



**SOUTH AUSTRALIA POLICE**  
KEEPING SA SAFE

Your Ref:  
Our Ref: 08/4315  
Enquiries:  
Telephone:  
Facsimile:

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Senator George Campbell  
Chair  
Parliamentary Joint Committee on the Australian  
Commission for Law Enforcement Integrity  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Senator Campbell

I refer to your letter of 29 May 2008 regarding the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity inquiry into law enforcement integrity models, and your invitation to address some of the terms of reference.

The South Australia Police (SAPOL) is a State-based police agency with responsibility for conducting investigations into all public sector and police corruption. Such investigations are carried out through the Anti-Corruption Branch (ACB), which reports directly to the Commissioner of Police. The ACB was established via a Direction from the Governor of South Australia, with the advice and consent of Executive Council, on 21 February 1989. Specifically, the Directions provided for:

- the establishment of an ACB comprising an Investigation Unit, an Audit Unit, and the establishment of task forces as requested by the Commissioner;
- the functions of the ACB, including the investigation of corruption of public officials, the investigation of police corruption and police misconduct, the auditing of police procedures and investigations, and assisting Government instrumentalities in developing practices and procedures designed to prevent and detect corruption;
- the ACB to cooperate with other law enforcement agencies, the Auditor-General, the Ombudsman, the Police Complaints Authority, and the Commissioner for Public Employment;
- the maintenance of appropriate records;
- the Commissioner of Police to ensure that the External Auditor appointed by the Governor was to have the cooperation of the Police Force and access to information for the purpose of conducting audits or undertaking inquiries requested by the Minister; and,

- the Commissioner of Police to report to the Minister every six months on the activities of ACB.

Following a review of the ACB in 1999, the Audit Unit and the corruption and prevention function was transferred to the newly created Ethical and Professional Standards Service (now Ethical and Professional Standards Branch). As a result of this review the ACB became solely an investigative body.

The ACB remains the primary body for investigating public sector and police corruption within South Australia.

Although the ACB exists within the SAPOL organisational structure and is staffed by police officers, the combination of ACB's investigational expertise and commitment to integrity, combined with the independent oversight of investigations, means that it has been able to maintain community confidence.

Misconduct and disciplinary matters are managed through the Ethical and Professional Standards Branch (E&PSB) of SAPOL with independent oversight by the Police Complaints Authority.

Within this context, and in response to your request, I have attached a document that provides information relevant to your Committee's terms of reference and outlines the application of measures within SAPOL to address integrity and corruption issues. Furthermore, I have included copies of SAPOL's *Corruption Prevention Strategy* and the *Code of Conduct Booklet*, both of which are integral components of SAPOL's commitment to the process of maintaining integrity.

Yours sincerely

(Gary T Burns)  
ACTING COMMISSIONER OF POLICE

**Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity**

**Inquiry into Law Enforcement Integrity Models**

**RESPONSE FROM  
SOUTH AUSTRALIA POLICE**

Pursuant to a request from the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, the following information is submitted by the South Australia Police and provides an outline of:

- (a) the responsibilities and powers of South Australia's law enforcement integrity agencies;
- (b) the organisational structures and internal governance arrangements of the South Australia law enforcement integrity agencies;
- (c) the relationships between the South Australia Police and external State law enforcement integrity agencies;
- (d) the internal anti-corruption processes of South Australia's law enforcement agencies and the protocols and processes in place for reporting corruption matters to the relevant integrity agency;
- (e) the application of measures within SAPOL to address integrity and corruption issues; and,
- (f) the adequacy of existing South Australia law enforcement integrity approaches.

For ease of submission, the information is provided in dot-point format with the understanding that any further clarification can be provided as required.

**RESPONSIBILITIES, POWERS AND GOVERNANCE ARRANGEMENTS**

- Corruption within the public sector in South Australia is investigated by the Anti-Corruption Branch (ACB) of the South Australia Police (SAPOL). ACB reports directly to the Commissioner of Police.
- The South Australia Auditor General has responsibility under the *Public Finance and Audit Act 1987* to conduct financial and compliance audits (subsection 31(1)) and as a result any identified corruption or fraud can be referred to ACB for investigation.

- The South Australian Ombudsman has the mandate to receive complaints about the administrative actions of a State government agency or authority, or local government council, and as such can refer complaints in relation to public sector corruption and fraud to ACB.
- The *Whistleblowers Protection Act 1993* assists with the disclosure of public sector corruption and fraud. If any information concerning corruption or fraud in the public sector is given by a whistleblower to a 'responsible officer', the latter must provide the information to the ACB unless it implicates a member of the police force; in such a case, it must be reported to the Police Complaints Authority (PCA).
- Public sector agencies have a requirement to conduct internal audits of their financial systems and report instances of identified corruption and fraud.
- Police corruption and misconduct is managed within a legislative framework via the *Police Act 1998*, *Police Regulations 1999* and the *Police (Complaints and Disciplinary Proceedings) Act 1985*. Misconduct and disciplinary matters are managed through the Ethical and Professional Standards Branch (E&PSB) of SAPOL with independent oversight by the PCA. Internally, E&PSB reports to the Assistant Commissioner, Performance Management & Reporting Service.
- In respect to misconduct and disciplinary matters the *Police (Complaints and Disciplinary Proceedings) Act 1985* provides coercive authorities whereby police personnel are compelled to answer questions put to them. These authorities do not, however, extend to the investigation of criminal matters.
- Complaints of police corruption or serious misconduct are referred to the ACB and are investigated and prosecuted identically to any other public official. The PCA provides external oversight of all cases investigated by the ACB which are registered complaints against police and makes a determination on each one. Additionally, the PCA conducts audits of all telecommunication interception warrants; disseminations made or received pursuant to these warrants; and electronic surveillance warrants.
- The PCA has no jurisdiction over investigations conducted by the ACB which relate to other public sector employees. All investigations conducted by ACB are reviewed by an External Auditor (currently retired Supreme Court Justice Trevor Olsson).
- Although allegations of police corruption and misconduct are investigated by police there is significant external oversight of these investigations and the PCA does have the ability to conduct its own investigation into a complaint against police.

### **Governance Structures Underpinning the Anti-Corruption Branch**

- ACB was instigated as a result of a recommendation by Justice Stewart in the National Crime Authority (NCA) July 1988 Interim Report to the South Australian Government. Justice Stewart recommended the need to establish a mechanism to

deal with allegations of public sector and police corruption and that the most appropriate way of achieving this was to establish a dedicated unit within SAPOL subject to specific accountability and reporting requirements. As a result the ACB was created via a Direction from the Governor of South Australia, with the advice and consent of Executive Council, to the Commissioner of Police on 21 February 1989.

- The Minister's Directions to the Commissioner of 29 July 1999 specify what the ACB investigates under the definition of 'corruption', which is:

*“(a) conduct of a public official involving a breach or neglect of duty or abuse of office engaged in as a result of a bribe or threat or to gain any financial or other advantage or for any dishonest or improper purpose;*

*(b) conduct of a public official or any other person involving the soliciting, offering, taking or giving of a bribe or any financial or other advantage or the making of any threat, to induce a breach or neglect of duty or abuse of office on the part of a public official;*

*(c) conduct of a public official, or any other person involving a conspiracy or attempt to engage in conduct of a kind referred to in paragraph (a) or (b),*

*where that conduct constitutes or involves, or might constitute or involve a criminal offence.”*

- ACB, as it currently exists, is an investigative body only, comprising an officer in charge at the rank of superintendent or above, operations inspector, a detective senior sergeant, six investigators, a field intelligence officer, two administrative service officers and a surveillance team of one detective sergeant and four operatives.

## **CORRUPTION OFFENCES/INVESTIGATION PROCESSES**

- Corruption offences committed by public officers are contained within sections 237 to 256 of the *Criminal Law Consolidation Act 1935*. The offences include bribery or corruption of public officers, threats or reprisals against public officers, abuse of office and demanding or requiring benefits on basis of public office with penalties of imprisonment up to seven years. These sections are primarily used by ACB for their investigations and where apprehensions are made.
- It is important to note that corruption is difficult to detect and eliminate because of the inherently covert and consensual nature of most corruption offences. It is often described as occurring between consenting adults behind closed doors. Bribery excites no complaint, as both guilty parties profit from their illegal arrangements.

Corruption and fraud can easily be camouflaged so it will be invisible to the non-expert, including the average investigating authority and auditors.

- The ACB has no specific authorities to assist in the investigation of corruption, which pose their own distinct difficulties over and above those encountered in routine criminal investigations. The subversive nature of corruption can be difficult to overcome due to those persons engaged in its web consciously taking steps to avoid detection.
- To overcome the investigational difficulties associated with corruption investigations ACB is able to:
  - undertake surveillance of suspects pursuant to SAPOL policy;
  - conduct covert telephone interceptions pursuant to the *Telecommunications (Intercept and Access) Act 1979 (Cth)*;
  - install covert listening devices pursuant to the *Listening and Surveillance Devices Act 1972*;
  - conduct undercover operations pursuant to the *Criminal Law (Undercover Operations) Act 1995*;
  - undertake targeted integrity testing of police officers pursuant to SAPOL policy; and
  - compel police officers pursuant to the *Police Act 1998* and *Police (Complaints and Disciplinary Proceedings) Act 1985*; to truthfully answer questions. None of the evidence obtained during such an interview can be used in a criminal trial.
- ACB does not have coercive powers to compel a public officer or any other person to truthfully answer questions.
- The scope of corruption investigations undertaken by ACB are limited by the Minister's Direction to those where the "*conduct constitutes or involves, or might constitute or involve a criminal offence*". Section 238 of the *Criminal Law Consolidation Act 1935* provides further guidance by defining what amounts to 'acting improperly' and states that "*a person will not be taken to have acted improperly...unless the person's act was such that in the circumstances of the case the imposition of a criminal sanction is warranted*" (emphasis added). As a result, ACB investigations focus only on criminal corruption and not on lower level allegations of corruption that do not amount to criminal conduct.
- A significant number of allegations of corruption received at the ACB relate to a perception that a person has acted immorally or has abused their position or has acted subject to a conflict of interest. Many allegations are unsubstantiated or are referred to another agency because they do not amount to criminal behaviour but may be a breach of the *Public Sector Management Act 1995* or the *Local Government Act 1999* in that funds have been mismanaged or agencies guidelines and procedures have not been followed, particularly in relation to a conflict of interest.

- Allegations can be politically motivated and spurious in nature and to fully investigate such allegations in themselves could amount to an abuse of process. To address this issue and ensure fairness complaints are managed using a two step process:
  1. Allegations are initially assessed and a preliminary inquiry conducted to test the veracity of what is alleged. The Officer in Charge of the ACB at the end of a preliminary enquiry can authorise that the matter be filed at that time if the allegation is unsubstantiated or it is appropriate that it be referred to another agency.
  2. If a senior investigator at ACB believes the matter should be fully investigated an upgrade report is prepared and the documentation is forwarded to the Commissioner of Police to consider the request. If it is approved by the Commissioner it becomes the subject of a full investigation.

## **APPLICATION OF MEASURES WITHIN SAPOL TO ADDRESS INTEGRITY AND CORRUPTION ISSUES**

- SAPOL employs a number of measures designed to address integrity and corruption issues, and to ensure that public confidence in the organisation and its personnel remain at the highest levels. The application of key measures is summarised below:

- **Probity Checks**

- Recruiting Process

- Persons applying to become police officers are carefully screened during the recruiting process via probity checks, psychological testing, and an interview process.

- Promotional Selection Process

- Promotion within SAPOL is 'merit based' and, as part of the selection process, applicants must demonstrate a high standard of personal integrity and conduct. All 'short listed' applicants are subject to Probity Checks by the ACB and E&PSB in order to alert the Selection Advisory Committee to any integrity, conduct, or behavioural issues. Where any such issues are identified they are discussed with the applicant and considered within the overall context of the person's suitability for promotion.

- Reward and Recognition Process

- In recognition of sustained, diligent and ethical service, members of SAPOL may be recognised by the awarding of the National Medal and the South Australia Police Service Medal. Members satisfying the service conditions are subject to Probity Checks to ensure their eligibility for the medals.

- **Training Programs**

All approved training programs within SAPOL incorporate ethical components and/or consideration of ethical dilemmas that may arise out of the topics being covered.

- **Management of Criminal Associations or Relationships**

Members of SAPOL are obligated to report any associations or relationships they may have with a person known or suspected to have a criminal history or reputation in situations where they consider their personal integrity may be called into question.

- **Publication of Disciplinary Outcomes**

SAPOL has in place a process whereby the outcomes of disciplinary proceedings are published in the S.A. Police Gazette. This process is designed to satisfy a range of objectives, including:

- Effecting a general deterrence by providing an insight into what types of behaviours are viewed more seriously by the Commissioner;
- Demonstrating the consistent and ethical decision making process of E&PSB and senior management;
- Signalling to SAPOL members the seriousness or otherwise of various forms of conduct and raise an expectation of how they may be dealt with in similar situations;
- Reinforcing with the general public that SAPOL is taking its role of instilling professional and ethical conduct throughout the organisation seriously; and,
- Providing a practical illustration of organisational norms and expectations.

- **Maximum Tenure**

To assist in maintaining standards of ethics and performance, a maximum tenure of incumbency is applied to designated positions that are regarded as being of 'higher risk' due to the nature of work, exposure to drugs, confidential information, and potential for the development of unsavoury associations.

- **Intervention through Enhanced Intelligence Functions**

E&PSB has established an Intelligence Unit that draws together information from a variety of information systems and sources, including complaints and disciplinary reports and investigations, audit inspection outcomes, and environmental scans in an endeavour to identify emerging corruption/integrity trends, issues, and risks associated with areas or individuals within SAPOL. This initiative allows for pre-emptive action to be taken to mitigate the development of corrupt practices.



- **Targeted Integrity Testing**

As a proactive corruption prevention strategy, ACB or IIS personnel are authorised to conduct targeted integrity testing as a means of detecting and preventing criminal activity or serious misconduct by SAPOL members. As suggested by the title, the integrity tests are not random, but are targeted at individuals or sections following a proper analysis of intelligence gathered from a variety of sources.

- **Fraud and Corruption Prevention Policy**

SAPOL recently revised its Fraud and Corruption Policies to ensure consistency with the framework established by Australian Standard 'AS 8001:2008 Fraud and Corruption Control'. SAPOL's strategy is to unify appropriate policies and procedures into key areas of prevention, detection and response, and to ensure that personnel are provided with clear roles, responsibilities and guidelines. SAPOL's policies satisfy the requirements of government agencies to establish and maintain a Fraud and Corruption Control Plan pursuant to Treasurer's Instruction 2 – Financial Management – Risk Management.

- **Corruption Prevention Strategy**

SAPOL has a long and enviable reputation for being a professional and ethical police service and enjoys the longstanding support and confidence of the wider community. However, SAPOL also recognises that this is no justification for complacency, and must not consider itself immune from the risk of abuse of office and corruption.

In acknowledgement of these risks, SAPOL has developed a *Corruption Prevention Strategy* that will coordinate and integrate new initiatives and existing systems in an ongoing and sustained manner capable of responding to the changing needs and circumstances of both SAPOL and the community.

A copy of the SAPOL *Corruption Prevention Strategy* is included within this package.

Complementing the *Corruption Prevention Strategy* is the SAPOL *Code of Conduct Booklet*. This Booklet recognises that the South Australian community has a high expectation that police officers will perform their duties honestly and with integrity. To this end it is imperative that SAPOL and its personnel remain accountable for their actions and perform duties in a manner that is fair, impartial, competent and efficient. The *Code of Conduct Booklet* is designed to convey to SAPOL personnel a greater appreciation of the impact their conduct has on the community and their colleagues. This greater appreciation, and an enhanced awareness of the consequences of their conduct, will enable police personnel to make better and more informed decisions in the course of their duties.

A copy of the SAPOL *Code of Conduct Booklet* is included within this package.

- **Requirement to report inappropriate behaviour**

Police officers are bound either by legislation (Police Act 1998) or internal General Orders to report breaches of the Code of Conduct or criminal behaviour.

## **ADEQUACY OF EXISTING SOUTH AUSTRALIA LAW ENFORCEMENT INTEGRITY APPROACHES**

- Currently in South Australia:
  - corruption is competently defined
  - there is an independent and specialised ACB, tasked to investigate corruption within the public sector and to investigate police corruption and serious misconduct
  - ACB is subject to independent external oversight via the External Auditor
  - there is an independent system for reviewing police misconduct and disciplinary complaints via the Ethical and Professional Standards Branch, which is oversighted by the Police Complaints Authority

The need for an independent anti-corruption agency outside of ACB and other mechanisms is a matter of public policy, and the substantive issues concern:

- the scope of matters brought within the purview of such a body
- the scale of anti-corruption operations
- the use of special powers of examination
- increasing public and public sector awareness and accountability
- public confidence in the effectiveness of anti-corruption operations

### **Attachments**

*South Australia Police Corruption Prevention Strategy*  
*South Australia Police Code of Conduct Booklet*