commissioner or Director.

Under the Corporate Committee model, the Deputy Commissioners and the Executive Director no longer had line accountability for Department Heads and Regional Assistant Commissioners. Rather, each member of the Corporate Committee was required to report directly to Ms Nixon and was accountable to her for the performance of their respective portfolio, region, department or work unit.

There were mixed views expressed by interviewees about the Corporate Committee model in a policing context. A number of interviewees welcomed the opportunity that this kind of shared leadership model provided. Individuals felt able to make a difference and have a say in the way in which Victoria Police was run. They felt part of a team where their experience and knowledge was

149 An Executive Management Group comprising the Chief Commissioner, two Deputy Commissioners and the Executive Director was still retained to meet and address any immediate and unexpected issues of an operational nature between Corporate Committee meetings.
valued and recognised. Others considered that the Corporate Committee was the appropriate model for its time, in that it served to broaden people’s focus within the organisation, break down silos and build leadership potential and capabilities.

Former Chief Commissioner Simon Overland explained the positive aspects of the Corporate Committee model:

"[Chief Commissioner Nixon] had a personal philosophy around how you managed an organisation and she was very inclusive and she brought people in, she included them, she got the organisation sort of moving, all these projects going on, there was all this work being done and she energised the place and certainly at the upper levels it was great for people to feel that they were part of the group that was running the organisation. And you got people keen, enthusiastic, motivated and the organisation achieved some wonderful things. If you actually have a look at what it achieved around crime reduction, road safety, it developed the first iteration of The Way Ahead and clear objectives and clear focus, all good stuff.

“So, in organisational theory terms she was taking an organisation that was pretty traditional, rigid, hierarchical structured and she … de-structured, she energised, freed it up, got it all moving and there's an argument, a very strong argument to say that was right and appropriate for the time.”

Many interviewees who had worked under the Corporate Committee model, however, expressed reservations about it. Comments included:

- unclear reporting lines and a lack of accountability for decisions;
- a lack of visibility into some areas of the organisation – as (then) Acting Chief Commissioner Mr Ken Lay put it, “I'm not sure that the model lent itself to keeping a close eye on some of our higher risk executives”;
- the focus on improving corporate skills and attending committee meetings, meant less time for sworn officers to perform operational policing responsibilities;
- the large membership of the Corporate Committee and infrequent meetings led to slow and inefficient decision-making; and
- a duplication of effort and roles of the various committees.

A view from outside Victoria Police was provided by former Deputy Commissioner Sir Ken Jones. He had worked in and with a number of police forces in the United Kingdom, and also had experience of policing in Hong Kong, Zimbabwe and the United States, before applying in late 2008 to succeed Ms Nixon as Chief Commissioner of Victoria Police. He gave the Inquiry his frank assessment of the Corporate Committee model:

“… it was diffuse, it was - there's a better word, it was bizarre. It was a complete and utter charade at bureaucracy. I've never seen anything like it in my life. I can't be too critical about it, it was just awful.”

Sir Ken Jones considered that the Corporate Committee structure was “just incapable of delivering sharply focused, well led projects, which are absolutely critical in a big organisation like Victoria Police.”

150 Mr Ken Lay was appointed Chief Commissioner of Victoria Police on 14 November 2011.
5.3.3 Chief Commissioner Simon Overland (2009-2011)

The senior command structure created under the leadership of former Chief Commissioner Overland saw a shift away from the Corporate Committee model. Mr Overland explained the reasons for this shift:

"I guess my take on it was it went too far and for too long and so part of what I was trying to do was bring it back. ... I saw the need to bring it back a bit, because I thought some of the things that were missing were accountability. I think that under the Corporate Committee model accountability had suffered. It wasn't clear who was making decisions."

Accordingly, the revised structure was designed to establish clear, robust accountability and decision-making arrangements.

The number of direct reports to the Chief Commissioner was reduced considerably, first to nine, and later to six. Over time, Deputy Commissioners and Executive Directors regained line accountability for Assistant Commissioners and/or department heads.

The three Deputy Commissioners were initially allocated portfolios – Public Safety, Crime and Regional and Road Policing – without having line management responsibility for any specific areas. In theory this matrix management model allowed each of the Deputy Commissioners to work on their portfolio across the organisation, but in practice it did not work very well. In particular, there was an overlap between the Public Safety and Crime portfolios, which caused some tension between Deputy Commissioners and confusion for Assistant Commissioners who received direction from more than one Deputy Commissioner. It also meant there was no clear line of communication from the Victoria Police Executive to the Regional Assistant Commissioners.

Recognising that the matrix model was not working, in December 2010 Mr Overland moved the two operational Deputy Commissioners back into more traditional line management roles. Deputy Commissioner Walshe became the Deputy Commissioner, Regional and Road Policing, with all four Regional Assistant Commissioners reporting to him. Sir Ken Jones remained the Deputy Commissioner Crime, but was given line management responsibility for departments aligned with that portfolio.

Deputy Commissioner Lay was taken ‘offline’ and asked to focus on longer term, strategic issues for Victoria Police, particularly those associated with meeting the Government’s commitment to fund 1700 additional police and 940 protective services officers and the opportunities this presented for organisational renewal and cultural change. This position is known as the Deputy Commissioner, Strategy and Organisational Development.

The structure arrived at in December 2010 remains in place today.

It was not a structure that Sir Ken Jones considered was sufficiently focused on police service delivery. His particular concerns were:

- the large number of direct reports to the Chief Commissioner, with three corporate Executive Directors at the same level as the Deputy Commissioners;
- the fact that he, as a Deputy Commissioner appointed by the Governor in Council under the Police Regulation Act 1958, did not have sway over the whole of the organisation; and
- what he considered to be an excessive focus on process, bureaucracy and “back office” priorities and a corresponding lack of focus on police service delivery.

He told the Inquiry:

"In Victoria Police you had this ostensibly flattened structure with blurred accountability between lots of different people, and it just didn’t work. If push came to shove people were very quick to remind you, "Well actually I don't work for you, I work for the Chief..."
Commissioner” and this was - it was just nonsense, it really was. So I felt that my statutory accountability was being constrained by this model and I made that point and I made it clear on a few occasions.

Although the changes made to the senior command structure in December 2010 were in part a response by Mr Overland to those concerns, Sir Ken Jones remained dissatisfied with the structure and confirmed his earlier decision to resign. The Inquiry has considered these concerns in assessing the effectiveness of the current structure and has recommended a number of changes for consideration by the incoming Chief Commissioner.

5.4 current structure of senior command

The Chief Commissioner currently has six direct reports:\(^{151}\)

- Deputy Commissioner (Regional and Road Policing);
- Deputy Commissioner (Crime and Ops Support);
- Deputy Commissioner (Strategy and Organisational Development);
- Executive Director (Business Services);
- Executive Director (People); and
- Executive Director (Infrastructure and IT).

**Figure 3: Victoria Police senior command structure**

Each Deputy Commissioner and Executive Director in turn has line accountability for Assistant Commissioners and/or Department Heads. The current Victoria Police organisation chart is at Appendix E.

There are some other positions in the organisation, such as the Director Legal Services and the Director Media/Corporate Communications that also have limited direct reporting access to the Chief Commissioner regarding particularly sensitive issues. In such cases, reporting as normal through the relevant operational Deputy Commissioner would not be appropriate.

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\(^{151}\) This does not include the Chief Commissioner’s staff in the Office of the Chief Commissioner of Police.
5.5 management committees

Victoria Police currently utilises a Victoria Police Executive (VPE) model for strategic business planning, decision making and performance accountability. In general, operational policing matters are not the focus of the VPE. Decisions on operational matters are made by the relevant senior command members as required.152.

The VPE comprises twelve members (see Figure 4) and meets on a weekly basis. Each VPE meeting is chaired by the Chief Commissioner and is the subject of a formal agenda. Matters that come before the VPE are signed off by the relevant member prior to discussion. Minutes are taken at each weekly meeting.

**Figure 4: Victoria Police Executive**

As the peak decision making body of Victoria Police, the VPE has responsibility for:

- setting corporate policy positioning;
- setting strategic direction and policy;
- organisational performance targets;
- corporate budget and monitoring organisational performance;
- monitoring the various departments; and
- developing senior staff.153

The VPE is supported by several management committees responsible for the development and oversight of core strategies and projects in their area of focus. The current committees are:

- Operations Committee;

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152 Victoria Police, Corporate Governance, Victoria Police, Melbourne, accessed via www.police.vic.gov.au
153 Ibid.
Inquiry into the command, management and functions of the senior structure of Victoria Police

- People Committee; and
- Information Management and Information Security Committee.

Victoria Police also utilises a Victoria Police Leadership Group (VPLG) which is a high level consultative and information sharing body established to provide advice to the Chief Commissioner and the VPE on key issues. Meeting on a 6-8 week basis, it comprises approximately forty members and includes the VPE, all Assistant Commissioners, Directors and Assistant Directors.

Mixed views were expressed by interviewees who currently work under or have knowledge of the current senior command structure of Victoria Police. Although the majority of interviewees expressed a preference for the current structure over the previous ‘Corporate Committee’ model (outlined in section 5.3.2), many felt that there may be scope to further reduce and tighten the number of direct reports to the Chief Commissioner to improve management control and accountability arrangements.

Notwithstanding this, a number of interviewees supported aspects of the Corporate Committee model, citing its advantage in utilising the knowledge and experience of a broader group of senior Victoria Police members. Although the VPLG constitutes a broader senior membership group, many interviewees expressed a desire for the VPLG to provide more opportunity for discussion and debate, rather than information sharing and presentations.

5.6 interstate models

In examining the current senior structure of Victoria Police the Inquiry also considered the current senior structures (including the internal governance arrangements and direct reporting lines) of several other police jurisdictions across Australia.

Victoria is broadly similar to other States in relation to its senior command reporting lines and governance arrangements. Other states tend to have slightly fewer direct reports and on average have no more than two operational Deputy Commissioners. Comparisons of management decision-making groups are shown in Table 15.

Table 15: Interstate management committees

<table>
<thead>
<tr>
<th>State</th>
<th>Peak decision-making/advisory body</th>
<th>Membership</th>
</tr>
</thead>
<tbody>
<tr>
<td>VIC</td>
<td>Victoria Police Executive</td>
<td>12</td>
</tr>
<tr>
<td>NSW</td>
<td>Commissioner’s Executive Team</td>
<td>4</td>
</tr>
<tr>
<td>QLD</td>
<td>Board of Management*</td>
<td>5</td>
</tr>
<tr>
<td>SA</td>
<td>Senior Executive Group</td>
<td>11</td>
</tr>
</tbody>
</table>

*QLD also utilises a Senior Executive Conference which meets approximately every three months to advise the Chief Commissioner on long term strategic issues.

Comparisons of direct reporting lines to police Commissioners in other Australian jurisdictions are shown in Table 16.
### Table 16: Interstate comparison of reporting lines to Commissioners

<table>
<thead>
<tr>
<th>State</th>
<th>Direct reporting lines to Commissioner</th>
</tr>
</thead>
</table>
| VIC   | • Deputy Commissioner (Regional & Road Policing)  
       | • Deputy Commissioner (Crime and Ops Support)  
       | • Deputy Commissioner (Strategy and Organisational Development)  
       | • Executive Director (Business Services)  
       | • Executive Director (People)  
       | • Executive Director (Infrastructure and Security) |
| NSW   | • Deputy Commissioner (Field Operations)  
       | • Deputy Commissioner (Specialist Operations)  
       | • Deputy Commissioner (Corporate Services) |
| QLD   | • Deputy Commissioner (Field Operations)  
       | • Deputy Commissioner (Regional Operations)  
       | • Deputy Chief Executive (Resource Management) |
| SA    | • Deputy Commissioner  
       | • Three Assistant Commissioners (Crime; Performance Management and Operations Support)  
       | • Director, Business Services |

Note: The direct reporting lines set out in Table 16 do not include staff employed in the Office of the Chief Commissioner (or equivalent) in any jurisdiction or those positions that may have limited direct reporting access to the Commissioner.

### 5.7 UK model

The United Kingdom senior police command structure was raised with the Inquiry on a number of occasions. For instance, the Commissioner of Police in the London Metropolitan Police Service (MPS) typically has a single direct report, a Deputy Commissioner, who is responsible and accountable for assisting the Commissioner with the running of the whole organisation.\(^{154}\) A number of Assistant Commissioners report to the Deputy Commissioner, with corporate resource directorates, in turn, reporting to the Assistant Commissioners.

The United Kingdom has 52 geographic police organisations,\(^{155}\) of various sizes, with specific arrangements in different jurisdictions varying. For instance, the MPS covers 620 square miles, services a population of 7.2 million and is uncommonly large for a police service in the United Kingdom.\(^{156}\) More in line with the average police jurisdiction in the United Kingdom, Sussex Police services 1.5 million people over 1,461 square miles, while Nottinghamshire Police is responsible for an area of 800 square miles with over one million inhabitants.\(^{157}\) Both Sussex Police and Nottinghamshire Police have less than 6,000 staff whereas the MPS employs over 32,000 police officers alone.

During the Inquiry, some interviewees supported the introduction of a similar model to Victoria, where all corporate positions would report through an operational Deputy Commissioner(s) rather than directly to the Chief Commissioner. Former Deputy Commissioner Sir Ken Jones was a strong advocate of the single deputy model:

\(^{154}\) The head of the MPS traditionally holds the rank of Commissioner. With the exception of the City of London Police, which has its own Commissioner, all other United Kingdom police forces have a Chief Constable at their head, with a single Deputy Chief Constable and Assistant Chief Constables.

\(^{155}\) There are 43 geographic police services in England and Wales, 1 in Northern Ireland and 8 in Scotland, with a further 8 non-geographic specialist police services. See www.police.uk

\(^{156}\) The MPS has a recurrent budget of £3.5 billion.

\(^{157}\) Sussex Police has a recurrent budget of approximately £250 million, and Nottinghamshire Police’s operational budget is over £200 million.
“I would argue about the need for more than one deputy. It just doesn't - and I think the time has come to look at that seriously, and is it necessary. My view is it isn't necessary. If forces like the size of the Metropolitan Police manage with one, I can't see why Victoria Police can't. If you get that relationship right between those two people, you know, the thing can really fly. And then you distribute the other accountabilities through the assistant commissioners and through the directorates that you have, but with a chief operating officer.

“So my strong advice would have been, having experienced both models, it's far better to have just the one deputy. Everyone understands then, this is the chief, this is the deputy, these are the two people that run this organisation. The chief is there, he or she has the final word and sets the direction, but these two people actually share that strategic leadership and governance role.”

Most interviewees did not favour the single deputy model. Deputy Commissioner Walshe’s reasons for considering it unworkable in Victoria were typical:

“I can’t see how one deputy can be across all the issues across the whole organisation. To me it’s just not an effective model, it’s too narrow at the top. You're not getting the opportunity of a variance of opinion, experience, knowledge, background, that’s shared at the executive level. You become too much, in my view, you become too much alike. There wouldn't be enough variance. To be honest I could not see how one deputy could effectively be over what's occurring in the organisation.”

The Inquiry also does not favour the single deputy model for Victoria Police. While it is a model that has worked in police forces in the United Kingdom, some large, many small, it does not follow that it is a suitable model for Victoria Police today. It is dependent on a very particular working relationship between the deputy and the chief, and gives responsibility to the deputy to run the entire organisation. In the Inquiry’s view, this responsibility should remain with the Chief Commissioner as the operational head and the chief executive of Victoria Police. In an organisation as large as Victoria Police, this responsibility can more effectively be discharged with the assistance of a senior management team with a mix of skills and experience.

5.8 recommendations

While the Inquiry has identified scope to amend the current structure of Victoria Police’s senior command to address a range of specific issues identified in this report, it is not the role of the Inquiry to prescribe a detailed, ‘perfect’ structure for Victoria Police in perpetuity. The ability to choose the senior command team members, delegate responsibilities, establish reporting lines and determine decision-making processes appropriately remains a role for the Chief Commissioner. No leader of a large public or private sector organisation would, or should, be expected to have a prescribed internal structure imposed on them from outside. As stated earlier in this chapter, organisational structures should be dynamic and reflect changing needs and circumstances, making it necessary for flexibility to be retained for future re-positioning, when and if required.

5.8.1 senior command structure

After considering the past and current challenges facing Victoria Police, the Inquiry proposes a number of changes to the senior command structure that the Chief Commissioner may wish to consider. The key features are:

- a Corporate Advisory Group, drawn from the most senior levels of Victoria Police, Government and the private sector;
- a refocussed Deputy Commissioner position to focus on organisational and capability reform; and
- a single Chief Operating Officer, responsible for all corporate services, reporting directly to the Chief Commissioner.
The recommended changes are designed to address the issues identified by the Inquiry in relation to Information Technology (IT) and progress the other strategic reform areas highlighted in the earlier chapters of this report on future capability and legislative reform. The aim is to ensure that Victoria Police has the necessary structures in place to best implement the changes and improvements identified.

A series of reports over the past decade by the Ombudsman, the Office of Police Integrity and the Commissioner for Law Enforcement Data Security have identified significant shortcomings by Victoria Police in effectively and consistently managing the non-operational, administrative side of its business. A common theme across these reports has been the inability of Victoria Police to manage information well. A centrepiece in Victoria Police’s response to many of these reports has been the planned replacement of the Law Enforcement Assistance Program database by LINK. The failure of the LINK project has highlighted the pressing need for Victoria Police to develop an overarching information management strategy.

As outlined in Chapter 6, Victoria Police has recently implemented a number of initiatives in procurement and project management, which have seen a marked improvement in its compliance with government purchasing guidelines and reporting requirements. There is a risk, however, that this progress may not be sustained. It is critical to ensure that Government and the community can have confidence that the positive reforms already underway will continue. Therefore the Inquiry recommends bringing in external oversight and a source of strategic advice for the organisation, in the form of a Corporate Advisory Group.
Further, as indicated in Chapters 3 and 4, there are a range of significant reforms in the areas of cultural change, workforce flexibility, performance management and discipline and legislative reform that Victoria Police will need to undertake in the short-to-medium term to meet its future capability requirements. Given the significance of this work program for the organisation, a dedicated non-operational Deputy Commissioner position is seen as an appropriate way to achieve these goals.

5.8.2 Corporate Advisory Group

The Inquiry proposes the establishment of a Corporate Advisory Group to perform several key roles:

- Provide strategic advice to the Chief Commissioner on the range of reforms to be undertaken by Victoria Police in areas including cultural change, integrated planning, information management, workforce flexibility, and performance management and discipline.

- Oversight strategic projects and critical, non-operational business activities, including IT procurement and project management, organisational governance and corporate strategy.

- Report to the Minister for Police and Emergency Services on the progress of Victoria Police in achieving strategic reform and strengthening the delivery of corporate services that support operational policing.

The Inquiry recommends that members of the Corporate Advisory Group be appointed jointly by the Minister for Police and Emergency Services and the Chief Commissioner. The membership of the Corporate Advisory Group should be drawn from Victoria Police, Government and the private sector, as follows:

- Victoria Police – the Chief Commissioner, the Deputy Commissioner, Strategy and Development, and the Chief Operating Officer;

- Government – the Secretaries of the Departments of Premier and Cabinet, Treasury and Finance and Justice; and

- the private sector – four to six people with strong understanding and proven experience in a mix of the areas in which Victoria Police is undertaking reform, for example experience in organisational development or in managing major IT projects.

The Corporate Advisory Group should be chaired by an independent person, external to Victoria Police and Government. The Group should report to the Minister through the independent chair.

The main function of the Corporate Advisory Group would be to advise and support the leadership of Victoria Police in undertaking reform and strategic decision making. At the same time, the Group would serve the important function of restoring the Government’s confidence in the ability of that leadership to manage and develop the organisation.

The Corporate Advisory Group’s role would not be to second-guess decisions taken by the Chief Commissioner or interfere with the day-to-day management of the organisation. It would not have any role in operational policing decisions, preparation of the annual budget, individual employment or performance management processes, or hold any financial delegation powers. The implementation of strategic projects would remain the responsibility of the senior executive accountable to the Chief Commissioner for delivery of the project; the role of the Corporate Advisory Group would be to oversight these projects and provide strategic input and advice.
Box 4: Possible charter for the Corporate Advisory Group

The proposed role of the Corporate Advisory Group is to:

- provide strategic advice to the Chief Commissioner on the range of reforms to be undertaken by Victoria Police in areas including cultural change, integrated planning, information management, workforce flexibility, and performance management and discipline;

- provide oversight of strategic projects and key corporate services activities, including IT procurement and project management, organisational governance and corporate strategy;

- embed enhanced accountability measures for reporting and tracking implementation of strategic projects;

- provide advice and support to the Chief Commissioner as and when required; and

- report as required to the Minister for Police and Emergency Services.

A model for the Corporate Advisory Group envisaged by the Inquiry is the Defence Strategic Reform Advisory Board, appointed by the Commonwealth Minister for Defence in 2010 to oversee implementation of the Department of Defence’s Strategic Reform Program.\(^{158}\)

The Corporate Advisory Group should be supported by a small secretariat within Victoria Police. While the frequency of meetings should be determined by the Group itself, the Inquiry suggests that initially meetings should be at intervals of no more than three months.

It would be expected that Victoria Police’s annual report would report on the work and outcomes of the Corporate Advisory Group, such as the number of meetings, outcomes of meetings and progress regarding the implementation of reforms overseen by the Corporate Advisory Group.

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158 Department of Defence (2010), Strategic Reform Program: Making it Happen, Department of Defence, Canberra, p. 25
Recommendation 18

That the Minister for Police and Emergency Services and the Chief Commissioner establish a Corporate Advisory Group to provide strategic advice to the Chief Commissioner on reform of Victoria Police and oversight of strategic projects and key corporate services.

Recommendation 19

That the Minister for Police and Emergency Services and the Chief Commissioner jointly appoint to the Corporate Advisory Group:

- from Victoria Police – the Chief Commissioner, the Deputy Commissioner, Strategy and Development, and the Chief Operating Officer;
- from Government – the Secretaries of the Departments of Premier and Cabinet, Treasury and Finance and Justice; and
- from the private sector – four to six people with strong understanding and proven experience in a mix of the areas in which Victoria Police is undertaking reform.

5.8.3 Deputy Commissioner – Strategy and Development

Under Victoria Police’s current senior command structure there are three Deputy Commissioners. Two of these are operational positions, covering Regional and Road Policing and Crime and Operations Support respectively. The remaining Deputy Commissioner position is a non-operational role, responsible for Strategy and Organisational Development. Created in January 2011, this non-operational position is relatively new. Current responsibilities include:

- recruitment of new police and protective service officers and associated infrastructure;
- cultural reform;
- development of a Victoria Police Service Delivery Model; and
- a range of other corporate, strategic policy and planning projects.

There are a number of strategic reforms that Victoria Police will need to pursue over the short to medium term to meet changes in the policing environment and better align corporate services with operational requirements.

The Inquiry supports the continuation of the existing three Deputy Commissioner model at this time. The role of the Deputy Commissioner, Strategy and Development, however, should be more clearly defined, with a narrower focus limited to the following critical capability building areas:

- strategic planning, building on the recent adoption of Victoria Police Priorities and Standards document;
- workforce planning, developing organisational and values based leadership capability, ensuring that Victoria Police’s values are embedded and adhered to by everyone throughout the organisation;
- developing a comprehensive information management policy and strategy for Victoria Police;
- legislative reform; and
- cultural reform.
Given the strategic nature of these reforms, it is important that the Deputy Commissioner, Strategy and Development continue to operate offline, without day-to-day operational responsibilities. The position should be supported by an appropriately resourced team with skills and expertise in the above areas. Where possible, the Deputy Commissioner, Strategy and Development should endeavour to partner with other jurisdictions to share ideas and learning.

It is envisaged that the position Deputy Commissioner, Strategy and Development would be time-limited. Once reform in the above mentioned critical capability areas is well progressed, this position should be dissolved, with future strategic thinking led by the Chief Commissioner, with the support of the VPE.

### Recommendation 20

That the role of the Deputy Commissioner, Strategy and Development be more clearly defined, with a narrower focus limited to the following critical capability building areas:

- strategic planning, building on the recent adoption of Victoria Police’s Priorities and Standards document;
- workforce planning, developing organisational and values based leadership capability;
- developing a comprehensive information management policy and strategy for Victoria Police;
- legislative reform; and
- cultural reform.

### 5.8.4 Chief Operating Officer

In relation to corporate services, there are currently three Executive Directors in the following areas:

- Business Services;
- People; and
- Infrastructure and IT.

Table 17 outlines the current responsibilities of the three Executive Directors.

**Table 17: Responsibilities of the Executive Directors**

<table>
<thead>
<tr>
<th>Executive Director, Business Services</th>
<th>Executive Director, People</th>
<th>Executive Director, Infrastructure and IT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Services</td>
<td>People Safety</td>
<td>Information Management and Standards and Security Division (IMSSD)</td>
</tr>
<tr>
<td>Recruitment, Contracts and Commercial</td>
<td>People Services</td>
<td>Strategic Business Engagement</td>
</tr>
<tr>
<td>Corporate Investment and Performance</td>
<td>People Health</td>
<td>Projects and Applications Management</td>
</tr>
<tr>
<td>Business Intelligence and Performance</td>
<td>Employment Relations</td>
<td>IT Operations</td>
</tr>
<tr>
<td>Record Services</td>
<td>People Strategy</td>
<td>Radio and Telecommunications</td>
</tr>
</tbody>
</table>
One key issue emerged in relation to the current structure. The majority of interviewees felt that having three separate Executive Directors each accountable for specific parts of Victoria Police’s corporate functions, has created silos between these areas. Under current arrangements each Executive Director reports individually to the Chief Commissioner, in relation to their particular responsibilities. It was put to the Inquiry that it would be more efficient to have a single voice that could present a consolidated and integrated view on all corporate matters to the Chief Commissioner and the VPE. It would also serve to reduce the time spent by the Chief Commissioner in having to synthesise any differences between the areas. This could be achieved by consolidating the Executive Director positions into a single Chief Operating Officer role, sitting over all corporate functions.

It is important that there is clear and ongoing communication between the Chief Operating Officer and the refocussed Deputy Commissioner, Strategy and Development. The Chief Operating Officer would have responsibility for ongoing, day-to-day activities, whereas the Deputy Commissioner would be focussed on over the horizon, strategic matters. The two positions should work closely together, share relevant information and support each other in the achievement of the organisation’s strategic and corporate goals.

Table 18 outlines the proposed responsibilities of the Deputy Commissioner, Strategy and Development and the Chief Operating Officer.

<table>
<thead>
<tr>
<th>Deputy Commissioner, Capability and Development</th>
<th>Chief Operating Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategic planning</td>
<td>Business Services</td>
</tr>
<tr>
<td>Workforce planning</td>
<td>People</td>
</tr>
<tr>
<td>Information management policy and strategy</td>
<td>Infrastructure and IT</td>
</tr>
<tr>
<td>Legislative reform</td>
<td>Media and Corporate Communications</td>
</tr>
<tr>
<td>Cultural reform</td>
<td>Legal Services</td>
</tr>
</tbody>
</table>

**Recommendation 21**

That the Chief Commissioner consolidates the three existing Executive Director positions in Business Services, People and Infrastructure and IT into a single Chief Operating Officer, such that there is a single direct report to the Chief Commissioner on all corporate matters.

5.8.5 **Victoria Police Executive – participation**

At present, the VPE comprises twelve members (see Figure 4). There is no ‘magic formula’ as to the identity and number of people who should sit on the VPE. Nevertheless, there are a number of factors that should be taken into account when making this decision.

As the ultimate accountable officer for Victoria Police, the Chief Commissioner should be surrounded by a team of senior staff with the appropriate balance of skills, knowledge and experience to properly
inform strategic decisions. This requirement should be balanced against the need to ensure that the VPE is of a manageable size to enable effective and efficient advice and decision making.

Consistent with the Inquiry’s recommended reduction in the number of direct reports to the Chief Commissioner, the incoming Chief Commissioner may wish to contain the core membership of the VPE to the Chief Commissioner, the three Deputy Commissioners and the Chief Operating Officer. There should, however, be flexibility of attendance to enable other senior members of Victoria Police to attend the VPE where their expertise may contribute to the decision-making process or where a decision made by the VPE may impact on their portfolio. A good leader will always ensure that they are fully informed before making any decisions.

A number of interviewees told the Inquiry that operational Assistant Commissioners, in particular those responsible for regions, should be members of the VPE. The Inquiry does not recommend that the VPE’s membership should be expanded in this way. The underlying need can be met by flexible participation in VPE meetings according to the issues under consideration and improved communication between the VPE and operational Assistant Commissioners.

5.8.6 Victoria Police Executive - communication

A number of interviewees told the Inquiry that communication between the VPE and the operational departments of Victoria Police has not been optimal. Agendas are not circulated before meetings, with the result being that decisions taken at VPE may affect operational departments that are not aware that the matter is being considered and have had no opportunity for input. Further, there has not been systematic communication of decisions taken at VPE to operational departments. While the Executive Directors have routinely communicated decisions to their own senior management team, until recently this practice was not followed by the Deputy Commissioners.

Communication between the VPE and the four regions has been particularly problematic. Initially, the VPE did not have the input of a regional Assistant Commissioner, despite the four regional Assistant Commissioners being responsible and accountable between them for around 80 per cent of Victoria Police operations. This gap was filled by bringing the Assistant Commissioner for the North West Metro Region onto the VPE, to provide an operational voice.

It is not the role of this Assistant Commissioner, however, to communicate between the VPE and the other regional Assistant Commissioners. While the Deputy Commissioners were working under the “matrix” model, with portfolios rather than line management responsibility, no-one had clear responsibility for communicating information or decisions made at VPE meetings to the regional Assistant Commissioners. Since the operational Deputy Commissioners have resumed line management roles, the Deputy Commissioner, Regional and Road Policing has instituted regular meetings with the regional Assistant Commissioners. This has seen a significant improvement in communication between the VPE and the regions.

There remains scope to improve communication between the VPE and the rest of the organisation, particularly the operational departments. Options include:

- Circulating the agenda to Assistant Commissioners and department heads prior to the VPE meetings so that they are aware of items listed for discussion and have the opportunity to contribute, if required.

- Where items relevant to a particular Assistant Commissioner or department head are to be discussed, inviting that person to attend the meeting for the discussion.

- Circulating the minutes of VPE to Assistant Commissioners and department heads.
5.8.7 Future of VPLG

In general, there is scope to clarify the role and focus of the VPLG. It has tended to be a forum where corporate services have presented or showcased a number of projects occurring in their divisions to other VPLG members. There is a legitimate role for this to continue.

A number of interviewees, however, expressed support for the VPLG to become a more focussed forum that could incorporate strategic planning, consultation and a sounding board for operational policing issues. It was suggested that the VPLG could be used as a forum to look at the priorities, emerging issues, risks and opportunities for Victoria Police over the short to medium term, feeding them up to the VPE to ensure robust decision-making at the top. To this end, the VPLG could be responsible for the introduction and assessment of wider policy issues and ideas prior to their presentation and sign off at VPE.

In addition, the Inquiry considers that the VPLG could be used by the Chief Commissioner as an appropriate group to lead and drive cultural reform across the organisation. As the VPLG membership includes a wide group of senior leaders covering both sworn police and public servants, it would enable cultural reform issues to be discussed and dealt with in a joint forum, facilitating broad ‘buy-in’ and accountability of solutions.

If the incoming Chief Commissioner chooses to use VPLG in this way, the Inquiry suggests that it meet less frequently, perhaps only two or three times a year, but with a more strategic focus.

5.9 Conclusion

As outlined earlier in this chapter, while the structure of an organisation is important it is only one factor contributing to its overall effectiveness. Although the Inquiry has proposed a new senior structure, that structure must be supported by personnel with a proven capacity for leadership and a commitment to work as part of a senior management team. Good leaders will always find a way to work around a poor structure, but without a cohesive and cooperative team even the best leaders will fail. It is leadership and a united senior command with a strong operational policing focus that will inspire the confidence and morale of Victoria Police’s rank and file and importantly, the community.
6 information technology

The management of information so important to a modern police force relies on up to date, dynamic information technology (IT) systems. Whether for the administration of a large organisation or the secure capturing, storage, retrieval, analysis of facts on crimes, incidents, persons, vehicles, locations and the like, IT is critical.

The Inquiry’s third term of reference required an examination of the capacity of the command management structures of Victoria Police to deliver major IT. The Inquiry has concluded that Victoria Police does not, at present, have the capacity to deliver major IT projects that will provide it with the future capabilities to deliver best practice policing. In order for Victoria Police to have that capacity it must undertake the following:

- develop an overarching information management strategy based on its current and future operational requirements;
- recruit a senior executive with the expertise to deliver the IT projects needed to implement this strategy; and
- obtain external assistance in the development of the information strategy and in the management of IT projects that emerge from the strategy.

The Inquiry’s conclusions are informed by the recent history of major IT procurement and project management at Victoria Police, a history marked by systemic problems of delay in implementation, significant cost overrun and high staff turnover. Most notably the major IT project at Victoria Police over the past five years, the Law Enforcement Assistance Program (LEAP) replacement has been abandoned, badly mismanaged, over budget and with consequent losses of tens of millions of dollars to police and ultimately the Victorian community.

Figure 6 provides an overview of significant events in the recent history of the LEAP replacement project. These events are described in more detail in the following sections of this chapter.

Although the Inquiry has reached conclusions critical of Victoria Police, it acknowledges that Victoria Police is not alone in the mismanagement of major IT. The pitfalls in the delivery of IT in both the public and private sectors are notorious. The Victorian Auditor General in 2008 noted recent audits “… highlight the need to improve the governance and management of ICT investments”. The Ombudsman is currently investigating major IT projects within the Victorian public sector due to concerns as to costs overruns and the failure of IT projects to meet objectives.

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159 Metropolitan Police Service (2004), Information Management Strategy, Metropolitan Police Service, United Kingdom, p. 7
161 Auditor-General of Victoria (July 2008), Investing Smarter In Public Sector ICT: Turning Principles into Action, Auditor-General of Victoria, Melbourne
Figure 6: LEAP replacement project chronology

- **Aug 2005**: LINK business case finalised
- **Feb 2006**: LINK tender released
- **Feb 2009**: Niche contract signed
- **June 2010**: LINK suspended
- **Jan**: KPMG review of LINK project
- **May**: PIMS business case
- **June 2011**: LINK project closed
- **July**: PIMS Gateway Review
- **Aug**: PIMS project abandoned
- **Sept**: PIPP reform initiative

**Key:**
- LEAP: Law Enforcement Assistance Program
- LINK: LEAP replacement project
- PIMS: Policing Information Management System
- PIPP: Policing Information Process and Practice Reform
6.1 Business Information and Technology Services department

The Business Information and Technology and Services department (BITS) was established in 2005 to centralise major IT account management, business management and project implementation across Victoria Police. The history of BITS was not a happy one.

The Ombudsman in his November 2009 report into tendering and contracting of information and technology services within Victoria Police identified endemic problems with the BITS organisation:

- disregard for proper procurement processes including breaches of the Victorian Government Purchasing Board (VGPB) policies, to the value of $39.17 million;
- absence of proper project planning;
- contract mismanagement and deficient record keeping;
- a lack of discipline and method in project management and record keeping; and
- across BITS a lack of accountability, direction and oversight.

Despite internal audits (five) and external reviews (three) and criminal investigations (two) between August 2006 and 2009 identifying such problems, little was done within Victoria Police to address the concerns raised in these various reports. The Ombudsman noted that on 12 February 2009, Chief Commissioner Nixon advised the Minister for Police that she had implemented 10 broader strategies across Victoria Police directed at mitigating risk in relation to IT procurement. The strategies were designed to mitigate risk in relation to IT procurement by the implementation of processes directed at providing oversight, accountability, reporting and commercial practices in relation to the delivery of IT. The Ombudsman observed that the advice of 12 February 2009 simply repeated many previous undertakings.

The Chief Information Officer (CIO), responsible for BITS for much of this time, held a position at equivalent level to a Deputy Commissioner and was one of the 26 direct reports to Chief Commissioner Nixon. After the resignation of the CIO in November 2008, BITS was managed by a board of management.

Mr Michael Vanderheide was recruited to Victoria Police in late October 2009 as the Executive Director, Infrastructure and Information Technology. He recognised that responsibilities and accountability in relation to IT procurement were unclear, risk management needed to be addressed, culture needed to be changed and that reorganisation of the management of IT within Victoria Police was essential. He restructured BITS into what is now the Infrastructure and Information Technology (I&IT) department of Victoria Police. Mr Vanderheide’s changes appeared to address past, identified deficiencies in the management and delivery of IT to Victoria Police. Mr Vanderheide, however, has left Victoria Police, having resigned to take up an appointment with CenITex in July 2011. His position at the time of writing has not been filled.

The problems identified in the Ombudsman’s report of November 2009 have largely been addressed by Victoria Police, in particular by the restructuring of BITS into the I&IT department and by significant improvements made in the areas of procurement and project management. The lack of leadership in IT, however, during a critical period can only have contributed to the mismanagement of three major IT projects undertaken by Victoria Police since 2006: the replacement of LEAP, HR Assist and the Property and Laboratory Management Program (PALM). Whilst changes implemented recently are positive, there remains a lack of confidence that Victoria Police has the capacity to implement major IT projects without rigorous external oversight.
6.2 Information management and information security

The Commissioner for Law Enforcement Data Security (CLEDS) is a statutory office established on 1 July 2006 by the Commissioner for Law Enforcement Data Security Act 2005. The role of CLEDS is to:

“promote the use of appropriate and secure law enforcement data management practices by Victoria Police, thus enhancing community confidence in Victoria Police’s ability to securely manage confidential information.”162

The current CLEDS, Mr David Watts, was appointed to the office in November 2008, at about the same time that the former CIO of Victoria Police resigned.

The functions of CLEDS include establishing standards for the security and integrity of law enforcement data systems held by Victoria Police, and monitoring compliance with those standards. Although CLEDS’ main focus is on information security, Mr Watts quickly became concerned about the poor information governance within Victoria Police, the lack of any information management strategy and the fact that no-one appeared to have responsibility for information management. At the request of the Minister, he undertook a review of information governance within Victoria Police.

KPMG were engaged to conduct the review and produced a report in April 2009.163 The review concluded that the structures and processes for directing information technology, data management and information security within Victoria Police were inadequate. The review identified:

- a lack of accountability within Victoria Police’s governance of its information;
- ongoing risks to the organisation from ‘gaps’ in Victoria Police’s current governance;
- information policies which are unclear and poorly monitored; and
- dissatisfaction with Information and Communications Technology support impacting on management of information security and lowering confidence from external stakeholders regarding Victoria Police’s effectiveness.

The review made a number of recommendations for improvement. The first of these was to appoint a person with overall responsibility for information management and security within Victoria Police – a sworn officer, in a high level management role, separate from day-to-day responsibility for managing IT. The review emphasised the need to separate the strategic oversight role of information management and security across Victoria Police from management of BITS.

Victoria Police accepted these recommendations. After his appointment as Deputy Commissioner Crime, Sir Ken Jones was nominated as the senior officer responsible for information management and security. An Information Management Security and Standards Division (IMSSD) was established and a Director, IMSSD was appointed, reporting initially to the Deputy Commissioner, Crime. An Information Management and Information Security Committee was established, chaired by Deputy Commissioner Jones.

Two years later, however, information governance within Victoria Police remains inadequate. In January 2011, IMSSD was moved into the Infrastructure and Information Technology Department,

162 Commissioner for Law Enforcement Data Security website www.cleds.vic.gov.au
163 KPMG (2009), Review of Information Governance within Victoria Police – Final Report, for the Commissioner for Law Enforcement Data Security, Victoria
Despite the acknowledged risks of combining its strategic oversight role with the department responsible for delivering IT, no discernible progress has been made by the Information Management and Information Security Committee in addressing its key task, namely: the development of a coordinated information strategy for Victoria Police. The measures taken by Victoria Police to implement the recommendations made by KPMG in its April 2009 report have not delivered significant improvements in information governance within Victoria Police, nor have they significantly strengthened Victoria Police’s use of information or the way in which it uses its systems to improve management and security of information.  

Only very recently has there been any real recognition by Victoria Police of the pressing need to improve its information management strategy and governance. Several notable initiatives have been taken during 2011, which are described in section 6.7 of this chapter.

While these initiatives are welcome, they are being undertaken years too late. As will be seen in the following examination of the attempt to replace the LEAP system, the absence of an information management strategy for Victoria Police has contributed directly to the waste of significant public funds.

### 6.3 LEAP replacement

LEAP is the core policy information system used by Victoria Police to support operational policing. It was designed to store information relating to all crime across the State. Over 350,000 data records are retrieved from LEAP every day by operational members. A Victoria-wide rollout of the LEAP system was approved in 1992. Since this time numerous interfaces have been developed to support the exchange of data between LEAP and other Victoria Police systems and other organisations such as Australian Federal Police, VicRoads and the Department of Justice.

In 2005, after embarrassing leaks from LEAP created public concern as to the system’s efficacy, the Office of Police Integrity recommended the replacement of LEAP with a force-wide computer-based information system.  In March 2009 the Ombudsman, noting the unreliability of LEAP for the production of crime statistics, described the systems associated with LEAP as “antiquated”, “time consuming”, with technologies “… unsuited to a 21st century approach to policing”.  In May 2011 the Office of Police Integrity commented that Victoria Police is unable to produce accurate crime clearance statistics primarily because of inherent flaws in the design of the LEAP system and outmoded and flawed systems for entering data onto it.

LEAP operates on obsolete mainframe technology and is driven by a ‘green screen’ presentation requiring keyed entries rather than a graphic presentation. LEAP is out-dated in style, functionality and operability. LEAP data is ‘captured’ by electronic data recording (for some crimes) and the use of voluminous forms completed by police and faxed to a central data entry bureau (approximately 1200 per day) where full time data entry staff (75) work around the clock keying information into the LEAP system. The backlog is such that it may take days for important crime information to become visible to other police. The system is burdensome and inefficient. Maintenance of the LEAP system is also time consuming and costly.

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165 Office of Police Integrity (March 2005), Investigation into Victoria Police’s Management of the Law Enforcement Assistance Program (LEAP), Office of Police Integrity, Melbourne
166 Ombudsman of Victoria (March 2009), Crime statistics and police numbers, Ombudsman of Victoria, Victoria, p. 8
167 Office of Police Integrity (May 2011), Report of Investigation into Victoria Police Crime Records and Statistical Reporting, Office of Police Integrity, Melbourne
6.3.1 initial funding

Following the recommendation of the Office of Police Integrity for the replacement of LEAP the then Government, in July 2005, announced funding of $50 million to replace LEAP. A very basic, high level ‘function point analysis’ of costing of a replacement option appears to have been the basis for the figure of $50 million.

At the time of the announcement of the funding for the LEAP replacement no business case had been prepared. It was appreciated by the then Chief Commissioner that $50 million was insufficient for the project but her view was that the funding should be viewed as “… a bird in the hand versus two in the bush”. Mr Vanderheide observed on his arrival at Victoria Police that it was thought acceptable for an IT project to run over budget with no accountability.

Later in 2005 the funding for the replacement of LEAP was increased to $60.5 million.

6.3.2 business case

Victoria Police engaged consultants to prepare, in a very short time, a business case. The Business Case for Replacement of the LEAP System was delivered in February 2006. The cost was (perhaps conveniently) estimated at $59.48 million over five years against the previous government’s commitment of $60.5 million. The replacement, the business case contended, would:

- reduce crime and improve community trust;
- upgrade police skills in ethical management and data sensitivity;
- gather better information and data;
- streamline data entry; and
- improve security of police data and access.

The business case was the subject of a meeting for ‘clarification’ between the consultants and representatives of Victoria Police on 4 September 2006. The notes of the meeting revealed that the business case was written to fit the budget and for the writing of suitable messages to confirm that support. It was noted at this meeting that the business case was not a like-for-like replacement, that the business case didn’t address key issues and that the benefits as outlined in the business case were extremely broad, largely unachievable and unmeasurable. The shortcomings of the business case and the costing of the LEAP replacement were recognised by Victoria Police from the outset. A major risk to the project that escaped proper scrutiny in the business case was the difficulty and cost of incorporating into the new system the many IT interfaces developed to work in conjunction with LEAP.

On 27 November 2006, the first steering committee meeting for the LEAP replacement was convened and chaired by Deputy Commissioner Mr Kieran Walshe. The steering committee was the body responsible for the overall implementation of the replacement project. It comprised a mixture of sworn police and senior executives from BITS as well as two secondees from Victorian Government departments. A summary of the business case was presented to the meeting. The summary noted that the “… business case has been approved by the ERC (Expenditure Review Committee of Cabinet) and funding allocated”. The known shortcomings of the business case and the proposed funding were not recorded in the minutes of the meeting.

On 30 May 2007, the steering committee accepted the February 2006 business case subject to a number of caveats including:

- that the adequacy of funding would not be ascertained until more information became available as to whether the replacement system would be custom built or commercial off the shelf.
• the scope of the LEAP replacement had not been specified in detail within the business case and the exact scope of the project could not be confirmed.

The caveats demonstrated the inadequacy of the initial business case. Not even the scope of the replacement project was known. In the light of the caveats it is not clear how the business case could be relied upon as a foundation for the LEAP replacement. No proper explanation could be provided to the Inquiry.

The business case was not updated at all during the project. This was a significant omission. The absence of a business case updated with key aspects of project change (i.e. budget, schedule, scope, risks and contingencies) meant the steering committee remained ignorant of the true net present value of the project for approximately four years – until it was far too late.

6.3.3 like-for-like replacement decision

The business case accepted in May 2007 did not contemplate a like-for-like replacement of LEAP. At some point, however, during the procurement process a decision was taken that required the replacement of LEAP “… in all its current functionality”. It is unclear to the Inquiry who made this decision – it is not recorded in the steering committee minutes – but it was a decision with far reaching consequences. The effect of the decision was to seek a custom built like-for-like solution, which reproduced the functionality of LEAP. The decision was at odds with the original business case and was at no stage properly costed, despite the caveat to the business case mentioned in the steering committee minutes of 30 May 2007.

In December 2007, a risk chart was developed for the ‘LINK’ (LEAP replacement) project. The chart identified as a potential high risk that the project cost had been underestimated in the business case. The potential consequential risk impact identified was that LINK may be stopped, scope reduced or additional funding required. The mitigation strategy identified in the document included “… monitor expenditure against budget to identify overspend early”. The risk chart was subject of numerous iterations up until 2010 but this ‘high’ risk was not addressed. That there was no proper analysis of this risk underscores the lack of project management experience on the steering committee. The risk management plan in reality was not used to manage risk, and it quickly became out of date. For example, it was not updated to reflect the risk of cost overrun posed by the lack of any proper costing of the like-for-like decision.

On 31 October 2008, the LINK project passed its fourth Gateway Review. The Gateway Review process is an initiative of the Department of Treasury and Finance to provide an independent review of procurement at a key decision point. The review found “… the project and the project team is well prepared to make the final tender decision”. The LINK project was given a ‘green’ light, it was noted the project was “on target to succeed”. A fundamental purpose of the Gateway Review process was to confirm the business case against the proposed tender decision and to comment on the delivery time and meeting budget. The Gateway Review made no reference to important factors influencing such considerations, particularly an issue critical to the success of the project – the original business case and costing was not based on a like-for-like replacement of LEAP.

In retrospect, the decision to replace LEAP like-for-like was one that made no sense – that it was a retrograde step to engage and then ask a company expert in software applications for modern policing to rework such application to match something designed in the 1970s.

6.3.4 LINK – NICHE contract

On 5 February 2009, a contract was signed with Niche Technology to provide the Niche Records Management System product which had been successfully implemented by police in many other jurisdictions both in Australia and overseas.

As at March 2009, the budget for the LEAP replacement remained that forecast by the defective business case three years earlier, $60.5 million. The steering committee observed this budget was a
simplification of the true budget cash flow and that the budget would need to be revised when post-
procurement planning was complete and revised again after the development of a detailed work plan
in conjunction with the successful vendor. Despite having entered a contract with Niche just a month
before, the scope of the work required for implementation remained to be settled, without any apparent
basis the steering committee was advised “… the total project budget is not expected to change”.

By July 2009, it was recognised that additional funding would be necessary for the LINK project. A
ministerial briefing of 1 July 2009 indicated $26.3 million of State Administered Unit (SAU) funding
would be necessary to meet the now estimated budget of close to $90 million for the LINK
replacement. Approval was never granted for this SAU funding.

The LINK project was suspended in June 2010. Independent consultancy reviews indicated the
integration costs and timelines were substantially larger than budgeted in the original business case.
Further the reviews identified the limited value of what was described as “the simple like-for-like”
replacement approach being undertaken by the LINK project in particular that this approach
compromised the Niche product and removed the potential for improvement in business process.
Twenty nine personnel either had their employment terminated or were offered other positions within
Victoria Police. The aim, at the time, was to develop a new business case supporting the request for
additional funding required to complete the LEAP project for the Budget Expenditure Review
Committee of Cabinet (BERC) process 2012 - 2013.

6.3.5 KPMG review

In July 2010, after suspension of LINK, KPMG was engaged to review the project; that review was
completed in January 2011. KPMG identified the like-for-like approach as a fundamental problem of
the LINK project, in these terms:\textsuperscript{168}

“Simply running LINK as an IT project, with the goal of a “like-for-like” replacement of the
LEAP system, would compromise the implementation of the Niche product and set aside the
potential for significant improvements in business processes”.

The review identified numerous budget issues relating to the LINK project not allowed for in costing the
project, including:

- interface development (including amount for contingency) to cost $30 million (in addition to the
  $15.7 million spent for the Enterprise Service Bus (ESB), software that provided the platform for
  interface processing) against the original business case estimate of $2.4 million for interface costs;
- data conversion from LEAP to LINK over $10 million;
- training costs were underestimated by as much as $25 million; and
- extra costs due to the need to extend the timeframe for deployment.

KPMG allowed a contingency of $23.8 million due to the size and complexity of the project. The
projected total cost of LINK was, according to this review, $160 million. The shortfall over approved
funding ($60.5 million) was approximately $100 million.

6.3.6 a new business case

KPMG produced a new business case for Victoria Police to support the additional funding for the LEAP
replacement in February 2011 which canvassed five potential options from option 1, continuing “as is”.

\textsuperscript{168} KPMG (Jan 2011), \textit{Victoria Police LINK Project Review Report}, Victoria, p. 19
a do nothing option to option 5, a "transformation option" building on the replacement of LEAP by Niche with all modern tools and resources and a total project cost estimated at $265 million.

Like its predecessor this business case identified the existing LEAP system as out-dated, inflexible, not supporting efficient operations and cumbersome. The LEAP replacement would ‘liberate’ police from approximately 295,000 hours per year of administrative tasks associated with LEAP. The business case also referred to a replacement improving police safety, morale and public safety.

6.3.7 PIMS

In presenting the case for further funding it was thought desirable to have a new name. The LEAP replacement project ‘LINK’ was in effect re-badged and re-presented as Policing Information Management System (PIMS) and a preliminary business case, largely based on the KPMG developed business case of 2011, was presented to the Department of Justice in late May 2011.

Although PIMS was effectively LINK rebadged, the LINK project was formally closed down on 30 June 2011, the LINK steering committee was disbanded and the remaining project staff were dispersed.

PIMS, the preliminary business case stated, followed the successful procurement of the Niche software application “... which will be implemented into Victoria Police as part of PIMS”. The preliminary business case confusingly outlined options “to be taken forward to the full business case for detailed examination and analysis”. Victoria Police favoured the option of replacement of LEAP by the Niche product thereby reducing stand-alone platforms (approximately 90) and addressing identified service needs.

The PIMS preliminary business case identified further and important concerns with LEAP underscoring the need for replacement:

- data entry – the length and complexity of forms for LEAP is a major drain on efficient use of Victoria Police time and detracts from time for core duties, with 35 per cent of members’ time spent completing administrative tasks;
- the methods of data entry create significant quality issues concerning the data;
- the inaccuracies and delays associated with the entering of data into LEAP impact negatively on targeted deployment and development of police intelligence which in turn negatively impacts on the safety of the community and police members potentially placing police in dangerous situations;
- the frustrations of LEAP impact on the morale and job satisfaction of police; and
- the problems associated with LEAP will be exacerbated by the increase in sworn police numbers (1700) and protective service officers (940).

6.3.8 PIMS gateway review

The PIMS preliminary business case was subject to a Gateway Review in late July 2011. The scrutiny of this review process appears to have been the cause of considerable reflection at senior levels of Victoria Police command. The Gateway Review indicated interviewees:

- advised that the preliminary business case did not provide sufficient justification for additional funding to complete the replacement of LEAP; and
- varied greatly in their expectations and understanding of what outcomes PIMS would provide and the technology necessary to achieve outcomes.

The Gateway Review observed “… that best practice and strategic assessment begins with a fundamental understanding of what the problem is that requires fixing and the strategic response that the organisation is looking for.” The review found that the PIMS project was deficient in these respects:
the strategic vision for Victoria Police as it related to the PIMS project;

- current and preferred policing workflow;

- business requirements based upon the operational needs of modern policing; and

- information management plan.

After six years of work on the LEAP replacement this was a damning assessment, which has since been acknowledged by Victoria Police.

6.3.9 PIMS abandoned

The Inquiry was informed on 31 August 2011 by the Assistant Commissioner, Intelligence and Covert Support, Mr Jeff Pope, that PIMS is “dead”. The Gateway Review had caused Victoria Police to rethink their approach to the next two to three years and during August a decision had been made not to proceed with PIMS.

The Inquiry questioned the reasonableness of the decision to abandon PIMS, when tens of millions of dollars of taxpayer funds had already been spent on the replacement of LEAP replacement to no apparent benefit. The decision on first assessment appeared to be precipitate, without proper consideration of what may be recoverable from the $45 million already spent and the contractual arrangements with Niche Technology. Based on materials made available to the Inquiry, it appears approximately $30 million has been spent with no tangible result.

The Inquiry was informed that as a consequence of the Gateway Review an internal process took place leading to the abandonment of PIMS, and that in reality Victoria Police had little choice. Matters taken into account in this decision making included the following:

- no decision had been made by the LINK steering committee as to how data would be entered into LINK, and Victoria Police was yet to decide whether the system that replaces LEAP will continue the present inefficient system of central data entry based on forms completed manually by police;

- the Executive Director, I&IT, Mr Vanderheide, had departed Victoria Police on 1 July 2011;

- there was no project team in existence;

- while the main operational systems and their interface with LEAP are understood, Victoria Police still had no clear understanding of the many smaller systems used throughout the organisation (estimated at 500 to 700) and had no plan as to how these systems should be integrated; and

- Victoria Police has no information management strategy to guide it over the next one to two decades.

At one level, the decisions to close LINK and abandon PIMS were responsible decisions to delay the replacement of LEAP until it can be implemented properly and in a way that achieves maximum benefit for Victoria Police and the Victorian community; these were courageous steps by senior command, taken despite the inevitable criticism that would follow. At another level, the decisions are an indictment of the capacity of Victoria Police to deliver a major, much needed and long awaited IT project. The outcome is profoundly disappointing.

6.4 HR Assist project

In October 2006 Victoria Police embarked on a project to implement a new human resource management system. The Human Resource Millennium System (HRMS) introduced in 1994 by Victoria Police which incorporated payroll, skills, education, qualifications, discipline and leave information had exceeded its point of upgradability. It was incapable of processing important police
data and like LEAP was costly to support. Further, data quality was poor and the system could not
cater for new enterprise agreements, and was not compliant with accounting standards and privacy.

The procurement project was originally forecast to deliver the new HRMS capability in just over three
years.

An initial budget based on a consultancy report was secured at $18.35 million. The project passed a
Gateway 4 investment appraisal. At the time of passing Gateway 4 an out-dated business case was
submitted by Victoria Police for approval.

It was quickly appreciated in June 2008 this initial “business case” budget would not be sufficient to
implement the new HRMS system. The HR Assist project received a further $10 million in funding and
the budget increased to $28.35 million. The ‘go live’ delivery date was put back to August 2009.

Business change requests, additional licence and interface design, underspecified hardware and a
failure to budget for future upgrades not only led implementation to again be put back to April 2010 but
added significantly to cost. HR Assist was finally costed at $44.14 million, a 56 per cent increase over
initial budget. Recurrent costs for maintenance of hardware and other aspects of the system were also
significantly underestimated at $1.2 million per annum in the initial business case. This has since been
revised to approximately $6 million per annum.

HR Assist went online in April 2010 with some initial teething problems which are now generally
resolved with full implementation.

6.5 PALM

Project PALM (Property and Laboratory Management) was established with the combining of two
separate IT projects – Forensic Information Management System (FIMS) and Seized Property
Management Project (SPMP).

FIMS had been funded in 2006-07 so as to upgrade information systems at the Forensic Services
Department. SPMP commenced in 2006 to modernise the recording of and tracing of seized and
found property across Victoria police. Both projects at tender, independently selected the same
software company and system.

It was anticipated benefits would follow from an integration of the projects bringing economies of scale,
a streamlining of implementation processes and a minimisation of organisational impact on
introduction. Even though PALM brought this integration the individual projects, FIMS and SPMP,
maintain separate budgets and different internal reporting entities. The integration of the projects has
increased the complexity of both projects, which has resulted in delay in their implementation.

PALM commenced in 2008 and full implementation was to be concluded across relevant Divisions,
Units and all police stations by November 2010.

The budget for PALM was $18.25 million with $1.81 million recurrent funding for ongoing support and
development.

In December 2009 the scheduled introduction of PALM was extended to March 2011. This date was
again extended and as of June 2011 it is predicted that PALM will in fact have different dates for the
implementation of the two systems; FIMS in December 2011 and SPMP in May 2012. The aggregated
cost of delivering the project is now estimated at $23.2 million, with some of the recurrent funding for
ongoing development having been absorbed by project delays.

6.6 systemic issues

Systemic issues in the management of major IT by Victoria Police identified by the Inquiry’s review of
the three projects, LEAP replacement, HR Assist and PALM, are as follows.
• poor project governance, with projects having two or even three project managers at a time;
• high turnover of project executive sponsors;
• high turnover of project managers and business managers and senior project staff;
• high turnover of technical team leads;
• delay due to slow Victoria Police recruiting process;
• lack of well embedded project management methodology;
• a failure to cost project risks to determine contingency required;
• a failure to update, properly, business case documents;
• changes in scope of IT projects once underway; and
• a lack of expert outside scrutiny and review of IT implementation.

The Inquiry was informed of the difficulties of attracting and keeping experienced IT project managers, given strong market competition in this area. The known risk of turnover in senior positions can and should be managed through robust engagement and contractual negotiations.

6.7 procurement reform and project management

Considerable effort has been invested in the introduction of proper procurement and project management practices over the past 18 months. During 2010 Victoria Police instituted a Commercial Practice Reform Project, which has brought about a number of improvements. Mr Andrew Loader, in the newly created position of Director of Commercial Practice Reform, is leading organisation wide change in the governance of purchasing and contract management activities.

Procurement practices have been reformed, and the significant improvements in this area have been acknowledged by the VGPB. A Police Procurement Board has been established which considers submissions of a procurement evaluation team in relation to preferred vendor, risk and value being provided. The Board may exercise a watching brief once the contract has been signed.

Victoria Police are attempting to meet international standards of procurement through compliance with the United Kingdom based Chartered Institute of Supply. Contract managers at Victoria Police are to become accredited through the International Association of Commercial Contract Managers. These processes of accreditation have been accompanied by establishing procedures and requirements for contract managers.

In the area of project management, a Project Investment Portfolio has been established to review all business cases seeking financial investment by Victoria Police and to undertake a watching brief over the course of a project. Quarterly governance reviews of major contracts are reported by this group to the Victoria Police Executive.

These reforms should be applauded. There is recognition in the Department of Justice and the Department of Treasury and Finance of the work that has been done by Victoria Police and its improvements in procurement and project management. The Inquiry, however, was told that these improvements commence from a low base, that Victoria Police is ‘on a journey’ and there is still work to be done to embed these improvements. For example, it is only very recently that Victoria Police has agreed to provide monthly reports on project expenditure to the Department of Justice. Unlike other agencies in the Justice portfolio, it has previously reported quarterly.
6.8 PIPP

As indicated in section 6.7, Victoria Police has recently taken a number of steps to address long
standing shortcomings in the area of information governance and strategy. Notable initiatives include:

- nominating the Assistant Commissioner, Intelligence and Covert Support, Mr Jeff Pope, as the
  ‘business owner’ for Victoria Police’s operational applications including LEAP, Interpose, and the
  Traffic Incident System – Victoria Police has not previously had an identified business owner for its
  operational systems;

- establishing the Operational System Support Division within the Intelligence and Covert Support
  Department; and

- giving consideration to moving IMSSD out of the I&IT Department, so that the Director, IMSSD,
  reports to the Deputy Commissioner, Strategy and Organisational Development; and

- acceptance of the need to develop an overarching information management strategy for Victoria
  Police, and preparation for the work required.

Arising out of the Gateway Review of PIMS, a paper was produced by Victoria Police, Policing
Information Process and Practice Reform to Support a Modern Police Force (PIPP) Victoria Police
command views PIPP as:

“an initiative that will allow the organisation an opportunity to establish:

- a clear vision for operational policy processes and procedure out to 2030;

- information and business requirements (a blueprint) to deliver the vision; and

- a business case to bid for BERC funding 2014/15 to deliver the agreed information and
  business requirements.”

The PIPP analysis indicated this review would take up to two to three years so as to enable planning to
“… seamlessly incorporate enabling technology to support the revised operational information
practices and procedures and establish operational information business requirements to support a
21st century police force”.

To achieve the objectives outlined in the PIPP document and articulate the necessary business case
“… that will be the blueprint for modern operational police management” it is proposed that a
governance steering committee headed by the project sponsor, the Deputy Commissioner, Strategy
and Development, will be formed. This proposed committee would comprise, in addition to the project
sponsor, the Assistant Commissioner, Intelligence and Covert Support, a Regional Assistant
Commissioner, the Group Manager Operational Systems Support Division, the Director Corporate
Strategy, the Director Information Management and Information Security Division and Senior Executive
representation from at least one, possibly two, central government agencies.

6.9 conclusions

The Inquiry has lost count of the number of projects, reviews and reports since 2005 which speak
variously of a ‘vision’ or ‘long term strategy’ or the need to ‘modernise’ so as to bring “…Victoria Police
to the 21st century”. All of these, including the PIPP document, contain the jargon so common in
management documentation. The promise of the jargon has never been matched by the practical
reality at Victoria Police. The Inquiry was informed of what is an understandable ‘project fatigue’
amongst both sworn police and public servants.

The most recent events, combined with the history of procurement and implementation of IT, give no
confidence that the senior command of Victoria Police is at present in a position to deliver major IT. In
the last six months senior command has moved from its position of having to replace LEAP as a matter of pressing urgency, to its current position of seeking to define its ‘vision’ for the future, a review that will take two years.

There remains a need for Victoria Police to account for its expenditure on the failed LINK project.

**Recommendation 22**

That Victoria Police provide a report to the Minister for Police and Emergency Services by the end of 2011 with a full breakdown and acquittal of expenditure on the LEAP replacement project to date, including any identifiable, continuing benefits to Victoria Police from such expenditure.

The Inquiry recognises that fundamental to the successful implementation of major IT projects at Victoria Police is a clear understanding and assessment of the long term requirements of the organisation, and corresponding information management strategy. This necessary strategy is yet to be developed by Victoria Police.

The Inquiry sees little alternative but to accept the necessity for the PIPP review. The Inquiry accepts the PIPP review is motivated by a desire to ensure a proper foundation for modernising IT within Victoria Police. Nevertheless two years appears to the Inquiry a long time for such a review, particularly in the context of the deleterious impact of LEAP on all aspects of policing.

**Recommendation 23**

That the Deputy Commissioner, Strategy and Development:

- by July 2013 develop an overarching strategy for Victoria Police information management to 2030; and
- by July 2013 produce a business case for an IT project that incorporates replacement of the LEAP system.

Future delivery of major IT cannot be achieved by Victoria Police without a replacement for the former Executive Director IT and Infrastructure, Mr Vanderheide. His replacement must have a background and experience of the highest quality. The position, which should report to the new position of Chief Operating Officer, is critical. The terms of engagement need to be such that it will be attractive for the candidate to remain with Victoria Police in the long term. As such, Victoria Police should not be constrained by public sector remuneration guidelines in the recruitment of this senior IT executive.

**Recommendation 24**

That Victoria Police undertakes the recruitment of a senior executive with the expertise required to deliver major IT projects, as a matter of urgency.

Of persons consulted by the Inquiry no-one disputed that external independent assessment, review, audit and advice would be a necessary adjunct to all major IT procurement by Victoria Police.
At a high level the proposed Corporate Advisory Group, as outlined in Chapter 5, will oversee both
the development of an information management strategy for Victoria Police and major IT procurement
and project management.

At the project level independent review and advice concerning major IT is essential. External oversight
of and input into major IT projects is necessary at two levels:

- at least one person from the Department of Treasury and Finance, one person from the Department
  of Justice and one person from outside government should be appointed to the steering committee,
  such persons being experienced in IT procurement and implementation; and

- a project auditor, with unrestricted access to information about the project and to the project team,
  should be appointed to assist the steering committee in its oversight of the project.

**Recommendation 25**

That Victoria Police secures external assistance for any future major IT project, including by:

- appointing to the project steering committee at least one person from the Department of
  Treasury and Finance, one person from the Department of Justice and one person from
  outside government, each with appropriate experience in IT procurement and
  implementation; and

- appointing a project auditor to assist the steering committee in its oversight of the project,
  and ensuring that the project auditor has unrestricted access to information about the
  project and to the project team.

The Inquiry has also identified the systemic problem of constant turnover of project staff, executive
sponsors and steering committee members. In future, Victoria Police must be vigilant in managing this
risk. In particular:

- Major IT projects should be sponsored at least at Deputy Commissioner level and the Deputy
  Commissioner should be held accountable for delivery of the project, likely as head of the steering
  committee.

- Executive or business sponsors should remain in position over the course of the project.

- Steps should be taken to avoid high turnover of project staff, in particular the project manager, with
  a recognition that these projects demand talented, experienced personnel/organisations to drive
  efficient project management and methodology and thus appropriate remuneration.
## appendix a consultations

### a.1 background consultations

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<tr>
<th>Name</th>
<th>Role</th>
<th>Organisation</th>
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<tbody>
<tr>
<td>Ms Penny Armitage</td>
<td>Secretary</td>
<td>Department of Justice</td>
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<tr>
<td>Ms Frances Asher</td>
<td>Principal Manager, Electronic Ticketing System Program Delivery</td>
<td>New South Wales Department of Transport</td>
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<tr>
<td>Mr Robert Atkinson</td>
<td>Commissioner of Police</td>
<td>Queensland Police</td>
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<tr>
<td>Ms Karen Batt</td>
<td>State Secretary</td>
<td>Community and Public Sector Union</td>
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<tr>
<td>Mr Mark Bladon</td>
<td>Director, IT Advisory</td>
<td>KPMG</td>
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<tr>
<td>Mr George Brouwer</td>
<td>Ombudsman</td>
<td>Ombudsman Victoria</td>
</tr>
<tr>
<td>Mr Alan Clayton</td>
<td>Former Executive Director, Police Emergency Services and Corrections</td>
<td>Department of Justice</td>
</tr>
<tr>
<td>Mr Neil Comrie AO</td>
<td>Former Chief Commissioner</td>
<td>Victoria Police</td>
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<tr>
<td>Mr Shaun Condon</td>
<td>Chief Financial Officer</td>
<td>Department of Justice</td>
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<tr>
<td>Mr Michael Cornelius</td>
<td>Director, Major Procurement Program Office</td>
<td>Department of Justice</td>
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<tr>
<td>Mr Jerrold Cripps QC</td>
<td>Acting Commissioner</td>
<td>New South Wales Police Integrity Commission</td>
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<td>Mr Greg Davies</td>
<td>Secretary</td>
<td>The Police Association of Victoria</td>
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<td>Ms Marisa De Cicco</td>
<td>Former Director, Justice Policy</td>
<td>Department of Justice</td>
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<td>Mr Paul Evans</td>
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<td>Mr Nicholas Fox</td>
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<td>Mr Mal Hyde AO APM</td>
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<td>Mr Gary Jamieson</td>
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<td>Mr Paul Jevtovic</td>
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<tr>
<td>Mr Larry Kamener</td>
<td>Senior Partner and Global Public Sector Leader</td>
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<tr>
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<td>Dr Ken Latta PSM</td>
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<td>Mr Chris Leptos</td>
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<td>Mr Bruce Moy</td>
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<td>The Hon. Martin</td>
<td>Chairperson</td>
<td>Queensland Crime and Misconduct Commission</td>
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<td>Moynihan AO QC</td>
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<td>Mr Ian Nicklen</td>
<td>Acting Director, Emergency Services Policy and Support</td>
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<tr>
<td>Ms Sue Nolen</td>
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<td>Mr Des Pearson</td>
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<td>Mr John Peoples</td>
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<tr>
<td>Mr Mark Peters</td>
<td>Independent Member and Chair</td>
<td>Victoria Police Audit and Risk Committee</td>
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<tr>
<td>Ms Elizabeth Proust AO</td>
<td>Former Commissioner Former Secretary</td>
<td>State Services Authority, Department of Premier and Cabinet</td>
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<td>Mr Leslie Ross</td>
<td>Special Investigations Monitor</td>
<td>Office of the Special Investigations Monitor</td>
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<tr>
<td>Mr Andrew Scipione APM</td>
<td>Commissioner of Police</td>
<td>New South Wales Police</td>
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<tr>
<td>Ms Rosemary Scully</td>
<td>Partner, Justice &amp; Security, Global Centre of Excellence</td>
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<tr>
<td>Ms Alice Sidhu</td>
<td>Director, Strategic Sourcing</td>
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<tr>
<td>Mr Michael Strong</td>
<td>Director</td>
<td>Office of Police Integrity</td>
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<tr>
<td>Mr Les Tree</td>
<td>Chief Executive Officer</td>
<td>New South Wales Ministry for Police and Emergency Services</td>
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<tr>
<td>Mr Michael Vanderheide</td>
<td>Former Executive Director, Infrastructure and Information Technology</td>
<td>Victoria Police</td>
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<tr>
<td>Mr David Watts</td>
<td>Commissioner for Law Enforcement Data Security</td>
<td>Office of the Commissioner for Law Enforcement Data Security</td>
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<tr>
<td>Mr Jon White</td>
<td>Chief Executive Officer</td>
<td>Australia and New Zealand Policing Advisory Agency</td>
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<tr>
<td>The Hon. James Wood AC QC</td>
<td>Chairman</td>
<td>New South Wales Reform Commission</td>
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**a.2 formal interviews**

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<thead>
<tr>
<th>Name</th>
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<tr>
<td>Mr Graham Ashton</td>
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<tr>
<td>Ms Karen Batt</td>
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<td>Community and Public Sector Union, SPSF Group, Victorian Branch</td>
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<td>Mr Gary Benbow</td>
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<tr>
<td>Ms Liz Cheligoy</td>
<td>Assistant Director People Workplace Relations</td>
<td>Victoria Police</td>
</tr>
<tr>
<td>Mr Luke Cornelius</td>
<td>Assistant Commissioner, Southern Region</td>
<td>Victoria Police</td>
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<tr>
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<tr>
<td>Ms Alison Creighton</td>
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<td>Mr Greg Davies</td>
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<td>Mr Emmett Dunne</td>
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<tr>
<td>Sir Ken Jones</td>
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<tr>
<td>Mr Karl Kent</td>
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<tr>
<td>Mr Ken Lay APM</td>
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<tr>
<td>Mr Andrew Loader</td>
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<td>Ms Nicole McKechnie</td>
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<td>Mr Findlay McRae</td>
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<td>Ms Rebecca Munn</td>
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<td>Victoria Police</td>
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<tr>
<td>Ms Lucinda Nolan APM</td>
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<td>Ms Christine Nixon APM</td>
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<td>Mr Simon Overland</td>
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<td>Mr Cliff Owen</td>
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<td>Mr Shane Patton</td>
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<td>Ms Jenny Peachey</td>
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<tr>
<td>Mr Jeff Pope</td>
<td>Assistant Commissioner, Intelligence and Covert Support Division</td>
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<td>Mr Terry Purton, APM</td>
<td>Commander, Governance and Assurance Division</td>
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<td>Mr Neil Robertson, PSM</td>
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<td>Mr John Scheffer</td>
<td>Assistant Director, Biology Division, Forensic</td>
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<td>Mr Kevin Scott</td>
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<td>Mr David Sprague</td>
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<tr>
<td>Mr Michael Vanderheide</td>
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<td>Mr David Watts</td>
<td>Commissioner for Law Enforcement Data Security</td>
<td>Office of the Commissioner for Law Enforcement Data Security</td>
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<tr>
<td>Mr Kieran Walshe, APM</td>
<td>Deputy Commissioner, Regional and Road Policing</td>
<td>Victoria Police</td>
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</tbody>
</table>
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legislation

Australian Federal Police Act 1979 (Cth)

Constitution Act 1975 (Vic)

County Court Act 1958 (Vic)

Fair Work Act 2009 (Cth)
## Appendix C Inter-Jurisdictional Comparison - Relationship Between Government and Police

<table>
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<tr>
<th>Jurisdiction</th>
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<th>Power and relevant section</th>
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<tr>
<td>Victoria</td>
<td>Police Regulation Act 1958</td>
<td><strong>Section 5(1)</strong> - The Chief Commissioner shall have, subject to directions of the Governor in Council, superintendence and control of the force.</td>
</tr>
<tr>
<td>New South Wales</td>
<td>Police Act 1990</td>
<td><strong>Section 6(1)</strong> - The Commissioner is, subject to the direction of the Minister, responsible for the management and control of the NSW Police Force.</td>
</tr>
<tr>
<td>Queensland</td>
<td>Police Service Administration Act 1990</td>
<td><strong>Section 4.6(1)(a)</strong> - The Commissioner is to furnish to the Minister reports and recommendations in relation to the administration and functioning of the police service, when required by the Minister to do so. <strong>Section 4.6(2)</strong> - The Minister, having regard to advice of the Commissioner first obtained, may give, in writing, directions to the Commissioner concerning: (a) the overall administration, management and superintendence of, or in the police service; and (b) policy and priorities to be pursued in performing the functions of the police service; and (c) the number and deployment of officers and staff members and the number and location of police establishments and police stations. <strong>(3)</strong> The Commissioner is to comply with all directions duly given under (2). <strong>Section 4.7</strong> - The Commissioner is to keep a register in which are to be recorded: (a) all reports and recommendations made to the Minister under section 4.6(1)(a); and (b) all directions given in writing to the Commissioner under section 4.6(2); and (c) all reasons tabled by the Minister under the Crime and Misconduct Act 2001, section 64. <strong>Section 4.8(1)</strong> - The Commissioner is responsible for the efficient and proper administration, management and functioning of the police service in accordance with law.</td>
</tr>
<tr>
<td>South Australia</td>
<td>Police Act 1998</td>
<td><strong>Section 6</strong> - Subject to this Act and any written directions of the Minister, the Commissioner is responsible for the control and management of SA Police. <strong>Section 7</strong> - No Ministerial direction may be given in relation to the appointment, transfer, remuneration, discipline or termination of a person. <strong>Section 8</strong> - The Minister must cause a copy of any direction given to the Commissioner to be: (a) published in the Gazette within eight days of the date of the direction; and (b) laid before each House of Parliament within six sitting days of the date of the direction if Parliament is then in session, or, if not, within six sitting days after the commencement of the next session of Parliament.</td>
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<td>Tasmania</td>
<td>Police Service Act 2003</td>
<td><strong>Section 7(1)</strong> - The Commissioner, under the direction of the Minister, is responsible for the efficient, effective and economic management and superintendence of the Police Service.</td>
</tr>
<tr>
<td>Western Australia</td>
<td>Police Act 1992</td>
<td><strong>Section 5</strong> - The Governor may from time to time appoint a fit and proper person to be Commissioner of Police throughout the said State, and as occasion shall require may remove any Commissioner of Police and appoint another in his stead, and every Commissioner of Police shall be charged and vested with the general control and management of the Police Force of the said State, and also of any special constables who may be appointed as hereinafter provided.</td>
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<tr>
<td>Northern Territory</td>
<td>Police Administration Act 1978</td>
<td><strong>Section 14(1)</strong> - Subject to this Act, the Commissioner shall be charged and invested with the general control and management of the Police Force <strong>(2)</strong> - The Commissioner shall exercise and perform all the powers and functions of his office in accordance with the directions in writing, if any, given to him by the Minister.</td>
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<tr>
<td>Jurisdiction</td>
<td>Legislation</td>
<td>Power and relevant section</td>
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| Commonwealth  | Australian Federal Police Act 1979 | **Section 37(1)** - Subject to this Act, the Commissioner has the general administration of, and the control of the operations of, the Australian Federal Police.  
(2) - The Minister may, after obtaining and considering the advice of the Commissioner and of the Secretary, give written directions to the Commissioner with respect to the general policy to be pursued in relation to the performance of the functions of the Australian Federal Police.  
(4) The Commissioner must comply with all directions given under this section.  
(6) The Commissioner must give to the Minister such reports as the Minister requests relating to the administration and the performance of the functions of the Australian Federal Police. |
| New Zealand   | Policing Act 2008                 | **Section 16(1)** - The Commissioner is responsible to the Minister for—  
(a) carrying out the functions and duties of the Police;  
(b) the general conduct of the Police; and  
(c) the effective, efficient and economical management of the Police; and  
(d) tendering advice to the Minister and other Ministers of the Crown; and  
(e) giving effect to any lawful ministerial directions.  
**Section 16(2)** - The Commissioner is not responsible to, and must act independently of, any Minister of the Crown (including any person acting on the instruction of a Minister of the Crown) regarding—  
(a) the maintenance of order in relation to any individual or group of individuals; and  
(b) the enforcement of the law in relation to any individual or group of individuals; and  
(c) the investigation and prosecution of offences; and  
(d) decisions about individual Police employees. |
### Appendix D: Inter-Jurisdictional Comparison - Roles of Police and Chief Commissioners

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Legislation</th>
<th>Power and relevant section</th>
</tr>
</thead>
</table>
| Victoria           | Police Regulation Act 1958                       | Role of the Chief Commissioner  
Section 5(1) - The Chief Commissioner shall have, subject to directions of the Governor in Council, superintendence and control of the force. |
| New South Wales    | Police Act 1990                                  | Functions of NSW Police  
Section 8(1) - The mission of the NSW Police Force is to work with the community to reduce violence, crime and fear.  
(2) The NSW Police Force has the following functions:  
(a) to provide police services for New South Wales,  
(b) to exercise any other function conferred on it by or under this or any other Act,  
(c) to do anything necessary for, or incidental to, the exercise of its functions.  
(3) In this section:  
police services includes:  
(a) services by way of prevention and detection of crime, and  
(b) the protection of persons from injury or death, and property from damage, whether arising from criminal acts or in any other way, and  
(c) the provision of essential services in emergencies, and  
(d) any other service prescribed by the regulations.  
Role of the Commissioner  
Section 8(1) - The Commissioner is, subject to the direction of the Minister, responsible for the management and control of the NSW Police Force.  
(2) The responsibility of the Commissioner includes the effective, efficient and economical management of the functions and activities of the NSW Police Service. |
| Queensland         | Police Service Administration Act 1990           | Functions of Queensland Police  
Section 2.3 - The functions of the police service are:  
(a) the preservation of peace and good order …;  
(b) the protection of all communities in the State and all members thereof …;  
(c) the prevention of crime;  
(d) the detection of offenders and bringing of offenders to justice;  
(e) the upholding of the law generally;  
(f) the administration, in a responsible, fair and efficient manner and subject to due process of law and directions of the Commissioner, of … the Criminal Code and other relevant laws;  
(g) the provision of the services, and the rendering of help reasonably sought, in an emergency.  
Role of the Commissioner  
Section 4.8(1) The Commissioner is responsible for the efficient and proper administration, management and functioning of the police service in accordance with law. |
<table>
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<tr>
<th>Jurisdiction</th>
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</thead>
<tbody>
<tr>
<td>South Australia</td>
<td>Police Act 1998</td>
<td>Functions of SA Police Section 5 - The purpose of S.A. Police is to reassure and protect the community in relation to crime and disorder by the provision of services to— (a) uphold the law, and (b) preserve the peace; and (c) prevent crime; and (d) assist the public in emergency situations; and (e) co-ordinate and manage responses to emergencies; and (f) regulate road use and prevent vehicle collisions.</td>
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<tr>
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<td>Role of the Commissioner Section 6 – Subject to this Act and any written directions of the Minister, the Commissioner of Police is responsible for the control and management of SA Police.</td>
</tr>
<tr>
<td>Western Australia</td>
<td>Police Act 1892</td>
<td>Role of the Commissioner Section 5 – [The] Commissioner of Police shall be charged and vested with the general control and management of the Police Force of the said State, and also of any special constables who may be appointed as hereinafter provided.</td>
</tr>
<tr>
<td>Tasmania</td>
<td>Police Service Act 2003</td>
<td>Role of the Commissioner Section 7(1) - The Commissioner, under the direction of the Minister, is responsible for the efficient, effective and economic management and superintendence of the Police Service. (2) Matters for which the Commissioner is responsible includes, but are not limited to, the following: (a) determination of the organisational structure of the Police Service; (b) determination of the number, type and location of police stations and other buildings and structures used for the purposes of the Police Service;</td>
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<tr>
<td>Jurisdiction</td>
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<td>(c) determination and allocation of duties within the Police Service;</td>
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<td>(e) discipline within the Police Service;</td>
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<td>(f) training, education and development programs to ensure efficient and effective performance of duties;</td>
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<td>(g) the establishment of internal grievance-resolution procedures.</td>
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**Northern Territory**  
**Police Administration Act 1978**  
**Functions of NT Police**  
**Section 5(2)** - The core functions of the Police Force are:  
(a) to uphold the law and maintain social order; and  
(b) to protect life and property; and  
(c) to prevent, detect, investigate and prosecute offences; and  
(d) to manage road safety education and enforcement measures; and  
(e) to manage the provision of services in emergencies.  

**Role of the Commissioner**  
**Section 14(1)** Subject to this Act, the Commissioner shall be charged and invested with the general control and management of the Police Force.

**Commonwealth**  
**Australian Federal Police Act 1979**  
**Functions of the Australian Federal Police**  
**Section 8(1)** The functions of the Australian Federal Police are:  
(a) ... the provision of police services in relation to the Australian Capital Territory; and  
(aa) ... the provision of police services in relation to the Jervis Bay Territory; and  
(b) the provision of police services in relation to:  
(i) laws of the Commonwealth;  
(ii) property of the Commonwealth (including Commonwealth places) and property of authorities of the Commonwealth; and  
(iii) the safeguarding of Commonwealth interests and  
(baa) the investigation of State offences that have a federal aspect; and  
(bba) the provision of services in accordance with arrangements entered into under subsection (1C) and doing anything else included in the arrangements that is incidental or conducive to the provision of the services; and  
(bb) to perform the functions conferred by the Witness Protection Act 1994; and  
(bc) to perform the functions conferred by a law of a State or Territory that is a complementary witness protection law for the purposes of the Witness Protection Act 1994; and  
(bd) to perform functions under the Proceeds of Crime Act 2002; and  
(bbe) to perform such protective and custodial functions as the Minister directs by notice in writing in the Gazette, being functions that relate to a person, matter or thing with respect to which the Parliament has legislative power; and  
(bf) the provision of police services and police support services for the purposes of assisting, or cooperating with, an Australian or foreign:  
(i) law enforcement agency; or  
(ii) intelligence security agency; or  
(iii) government regulatory agency; and  
(bg) the provision of police services and police support services in relation to establishing, developing and monitoring peace, stability and security in foreign countries; and  
(c) to do anything incidental or conducive to the performance of the foregoing functions.  

**Role of the Commissioner**  
**Section 37(1)** - Subject to this Act, the Commissioner has the general administration of, and the control of the operations of, the Australian Federal Police.
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Legislation</th>
<th>Power and relevant section</th>
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| **New Zealand** | **Policing Act 2008** | Principles  
Section 8 - This Act is based on the following principles:  
(a) principled, effective, and efficient policing services are a cornerstone of a free and democratic society under the rule of law;  
(b) effective policing relies on a wide measure of public support and confidence;  
(c) policing services are provided under a national framework but also have a local community focus;  
(d) policing services are provided in a manner that respects human rights;  
(e) policing services are provided independently and impartially;  
(f) in providing policing services every Police employee is required to act professionally, ethically, and with integrity.  
Functions of NZ Police  
Section 9 - The functions of the Police include—  
(a) keeping the peace;  
(b) maintaining public safety;  
(c) law enforcement;  
(d) crime prevention;  
(e) community support and reassurance;  
(f) national security;  
(g) participation in policing activities outside New Zealand;  
(h) emergency management.  
Role of the Commissioner  
Section 16(1) - The Commissioner is responsible to the Minister for—  
(a) carrying out the functions and duties of Police;  
(b) the general conduct of the Police; and  
(c) the effective, efficient and economical management of the Police; and  
(d) tendering advice to the Minister and other Ministers of the Crown; and  
(e) giving effect to any lawful ministerial directions.  
Section 16(2) - The Commissioner is not responsible to, and must act independently of, any Minister of the Crown (including any person acting on the instruction of a Minister of the Crown) regarding—  
(a) the maintenance of order in relation to any individual or group of individuals; and  
(b) the enforcement of the law in relation to any individual or group of individuals; and  
(c) the investigation and prosecution of offences; and  
(d) decisions about individual Police employees. |
Inquiry into the command, management and functions of the senior structure of Victoria Police
Contact us at the State Services Authority
Email: info@ssa.vic.gov.au
Phone: (03) 9651 1321
Fax: (03) 9651 0747
Postal Address:
3 Treasury Place
Melbourne 3002
www.ssa.vic.gov.au