



## Simon Corbell MLA

ATTORNEY GENERAL  
MINISTER FOR POLICE AND EMERGENCY SERVICES

MEMBER FOR MOLONGLO

Dr Kristine Klugman  
President  
Civil Liberties Australia Inc  
PO Box 7438  
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Dear Dr Klugman

Thank you for your letter dated 8 October 2007 raising issues regarding ACT Policing's Annual Report 2006-07. My apologies for the late response, but it took some time to coordinate advice from a variety of agencies before replying to you.

The **accountability and transparency** of ACT Policing **is important** to the ACT Government and the people of Canberra. We all share the responsibility in ensuring that a level of scrutiny and oversight is bestowed on all our public institutions, and I am appreciative of Civil Liberties Australia (CLA) expressing its views on policing performance.

I would **welcome the opportunity to talk with you** on the matters you raise in greater detail at one of our future meetings. I have formally responded to some of the issues raised by the CLA previously. In particular, I refer to my correspondence to you in December 2006 on issues regarding the accountability of ACT Policing. In that correspondence, I refer to the framework that is in place between the ACT Government and ACT Policing, an arm of the Australian Federal Police. **Accountability of ACT Policing is achieved** in a number of ways including:

- 5 Year Policing **Arrangement** between the Commonwealth and ACT Governments;
- Annual **Purchase** Agreement and Ministerial Direction Statement between the ACT Government and ACT Policing;
- **Research and Reviews** - Joint Study into Policing (June 2005), Watchhouse Review (2007), and Cameron Review into Police Pursuits (2007);
- **annual reporting** by ACT Policing, including the Legislative Assembly Annual Report Hearings;
- **quarterly reporting** to me as Minister for Police and Emergency Services, specifically on the performance measures outlined in the Annual Purchase Agreement;
- **independent analysis** of ACT Policing quarterly performance reports by the Department of Justice and Community Safety; and
- Commonwealth **Ombudsman** oversight of the AFP's investigation of complaints.

ACT LEGISLATIVE ASSEMBLY

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The Purchase Agreement has within it a range of performance measures upon which ACT Policing reports to the ACT Government on a quarterly basis. You state that, "*It would be appropriate to have an independent performance evaluation undertaken on Purchase Agreement performance measures*". The **Joint Study** into Policing in 2005 provided a thorough evaluation of the governance of policing in the ACT, and **endorsed the performance measures** currently contained in the Purchase Agreement. I refer you to this report, which is available on the ACT Department of Justice and Community Safety website. The **Australian National Audit Office independently audits** the ACT Policing Annual Report against the performance indicators.

I am pleased to report that the ACT Government has increased its level of resources to ACT Policing over the past few years. This has resulted in a direct improvement in the capacity of ACT Policing to meet its performance measures, which demonstrate an effective improvement in ACT Policing's ability to respond to crime and to improve community safety. In addition, ACT Policing's Suburban Policing Strategy and the new changes to the police roster system are having a positive impact on the performance of the police. I expect these strategies to result in continued improved response times and community satisfaction levels.

From time to time, the ACT Policing **performance measures are refined, deleted, or substituted**. A new measure, for example, relating to 'mobile phone usage whilst driving' has been introduced this year to reflect changing driver behaviours. Others measures may change where it appears that they may not be effective.

CLA notes, for example, that the performance measure relating to **heroin overdoses has been removed** from the agreement in 2007/08. The measure was removed given that poly-drug use replaced heroin as the principle cause of concern for the community. Furthermore, as the measure was not one for which ACT Policing can be held solely responsible. ACT Health routinely reports to ACT Government on the rate of overdoses. However, with the removal of this indicator, I put in place a **Ministerial Direction with a special focus on illicit drug use and ACT Policing is required to report to me** each quarter on their response to the direction.

I have responded briefly below to some of the other issues you raise. I would welcome the opportunity to **further explore these issues** when we meet.

*There were **no reported substantiated complaints** issues relating to people injured in custody in 2006-07, but ACT Policing has reported elsewhere that a member was charged with assault occasioning actual bodily harm for an occurrence in October 2006 at the City Watch House. Obviously, the police and auditor overlooked this serious event that resulted in the Ombudsman conducting a review of watch house procedures.*

In relation to ACT Policing's Annual Report, no complaints **had been "substantiated" at the time of publishing the annual report**, and the matter you allude to was still before the courts. It would obviously have been highly inappropriate to prejudge the outcome of that matter.

*Significantly, there has been no change in the performance measures to reflect the change in management and reporting of complaints against police, nor is there any analysis or reporting of such complaints in the annual report*

With 2007-08 being the first full year of operation of the new complaints system, I am informed that there will be a **thorough report on its operation in this year's ACT Policing annual report**.

*Of concern is a 30% increase in incidents reported to police*

An increase in incidents reported to police itself says little about the level of offending in the community. The definition of "incidents" includes reports of offences, but also proactive operations initiated by police, community relations exercises, requests for advice, and calls for assistance where no offence is ultimately disclosed. It does, however, reflect an increased interaction with the community and police activity in the community, which in my view is a positive development.

*The PID Act should apply to ACT Policing*

Given ACT Policing is a Commonwealth agency, and part of the Australian Federal Police, the PID does not apply to ACT Policing.

*The annual report also indicates – as it does every year – that ACT Policing does not operate under the ACT Human Rights Act*

When exercising a function under Territory law, ACT Policing is legally obliged to comply with the ACT Human Rights Act.

*It has been determined that in comparison to NSW, the ACT has a significantly inexperienced force*

As 107 new members have been added to ACT Policing's ranks in the last four years, it is to be expected that average experience levels will be relatively lower at this time than in jurisdictions, which may not have undertaken similar recruiting of new officers.

*Request for a public version of Commissioner Order 3*

The ACT Government does not intend to publish the details of Commissioner's Order 3 as it contains operational strategies relating to the use of force. Public knowledge of these operational strategies has the potential to undermine the safety of police officers on the ground and surrounding community members. In 1998, all law enforcement jurisdictions resolved to implement the *National guidelines for incident management, conflict resolution and use of force* and subsequently, Commissioner's Order 3 was developed in compliance with the policing philosophies of the national guidelines.

My understanding is that the policing philosophies contained in the national guidelines will be republished in the near future and made available to the public. A version of the 'use of force continuum', which explains the dynamic nature of use of force by police will also be published. ACT Policing and the ACT Government recognise the need to educate the community about police use of force methods and practices and are working to bring this information to the community in a useful and helpful manner. In addition, ACT Policing has indicated that it will be reporting on trends relating to the use of force in its next annual report.

I look forward to discussing these issues at our next meeting.

Yours sincerely

Simon Corbell MLA  
Attorney General

1.4.08