

TRANSCRIPT

CLOSED PROCEEDINGS

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION COMMITTEE

Inquiry into the external oversight of police corruption and misconduct in Victoria

Melbourne — 5 February 2018

Members

Mr Kim Wells — Chair

Ms Marsha Thomson — Deputy Chair

Mr Sam Hibbins

Mr Danny O'Brien

Mr Simon Ramsay

Mr Tim Richardson

Ms Jaclyn Symes

Witnesses

Mr Robert Redlich, Commissioner,

Mr Tony Gaylard, Manager, Assessment and Review,

Ms Christine Howlett, Director, Prevention and Communication, and

Mr Robert Sutton, Director, Operations, Independent Broad-based Anti-corruption Commission.

The CHAIR — I welcome the IBAC Commissioner. All evidence taken by this committee is protected by parliamentary privilege, therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, including on social media, those comments may not be protected by this privilege. Have you received and read the guide for witnesses presenting evidence to parliamentary committees?

Ms HOWLETT — Yes.

The CHAIR — Thank you. All evidence given today is being recorded by Hansard. Although this hearing is closed to the public, the transcript of today's hearing will be made public and published on the committee's website. You will be provided with a proof version of the transcript for you to check as soon as available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible.

I invite you to proceed with a 20-minute opening statement to the committee, which will be followed by questions from the committee. Before you start, can I say congratulations on your appointment.

Mr REDLICH — Thank you very much, Mr Chairman. Ladies and gentlemen, thank you for the opportunity to address the committee. A couple of reservations I should make at the outset. You will appreciate I have only been in the job for a little over a month, so some of the general comments I make might be devoid of detail but you will be pleased to hear at the conclusion of the evidence today we will be tabling for the committee detailed answers to each of the questions that you have raised with the commission to answer.

Could I start by saying that as I see it there are five matters that are in effect raised by the various questions that have been drafted. I will give you a brief indication of our position on each of those before saying something further specifically about various aspects of the answers we have given you. First is the question: what is our view as to the policy which underlies the IBAC act? You would already know from previous submissions made by the former commissioner, Mr O'Bryan, that IBAC takes the view that, in broad, the policy which underlies the act is sound. When I say 'policy' I am referring to the fact that under the act, whilst IBAC can undertake own investigations in limited circumstances, the process that is followed is to refer back to Victoria Police most complaints which come to IBAC.

Speaking both personally and on behalf of the institution, I would like to make it clear I think that is an extremely sound policy and for various reasons, some of which I will elaborate on, any alternative arrangement — that is, one that contemplates that in certain circumstances matters should not be referred back to VicPol — has both policy and pragmatic sound reasons for rejecting such an alteration in policy. As for the pragmatic reasons, I am not going to waste the committee's time with further elaboration of what you had already heard from my predecessor.

Mr O'Bryan made it very clear that were IBAC to be required to investigate as a mandatory requirement particular areas of activity, there would be quite extraordinary practical implications for IBAC. We do not have the resources. If we were to significantly increase our responsibility in terms of investigating certain crimes, we would need a different location, we would need a vast increase in the number of staff, the powers that we are able to exercise, and we would not be able to give effect to what presently is enshrined as the policy in the act — namely, to give primary focus to serious misconduct, whether it be systemic or just serious, in the area of police activity. So there are practical reasons why that is just a policy shift which would carry with it huge practical consequences.

But, may I just turn for a moment to policy reasons why that is not an acceptable course — that is, to take away from VicPol the capacity to investigate at all certain areas of criminal activity. This is not a new question. If we go back to the time when the federal police were first created in 1975, Michael Kirby conducted an extensive examination of where the powers to investigate police corruption should reside, and he reached the conclusion that, whilst they should be independent oversight of what a police authority should do, the ultimate responsibility for investigating and prosecuting corrupt activity by federal police must remain with them.

There have been multiple issues at a state level throughout Australia since then in which the same question has been addressed, always with the same answer: that for policy reasons it is highly desirable that a police organisation has primary responsibility for investigating its own fault. Why is that so? Because it is not good enough to simply have written material within an organisation which sets out codes of conduct. It is not enough

that there be an educative process within a police force as to what is the necessary practical, ethical behaviour which each police officer should adhere to. It has got to be implemented, and it has got to be seen to be promoted by all police officers at a senior level.

If I could just read to you what Deborah Glass, our present Ombudsman, at the end of her 10-year period as the chair of the United Kingdom police commission, said in relation to that question:

Complaints should be a key driver of better performance, responding positively to feedback and thereby learning from mistakes. It is therefore crucial that complaints handling becomes embedded in frontline policing, not something to be farmed out to another body, and that it fosters better relationships with the communities the police serve.

Putting that another way, it is not enough that Victoria Police has enshrined ethical policies — management of police have got to walk the talk. It is not enough that they have written policies, that police officers may be said to understand what their ethical duties are. Wherever there is misconduct, first and foremost it has to be the responsibility of the management of the organisation to prosecute it, to be seen in the public arena to be prosecuting it. If we change that, we fundamentally shift the risk, because if Victoria Police sees that in these areas we no longer have a responsibility to investigate or prosecute our own, we are not doing what is necessary to affect the culture. When we talk about corruption within a large organisation, particularly a police organisation, we are seeking to address a culture that may exist that enables corruption to be fostered.

We all know the vast majority of police officers are good people. It is only a small section of our police force that might have an inclination to be corrupt, but why does corruption flourish? It flourishes because all the good people around those who are corrupt turn a blind eye, don't report those that they either detect or suspect are doing something that is wrong. So it is the culture ultimately that we must be focusing upon, and if we divest Victoria Police of the obligation to investigate and prosecute, we do not foster the task of ensuring that the right culture is there. We all say it, in all sorts of walks of life, 'all care, no responsibility'. If you take away from an institution the responsibility to investigate and prosecute, you make it very hard for there to be a perception that at a front level management is really serious about enforcing ethical standards.

Enough said about that general matter. I would be happy to provide the committee with some of the papers that I have looked at over the last 30 or 40 years, which all reinforce that same principle: that what we have to do is look at how legislation best enables us to ensure the right culture is within Victoria Police. That is all I want to say on the first issue.

I should have said, I think as a preamble, that I have not come here to address broader questions about the powers of IBAC. I know there are some who say IBAC's remit should be much broader than it is in terms of investigating crime. That is a policy question which I have no interest in pursuing, and I assume it is not immediately an issue for the committee either, so I say nothing about those matters.

The second matter which seems to emerge from the questions that you have raised for us is whether or not the classification of misconduct which Victoria Police employs is adequate. For reasons that you will see within our written response, the answer to that question, in our view, is that it is not; there needs to be a reconsideration of how conduct is classified within VicPol. And the ancillary question is: to what extent does Victoria Police correctly apply the classification which it uses? Again you will see from our written responses that we have some concerns in the areas we have thus far examined, that Victoria Police do not always correctly apply their classification to the complaints that they are receiving.

Now, I am in a difficult position in that IBAC has been given exposure to a bill which is coming before Parliament, we understand, tomorrow, in which various amendments are proposed not only to the IBAC legislation but also to the Protected Disclosure Act. I am bound by cabinet confidentiality not to descend to any discussion about its content. It is most unfortunate that at a time when I am being asked to address the committee, the committee does not have the benefit of seeing the content of the proposed bill. It is sufficient to say that there are some aspects of the bill which bear upon the inquiry which the committee is presently engaged in, and subject of course to the committee's views, we would be happy to make some further submission to the committee once that legislation is before the Parliament to the extent that it may bear upon any of the questions we are currently considering.

Finally, in relation to this second issue about classification and the way in which the police proceed to apply it, because of the issue that has now been ventilated for over 12 months between IBAC and the committee over

classification and in particular management of classification — MIMs and LMRs — IBAC has already done an audit of some 50 of those complaints. You will see in the written response that we have detailed the outcome of that audit, which shows that in some cases the classification has been misapplied or the outcome is in some way an inadequate one.

Only 10 days ago, at my behest, we reached a further arrangement with the chief commissioner, the result of which is that the professional standards section of Victoria Police is providing us with every MIM or LMR that they are dealing with for the purpose of us engaging in a further audit of all of those matters, and again — subject to the committee's wishes and bearing in mind the committee no doubt has its own time line for providing a report — we would report back to the committee as to the outcome of the further review that we are undertaking of MIMs and LMRs. I have consulted with the chief commissioner, and he is quite content for that course to be followed if that suits the committee's convenience.

I move to the third area, which is the way in which complaints are in fact handled internally by VicPol. As the committee would be aware, in the case of complaints made by a police officer against a police officer, the effect of the act is that the matter automatically must come to IBAC on the basis that it is a protected disclosure. Whether that remains so under the omnibus bill that will come before Parliament tomorrow is a matter that we will all have to look at. I understand that there have been some changes made to the proposed legislation as it was shown to us, so we will all have to wait and see what form that legislation takes.

But one area in particular, again being something that has been a focus of the committee, is the way in which regional complaints are handled by VicPol. I think we are all in agreement, and I think the chief commissioner also accepts, that the present method of investigating regional complaints in which a senior police officer from that region — or in some cases where there is no senior police officer, at the region closest to the area where the complaint comes from — investigates the matter is an unsatisfactory one. That is quite aside from whether or not in a particular case the outcome is an appropriate one. It simply does not have the perception of being free of partiality, and we should all of course be striving towards a regime in which those looking on — the complainants and outsiders — can say to the extent that we are able to that the investigative process seems to be an impartial one.

So the chief commissioner, again, has agreed that that is a matter that needs to be considered. He has directed his staff to report back to him as to proposals as to how this regional issue should be addressed. Again, subject to the committee's wishes, as soon as the chief commissioner is in a position to respond to the information he receives, we will provide a further submission to the committee as to whether or not what is proposed by the chief commissioner is acceptable or whether something additional is required. I apologise for the fact that some of these matters therefore cannot be concluded today, but as you will appreciate, it is an ongoing process to try and resolve the best outcomes — outcomes hopefully which the chief commissioner feels that he can embrace.

The next question which I discern from the questions you have posed is: what improvements can be made to IBAC's position to effectively investigate and review complaints concerning police officers? I would like to take a little time to examine that question because it is my perception that IBAC presently does not have all of the necessary capability which it should have to properly investigate complaints received against police officers. Curiously, IBAC is the only commission throughout Australia whose investigators do not have the same powers as a police officer. I can see no sound reason for that situation.

Let me give you some examples of the problems that are posed as a result. I should have perhaps said by preamble that every other interstate commission has those powers conferred upon its investigators. The mechanism differs from one place to another. For example, in New South Wales the power is expressed to be that if there is a police investigator at the New South Wales commission — a former police officer — that has had five years experience or more, that officer will have all the powers of a police officer. In other states there is a combination of that, together with an ability by the commissioner to invest in his or her investigators, upon being satisfied that they have the necessary expertise, the power to exercise the police officer's powers. But whatever system one utilises, we are the only place in Australia where investigators cannot exercise all of the powers of a police officer. Now, what does that mean? Let me give you some stark examples.

A search warrant is issued against a police officer, and on the search warrant being executed our investigator asks the police officer for his mobile phone. He responds, 'I don't have one'. The investigator knows that he does have one. He immediately rings the number on his mobile phone, and the phone rings in the pocket of the

suspect. He laughs, but he knows, because he is fully aware of the limited powers of IBAC, 'I don't have to give you the phone'. So the phone is something that is not accessible, because we have no power to search a person.

Another suspect is asked to produce his phone, refuses to do so and is then summonsed by subpoena to produce the phone at an IBAC private hearing. When he produces the phone, there is nothing on it. It has been reset to factory settings, so all of the information on the phone has been wiped. We have no offence that permits someone to be prosecuted for destroying or concealing evidence. Every other commission has that power.

IBAC investigators have no power to arrest. What is the significance of that extraordinary state of affairs? It means that wherever IBAC reaches the conclusion that prima facie someone appears to have committed a criminal offence, they must engage someone from Victoria Police to arrest the suspect. Before the Victoria Police member can exercise that power — as the law says, you cannot arrest someone unless you have a reasonable suspicion that they have committed the offence — the IBAC investigators have got to brief the Victoria Police officer or officers as to the detail of the investigation to satisfy the Victoria Police officer that the case is there that justifies an arrest. If the Victoria Police officer agrees, the person will then be arrested — but then arrested under the control not of IBAC, but under the control of VicPol.

What normally happens when someone is arrested is they are given the opportunity to answer the allegations that are being raised against them, by a record of interview. As IBAC is not arresting the person but a VicPol person is arresting them, there is no record of interview conducted. The third-party VicPol officer has no particular interest in conducting a record of interview. What happens then is that the IBAC investigator, who is relying sometimes entirely or in part upon the information which has been gathered as a result of internal, private examinations, has got a raft of information that needs to be put to the suspect. For all we know the suspect may have an entirely innocent explanation for the events. The suspect may want to comment upon aspects of the investigation. None of that takes place. So if we have an indictable offence which is prosecuted in front of a jury, the first thing the defence say to the jury is: what an extraordinary state of affairs that the defendant has never had an opportunity, before being charged, to address the evidence which the investigators are relying upon.

That is an entirely unsatisfactory state of affairs, quite aside from the fact that it denies IBAC the opportunity to examine the suspect and to see what explanations are forthcoming. Of course the suspect may exercise his or her rights and refuse to answer questions as they will be told is their right, but it is a quite unusual state of affairs if the investigators in command of the detail cannot put that detail to the offender.

We have a spreadsheet, Mr Chairman, which lists the powers that are presently missing. We are not talking here about some draconian powers that are outside the normal parameters of a police officer's jurisdiction; we have listed all of the powers that other police officers have, which investigators interstate all have, and we would urge the committee to look carefully at those powers. That is not to say that there would not have to be discussion and maybe lengthy debate about how those powers should be expressed and any provisions which seek to redress this problem, but the important point at this stage is to recognise that we are presently handicapped.

What significance does the absence of those powers have? As the committee noted in its last report, section 73 of the IBAC act provides that in the event that IBAC concludes that it is more appropriate for some other entity to investigate a complaint, it must — we are obliged to — return the matter to that entity. In all of those cases where the absence of these powers impedes our ability to adequately investigate the matter, we are as a matter of course obliged to return the matter to the chief commissioner — and we have had to do that on a number of occasions where it would plainly have been better had IBAC investigated the matter itself.

To answer the question that you have posed in the draft questions, if we have those powers and with the added resources which we now have available or hope to acquire in relation to the fourth investigative unit — you will recall, I hope, that we have now been able to add a fourth investigative unit; we have not yet filled all of the positions — with a combination of the full force of the fourth investigative unit and these powers, which we submit are really necessary, we would expect IBAC to be able to investigate further offences itself. And perhaps just as importantly, we would expect to make a major change to the level at which we can review by way of oversight the vast majority of matters which go back to VicPol for investigation by VicPol. Above anything else, that is the area where the greatest improvement can take place — our capacity to review what is happening within VicPol, both in relation to matters which constitute misconduct or matters which presently VicPol treat as being only management issues.

The audit that we are conducting would also throw up the question of whether or not VicPol is necessarily dealing in the right way with the outcomes of investigations where they find conduct as made out with disciplinary hearings or the lesser offence of workplace guidance, which does not even constitute a disciplinary offence. In the level of audit we have already conducted we have seen in a number of cases that a question arises whether or not, despite the recommendations of the police officer who investigated it, when it is then considered by more senior management, the recommendation that a disciplinary hearing or a more serious offence be charged has been deleted, and it has been dealt with as workplace guidance or a disciplinary offence.

Again, coming back to my very first point about challenging the culture, by reviewing vastly more of what is happening internally within VicPol, with the cooperation of senior management within VicPol, I anticipate we can make quite a profound change to the view that is taken internally. But ultimately, and I am sorry to harp on it but I think it is at the essence of what I am saying, police officers have got to see that their superiors and management are driven by the need to ensure that ethical standards are maintained. The only way that they will detect that is by seeing that management is prepared to investigate and adequately prosecute for such misconduct. Is that a convenient time to stop?

The CHAIR — Having been in the job for only one month I congratulate you on getting across all of those issues in regard to the inquiry we are holding. The amendments that are being suggested are where? They are on a spreadsheet somewhere?

Ms HOWLETT — Yes. We provided a copy in advance to the secretariat, and I have hard copies that I can table today.

The CHAIR — All right. What are we doing in regard to these? Have we only got one copy?

Ms HOWLETT — I have hard copies for the committee.

The CHAIR — We will get that at the conclusion.

Ms HOWLETT — Yes.

The CHAIR — All right. I am going to open it up to questions for the next 15 minutes. Commissioner, in regard to LMRs, we originally thought that all complaints made by people about Victoria Police officers were being sent to IBAC. We later found that LMRs were being classified differently and therefore it was the view of the police that they did not have to be sent to IBAC. You mentioned that you have spoken to the chief commissioner, who now agrees that the LMRs should be sent —

Mr REDLICH — I should have said, Mr Chairman, my director of operations, Mr Sutton, has reached that agreement with Assistant Commissioner Guerin, who is in charge of professional standards.

The CHAIR — Is there a memorandum of understanding or is there any paperwork —

Mr REDLICH — No.

The CHAIR — or anything that needs to be rewritten in order —

Mr REDLICH — It is presently an oral arrangement. I have spoken, however, with the chief commissioner more recently who understands that that process is taking place, and if the matter proceeds in accordance with that oral understanding, I expect that over the next couple of months we will be able to look at all MIMs and all LMRs, a sufficient number of them, to be able to report back to the committee by way of overview as to how they are being dealt with.

Ms HOWLETT — Can I just add that whilst it was a verbal agreement we are now receiving those matters, so it has taken virtually immediate effect.

The CHAIR — Okay. Are they LMRs that are taking effect? Is there a backlog that will be transferred over to IBAC or —

Ms HOWLETT — Tony might be able to speak to this as our manager of assessment and review unit, which is our complaints intake area, but my understanding from Tony is that basically it is now a live feed.

The CHAIR — Right. So all the new LMRs will come online?

Mr GAYLARD — Yes, that is right. They are coming across to us.

The CHAIR — There will be an audit process in place that you could pick out a particular one and call it up and investigate it if you want to? Is that the way it is going to work?

Mr GAYLARD — We are putting in place a monitoring arrangement over those, and, as the commissioner has outlined, we will be able to provide some advice over the next couple of months about the outcomes of that monitoring process, but we are still working through that arrangement.

Mr REDLICH — We have no power to investigate. For a MIM or an LMR that does not meet the definitions in the act all we can do is give directions and make suggestions to the chief commissioner if we are of the view that the method of investigation or the outcome is inadequate, and that is what we would expect would be the outcome of the audit — to see to what extent either classifications are wrong or the way in which they have investigated is unsatisfactory or the outcome is unsatisfactory or all of the above. Then we would report back in a timely way to the committee as to what the outcome of that audit is and whether it is necessary therefore to make some changes to the current statutory framework.

The CHAIR — Okay, but then the obvious question is: if the police have misclassified it to an LMR and you look at it and say, ‘Well, no, it is actually misconduct in the terms of the legislation, you can surely go back to the police —

Mr REDLICH — We could then of course.

Ms HOWLETT — Precisely. That would be the first step in terms of this monitoring arrangement, identifying whether something has been appropriately classified by Victoria Police and categorised as an LMR. If it has not been appropriately classified and we think it is a higher order misconduct, then obviously Victoria Police should have notified us of that so we can have that notification and act depending upon the circumstances of the matter.

The CHAIR — Because that was one of the concerns of the committee — that the police could just say, ‘Oh, it’s an LMR, we don’t have to tell IBAC’ and you look at some of the cases and they are clear definitions of misconduct.

Mr REDLICH — Yes.

The CHAIR — So by the end of this financial year you will be able to say that all of the complaints against police are being notified to IBAC?

Ms HOWLETT — Are being received by IBAC.

The CHAIR — Are being received by IBAC.

Ms HOWLETT — Yes.

Mr SUTTON — We can say that now I think.

Mr REDLICH — We would be assisted if the committee at some convenient point told us about your time frame in terms of reporting and how long then before your finalisation of the report you would need from us the outcome of any audit we are conducting.

The CHAIR — Sure. Christine, a question to you then: in the IBAC report to Parliament — your annual report — will there be a section on LMRs being received by IBAC?

Ms HOWLETT — Absolutely, we can include that. Again in line with the committee’s recommendations from late last year, we also undertake that our annual report this year will include more fulsome reporting on our police oversight functions more broadly, and yes, Chair, we could include within that section our specific information on LMRs.

Mr HIBBINS — I am really interested in the levels. Where does IBAC decide to sit and to investigate a police complaint — where that kicks in and what gets referred back to Victoria Police? I am just keen for an understanding of, I guess from your point of view, where that kicks in now and whether you think there should be a change to that — whether it should kick in at a lower level or a high level.

Mr REDLICH — Speaking in the area of VicPol, there has to be misconduct which is of a sufficiently serious order to warrant our investigation, and that is of course dictated largely by resource considerations. But I am hopeful that with the improvements that I have adverted to we would be able to increase the number of own investigations.

Mr HIBBINS — So a change due to increased resourcing, not a change to the level of type of complaint or the seriousness of the complaint you will be investigating?

Mr REDLICH — I am assuming that the statutory regime does not alter in terms of what we should be giving priority to. If that were to alter, then obviously the number of investigations and the type of investigations might change, but presently the act specifies what we should give priority to.

Ms THOMSON — Can I ask a question following on from Sam's. In relation to the powers you outlined that would enhance your capacity to investigate police corruption or —

Mr REDLICH — Misconduct.

Ms THOMSON — misconduct, how does that then reflect on the work that you would do from what you would be empowered to do now? So if you have got the investigatory powers, the arrest powers — those sort of instruments that you think are required to do this job properly — how does that then change the relationship you have with VicPol and the way in which they may assist you in those investigations at this point and referrals back to chief commissioners and those sorts of things?

Mr REDLICH — As I have indicated, at present we do not have the power to arrest and conduct a record of interview. Our ability to therefore seek information from a suspect is only something that we could pursue in a private investigation, and then of course we assume a level of cooperation by the suspect. But it depends on what the nature of the crime is. If we were, for example, investigating a crime of excessive force — say, an offence of intentionally causing serious injury — then if we have sufficient powers to investigate, look at, speak with the victim in terms of an account, look at what circumstantial evidence is available to verify the complainant's account, whether we have the same capacity to do so if we do not have those additional powers is moot.

We should not have to depend upon recruiting a Victoria Police officer for that purpose. Regrettably we know that in some cases once we open up our information sources to Victoria Police officers information does not stay with that person. It immediately ceases to have any level of confidentiality. That is part of the culture, though. We are dealing with an organisation in which nothing much has changed in that respect over 40 years. Loyalty to one's colleagues, protecting the reputation of the organisation gets precedence in some cases over doing the right thing.

Ms THOMSON — So if you were to get additional powers, that means you would have a level of independence from VicPol that you would be able to operate under.

Mr REDLICH — Correct.

Ms THOMSON — And at what point does that change the relationship that you currently have with the chief commissioner?

Mr REDLICH — Because we would not then be obliged under the act to refer matters back to VicPol, because we reached a conclusion with our limited powers we must return it to the organisation where it can be more appropriately investigated. It is the mandatory obligation to return the matter to VicPol where we think it is appropriate. If we have those limitations, then there will be a large percentage of cases where as a matter of course it is thought, 'Well, this is not a matter we can really investigate; it has got to go back'. We would like to see a greater discretion to be able to choose what we investigate.

Mr D. O'BRIEN — So should that just be a change from 'must' to 'may'?

Mr REDLICH — Yes.

Mr RAMSAY — Commissioner, let me introduce myself: I am a regional MP from western Victoria, Simon Ramsay. Welcome to IBACC.

Mr REDLICH — Thank you.

Mr RAMSAY — I look forward to working closely with you, as we did with Stephen. Unfortunately we have not had the opportunity to look at the bill that is coming before the house this week, so we are in the dark about what might be and what might not be in that. You have raised two issues I have taken note of in relation to investigative powers by IBAC investigators and also classifications. But in relation to regional matters where there is a regional complaint against a police officer being dealt with on a regional basis, which has precedent, do you have a view that in fact that should be removed from a regional base to perhaps a more senior level activity by investigators at Victoria Police against that regional police member? Given now the circumstances are going to change, will you have greater oversight of complaints that will be referred to you through presumably some new mechanism — legislative mechanism maybe? Do you have a view about that?

Mr REDLICH — I do think that we need to strike an arrangement that avoids the perception that those who are investigating and making management decisions as to how the matter should proceed or what the outcome is must be removed from the region which is the subject of a complaint. How far removed? For example, if we have a complaint made about something that occurred in the Bairnsdale police station, will it be sufficient that it is investigated by the chief superintendent stationed at Sale? I suspect the answer to that is no because that is the superior officer who is responsible for that region.

Exactly what the framework should be would have to be, at least initially, the subject of some discussion with the chief commissioner. As I indicated, he has asked for a report back from professional standards as to how this concern can best be addressed. I think the starting point is to look at what he might propose and then to see whether or not that will address the concern I have just mentioned. But plainly enough a regime has to be followed which removes the perception, and it often is only a perception but nonetheless it is critical — a perception that those investigating or deciding the outcome are not impartial.

Ms SYMES — Good morning, all. Thanks for coming along. I was interested in your views on the powers of investigators, which in certain cases which would equal that of police officers. I just wanted to go back. Several people that we have spoken to have expressed an issue with recruiting and retaining appropriately qualified investigators. I like this idea about building up to being able to have the powers. It is obvious if you are a former police officer with extensive experience, and that is fair enough, but if you are trying to recruit investigators from the public service, for example, how do we ensure that they are appropriately equipped to obtain the expertise to have that sort of power? Is there on-the-job training or something we should be doing?

Mr REDLICH — Of course. That is an entirely legitimate question. About 60 to 70 per cent of our investigators are former police officers. About 10 per cent of that 60 to 70 per cent are ex-VicPol; the rest are all interstate police officers. For example, in New South Wales the provision is that if someone has been a police officer for five years or more, then they may exercise the powers of a police officer. For those who do not have that qualification, the commissioner is invested with the authority to say, upon being satisfied, that that person has the expertise. For example, we have an investigator at the moment that served with the Ombudsman for a number of years and then served with the OPI, so I suspect that that person would qualify. If we had that discretionary regime about the commission also being able to invest such persons with police powers, that person would probably qualify. As I say, the regimes differ slightly. In some cases it is just people over five years. In other cases it is a combination of that with the commission having a discretion. But the concern is correctly identified, if I may say so, that one has to be sure that whoever is invested with those powers has the necessary expertise.

Ms SYMES — Because it is kind of limiting the pool a bit, isn't it, in terms of former police, OPI, Ombudsman? I am thinking that you have investigators in ag, in local government. Could those people get on a track? For example, we try and recruit people to become teachers from broader areas. Could you do the same thing here?

Mr REDLICH — You could, but then they would have to be trained, and you would have to get to a point where you are satisfied that their training satisfied the need for the appropriate expertise. One of the difficulties we have had with the fourth investigative unit, as I understand it, is we still have four or five places to fill. We have advertised, and that is part of the difficulty in recruiting the appropriate people.

The CHAIR — We have gone over time, which is unusual, but we have.

Mr REDLICH — It flies, doesn't it?

The CHAIR — Thank you for coming to the committee. Thank you to your staff. We look forward to having a good ongoing relationship where you can come before the committee and assist us in our reports. Thank you very much.

Witnesses withdrew.