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Tuesday 1 December 2015

Acting Ombudsman responds to Government proposal for new police oversight body in NSW

I acknowledge the decision of the NSW Government on 26 November 2015 to establish the Law Enforcement Conduct Commission from 1 January 2017. The Commission will replace the Police Integrity Commission and the Police Division of the NSW Ombudsman.

The Ombudsman's Police Division exercises functions under Part 8A of the *Police Act 1990*. These include monitoring the NSW Police Force's handling of complaints, reviewing investigation reports prepared by the NSWPF and conducting investigations in the public interest.

The Ombudsman's office is committed to ensuring that Part 8A of the *Police Act 1990* continues to operate effectively until our functions are transferred to the Law Enforcement Conduct Commission. Ombudsman staff are committed to conducting a high quality oversight role prior to the changes commencing.

The Ombudsman's office has a long history of police oversight in NSW. Our jurisdiction in this area commenced in 1978. It was expanded in 1984 to enable the Ombudsman to reinvestigate a complaint about police; and expanded again in 1993 to enable the Ombudsman directly to investigate a police complaint.

On average, the office oversees approximately 3,200 complaints about police each year. We have contributed to the continuous improvement of police oversight and service delivery in NSW by reviewing legislation conferring new and extraordinary powers on police and reporting to Parliament on important systemic issues, including the use of Tasers, conflicts of interests, race relations, and the policing of domestic violence.

We have done considerable work to reform the police complaints system from its adversarial beginnings to a managerial or remedial model that places responsibility for managing complaints and discipline on local commanders. The public and the police force have benefitted alike from better complaint management and stronger police accountability. A constructive working relationship has been established between Ombudsman staff and police officers.

The proposed new framework for police oversight announced by Government can build on these significant achievements. Key principles of police oversight, recommended by the Ombudsman's office and embraced in the report by Mr Tink that has been accepted by Government, include:

- police should retain primary responsibility for the investigation of complaints

- there is a need for increased civilian oversight of critical incident investigations, and
- simplification of oversight arrangements should not weaken the level of police oversight and accountability.

The strength of the proposed new system for police oversight will lie in the full implementation of Mr Tink's recommendations. I look forward to the opportunity to consult with Government on their implementation, in particular, the establishment of the Oversight Division of the Law Enforcement Conduct Commission.

Our resolute commitment to ensure that government administration and regulatory and law enforcement activity is publicly accountable is undiminished. We will work constructively with the Law Enforcement Conduct Commission to ensure the continuation of effective policing oversight in NSW.