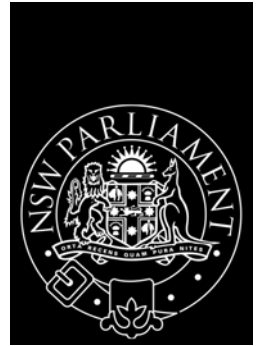


PARLIAMENT OF NEW SOUTH WALES



Committee on the Office of the Ombudsman
and the Police Integrity Commission
REPORT ON AN INQUIRY INTO EARLY INTERVENTION
SYSTEMS IN THE NSW POLICE FORCE

Together with study tour report, transcript of proceedings and
minutes of meetings

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Terms of reference

That, in accordance with its statutory functions under s.95 of the *Police Integrity Commission Act 1996*, the Committee on the Office of the Ombudsman and the Police Integrity Commission conduct an inquiry into:

1. the role of early intervention systems in managing vulnerable law enforcement officers and assisting in corruption reduction;
2. current early intervention initiatives by the New South Wales Police Force;
3. the utility and further development of an early intervention system for the New South Wales Police Force;
4. any other matter the Committee considers relevant to the inquiry;

and report to both Houses of Parliament on the inquiry.

Chair's foreword

This report is the Committee's second foray into the issue of Early Intervention Systems for the NSW Police Force.

The first was the previous committee's 2002 research report on trends in police corruption. Recognising that police corruption can begin with a series of small acts before escalating, the report recommended the establishment of an early intervention system to identify and assist police officers at risk.

Early intervention systems are not disciplinary in nature nor do they focus solely on potential corrupt behaviour. They are risk management tools. Using a range of available indicators, they aim to identify any potential behavioural problems and intervene in a collaborative and supportive way.

That is, preventing a problem from occurring rather than dealing with it after it emerges – prevention rather than cure.

It is fair to say that, despite a commitment to the identification and management of risk on the part of the Police Force, there have been a number of false starts in developing an early intervention system.

This second, more formal, look at progress on introducing an early intervention system has been a very positive experience, finding significant progress towards implementation.

While things are certainly heading in the right direction, there is still some way to go.

The Committee has identified the need for maintaining executive commitment to managing and funding the project.

Such a commitment should yield benefits such as enhancing the safety and welfare of police officers, strengthening accountability processes and building integrity within the organisation. This in turn should assist the Police Integrity Commission and the NSW Ombudsman in their respective roles as the external oversight agencies and the work of the Police Association of NSW through ensuring more effective support for officers in the workplace.

On behalf of the Committee, I would like to thank the NSW Police Force, the Police Integrity Commission, the NSW Ombudsman and the Police Association of NSW for their submissions and evidence, which have informed this Report. The Committee is also grateful to all of the US and Canadian police departments, officer associations, police oversight bodies and academics that assisted it in the course of its study visit. Their generosity with both time and resources allowed it to access expert advice and information from comparable jurisdictions with the greatest experience of developing, operating and analysing early intervention systems.

Chair's foreword

Finally I would also like to take this opportunity to thank my fellow Committee Members for the enthusiasm and diligence with which they have approached the subject matter of the Inquiry and the Committee Secretariat, in particular Jonathan Elliott and Hilary Parker, for their endeavours in preparing this Report.



The Hon Kerry Hickey MP
Chair

Executive Summary

Six years have elapsed since the Committee first recommended that the NSW Police Force (NSWPF) implement an early intervention system (EIS) to identify and manage certain behaviour indicating possible future misconduct by individual police officers.

Although there were some preliminary moves towards establishing an EIS in the NSWPF in response to that recommendation, these were abandoned in favour of another risk assessment tool. However, in 2007, the NSWPF revisited the idea of an EIS and, in December of that year, established a multi-agency Steering Group and Project Team to develop and implement an EIS for the NSWPF. The Steering Group and Project Team comprise the NSWPF, the Police Association of NSW (PANSW), the Police Integrity Commission (PIC) and the NSW Ombudsman.

With the establishment of the EIS Steering Group and Project Team, the Committee resolved that further inquiry into the benefits of early intervention systems would be timely. Such inquiry would also support the work of the EIS Steering Group and Project Team to develop and implement an EIS model that is consistent with best practice and suited to conditions within the NSWPF.

In the course of its Inquiry, the Committee consulted with key stakeholders in NSW and examined the use of early intervention systems in comparable jurisdictions, including Western Australia, which is the only Australian state to have an EIS in place, and New Zealand. The Committee also undertook a study tour to Canada and the United States of America, which is the "birthplace" of EIS.

The Committee makes a number of recommendations in support of the adoption of an early intervention system for the NSWPF and of the multi-agency approach to its development and implementation.

The Report explains the history of the development of the EIS (Chapter 3) and their underlying principles and core elements (Chapter 2). As a basis for its consideration of EIS, the Committee adopted the definition proposed by one of the leading commentators in this field, Samuel Walker. He defined EIS as:

*a data-based management tool designed to identify officers whose performance exhibits problems and then to provide interventions, usually counselling or training, to correct those performance problems.*¹

The principal elements of an EIS are, therefore:

- a series of "indicators" related to the performance of individual officers used to identify those officers requiring early intervention;
- a data-base where performance-related and other information necessary to "indicate" an officer at risk is stored (eg, complaints made against them, use-of-force reports, data comparing the performance of the officer concerned with the performance of colleagues);

¹ Walker, S., *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide*. Report prepared for the Office of Community Orientated Policing Services, US Department of Justice, Washington, 2003, p. 3.

Executive Summary

- a process by which a supervisor, on the basis of this information, can intervene to address problem behaviour at an early stage (e.g. interviews with the officer concerned); and
- a raft of non-punitive tools, such as counselling and further training, that can be used to address problem behaviour.

Importantly, identification of an officer for early intervention under an EIS is not, of itself, misconduct and, accordingly, interventions are developmental not punitive.

The Committee's Inquiry revealed significant benefits of an EIS for all levels of the NSW Police Force. Supervisors will benefit by having access to data on the performance of their officers that will enable them to identify problem behaviour before it can escalate into misconduct. They will also benefit from the support of an organisational framework that promotes early intervention through remedial action rather than disciplinary measures.

An early intervention system will also promote officer welfare by reducing the likelihood of career-threatening risks through a supportive, objective and transparent process for addressing problematic behaviour.

At the organisational level, it is clear to the Committee that an effective EIS could strengthen accountability processes and further build integrity within the NSWPF. In this way, it can positively affect the culture and practice of the police force. The provision of enhanced data on policing activity and a reduction in problem behaviour or misconduct will also support the respective roles of the police oversight agencies.

As Chapter Five (paras. 5.69-5.80) details, other benefits of an EIS include a reduction in costs to the taxpayer through:

- reduction of operational costs (fewer complaints, increased corruption resistance);
- the retention of staff;
- improvement in public confidence in the police force;
- better support for staff leading to better service delivery; and
- increased productivity.

In addition to broad-ranging benefits, it was clear from the evidence the Committee received that an EIS could work in tandem with other early intervention strategies currently in place within the NSWPF, complementing rather than impeding, those strategies. These issues are explored in Chapter Four.

Accordingly, the Committee's recommendations include:

- the swift adoption of an EIS for the NSWPF;
- the continued use of a multi-agency approach to its development, implementation and future evaluation (especially by the PIC and Ombudsman in their police oversight roles);
- continued executive commitment by the NSWPF, given that responsibility for the EIS properly rests with that agency; and
- periodic review of the EIS, including the indicators, by the NSWPF to test its effectiveness.

Given the long-term cost and other benefits of developing an effective EIS for the NSWPF, the Committee recommends that the Government make the development, implementation

and subsequent monitoring and review of an EIS a budgetary priority for the NSWPF (see page 60).

In relation to the indicators to be used in the EIS to identify officers requiring early intervention, the Committee recommended that the NSWPF ensures that they are appropriate to its own processes and policing experience. Importantly, the Committee also recommended that the validity and reliability of indicators be tested periodically (see page 50).

The Committee notes that central to an effective EIS is the ability of supervisors and others to access personal and other information about individual officers. The Committee also notes that this could have an impact on an officer's right to privacy. It recommends that any EIS implemented in the NSWPF must ensure adequate protections for privacy, and include measures to prevent misuse or other unauthorised use of personal information. In this regard, the Committee also recommends that the Steering Group and Project Team ensure that a NSWPF EIS is compliant with the *Privacy and Personal Information Protection Act 1998* and all other relevant legislation.

In conclusion, the Committee recognises that an EIS is only one tool among many in the task of building up integrity and accountability in the NSWPF and the Committee commends the NSWPF and the key stakeholders on the EIS Steering Committee and Project Team for the progress they have made to date and for their collaborative effort.

List of recommendations

RECOMMENDATION 1: That the introduction of an EIS for the NSWPF be completed as soon as possible.	43
RECOMMENDATION 2: That the multi-agency approach to developing and implementing an EIS remain in place.	46
RECOMMENDATION 3: That the NSWPF conduct periodic reviews of the EIS, including the indicators, to ensure its ongoing effectiveness.	50
RECOMMENDATION 4: That the development and implementation of an EIS for the NSWPF be given budgetary priority.	60
RECOMMENDATION 5: That the EIS Steering Group and Project Team give full consideration, in the early stages of the development of an EIS, to ensuring that it is compliant with NSW legislation, including the <i>Privacy and Personal Information Protection Act 1998</i>	61

Glossary of key terms

Action notice	See <i>Flag</i>
At risk officer	An officer demonstrating patterns of problematic behaviour which may indicate he is at risk of misconduct
Consent decree	Section 14141 of the <i>Violent Crime Control Act 1994</i> , provides the Civil Rights Division of the United States Justice Department with powers to sue state and local governments in federal court in order to correct a “pattern or practice” of police misconduct. A consent decree is the agreement between the parties which is submitted in writing to a court. Once approved by the judge, it becomes legally binding. The Federal intervention can be maintained until the Department of Justice is satisfied that the police agency is in substantial compliance with the requirements of the decree.
Data	Information item which may be useful in identifying an at risk officer
Early Intervention system (EIS)	A data-based police management tool designed to identify officers whose behaviour is problematic and then to provide interventions, usually counselling or training, to correct those performance problems
Early Warning System	See <i>Early Intervention System</i>
False positives	Where an officer is wrongly identified as being at risk by the indicators in an EIS
Flag	Notification from an EI database that an officer has met or exceeded a threshold
Indicator	A combination of data items, linked by a decision rule, which represents a behavioural pattern requiring intervention.
Performance indicator	See <i>indicator</i>
Threshold	A threshold is the data-based decision rule that qualifies an officer for an intervention, based on the available information.
Trigger	See <i>threshold</i>
Two stage process	Initial identification of officers at risk through the EIS database followed by human interpretation of that data to assess its validity and the need for intervention.
Use-of-force	Sections 230 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> , provide for a police officer exercising a function under NSW law, to use such force as is reasonably necessary to exercise that function. Further a police officer or other person who exercises a power to arrest another person, may use such force as is reasonably necessary to make the arrest or to prevent the escape of the person after arrest.

List of acronyms

AZPLEA	Arizona Phoenix Law Enforcement Association
AZPOST	Arizona Peace Officer Standards and Training Board
C@ts.i	Current NSWPF computer system used to record complaint information.
COPS (in NSW)	Computerised Operational Policing System
COPS (in the USA)	Citizens Offering Police Support
EIS	Early Intervention System
EPA	Edmonton Police Association
EPC	Edmonton Police Commission
EPS	Edmonton Police Service
EWS	Early Warning System
LACPOA	Los Angeles County Police Officers' Association
LAPD	Los Angeles Police Department
LASD	Los Angeles County Sheriff's Department
NSWPF	New South Wales Police Force
NZP	New Zealand Police
OIG	Office of the Inspector General, Los Angeles Police Department
ORA	Officer Risk Assessment
PANSW	Police Association New South Wales
PARC	Police Assessment Resource Center
PAS	Personnel Assessment System
PIC	Police Integrity Commission
PPI	Personnel Performance Index
PSC	Professional Standards Command
PSU	Professional Standards Unit
SCIA	Special Crime and Internal Affairs
SFPC	San Francisco Police Commission
SFPD	San Francisco Police Department
TEAMS	Training Evaluation and Management System
WAPOL	Western Australia Police

Chapter One - Background to the Inquiry

- 1.1 This report contains the findings and recommendations of the Committee on the Office of the Ombudsman and the Police Integrity Commission's Inquiry into Early Intervention Systems (EIS) in the NSW Police Force.
- 1.2 The Inquiry commenced on 11 March 2008 when the Committee adopted Terms of Reference.
- 1.3 While the scope of the Inquiry addresses the utility of EIS in NSW, the Committee also considered the experiences of other comparable jurisdictions in developing, implementing and analysing EIS, with a view to any recommendations it might wish to make on a best practice model.

The Committee's 2002 Research report

- 1.4 In accordance with the legislative requirement of section 95(1)(d) to examine trends and changes in police corruption, in December 2002 the Committee tabled a research report on trends in police corruption.² The report provided a theoretical framework and typology of police corruption and observed that a number of elements contributed to corruption, for example:
 - police officers, who may be young and inexperienced, exercise coercive and largely unsupervised discretionary powers, and have the opportunity and continual temptation to engage in corrupt behaviour;
 - the policing environment can mean exposure to horrific crime scenes and accidents, as well as fraternisation with criminal elements through informant relationships, thus inuring officers to violence and criminal behaviour;
 - police officers are aware of the size of their take-home pay compared with the financial rewards of corrupt activities;
 - policing in areas of susceptibility, such as prostitution and drugs, where the crime is seen as victimless and complaints about abuse of power are unlikely to be made, provides opportunity for corruption;
 - strong support for colleagues in time of crisis can translate into a code of silence about the misconduct of fellow officers. This code can operate at senior levels, where it is more likely to be motivated by a desire to maintain morale and protect the police force's reputation;
 - law and order campaigns can apply political pressure to police commands, resulting in process corruption in order to produce satisfactory crime clear-up rates.
- 1.5 A cycle of corruption was described, involving four stages:
 1. crime fighting, where police wage a 'war' on crime;
 2. the emergence of corruption, its disclosure and resulting scandal;
 3. reaction from community and institutions, often through rule tightening and reorganisation; and

² Committee on the Office of the Ombudsman and the Police Integrity Committee, *Research report on trends in police corruption*, NSW Parliament, December 2002.

Background to the Inquiry

4. a commitment to new norms, until another cycle begins.
- 1.6 Police departments have adopted a mix of methods to combat corruption, including screening at recruitment, training, codes of conduct and integrity testing.
- 1.7 The Committee's report gave a brief, selective history of policing and law and order in New South Wales up to the Wood Royal Commission³ and the establishment of the Police Integrity Commission. The report then examined police complaints systems pre- and post-Wood Royal Commission and the oversight of these systems and came to some conclusions about trends in police corruption.
- 1.8 The report observed:

What emerges clearly from the theoretical framework, the testimony of corrupt officers at Royal Commissions and before the Police Integrity Commission, and research from NSW and other jurisdictions is that police corruption starts with a series of small acts and in most cases escalates from there. These acts form a series of recognised, critical indicators that identify officers at risk of corruption. These indicators can include the officer's personal history such as their complaints records, and environmental issues such as working in areas with high levels of poverty and entrenched drug markets.⁴
- 1.9 The report concluded by discussing the potential for the NSW Police Force to establish an 'early warning system': using data on problem behaviours to assist in identifying officers considered vulnerable to corruption and alerting their managers who would then be able to assist the officers so as to prevent future misconduct. Evidence was given to the Committee by the Commander of Special Crime and Internal Affairs (SCIA) that NSW Police proposed to implement some of the recommendations of a research project, Analysis of Sustained Criminal Allegations 1999-2001,⁵ one of which had been to conduct further research into, and establish, an early warning system to highlight at-risk officers.
- 1.10 Since the Committee tabled its report in November 2002, the term 'early intervention system' has succeeded 'early warning system' because of its more positive connotations as being a process providing assistance for those with problematic behaviour, rather than a 'big brother' system geared to detect and punish wrongdoing.

Developments following the Committee's 2002 Research Report

- 1.11 The Committee's 2002 research report made the recommendation that the PIC and the NSW Ombudsman consider assisting NSW Police in establishing the indicators for such a system given the research work already undertaken by those agencies to that end in their respective reports on *Project Oracle* and *Improving the management of complaints*.
- 1.12 Subsequently the PIC and the NSW Ombudsman contributed research and advice to the development of an EIS but in May 2005 the decision was taken by the NSW Police to discontinue work on this project in favour of the Officer Risk Assessment process (ORA).

³ The Wood Royal Commission was established in 1994 to investigate, amongst other activities, the existence or otherwise of systemic or entrenched corruption within the NSW Police Service and the activities of the Professional Responsibility Command. Its final report was handed down in May 1997.

⁴ Committee on the Office of the Ombudsman and the Police Integrity Commission, op.cit. p.iv.

⁵ *ibid.* p.158

- 1.13 The ORA process might be summarised as a corporate risk assessment tool which relied upon managers to undertake an assessment of each officer under their command; as opposed to an EIS which is a database driven system using research based indicators to generate 'flags' for officers who may be at risk of misconduct.
- 1.14 The time and costs involved in developing an EIS were cited by the NSW Police as being the decisive factors in pursuing ORA as an alternative risk management strategy.
- 1.15 The ORA system was not a process which was endorsed by the PIC, the NSW Ombudsman or the Police Association New South Wales (PANSW) due to concerns about its focus and the lack of research, testing and evaluation in developing its components.⁶
- 1.16 In September 2006 following its implementation in 14 commands, the NSWPF suspended the roll out of ORA and in April 2007 advised that the ORA system had been "retired".
- 1.17 In July 2007, a multi-agency forum consisting of the NSWPF, the PANSW, the PIC and the NSW Ombudsman was convened by the NSWPF Professional Standards Command (PSC) in order to discuss issues relating to the establishment of an early intervention system.
- 1.18 The outcomes from the multi-agency forum were a consensus that the NSWPF should develop an EIS and the commitment of the agencies to assisting this process.
- 1.19 A position paper on the establishment of an EIS was approved by the Commissioner's Executive Team (CET) in November 2007 and the following month an EIS Project Steering Committee and Project Team was established with the participation of the PIC, the NSW Ombudsman and the PANSW.
- 1.20 The EIS Project Team first met formally during February 2008 to discuss project governance issues and consider a draft project plan.
- 1.21 In June 2008, the EIS Steering Committee endorsed a detailed project plan for the implementation of an EIS which includes the development of the following components:
- a) A Requirements Definition Document (including an independent research component building on international and national expertise);
 - b) An EIS Database;
 - c) Policies and Procedures;
 - d) A Training and Education Package; and
 - e) A Communications Strategy.
- These components will be delivered over three distinct phases:
- a) One: Design and Development
 - b) Two: Testing and Refinement
 - c) Three: Roll-out and Ongoing Refinement
- The first phase of the EIS project will be completed by the end of 2008.⁷
- 1.22 Following the endorsement of the project plan, a project manager was appointed for 12 months with the support of two project officers from the PSC and other specialist services within the NSWPF.

⁶ See submissions no's 3,4 and 6.

⁷ Submission Number 1, NSWPF, p.6.

Background to the Inquiry

- 1.23 By November 2008, the research phase for the project had been completed and work was focused on identifying and testing the data sets which could provide the indicators for the EIS.

Catalyst for this Inquiry

The Committee's functions

- 1.24 The role of the Committee on the Office of the Ombudsman and the Police Integrity Commission is primarily to monitor and review the practices and procedures of the Ombudsman, the Police Integrity Commission (PIC) and the PIC Inspector, and to examine their reports. These oversight functions are prescribed by the Ombudsman Act and the Police Integrity Commission Act. As well, section 95(1)(d) of the PIC Act authorises the Committee:
- to examine trends and changes in police corruption, and practices and methods relating to police corruption, and report to both Houses of Parliament any changes which the Joint Committee thinks desirable to the functions, structures and procedures of the Commission and the Inspector...

Progressing the Committee's earlier recommendations on EIS

- 1.25 Six years had elapsed since the Committee's recommendation that consideration be given to establishing an early intervention system, and the NSWPF had not yet developed a model for trialling an early intervention system.
- 1.26 Following the establishment of the multi-agency forum, the Committee determined that its further consideration of this issue would be timely.
- 1.27 Accordingly the Committee resolved on 11 March 2008 to conduct an inquiry into early intervention systems, their use in comparable jurisdictions and their utility for the NSWPF.

Current NSW Government policy

- 1.28 The New South Wales Government supports the development of early intervention and prevention policies in government agencies . Priority F4 in the State Plan is "embedding the principle of prevention and early intervention into Government Service Delivery in NSW". The rationale for using early intervention and prevention programs to overcome disadvantage is explained as follows:
- We are increasingly seeking to tackle disadvantage by preventing problems from happening in the first place and stopping existing problems from getting worse.
-
- We want 'early intervention' to characterise the way the NSW Government approaches future policy development and program design. We want to be able to answer positively when asked the question: 'when confronting this problem or issue, did we consider all the options for acting earlier to prevent it or to reduce its impact'.⁸
- 1.29 EI systems intervene constructively to prevent police officers from engaging in problematic behaviour which may impact on their careers and on the efficiency and effectiveness of their fellow officers, as well as on the reputation of the police force in the community.

⁸ NSW Government, *A new direction for NSW, NSW Government State Plan*, November 2006, p. 76.

- 1.30 Thus in the wider context of the NSW Government's priorities, the Committee considers an inquiry into the utility of an EIS for the NSWPF to be appropriate.

Inquiry terms of reference

- 1.31 The Committee was to inquire into:
1. the role of early intervention systems in managing vulnerable law enforcement officers and assisting in corruption reduction;
 2. current early intervention initiatives by the New South Wales Police Force;
 3. the utility and further development of an early intervention system for the New South Wales Police Force;
 4. any other matter the Committee considers relevant to the inquiry;
- and report to both Houses of Parliament on the inquiry.

Methodology

- 1.32 In April 2008 the Committee invited submissions from a number of agencies in NSW and other jurisdictions. Submissions were received from:
- Police Integrity Commission
 - Western Australia Police
 - NSW Ombudsman
 - NSW Police Force
 - New Zealand Police
 - Police Association of New South Wales
- 1.33 In order to inform itself about the use of early intervention systems in comparable jurisdictions, the Committee resolved to conduct a study tour to the United States of America and Canada. These countries were selected as being able to offer the greatest experience of developing, operating and analysing EI systems.
- 1.34 In addition to observing operational EI systems in San Francisco, Edmonton, Phoenix and Los Angeles, the Committee met major stakeholders, including police officer associations, police oversight bodies and academics, for discussions on the development, implementation and evaluation of EI systems.
- 1.35 The delegation consisted of Ms Angela D'Amore MP, then Committee Chair, and Mr Peter Draper MP, Committee member, accompanied by Mr Les Gönye, Clerk-Assistant (Committees). (See Study Trip Report, Appendix 1).
- 1.36 On 19 November 2008 the Committee held a public hearing to hear evidence from:
- Police Integrity Commission
 - NSW Ombudsman
 - Police Association of NSW
 - NSW Police Force.
- (See transcript of evidence, Appendix 4.)
- 1.37 Additional research was undertaken by the Committee in the form of a literature review on EIS and police accountability issues.

Chapter Two - Principles of Early Intervention Systems

- 2.1 The purpose of this chapter is to explain the concept of an early intervention system and to describe its components.
- 2.2 The citation of predominantly US academics and references to EIS in US police agencies in this chapter, is a reflection on that country's significant experience in developing, operating and analysing EIS. This is not intended however to suggest that US jurisdictions are directly comparable with NSW or the wider Australian policing context.

What is an EIS?

- 2.3 The basic concept of an EIS is to facilitate a proactive approach to identifying and managing risk. The specific risk being that of a police officer committing an improper or unlawful act that would then require disciplinary action and/or criminal proceedings with consequentially negative outcomes for both the individual officer, the police agency and the community.
- 2.4 Thus the term *early intervention* denotes the specific role that the systems perform in preventing future misconduct, by identifying and constructively addressing performance problems before those behaviours escalate. This is distinct from the reactive and punitive measures which are often found in police disciplinary processes.⁹ Whilst EIS may identify patterns of behaviour which indicate current misconduct, their primary objective is misconduct prevention.

- 2.5 Walker defines an EIS as:
a data-based management tool designed to identify officers whose performance exhibits problems, and then to provide interventions, usually counselling or training, to correct those performance problems.¹⁰

This definition effectively captures the functionality of an EIS. Firstly in that EIS are able to provide evidence based performance evaluations, capable of demonstrating patterns of behaviour, as opposed to the more subjective observations of supervisors that can be a common failing of traditional performance reviews.

- 2.6 Secondly the use of the term "management tool" emphasises the need for human interpretation and intervention in order for an EIS to function properly. A software application, which has the capacity to interrogate data sets and generate an action notice about officer performance, is only one part of the process and not an end in itself. The real power of EIS is in how managers use that information to improve officer performance.

⁹ In the case of NSW, the *Police Act 1990* provides for the Commissioner to take non-reviewable action with respect to officer misconduct or unsatisfactory performance. Non-reviewable action is set out in Schedule 1 of the Act and includes many of the remedial intervention options commonly found in an EIS such as mentoring, coaching, counselling etc.

¹⁰ Walker, S., *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide*. Report prepared for the Office of Community Orientated Policing Services, US Department of Justice, Washington, 2003, p. 3.

<<http://www.cops.usdoj.gov/files/RIC/Publications/e07032003.pdf>> at 27 October 2008.

- 2.7 Thirdly, as discussed above, an EIS seeks to correct problematic behaviours through a remedial intervention that is aimed at a rehabilitation outcome as opposed to a punitive intervention intended to have a deterrent effect. In an EIS, identification is not of itself misconduct, it is an indicator of potential misconduct.
- 2.8 Types of intervention vary from system to system but commonly include informal meetings between the officer and their supervisor, during which the officer will be warned that they need to address certain problem behaviours, participation in a mentoring program or enrolment in a training course. By contrast, action taken under the formal disciplinary system for actual misconduct may include a reduction in rank, dismissal or a recommendation that the officer be prosecuted.
- 2.9 When seeking to define the concept of an EIS, it should be noted that they are not intended to predict how an officer is likely to perform on the basis of personality traits:
In the past there have been several attempts to develop methodologies for predicting which applicants for police employment will perform well and which were unsuited for police work. Almost all of these efforts have attempted to correlate background characteristics with subsequent performance. None has proven to be successful. An EI system makes no attempt to predict performance. It is simply a retrospective analysis of performance followed by an intervention designed to correct whatever problems have been identified.¹¹
- 2.10 Finally whilst EISs are primarily designed to manage risk by identifying and addressing problematic behaviours they also have the capacity to identify exemplary conduct, strengthen procedures across law enforcement agencies and have a positive role in promoting officer welfare.¹²

The structure of EIS

- 2.11 A review of literature produced over the last eight years shows some variance as to how the basic structure of an EIS is described. Studies by Alpert and Walker in 2000¹³ refer to three main components and Walker in a 2005 study refers to four.¹⁴ In this case the variance can be explained in terms of whether one chooses to describe, for example, the selection of indicators as a component in itself or as a major element within the identification component.
- 2.12 Essentially, however one chooses to describe the structure of an Early Intervention system, the process is one of taking steps to identify officers at risk of misconduct, selecting and implementing an intervention strategy and monitoring and evaluating the effectiveness of that intervention.
- 2.13 The specific steps in the EIS process are considered in the next section, with examples of their application in other law enforcement agencies.

¹¹ Walker, S., *The New World of Police Accountability*, Sage Publications, Thousand Oaks California, 2005, p. 105.

See also: Submission Number 4, NSW Police Force p. 1. in relation to the role of an EIS

¹² Chapter 2 of this report summarises the early history of EIS in the United States and their development from identifying the "problem officer" to a recognition of their wider impact at the organisational level.

¹³ Alpert, G.P. and Walker, S., 'Police accountability and early warning systems: developing policies and programs', *Justice and Research Policy*, Vol. 2 No.2, 2000, pp. 59-72.

¹⁴ Walker, op. cit., 2005, pp. 108-117.

Identification

Indicators

- 2.14 As discussed above, Walker defines an EIS as “a data-based management tool” with the data referred to being the information that is collected across the agency on officer activities such as use-of-force reports, citizen complaints, police accidents, training records, etc.
- 2.15 This officer activity data is uploaded into the EIS and, in accordance with a pre-determined decision rule, the software issues an “action item” or “flag” to supervisors to indicate that the officer’s behaviour may require intervention to address a problem. The data and the decision rule, which determines whether the system flags a particular officer for intervention, are known as “Indicators” or sometimes “Performance Indicators” in EIS terminology.
- 2.16 The decision rule is often referred to as a “threshold” or “trigger” in EIS literature, though the latter could be considered to have particularly negative connotations in the policing context. The threshold could be “department-level”, for example, on a set number of use-of-force reports within a 12-month period. It could be “peer officer average” based, for example, on a comparison of the number of use-of-force reports for an officer in comparison to colleagues performing similar duties in a similar environment. Finally, it could be based on comparing the ratios between indicators, such as the number of arrests an officer makes compared to the number of complaints that officer receives – a threshold known as a *performance indicator ratio*.
- 2.17 The distinct advantage of the performance indicator ratio, is that it allows supervisors to identify the exemplary officer, that is, the officer who makes a large number of arrests but has a low arrests to complaints ratio.
- 2.18 The threshold is the critical component in any performance indicator as its ability to accurately identify officers who may require intervention is the key goal of the data-base element in any EIS. The precision with which a threshold is set is a challenge for police agencies. If it is too restrictive almost any officer activity could result in their being flagged for intervention. Conversely a threshold could fail to identify a problem officer, for example, if it allows for a high number of use-of-force incidents before the system notifies a supervisor.¹⁵
- 2.19 In the Los Angeles Police Department (LAPD) in the first five months of 2008 the system generated approximately 2000 action notices for a force of around 9000 officers, which represents a considerable demand on time and resources.¹⁶ The LAPD is currently reviewing its peer group definitions in a performance indicator review. Only by testing the system over a period of time, can effective indicators be developed which do not falsely identify officers as being at risk – known as *false positives* in EIS terminology.
- 2.20 Whilst there is no consensus of opinion on precisely how many indicators an EIS should have, almost all experts agree that they should use more than one in order to

¹⁵ For approaches to developing indicators see for example: Bertoia, T., *Developing an Early Intervention System for Police Misconduct in a Law Enforcement Agency*. Research and Issues Paper Number 01, NSW Police Integrity Commission, Sydney, 2008, pp. 9-18.

< <http://www.pic.nsw.gov.au/Report.aspx?ReportId=123> > at 19 February 2009.

¹⁶ See Appendix 1, Study tour report, Office of the Inspector General, LAPD.

present a full picture of officer performance.¹⁷ It is this ability to integrate with the key elements of an agency's accountability processes and combine data from a range of officer activities that differentiates an EIS from other forms of proactive risk management, such as a progressive managerial approach to complaint handling.

2.21 For example, although complaints based indicators are common to EIS, a system should not be over reliant on complaints data. To be so would not only risk duplicating the work of an existing complaints system, but as Bassett and Prenzler point out:

A major problem with an early warning system based solely on complaints is that complaints alone do not necessarily reveal all potential misconduct. The New South Wales Royal Commission report (Wood 1997) showed that some corrupt detectives had no previous complaint problems. This is because corruption is often a consensual activity and participants are often unlikely to complain. Therefore, there is a need to look for other signs or indicators of corruption, apart from just complaints.¹⁸

2.22 By way of example, some of the 15 data sets currently used by Western Australia Police (WAPOL) in their EIS are:

- 'Blue Line' files – a confidential dedicated telephone line for employees concerned about the ethical conduct of any WAPOL employee;
- Death/injury in custody;
- Internal Affairs Unit investigations;
- Use-of-force incidents;
- Complaints - internal and external;
- Positive correspondence;
- Register of Associations;
- Gift register; and
- Secondary employment.¹⁹

2.23 In EI literature, systems with a large number of indicators that are capable of extensive officer performance evaluation are often referred to as *Comprehensive Personnel Assessment Models*. Those with fewer indicators, designed to identify officers with performance problems, are often referred to as *Problem Officer Models*.

2.24 Walker describes the choice of the number of indicators to use as being a trade off between effectiveness and efficiency:

The greater the number of indicators used, the greater the capacity of the system to evaluate the full range of officer performance...[allowing] commanders to identify top-performers and under performers, as well as officers with performance problems...At the same time, however, utilizing a greater number of indicators imposes greater administrative demands in terms of data entry and data analysis. A smaller problem officer system, with fewer performance indicators, will be much less expensive and easier to create and maintain."²⁰

¹⁷ Walker, op. cit., 2005, p. 108.

¹⁸ Bassett, M. & Prenzler, T., 'Complaint Profiling and Early Warning Systems' in Prenzler, T. & Ransley, J. (Eds), *Police Reform, building integrity*, Hawkins Press, Sydney, 2002, p.137.

¹⁹ Submission Number 4, Western Australia Police, p.5.

²⁰ Walker, op. cit., 2003, p. 29.

- 2.25 Essentially the indicators are used in an EIS to flag an officer who may be at risk of misconduct so that some form of intervention or review can take place. As discussed above, this may be done by way of a non-discretionary department level threshold (e.g. three use-of-force reports in a 12 month period), by a peer officer comparison or by performance indicator ratios. In Figure 1 Walker gives some hypothetical examples as to how peer officer comparisons and performance indicator ratios can be used. The more sophisticated “identification and selection” method is discussed further in the next section of this report (see paras 2.30-2.36).

Figure 1: Hypothetical examples of how a peer officer comparison approach can be used.

Officer A

Indicators. Officer A had five use-of-force reports during one reporting period. Relative to other officers in the same unit, this was a very low figure, but his performance record indicated that he had made only eight arrests during this period.

Analysis. Officer A used force in more than half the arrests he made. The ratio of force to arrests is cause for departmental concern and probable intervention.

Discussion. Officer A represents the classic officer with a use-of-force problem. An intervention counseling session will seek to determine if the cause is improper tactics that can be corrected through training, or personal problems that require professional counseling.

Officer B

Indicators. Officer B had no citizen complaints or use-of-force reports for the reporting period. The performance data, however, also indicates that he had made no arrests, no traffic stops, and no field stops. Further examination of his records indicate that he was working the maximum number of hours permitted for off-duty employment.

Analysis. Officer B is devoting all his energy to his off-duty employment rather than fulfilling his responsibilities to the department and will be referred for intervention.

Discussion. In the intervention counseling session the officer will be advised of this problem and instructed to engage in an acceptable level of basic police work.

Officer C

Indicators. A female driver filed a citizen complaint against Officer C alleging an inappropriate sexual advance during a traffic stop. An examination of the officer's EI file indicated a very high number of traffic stops involving females relative to peer officers.

Analysis. Officer C appears to be abusing his law enforcement powers to harass female drivers and will be referred for intervention.

Discussion. In the intervention counseling session Officer C will be presented with the data, advised that his behavior is inappropriate, and informed that he will be subject to intense supervision for the next 6 months.

Officer D

Indicators. Officer D makes a high number of arrests relative to his peer officers who work in a high crime area, yet he receives few citizen complaints compared with his peers.

Analysis. Officer D is an exemplary officer, engaging in active crime fighting work and conducting himself in a professional manner.

Discussion. The officer will be advised by his supervisor that his performance is exemplary and that a letter of commendation to this effect will be placed in his file.

Officer E

Indicators. Officer E makes roughly the same number of traffic stops as peer officers working the same precinct, a neighborhood with a significant Latino population, but stops a far higher percentage of Latino drivers than the other officers (about 60% of all stops, compared with about 40% for other officers).

Analysis. The officer's traffic stop data suggests possible bias against Latino drivers and will be referred for intervention.

Discussion. Officer E will be presented with these data at the intervention counseling session. He will be offered an opportunity to explain the disparity. If he fails to present a reasonable explanation, he will be advised of the apparent pattern of bias and informed that his performance will be subject to intense supervision for the next 6 months.²¹

2.26 Phoenix Police Department's *Personnel Assessment System* (PAS) demonstrates that an EIS can also utilise subjective local information on officers, in addition to that which is provided centrally to the database using the indicators.

2.27 PAS allows for what it terms "human element referrals", which can be referrals from supervisors, fellow employees or friends and family. PAS also has an option which allows for self-referral and officers have used this to request help. In one case, following an officer's locker room comments to colleagues that he was suicidal, he was referred by a fellow employee and counselling led to a positive outcome.²² As Bertoia notes:

Incorporating a mechanism that allows a manager to directly refer an officer to the intervention phase may reduce potential concerns that an automated EIS will undervalue the role of local knowledge about an officer's performance and conduct. The benefit of such a mechanism, currently employed by Phoenix's PAS, is that it may facilitate managers' compliance with, and confidence in, the system.²³

2.28 Western Australia Police implemented the first Australasian EIS in January 2007, using the same US IAPro software as the Phoenix Police Department. A recent research paper from the Office of Police Integrity Victoria describes WAPOL's approach:

...Firstly, the manual system allows management to manually flag an officer who is in need of monitoring. Secondly, the threshold system automatically alerts management to officers displaying inappropriate behaviour via a double alert system. This includes the flagging of two information types within a six month period or four information types within a twelve month period. The double-threshold system WAPOL has incorporated into their EI system minimises the risk of errant officer behaviour slipping through the system, by enhancing the role of supervisors to proactively monitor officers under their command.²⁴

2.29 Whilst the identification process in an EIS can take a variety of forms across law enforcement agencies what remains common to all, is the need to develop a set of evidence-based indicators which are appropriate to that agency, in its task of identifying risk officers.

²¹ Walker, op. cit., 2005, pp. 113-114.

²² See Appendix 1: Study tour report, Phoenix Police Department.

²³ Bertoia, op. cit., p. 19.

²⁴ Office of Police Integrity Research Paper No.1, *Early Intervention Systems for Police Integrity Agencies*, Office of Police Integrity Victoria, Melbourne, [2008], p. 19.

<http://www.opi.vic.gov.au/documents/OPI_Research_Paper_No_1_Early_Intervention_Systems_for_Police_Agencies.pdf> at 5 December 2008.

Selection – mandatory or discretionary?

- 2.30 The early EIS commonly identified officers as being at risk of misconduct by way of mandatory department level thresholds and automatically referred them for intervention.²⁵
- 2.31 One of the difficulties with a mandatory approach is that there is no opportunity to place the data in context by drawing upon critical factors such as human interpretation. For example, what on face value appears to be an excessive number of use-of-force incidents may be explained by the environment in which the officer is performing their duties. The officer may, for instance, have acted within departmental procedures and guidelines in applying a necessary use-of-force during a sudden upsurge in gang related violence.
- 2.32 Later and more sophisticated EIS employ a “two-stage process” of identification and then selection. This can be complex and take a variety of forms but the defining feature is that whilst the initial identification of officers may be by way of meeting a set threshold, their selection for intervention is discretionary, with the result that only a proportion will be referred for formal intervention.
- 2.33 For example, the Edmonton Police Service EIS flags officers on the basis of twelve indicators (these include use-of-force, complaints, vehicle accidents). The officer’s data is then reviewed by an EIS analyst who monitors alerts and reports on any emerging trends. A report will include any previous intervention history, what threshold generated the alert, a timeline and a peer group analysis (a comparison with other members in the division and across the service).
- 2.34 The report is then sent to the Inspector in charge of the Professional Standards Branch who reviews it and decides whether intervention is warranted. If the decision is not to intervene, the EIS sergeant is notified, who in turn notifies the officer’s supervisor. If the supervisor confirms that there is no concern, the alert is closed. If the Inspector decides an intervention is warranted, the EIS sergeant generates a review of the officer’s human resources record. The entire information package is then reviewed by the Inspector in charge of Human Resources (HR) who confirms that an intervention is necessary.²⁶
- 2.35 A further example of the discretionary two stage approach is given by Walker when describing the Los Angeles Sheriff’s Departments EIS:
- Only some of those officers initially identified by the system are placed on Performance Review. Between 1996 and 2002, a total of 1,213 employees were identified, but only 235 (or 19 percent) were placed on Performance Review. The Performance Review Committee screens officers twice. First, the committee solicits the views of an officer’s captain about whether placement on Performance Review is appropriate. A second screening, taking into account the captains’ views, is conducted to select officers for a detailed Employee Profile Report (EPR) (known informally as a “Blue Book”). The EPRs are prepared by sergeants assigned to the department’s Risk Management Bureau. The performance review is designed to place an officer’s performance in the context of his or her assignment and performance history. It considers evidence that might exculpate an officer along with evidence indicating a problem that is believed to be worse than suggested by the performance data.²⁷

²⁵ Walker, *op. cit.*, 2005, p. 110.

²⁶ See Appendix 1: Study tour report, Edmonton Police Service.

²⁷ Walker, *op. cit.*, 2003, p. 34.

- 2.36 There is no doubt that a two stage process (i.e. initial identification by the database followed by analysis and discretionary selection) places greater demands on an agency's time and resources, due to the review and interpretation of data which is required. It could be argued however that such an approach reduces the potential for large numbers of officers to be wrongly identified as being at risk of misconduct (*false positives*) with the associated negative perceptions of the EIS which may be generated amongst officers.²⁸

Intervention

Managing interventions

- 2.37 Whilst the database element in EIS is coordinated centrally, the intervention phase is commonly administered locally, by the officer's supervisor who best ought to know both the officer and the relevant issues.²⁹
- 2.38 An example of this can be seen in the Phoenix Police Department's EIS which uses a paperless case management system. PAS case managers are electronically notified each day when they sign in as to whether an employee has been flagged for intervention. Case managers initially analyse the data identifying trends and false positives and after reviewing each case they electronically send those requiring intervention reviews to the employee's chain of command. It is the officer's supervisor who then conducts the intervention review by completing a series of drop down menus and typing notes in a note section. This is then electronically sent to the employee's second level supervisor who completes the same process and forwards the intervention review back to the PAS case manager.
- 2.39 Under PAS, the Commander's main role is to ensure they hold supervisors accountable for completing intervention reviews within the prescribed time limit of 21 days. Supervisors and management have the responsibility for ensuring that identified employees get the required intervention and assistance.³⁰
- 2.40 A similar combination of centralised and localised management can be seen in the Western Australia Police's EIS:
- RAU's [Risk Assessment Unit] assessments are provided to local District/Divisional Officers (Superintendents) by the Superintendent, RAU, where recommendations for possible managerial action for the officer concerned are discussed. RAU seeks feedback with respect to the success, or otherwise, of any action taken, and monitors the subject officer within IAPro [WAPOL's EI system] for future behaviour.
- Managerial action recommended can include refresher training, closer supervision, or mentoring for example. Local managers are also encouraged to develop relevant managerial action based on the information provided by RAU, taking into account the local environment and their knowledge of the subject officer's individual circumstances.³¹

²⁸ See page 72 of: Lersch, K., Bazley, T., & Mieczkowski, T., 'Early Intervention Programs: An Effective Police Accountability Tool, or Punishment of the Productive?', *Policing: An International Journal of Police Strategies and Management*, Vol. 29., No. 1., pp. 58-76

²⁹ Walker, op. cit., 2005, p. 115.

³⁰ Phoenix Police Department web page, Early Intervention and Personnel Assessment System FAQ's < <http://phoenix.gov/POLICE/pas1.html> > at 31 October 2008.

³¹ Submission Number 2, op. cit., p. 7.

Intervention options and the role of the supervisor

2.41 Some examples of EIS intervention used in the US include:

- counselling by immediate supervisor;
- monitoring programme with first level supervisor;
- individual or group training;
- peer officer support programs;
- professional counselling on personal or family problems;
- reassignment or temporary relief from duty; and
- anger or stress management training.

2.42 Walker regards choosing the right intervention option as being the responsibility of the officer's supervisor but recommends that they consider discussing both the problem behaviours and the remedial action with others in the chain of command or an employee assistance program.³²

2.43 This approach emphasises one of the principals of the EIS concept in that it does not seek to undermine or replace the role of the supervisor, it aims to enhance their traditional role by providing them with officer performance data and an organisational structure that is supportive of remedial action. This will only be effective if supervisors know their EIS well enough to access and analyse data in order to identify patterns of behaviour. The supervisor also needs to know the purpose and structure of the EIS well enough to identify appropriate intervention options and to engender employee support for the system through ensuring a positive experience for their officers.

2.44 Police agencies in turn, need to support the key role performed by the supervisor by ensuring they have the skills and resources they require. Walker *et al* recommend that police agency chief executives:

...convey the important role of first-line supervisors in early intervention systems. They should emphasize how supervisors can significantly and positively affect officer performance, and why first-line supervisors are the key to identifying potential problems early on. It is also recommended that police executives strongly consider supervisors' suggestions related to EIS, which would help provide supervisors with a sense of pride and ownership in the system.³³

2.45 Selecting the appropriate intervention requires supervisors to analyse EIS data, be proactive in engaging with their officers about any professional or personal issues which may be affecting their work and adopt a problem solving approach to addressing the intervention needs of each officer.

2.46 EIS data can provide valuable information to support this process by identifying patterns of behaviour or particular performance issues that are proving problematic. For example, if an officer has a pattern of use-of-force incidents and resisting arrest

³² Walker, S., Milligan, S.O., Berke, A., *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-Line Supervisors*. Police Executive Research Forum, Office of Community Orientated Policing Services, US Department of Justice, Washington, 2006, p. 29.
<<http://www.cops.usdoj.gov/files/RIC/Publications/e01060004.pdf>> at 31 October 2008.

³³ Walker, S., Milligan, S.O., Berke, A., *Supervision and Intervention within Early Intervention Systems: A Guide for Law Enforcement Chief Executives*. Police Executive Research Forum, Office of Community Orientated Policing Services, US Department of Justice, Washington, 2005, p. 11.
<http://www.cops.usdoj.gov/files/RIC/Publications/supervisionintereis_lechiefs.pdf> at 9 December 2008.

charges then an informal meeting with their supervisor may determine whether this is a legitimate policing response in the circumstances or indicative of an officer performance problem. If it is a performance problem then the supervisor may determine, for example, that the officer has an anger management issue and may recommend counselling.

- 2.47 Alternatively, they may consider the officer to be in need of retraining. In one case in the Tampa Florida Police Department, two officers working together resorted frequently to using batons to subdue suspects arrested on minor charges. Having identified the performance problem the officers were put through an exercise, which revealed a training deficiency:
- The problem wasn't that these guys were heavies...If you don't know how to use a compliance hold or use a takedown [technique], then what are you left with? A higher level of force. We fixed them up with refresher training and we haven't had any problems since.³⁴
- 2.48 In the case of an officer whose EIS data indicates that their performance has declined over time, the supervisor may use an informal meeting to determine whether the officer has some difficulties in their personal or professional lives that has affected their performance. A remedial intervention, such as professional counselling for personal or family problems, may be identified as the way forward. Phoenix Police Department's EIS, for example, provides for up to six free counselling sessions as an intervention option for officers.
- 2.49 Walker states that supervisors are the lynchpin of EIS.³⁵ The impact of an EIS on supervisors can be greatly beneficial because it is a non-disciplinary means of intervention in organisations that have traditionally had only formal punitive means of addressing officer behaviours. It can provide supervisors with additional means of problem solving. These data based systems not only give supervisors the information they need when conducting counselling sessions but they can also help to ensure against favouritism by providing a level playing field and enabling supervisors to gain an insight into the strengths and weaknesses of team members before they meet them. This latter point is an important consideration in police forces that have a large staff turnover.
- 2.50 The administrative impact on supervisors will largely depend upon the extent to which the agency introducing an EIS already has accountability structures in place. Legitimate concerns that supervisors will spend less time on the beat and actually managing their officers can be addressed both through selecting an EIS which is fit for the organisation's needs and training supervisors in its use. In the case of the Phoenix Police Department's EIS, implementing supervisor training and a paper free system resulted in administration accounting for only 10% of supervisor's time.³⁶
- 2.51 When considering any additional workload for supervisors that may generated by an EIS, it should be noted that the benefits of an EIS are intended to be a reduction of risks such as citizen complaints, law suits and commissions of inquiry into misconduct in police agencies. Each of these risks, if realised, would generate a substantial administrative element. This proactive investment on the part of

³⁴ Merrick J. Bobb, Special Counsel, 16th *Semiannual Report: Los Angeles County Sheriff's Department*. (2003) pp 80 – 81.

<http://www.parc.info/client_files/LASD/16th%20Semiannual%20Report.pdf> at 31 October 2008.

³⁵ Walker, op. cit., 2006, p.43.

³⁶ See Appendix 1: Study tour report, Phoenix Police Department.

supervisors is highlighted by Carl Bock, a Special Operations Commander, with 26 years experience as a police officer:

The two officers from my department did not cause any problems until they committed actions that lost them their jobs. If the supervisors involved with these two had more interaction with them and taught them the values of the department and the profession, these officers may not have committed the acts that cost them their jobs and caused the department and its officers embarrassment.³⁷

Monitoring and evaluation

2.52 Monitoring and evaluating the effectiveness of interventions is the final element in any EIS and a critical one in determining its success in reducing the risk of officer misconduct. Though as Walker noted in 2003, this critical role was not always recognised:

The post-intervention follow-up component of EI systems has received the least attention by officials involved in developing and managing EI systems. It is an issue that needs additional attention in the immediate future.³⁸

2.53 Whilst some police agencies may require supervisors to observe an officer at work on a regular basis and file regular evaluation reports, others may just keep the officer on the system until a defined period of time has elapsed without any significant performance issues arising. Some EIS do not have formal post-intervention monitoring at all and may rely upon a deterrent effect, for example, the officer being made aware their performance is under scrutiny and improves behaviour accordingly.

2.54 As the following brief summaries of monitoring and evaluations of interventions in US police agencies demonstrate, the formality and methodology used in monitoring and evaluating interventions, will vary according to the EIS and other factors such as resources availability and the supporting management structures which are in place.

Los Angeles Police Department (LAPD)

2.55 Meaningful evaluation of the system has proved elusive for the LAPD. One approach taken by the Department has been to look at the conduct of officers 180 days before and after an intervention to try to establish whether there has been a behavioural change. A positive outcome should be fewer 'at risk' behaviours post-intervention. However the LAPD has not been able to attribute this exclusively to the success of the intervention, as lower productivity could also generate this result.³⁹

Los Angeles Sheriff's Department (LASD)

2.56 *Performance Mentoring* is the third stage in the Department's EIS and commences once an employee is selected for intervention. An employee is mentored over a mandatory two-year period, on a one-on-one basis, with the intervention tailored to address the particular employee's problem behaviours. The officer's mentor is required to write a regular report during this process.

2.57 After eighteen months in the program, if the progress of the mentored employee is deemed to be satisfactory, then the captain of his or her unit makes a presentation to a panel of three commanders who will make the final decision on whether the

³⁷ Carl Bock, "Early Warning Systems for Problem Officers" (2006) Law Enforcement Executive Forum 5(7), p. 90

³⁸ Walker, op. cit., 2003, p. 40.

³⁹ See Appendix 1: Study tour report, Los Angeles Police Department.

employee exits the program. If the employee does leave the program then the unit captain must conduct an exit interview to get the employee's feedback on the program. The majority of LASD employees have made positive comments in their program exit interviews.

- 2.58 On graduation, an employee is monitored for three more years, with particular attention given to the behaviour for which they originally entered the program. Currently 105 out of a total 16,000 sworn and unsworn LASD employees are in a mentoring program.⁴⁰

Miami–Dade Police Department (MDPD)

- 2.59 Post-intervention monitoring of officers in the MDPD's *Early Identification System* is informal and conducted by supervisors who review officers' performance records to identify those officers who continue to exhibit patterns of misconduct and to make the officers aware that their performance is being closely scrutinized. Additionally, the program puts supervisors on notice that their responsibilities include the close monitoring of those whose performance is problematic.⁴¹

Comment

- 2.60 The Committee notes that the rationale for EIS, namely that prevention is better than cure, has significant merit. Whilst this rationale might be applicable to many aspects of government service delivery, in the Committee's view it assumes particular significance when applied to law enforcement agencies, where the safety and welfare of police officers and the community are paramount.
- 2.61 Having conducted an EIS literature review and considered the written submissions which it has received, the Committee would summarise existing EIS as follows:
- They are data driven risk management tools;
 - They are non-disciplinary in nature and seek to intervene to correct problem behaviours before they escalate into misconduct;
 - They use data on officer activities (*indicators*) to identify officers at risk of misconduct;
 - Not all identified officers are subject to intervention;
 - The selection and fine tuning of EIS *Indicators* can be a significant challenge for police agencies;
 - Intervention options commonly include training or counselling;
 - Implementation of an EIS requires effective planning and user training;
 - Monitoring is critical in determining intervention outcomes; and

⁴⁰ See Appendix 1: Study tour report, Los Angeles Sheriff's Department.

⁴¹ Walker, S., Alpert, G., Kenney, D., 'Early Warning Systems: Responding to the Problem Police Officer'. National Institute of Justice Research in Brief., US Department of Justice, Washington, 2001, p. 3. <<http://www.ncjrs.gov/pdffiles1/nij/188565.pdf>> at 3 November 2008.

Principles of Early Intervention Systems

- The organisational benefits of EIS can include enhanced supervision and accountability in police agencies.

Chapter Three - Early Intervention systems in practice

- 3.1 The purpose of this chapter is to provide further background to EIS by way of a brief summary of their early history and development, including examples of studies conducted on the overall effectiveness of EIS in preventing misconduct.⁴²
- 3.2 It also discusses the two case studies of early intervention processes operating in Australia and New Zealand. These case studies reflect the submissions made to the inquiry by Western Australia Police and New Zealand Police and provides context for Chapter 3 of this report, which focuses on the utility of an EIS for the NSW Police Force.

The early history and development of EIS

Recognition of the “problem officer”

- 3.3 The origins of EIS lie in the United States during the 1970's, with efforts to identify police officers with high instances of officer/citizen conflict and to seek to effect positive change in their attitudes and behaviour through peer support programs. Professor Samuel Walker cites evidence for two such experimental programs that operated with mixed success in Kansas City in 1973 and in Oakland, California in 1975.⁴³
- 3.4 It is Professor Herman Goldstein who is credited by Walker with being the first policing expert to discuss the possibility of identifying officers with “a propensity for wrongdoing” and then intervening to improve their performance.⁴⁴
- 3.5 Goldstein's approach is perhaps not surprising given that he was the founder of the problem-orientated policing (POP) approach, a strategy which relies on rank and file officers identifying problems of crime or disorder with related characteristics (e.g. behaviour, location, people, time) and developing effective response strategies for dealing with it. In POP, the emphasis is on pro-active treatment of the causes of the problem rather than its symptoms.
- 3.6 In 1981, the US Civil Rights Commission report *Who is Guarding the Guardians?* provided the first data to support the widely held, but anecdotally based view, that it was a small number of officers who were responsible for a disproportionate number of citizen complaints. The report published a table indicating that officers who had received five or more complaints over a two-year period, represented only 12 percent of all officers receiving complaints but accounted for 41 percent of all complaints. The Commission recommended that “a system should be devised in each department to assist officials in early identification of violence-prone officers”.⁴⁵
- 3.7 By 1991 the actions of the “problem officer” were making international news, with the beating of African-American motorist Rodney King by four LAPD officers. The

⁴² As discussed in Chapter 1, any literature review of EIS will identify the influential work of Professor Samuel Walker and this chapter makes frequent reference to his 2003 work *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide*.

⁴³ Walker, op. cit., 2003, pp. 48-50.

⁴⁴ Ibid., p. 46.

⁴⁵ Ibid., p. 46.

Early Intervention systems in practice

Independent Commission on the Los Angeles Police Department (informally named the Christopher Commission after its Chair Warren Christopher) reported that:

...there is a significant number of LAPD officers who repetitively misuse force and persistently ignore the written policies and guidelines of the Department regarding force. The evidence obtained by the commission shows that this group has received inadequate supervisory and management attention.⁴⁶

- 3.8 For the purposes of illustration rather than definition, the Commission conducted a case study of 44 officers, identified on the basis of six force-related complaints in 5 years. The Commission found that the LAPD could have identified these “problem officers” on the basis of existing departmental records and taken any necessary remedial steps. In actual fact, the regular performance evaluation reports for those officers seemingly took no account of the complaints data held by the Department. Instead they gave effect to positive appraisals, which took no account of the officers’ disturbing patterns of complaints.
- 3.9 Walker discusses the Kolts Commission using a similar methodology to identify 62 officers with performance problems in the Los Angeles Sheriff’s Department (LASD). The Commission, which was appointed in 1992 to conduct a review of the Los Angeles Sheriff's Department following a number of shootings of ethnic minorities by LASD deputies, found that:

These 62 deputies were responsible for almost 500 use-of-force/harassment complaint investigations. Seventeen of these deputies were responsible for 22 civil lawsuits that resulted in damage awards or settlements of about \$3.2 million against the County. The Kolts Commission concluded that the LASD had "failed to deal with officers who have readily identifiable patterns of excessive force incidents on their records."

Not only were nearly all of the 62 deputies still on patrol duty at the time of the Kolts report, but—even more alarmingly—many served as field training officers (FTOs). The Kolts Commission warned that in that capacity they were "imparting their 'street wisdom' to patrol deputies."

... It concluded that "the concept of 'risk management' was largely unknown and unpracticed in the LASD."⁴⁷

Early EIS

- 3.10 The recognition of the “problem officer” and the need to curb those acts of misconduct, which prove so damaging to police-community relations, gave rise to the early EIS. Walker cites the City of Miami Police Department and the Miami-Dade County Police Department as being the first agencies to develop permanent EIS from 1979 and 1982 respectively.⁴⁸
- 3.11 In the case of the City of Miami, analysis in 1979 by a police commander in the internal security unit identified that 5% of officers from 1976-1978 accounted for 25% of citizen complaints. The commander proposed that the department should systematically provide supervisors with data which might enable them to identify problem officers and respond to them before their behaviors escalated into self destructive activities or a trend of violating departmental orders. The remedial

⁴⁶ Christopher Commission, *Report of the Independent Commission on the Los Angeles Police Department*, Los Angeles, 1991, p. ix <http://www.parc.info/client_files/Special%20Reports/1%20-%20Christopher%20Commision.pdf> at 19 November 2008.

⁴⁷ Walker, op. cit., 2003, p. 47.

⁴⁸ Ibid., pp. 50-53.

See also: Alpert, G.P., Kenney, D.J. and Walker, S., ‘Early Warning Systems for Police: Concept, History and Issues’, *Police Quarterly*, Vol. 3, No. 2.,

interventions proposed in the model consisted of intensive supervision, professional counselling and departmental training programs and strategies.

- 3.12 The EIS subsequently developed by the City of Miami has evolved over the years and is still in use today.
- 3.13 The Miami-Dade County Police Department's EIS, was developed at a time of considerable tension between the Department and the community, following a number of racial incidents. These included the fatal beating of an African-American insurance agent, Arthur McDuffie. In May 1980 the acquittal of the four Miami-Dade County police officers who were accused of killing McDuffie sparked three days of rioting which resulted in civilian deaths and damage to property.
- 3.14 The Department's EIS was operational by 1982, identifying officers to their supervisors on the basis of complaints and use-of-force data. Intervention options include counselling either by supervisors or an external professional and referral to departmental training programs. Twenty years on, Walker found the Miami-Dade EIS to be largely unchanged, but still effective.

Further development of EIS

- 3.15 The first national study on the prevalence of EIS in US police agencies was undertaken by the National Institute of Justice, between August 1998 and February 1999. It surveyed 832 municipal and county law enforcement agencies serving populations of 50,000 or more and found that twenty-seven percent had an EIS. Of these, one half had been created since 1994 and slightly more than one third had been created since 1996. A further twelve percent of agencies surveyed indicated that they were planning to implement an EIS.
- 3.16 The study found that whilst EIS were developing in an ad hoc fashion in the absence of any national standards, a rough consensus was emerging on their componential structure. There was also a growing recognition that reliance on only one or two indicators (commonly citizen complaints and use-of-force reports) was inadequate for identifying officers at risk. The addition of indicators, such as those using data on resisting arrest charges and sick leave, provided for a more comprehensive officer assessment model.⁴⁹
- 3.17 By 2001, a growing consensus of opinion had emerged that EIS were a necessary part of a comprehensive approach to police accountability. This development came about in part, through legal actions by the US Department of Justice's Civil Rights Division from 1997, requiring that police departments implement EIS by way of a consent decree.⁵⁰ Other significant factors included a recognition of the role of EIS at the 2000 Community Orientated Policing Services Conference and in 2001 the

⁴⁹ Walker, S., Alpert, G., Kenney, D., op. cit., pp. 1-2.

⁵⁰ Section 14141 of the *Violent Crime Control Act 1994*, provides the Civil Rights Division of the Justice Department with powers to sue state and local governments in federal court in order to correct a "pattern or practice" of police misconduct. A consent decree is the agreement between the parties which is submitted in writing to a court. Once approved by the judge, it becomes legally binding. The Federal intervention can be maintained until the Department of Justice is satisfied that the police agency is in substantial compliance with the requirements of the decree. The DOJ has entered into consent decrees with the LAPD and other US law enforcement agencies including the Pittsburgh, Pennsylvania Police Department; Steubenville, Ohio Police Department; and the New Jersey State Police. For more information see the DOJ's Civil Rights Division web page:

<<http://www.usdoj.gov/crt/split/police.php>> at 3 December 2008.

Early Intervention systems in practice

adoption of a standard by the Commission on Accreditation for Law Enforcement Agencies requiring that all large agencies have an EIS in order to be accredited.⁵¹

- 3.18 However, when considering the early history of EIS it is important to note that their growing popularity among US law enforcement agencies and their oversight bodies, was not a story of sustained success. Though the concept of early intervention is a relatively simple one, several large police departments experienced some substantial problems in developing or implementing a fully functioning EIS. The following two historical examples should be read in conjunction with the recent findings of the Committee's study tour in Appendix 1.

Los Angeles Police Department (LAPD)

- 3.19 The implementation of an EIS was a recommendation of the Christopher Commission, which had conducted an examination of the structure and operations of the LAPD in the wake of the beating of Rodney King by LAPD officers in 1991.
- 3.20 The Commission found that the LAPD had no way of identifying officers who were using excessive force. It recommended that they implement a computerised tracking system in order to identify problem officers and intervene before their behaviours escalated.
- 3.21 The implementation of the Training Evaluation and Management System (TEAMS) was intended to identify and address the problem behaviours amongst police officers which the Commission had identified as being at the heart of the agency's difficulties. However in 1996 a report to the Los Angeles Police Commission by Merrick Bobb (formerly a legal officer on the Christopher Commission's staff) found the TEAMS system to be "weak and inadequate".⁵²
- 3.22 Walker describes the "saga" of the LAPD's EIS as being:
...an especially disturbing story of implementation failure occurring even while a department is under intensive public scrutiny.⁵³
- 3.23 Federal funding was subsequently provided for an enhanced system known as TEAMS II. However a 1999 scandal, properly known as the Rampart scandal, demonstrated the LAPD's shortcomings in regard to its failure to implement either TEAMS II or the recommendations of the Christopher Commission.⁵⁴
- 3.24 This prompted a civil investigation by the US Department of Justice (DoJ) into allegations of misconduct involving the LAPD. The DoJ found that there was a pattern or practice of excessive force, false arrests and unreasonable searches and seizures in violation of the US Constitution. The Department determined that the LAPD had failed to supervise officers properly because it had not identified and responded to patterns of at-risk behaviour.
- 3.25 The Department invoked its powers to intervene in agencies engaging in unconstitutional practices and in 2001 the City of Los Angeles entered into a *Consent Decree* with the DoJ. The wide-ranging decree includes the mandatory implementation of an early warning system and changes to internal investigation

⁵¹ Walker, op. cit., 2003, p. 54.

⁵² Ibid., p. 57.

⁵³ Walker, op. cit., 2005, p.130

⁵⁴ The Rampart scandal refers to corruption in the LAPD's anti-gang unit, the Rampart Division, in the late 1990s. Following an internal investigation by the LAPD, officers in the unit were implicated in misconduct ranging from unprovoked shootings to perjury.

procedures. The decree was due to expire in 2006 but was extended because the LAPD had not met its requirements in fully implementing TEAMS II.

- 3.26 Merrick Bobb is now the Executive Director of the Police Assessment Resource Centre (PARC) and considers the LAPD to have one of the best EIS in North America, along with those of the LA Sheriff's Department and the Phoenix Police Department.⁵⁵ However, as the study tour reports on the LAPD, its oversight body the Office of the Inspector General and PARC relate, the early history of TEAMS remains a case study of implementation failure.

Los Angeles Sheriff's Department (LASD)

- 3.27 Whilst the early history of the TEAMS EIS in the LAPD is one of implementation problems, Walker describes the early history of the LASD's Personnel Performance Index (PPI) as:

...a disturbing tale of inadequate maintenance of an established system [which had] been widely regarded as the most sophisticated EI system in the country.⁵⁶

- 3.28 Merrick Bobb, Special Counsel to the LASD, identified serious problems with the management of the PPI in a 2003 report. These included the failure to enter performance data into the system and, of those that were entered, many had to be rejected because of an estimated 50% error rate in one category of report.
- 3.29 The report found there was a failure to clarify what constituted a citizen complaint and there were delays of up to five and a half months in entering complaints data into the system, largely due to understaffing in critical administrative positions.
- 3.30 Bobb also found that some area commanders were unaware of the systems capabilities, leading to time and resources being wasted on duplicating the PPI's functions. A lack of training with the system also led to failures on the part of station captains to utilise the system to access data or generate reports.
- 3.31 Five years on, Bobb now regards the PPI as one of the top three EIS in North America, yet the concluding remarks made in his 2003 report remain as a powerful exposition of the consequences of neglecting to maintain an EIS:

The LASD currently treats the PPI like a collectible automobile: It is put on display from time to time to demonstrate to the outside world that the LASD has the Rolls Royce of risk management software and procedures. And indeed it is the Rolls. But when the odometer is checked, it is apparent that it has hardly ever been taken out of the garage.⁵⁷

Selected studies on the effectiveness of EIS in the US

- 3.32 No summary of the early history and further development of EIS would be complete without mention of two notable US evaluations of the effectiveness of EIS. The first of these was undertaken by the National Institute of Justice (NIJ) in the late 1990's, which has already been mentioned in this report in relation to its findings on the prevalence of EIS. The second report was a collaboration between the Police Executive Research Forum (PERF) and the University of Nebraska.

⁵⁵ See Appendix 1: Study tour report, Police Assessment Resource Center.

⁵⁶ Walker, op. cit., 2005, p.131

⁵⁷ Merrick J. Bobb, Special Counsel, *16th Semiannual Report: Los Angeles County Sheriff's Department*, Police Assessment Resource Centre (PARC), Los Angeles, 2003, p. 58

<http://www.parc.info/client_files/LASD/16th%20Semiannual%20Report.pdf> at 28 November 2008.

Findings of the NIJ Study⁵⁸

- 3.33 The study established a baseline description of an “early warning system” and conducted a national survey in order to ascertain the prevalence of EIS across US law enforcement agencies. Most importantly, for the purposes of this section, it conducted a case study investigation of three EIS in order to test the effectiveness of their programs.
- 3.34 The case studies were the Miami-Dade County, Minneapolis and New Orleans police departments. All three were large urban agencies with established EIS which had been operational for 4 years or more at the time of the study. All differed in terms of their structure and administrative history and differed from each other again in their respective history of use-of-force and accountability.
- 3.35 The study found that EIS were capable of successfully identifying officers whose disciplinary records were significantly worse than their peers. In Miami-Dade for example, officers selected by the department’s EIS had on average twice as many use-of-force reports as their peers and were almost three times as likely to have ever been suspended. This is an important finding given that the EI concept is based on the assumption that a small group of “problem officers” can be identified by the system without stigmatising the exemplary officer who may also be filing use-of-force reports and receiving complaints as a consequence of their productivity.
- 3.36 These three considerably different EIS all appear to have had a dramatic effect on reducing citizen complaints and other indicators of problematic police performance among those officers subject to intervention. In Minneapolis the average number of complaints dropped by 67 percent one year after intervention. In New Orleans the drop was 62 percent. In Miami-Dade, only four percent of the research sample had no use-of-force reports prior to intervention. Following intervention this figure rose to fifty per cent.
- 3.37 Though the study’s research design did not include an evaluation of the impact of EIS on the departments in which they operated, the qualitative findings of the study suggested EIS may foster a climate of accountability and generate data which may be used to effect positive changes in policies, procedures or training. This was identified by the study’s authors as an issue for future research.
- 3.38 Also identified as an issue for future research, was the finding that EIS can potentially have a significant impact on supervisors by mandating or encouraging changes in their behaviour that could potentially affect the standards of supervision of all officers, not just those subject to early intervention. Supervisors access to data about newly assigned officers, of whom they may know little, was also identified as a potentially positive impact of an EIS.
- 3.39 Finally the study concluded by noting that EIS should be seen as “one tool among many” in the task of raising standards of accountability in policing:
- In these three departments, however, the systems were part of larger efforts to raise standards of accountability. The effectiveness of such a system is reinforced by (and probably dependent on) other policies and procedures that enforce standards of discipline and create a climate of accountability...It can be an effective management

⁵⁸ For a comprehensive account of the study, including the research design and limitations of the case study findings, see Walker, S., Alpert, G., Kenney, D., op. cit., pp. 1-7.

tool, but it should be seen as only one of many tools needed to raise standards of performance and improve the quality of police services.⁵⁹

Findings of the PERF Study⁶⁰

- 3.40 In 2002, the Police Executive Research Forum (PERF) and the University of Nebraska conducted a national survey of PERF members regarding their perceptions and experiences of EIS. Of the 135 police managers who responded to the survey, around 40 percent had had experience of an EIS.
- 3.41 Forty-nine per cent of respondents reported that their EIS had had a positive impact, twenty-eight percent reported a mixed impact and twenty three percent reported no impact at all. None of the respondents considered their EIS to have had a negative impact on the quality of the police service, allaying fears that the heightened scrutiny of an EIS might cause officers to reduce activity levels in order to avoid potential complaints or use-of-force incidents – a theory known as “de-policing”.
- 3.42 The respondents identified EIS as having had a positive impact on supervisors. Managers reported that EIS helped to ensure that supervisors took a proactive approach and had a clear procedural path to follow. In organisations that have traditionally had only formal punitive means of addressing officer behaviour, EIS provided supervisors with new means of problem solving and allowed them to round out their people-interaction skills. EIS not only gave supervisors the information they needed when conducting counselling sessions but they also helped to ensure against favouritism by providing a level playing field, enabling supervisors to gain an insight into the strengths and weaknesses of team members before they met them. This latter point was an important consideration in police forces with a lot of movement of personnel.
- 3.43 Respondents did not report significant opposition from police officers to the introduction of EIS. One manager commented that initial cynicism on the part of officers reduced once they learnt about the system and gained experience in using it. Only 16 percent reported serious opposition from police unions, but no one was successful in blocking the operation of an EIS once it had been implemented.
- 3.44 It was the planning and implementation of EIS that respondents identified as a source of difficulties rather than the EI concept itself. Some managers reported on failures to explain the EIS purpose or to train officers in its use, whilst others felt there was a lack of recognition for the system at the organizational level.

Case studies of early intervention processes in Australia and New Zealand

- 3.45 In addition to conducting its study tour of comparable jurisdictions in North America (see Appendix I) the Committee also sought information on regional EIS. The Western Australia Police and the New Zealand Police responded to the Committee's request and a summary of their early intervention processes follows.

⁵⁹ Walker, S., Alpert, G., Kenney, D., *Ibid.*, p. 7.

⁶⁰ See Walker, *op. cit.*, 2003, pp. 73-91 and Walker, *op. cit.*, 2005, pp.126-129.

Western Australia Police (WAPOL)⁶¹

- 3.46 The Hon G A Kennedy AO QC was commissioned in December 2001 to inquire into whether, since 1 January 1985, there had been any corrupt or criminal conduct by any Western Australian police officer.
- 3.47 In delivering its final report in 2004, the Kennedy Royal Commission (KRC) found examples of corrupt or criminal conduct ranging from stealing to assaults, perjury, drug dealing and the improper disclosure of confidential information. However the KRC reported that it did not find this in itself surprising given the findings of other corruption inquiries in Australia, such as the Wood Royal Commission in NSW, and internationally, such as the Rampart scandal in the Los Angeles Police Department (see paras 3.19 – 3.26).
- 3.48 The Commission considered to be of greater significance the extent to which the Western Australia Police had been ineffective in monitoring those events, in modifying its procedures to deal with that conduct and to prevent its repetition. In its final report the KRC stated that:
- No longer is it acceptable for a police service to deal with corruption by awaiting the receipt of allegations before embarking upon reactive investigations. It is necessary to adopt a proactive approach of identifying high-risk officers and activities through a process of target identification and profiling.
- The basis for profiling is that the best indicator of future behaviour is past behaviour, and the examination of past activities is of assistance in identifying future risk areas ... A mechanism to achieve this is through the implementation of an early warning system – a databased management tool that assists in the identification of those officers who are exhibiting patterns of inappropriate behaviour...⁶²
- 3.49 WAPOL regards the findings of the KRC as being the “key driver” in its efforts to progress the development of an EIS to identify and manage individuals and business units who represent a risk to the organisation.
- 3.50 WAPOL undertook extensive research on national and international law enforcement agencies in order to assess current EIS best practice, before becoming the first Australian police agency to implement an EIS in January 2007.
- 3.51 The WAPOL EIS uses the US manufactured IA Professional (IAPro) software. This software package enables the EIS to access all historic complaint and internal investigations data since January 2000 and to access the WAPOL Human Resource database, which automatically updates employees records on a daily basis.
- 3.52 Thus the EIS has the capacity to record a number of information types or *indicators* within the one database, rather than recording information in separate ‘silos’ as was previously the case. As discussed in paragraph 2.22, WAPOL currently uses fifteen indicators in its EIS, allowing it to draw upon a range of indicators from the complaint-based, to information on secondary employment and officer associations.

⁶¹ This section largely summarises Submission Number 2, Western Australia Police.

⁶² Kennedy, *Royal Commission into Whether There Has Been Corrupt or Criminal Conduct by Any Western Australian Police Officer, Final Report*, Vol. 2, Government of Western Australia, 2004, p.147.
< <http://www.slp.wa.gov.au/publications/publications.nsf/inquiries+and+commissions?openpage> > at 16 December 2008.

- 3.53 Thresholds for the indicators are allocated by a system administrator on the basis of “peer officer averages”, which compare an officer’s performance with colleagues performing similar duties in a similar environment.
- 3.54 Thresholds can also be set on specific allegations such as sexual assault or particular use-of-force options such as Taser, Pepper Spray etc.
- 3.55 Once a threshold is reached or exceeded, managers are alerted and this information (and any other relevant information) is then used by the Risk Assessment Unit (RAU) to make a risk assessment of the officer. These assessments are then provided to local District/Divisional Officers in order to inform discussions as to whether intervention is required.
- 3.56 As noted in paragraph 2.28, the WAPOL system incorporates a double threshold system with alerts generated by both the EI database and manually by supervisors proactively monitoring the officers under their command.
- 3.57 An additional feature of the WAPOL system is the “monitored status” feature. This can be activated in the case of an officer who might require close scrutiny because they have received a high number of complaints or been the subject of particularly serious allegations.
- 3.58 Once the intervention decision has been taken, an officer who is assessed as being in need of remedial action may be subject to closer supervision, mentoring or refresher training. Local managers are encouraged to develop remedial action in consultation with the officer and based on their knowledge of the officer and the information that has been provided to them by the RAU.
- 3.59 A recent research paper from the Office of Police Integrity Victoria puts the capital costs of implementing the WAPOL EIS at \$141,000.⁶³ This sum includes data integration, software customisation and the training, licensing and maintenance required to operate the IAPro software.
- 3.60 The paper notes that:
- To date, an evaluation on WAPOL EI system has yet to be carried out, as the implementation phase is still in its early stages. However, anecdotal evidence suggests that the system is having a positive impact on the agency, as efficient and streamlined processes are immediately notifying management of trends and patterns of officer behaviour within the department.⁶⁴

New Zealand Police (NZP)⁶⁵

- 3.61 In February 2004, the Commission of Inquiry into New Zealand Police Conduct (the Commission) was established under Dame Margaret Bazly to carry out an independent investigation into the way in which NZP had dealt with allegations of sexual assault against members of the police and associates of police.
- 3.62 Reporting in 2007, the Commission made three recommendations specific to early warning systems and performance management:
- NZP should implement a nationally mandated early warning system in order to identify staff demonstrating behaviour that does not meet acceptable standards and ensure such behaviour does not continue or escalate.

⁶³ Office of Police Integrity Victoria, op. cit., p. 15.

⁶⁴ Ibid, p. 19.

⁶⁵ This section largely summarises Submission Number 5, New Zealand Police.

Early Intervention systems in practice

- The early warning system should ensure that all relevant information, sufficient to give a complete picture of an officer's full record of service, is captured in a single database, and is accessible to police managers and supervisors when making appointments and monitoring performance, as well as to complaint investigators when appropriate.
- NZP should review its approach to performance management, including the training provided to supervisors and managers, the performance appraisal process and documentation, and the methods in place to ensure that the follow-up identified in the performance improvement plans actually occurs.⁶⁶

3.63 A number of other recommendations, which were made by the Commission, resulted in significant changes being made to the legislative and administrative management of police employee performance. Early in 2008, new police regulations and a new code of conduct for police employees came into effect.

3.64 The submission from NZP credits these changes with creating an environment in which a performance related early intervention process could be applied. This places an obligation on supervisors to address performance issues promptly following their identification but also allows for an employee to be dismissed should low level performance issues persist.

3.65 In response to the Commission's recommendations a trial of early intervention processes was conducted in three police districts (Auckland, Wellington and Southern) and in the National Communications Centre. The trial methodology was to review data relating to certain criteria (different complaint types, use-of-force and inappropriate use of IT) on a monthly basis and generate reports for those police employees exceeding a pre-determined threshold.

3.66 Following the trial of early intervention processes, NZP have decided to progress the implementation of a national process.

The Wellington District model

3.67 NZP is a de-centralised organization and some Police Districts developed early intervention processes at district level prior to the implementation of a national process. The most advanced of these is in the Wellington District, which developed an early intervention (professional standards) policy on the basis of:

- Individual observations by the District Manager Professional Standards who had indicated that employees who had a high incidence of complaints, had a record of usage of force, were more frequently assaulted or were resisted or obstructed, incurred 'on duty' speed camera infringements, attracted various 'Expressions of Dissatisfaction' that had not become 'complaints', failed to keep all their mandatory training qualifications up to scratch, demonstrated a low regard for departmental property and were identified as making questionable use of e-mail and internet.

⁶⁶ Bazley, *Report of the Commission of Inquiry into Police Conduct*, Vol. 1, Commission of Inquiry into Police Conduct, 2007, pp. 21-22.

< http://www.cipc.govt.nz/cipc.nsf/wpg_URL/Agency-Commission-of-Inquiry-into-Police-Conduct-Report-of-the-Commission-of-Inquiry-into-Police-Conduct?OpenDocument > at 17 December 2008

- Subsequent analysis of five years available data showed that 32.7 per cent of police were responsible for attracting 78 per cent of complaints and that 34.8 per cent of members were responsible for attracting 100 per cent of complaints
 - Analysis of complaints made against police employees in the Wellington District in the 2005-2006 year showed that almost half of the complaints were made around lower order issues (such as complaints about inadequate service or language) suggesting proactive training or counselling might reduce the frequency of complaints.
- 3.68 The policy had been developed following extensive consultations with police in the Wellington District, the NZ Police Association and the Independent Police Conduct Authority. Its purpose is to identify members responsible for a higher proportion of complaints and to intervene to reduce the numbers and associated costs of complaints and inappropriate behaviour.
- 3.69 Since its commencement in July 2004, the range of criteria used as an indicator of potential behaviour problems has increased but the pre-determined or departmental-level thresholds have remained the same, namely employees meeting or exceeding the rate of three complaints or notifiable incidents over two years.
- 3.70 Once identified, the Professional Standards Manager will prepare a memorandum for local managers covering the complaints or notifiable incidents and information in relation to a range of criteria. The current criteria include:
- complaints or notifiable incidents⁶⁷;
 - numbers of presentations of a firearm;
 - identifiable mandatory training shortfalls;
 - use-of-force situations;
 - sick leave history;
 - number of assaults on the employee, or employees from a particular workgroup and an assessment as to whether these are excessive in quantity; and
 - number of departmental vehicle crashes in which the employee has been the driver.
- 3.71 Following a review of the members history over the last two years the local manager will report to the Professional Standards Manager with their recommendations on what intervention action might be required. Interventions are the responsibility of the members supervisor and any actions taken within the context of the policy are addressed as performance issues and not disciplinary issues.

⁶⁷ A notifiable incident is a matter that is required by the *Police Complaints Authority Act 1988* to be notified to the Independent Police Conduct Authority. Section 13 of the Act requires that all incidents where the member of the Police in the execution of duty causes or appears to have caused, death or serious bodily harm to any person. Section 15 of the Act requires that the Commissioner notify the Authority of any complaint received by the Police about the actions or behaviour of a Police employee.

In addition to that required under sections 13 and 15, it has been agreed that the Police will voluntarily notify the IPCA about internally generated complaints where those complaints are of a serious nature such as sexual misconduct.

Early Intervention systems in practice

- 3.72 A report on what intervention action has been taken must be submitted to Professional Standards within 3 months of the date of the members identification.
- 3.73 Key points coming from the Wellington experience are that the early intervention process may be playing some part in modifying complaint-attracting behaviour with the number of employees identified through the early intervention process declining from an initial 24 in the first full year of its operation to 18 in 2007-08.
- 3.74 Issues identified from a study of the feedback generated after supervisors have had first level meetings with the employees include:
- supervisors appeared to prejudge situations before gathering sufficient information;
 - inadequate time was spent on establishing agreed indicators;
 - supervisors and employees appeared to give excess weight to the fact that complaints were "not upheld" rather than comparing results with others working in equivalent positions who perform at a high level without generating complaints;
 - meetings held between the supervisor who actioned the intervention and the employee concerned have been generally well received; and
 - knowledge and understanding of the process seemed to be increasing.

Chapter Four - What are the impacts of an EIS for the NSWPF?

- 4.1 The purpose of this chapter is to address the question of whether the implementation of an EIS would benefit the NSWPF and whether there may be a risk of any undesirable or unintended effects.

What existing early intervention strategies does the NSWPF have?

- 4.2 Taking action in order to prevent a problem from occurring is NSW Government policy (see 1.28). This concept has many applications.
- 4.3 The NSWPF currently deploys a number of preventative strategies, to ensure that it recruits and trains and maintains an ethical professional workforce. These preventative strategies include the following:

Recruitment

- 4.4 Prior to employment as a NSW police officer, a person needs to undertake an approved training program. The NSWPF conducts a number of background checks on applicants who are deemed eligible for acceptance into its academic program. The Professional Suitability Assessment (PSA) takes into account a number of factors including the applicant's:
- *previous employment history*. Checks are made with previous employers.
 - *driver behaviour*. An assessment is made of driving experience, including the seriousness and recency of any driving offences. Generally there is an expectation that applicants will have committed no more than one offence for every two driving years and no driving offence within the 12 months preceding their application.
 - *criminal or related history*. If an applicant has prior criminal convictions or has come under adverse notice, he or she may not be considered suitable for police employment.
- 4.5 Another component of the PSA process is obtaining the applicant's consent to undergo urine screening for the presence of prohibited drugs. Applicants are informed that they are likely to be drug and alcohol tested while studying for the Associate Degree in Policing Practice at the NSW Police College. A positive result on testing leads to expulsion from the course.
- 4.6 As part of their studies for the Associate Degree in Policing Practice as well as for the Bachelor of Policing, Charles Sturt University requires students to complete a professional ethics component. Students are taught how to identify and respond professionally and appropriately to the moral dimensions of police work within the framework of key policing values, principles and obligations (including the NSW Police Code of Conduct and Ethics).
- 4.7 The University of Western Sydney has a similar requirement for its Bachelor of Policing degree. The unit, Ethics in Policing, includes an examination of ethical problems such as discrimination, corruption, deception and use of excessive force, using material drawn from commissions of inquiry, internal affairs investigations,

What are the impacts of an EIS for the NSWPF?

published literature, human rights documentation and the everyday life of serving police officers.

Codes of conduct and guidelines

- 4.8 The NSWPF booklet, *Standards of Professional Conduct*, contains the Statement of Values, which sets out the shared ideals of the Police Force. These include accountability, professional standards and integrity. The booklet also contains the *Code of Conduct and Ethics*, which outlines the conduct which supports those ideals by advising employees on issues such as improper associations and their responsibilities to report misconduct on the part of other NSWPF employees.
- 4.9 A customer service charter, policy and guidelines were introduced in 2008 to improve the support given by the NSWPF to law-abiding citizens, especially the victims of crimes.
- 4.10 A Code of Practice for CRIME (Custody, Rights, Investigation, Management and Evidence) complements the Code of Conduct and Ethics. It provides police officers, as well as members of the community,⁶⁸ with a guide to the powers of police when investigating offences. It sets out the professional and ethical behaviour the NSWPF requires of all officers when they exercise their powers.
- 4.11 All NSWPF policies, procedures and guidelines are available on the NSWPF intranet and employees are required to know and be able to apply them appropriately. Clause 49 of the *Police Regulation 2008* places a legal obligation on police officers to report corrupt or unethical conduct of fellow officers, whether on or off duty.

NSW Police Drug & Alcohol Policy

- 4.12 The Drug and Alcohol policy was revised in 2007 to reflect recommendations contained in the Police Integrity Commission's Operation Abelia report and corresponding legislative changes to the Police Act. Operation Abelia was a major PIC project, completed in 2005, on the use of illegal drugs by some NSW police officers. In addition to investigating individual cases of officer misconduct, the project focused on ways to minimise illegal drug use by officers.
- 4.13 Submitting to drug and alcohol testing and abstaining from using prohibited drugs are conditions of employment for NSW Police Force officers.⁶⁹ The Drug and Alcohol policy sets out for police officers the Force's expectations in relation to their use of alcohol and other drugs and is designed to be read in conjunction with the Code of Conduct and Ethics.
- 4.14 A police officer who tests positive for alcohol while rostered on duty is immediately relieved of duty and is not entitled to be paid for the remaining period of the shift. The officer must see a counsellor and managerial action is triggered if the officer does not attend an agreed counselling session or rehabilitation program. The police officer is subject to unscheduled testing during the course of the following three years. If the police officer is subsequently found to have the prescribed concentration of alcohol in their blood while rostered on duty, the Commissioner can make a s.173 or s.181D

⁶⁸ The Code is available at police stations for the public to read and can be downloaded from the NSWPF website.

⁶⁹ Part 5, Division 2, *Police Regulation 2008*

order.⁷⁰ A probationary constable with the prescribed concentration of alcohol in their blood while on duty may have their appointment terminated.

Performance and complaint management

Professional Standards Command

4.15 The NSWPF Professional Standards Command (PSC) plays a major role in performance management. The Command has responsibility for setting standards for performance, conduct and integrity within NSW Police. The PSC:

- promotes professional standards;
- investigates serious criminal allegations, corruption, and high-risk matters where police officers may be involved;
- identifies and responds to high-risk behaviour in people, places and systems where misconduct is a factor; and
- promotes and supports fair, consistent and effective management of all staff.

4.16 The PSC does this by:

- providing advisory, consultancy and review services with respect to investigations, critical incidents, complaint management and employee management;
- applying investigation, intelligence and integrity testing resources according to risk-based prioritisation;
- developing and applying intelligence to identify and support professional standards through analytical support, audits, assessment of probity issues, and strategic research;
- developing, or contributing to, reference materials, standard operating procedures, policies and training that support professional standards and the application of best practice; and
- acting as a primary point of contact within NSWPF for agencies such as the Police Integrity Commission, the NSW Ombudsman, the NSW Coroner, and the Independent Commission Against Corruption.⁷¹

4.17 The NSWPF employs a range of strategies to reduce the risks for police officers working in high risk areas (eg child abuse). These include rotation, limited tenure and compulsory quarterly psychological testing.⁷²

4.18 The NSWPF reported that it is currently “implementing initiatives [in the workplace] aimed at reducing stressors, improving resilience and communication, and increasing the breadth, quality and awareness of support programs.”⁷³ These include a free counselling service, access to a dedicated trauma team and follow-up for officers involved in a traumatic event, and the Wellcheck program which provides assistance

⁷⁰ Under s.173 of the Police Act, the Police Commissioner may take action with respect to a police officer’s misconduct or unsatisfactory performance. Under s.181D, the Police Commissioner may remove a police officer from the NSW Police Force if the Commissioner does not have confidence in their suitability to continue as a police officer, having regard to their competence, integrity, performance or conduct.

⁷¹ www.police.nsw.gov.au/about_us/structure/specialist_operations/professional_standards_command, accessed 9/01/09.

⁷² Mr Peter Remfrey, Secretary, Police Association of NSW, see Appendix 4: Transcript of Proceedings.

⁷³ NSW Police Force, *Annual Report 2007-2008*, p. 46.

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to reduce the risk of psychological harm for employees working in the highest risk areas.

Complaint Management Teams

- 4.19 Reforms following the Wood Royal Commission have given local commands responsibility for dealing with complaints about their officers. Within each local area command, Complaint Management Teams (CMTs) provide advice, supervision and direction to ensure that complaints are dealt with in a timely and effective manner. CMTs comprise the commander or manager, an executive officer, a crime manager (or equivalent) and other specialist staff as required.⁷⁴
- 4.20 More serious police complaints must be notified to the Ombudsman, who reviews the adequacy, timeliness and fairness of the NSWPF investigation of a complaint and the action taken. The PIC may investigate or oversee any complaint. The Ombudsman is not notified about less serious complaints but audits the way some of these complaints are handled.
- 4.21 The role of the complaints system in proactively managing emerging misconduct risks in the NSWPF and that of an EIS is discussed later in this chapter (see paras 4.42 – 4.44).

What are the positive impacts of an EIS on the NSW Police Force?

- 4.22 The Committee was interested in determining what particular benefits could be attained through developing an EIS and whether an EIS would be distinct from any current strategies which might already be in place to address problematic behaviours and reduce corruption.
- 4.23 In its submission to the Committee, the NSWPF stated that an EIS would achieve the following strategic and operational objectives:
- improve public perceptions of police accountability and public confidence in policing standards;
 - improve value for money for the community over its investment in its police force by increasing an officer's career span;
 - inform the NSWPF and external oversight agencies (Police Integrity Commission, NSW Ombudsman) about risks;
 - provide a standard tool and framework for the NSWPF to use state-wide that promotes consistent human resource management of officers at corporate, command and individual levels;
 - provide a standard tool and framework that integrates and builds capacity upon other NSWPF systems and practices, improving transparency, knowledge and practice; and
 - provide all sworn officers with individualised, discreet and practical intervention and support services that act as a circuit breaker for officers and potentially reduce career threatening risks to a practical minimum.⁷⁵
- 4.24 The NSWPF also distinguished the role of an EIS from any of its current strategies. Although there was a system for recording the performance management of

⁷⁴ Ibid., p. 48.

⁷⁵ Submission No.1, NSWPF, p. 5.

employees (the Career Management System) the NSWPF distinguished this from EIS. The focus of an EIS is on proactively identifying officers at risk of misconduct as opposed to Career Management System which focussed on the performance of the agency's employees against their previously agreed result areas:

The EIS will complement existing strategies and coordinate the range of relevant interventions and policies currently available to the NSW Police Force's officers.

The most relevant related strategy is the *officer performance management system* (referred to as the Career Management System). A critical difference to the EIS is that the CMS is not data driven to proactively identify officers but is driven by the individual officers with a strong annual performance goals focus. The EIS' focus is on building corruption resilience and reducing complaints through positive intervention over the medium to long term where this is considered necessary.⁷⁶

4.25 The NSWPF saw an EIS as integrating and building upon existing NSWPF policies such as the Drug and Alcohol Policy and the Conflicts of Interest (Improper Associations) Policy and Guidelines as well as serving as an "umbrella" over current intervention programs such as; counselling, immediate and alternative dispute resolution and peer support and mentoring.⁷⁷ This would enable the NSWPF to support its officers by intervening more effectively and consistently to prevent problems arising which could adversely affect their careers.

4.26 The NSWPF further noted that this organisational approach was entirely consistent with the State Plan's aims of embedding the principles of prevention and early intervention into service delivery in NSW:

Mr CAREY: ...For the New South Wales Police Force, early intervention is about engaging as early as possible those police who come to the notice of their commanders, according to a defined set of indicators, to enable the organisation to offer them support and guidance. Many of our commanders already do this as good managers. However, a central EI system would enable us to intervene more effectively and consistently, hopefully before an officer ends up in one of our more formal accountability processes on conduct competence or performance grounds, matters that can significantly affect their career.

Our research shows that early intervention programs are well recognised as being able to prevent serious behavioural problems arising, that if unchecked could shortcut a police officer's career. Given the immense cost to the community of training and employing a police officer, for financial reasons alone, although this is not the reason alone for having an EIS for return on investment, it is best achieved if police are able to remain in the workplace as productive officers.

...The New South Wales Police Force is therefore committed to integrating an early intervention approach as a core element of its integrity measures that will support officers on the front line at all stages of their careers. This is consistent with the Government's aim in the State plan to imbed the principle of prevention and early intervention into Government service delivery in New South Wales.⁷⁸

4.27 The role of an EIS in enabling the NSWPF to proactively support its officers and the value to the organisation in retaining such important assets, was also recognised by the Police Integrity Commission in its evidence to the Committee:

CHAIR: What are the particular benefits of implementing the early intervention system as distinct to the NSW Police current strategies to address the problems of behaviour and reduce corruption?

⁷⁶ NSW Police Force, Answers to Questions on Notice

⁷⁷ Ibid.

⁷⁸ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

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Mr PRITCHARD: Well, I think there are a number of benefits in particular that derive from particularly an early intervention system. One of those, of course, is as a prevention tool, to correct behaviour of officers before it becomes something more full blown, as it were, and something more serious, and therefore, may require something in the way of disciplinary action to be taken.

So to that extent it is seen as remedial as opposed to punitive and officers are an asset for the NSW Police Force. The NSW Police Force invests a lot of money, training and time in an officer, so there is an obligation on the Force as an employer to ensure that it does everything it can to assist any officer who might be having some problems – is the best way of putting it – and retains those officers because, as I said, they are important assets and any attempt to stop leakage or departure of officers from the Force is to be encouraged.

That is one of the underpinning philosophies of an EIS system and it is also, as I said, important from the officers' point of view as well, and the Force as a whole. It encourages morale, it is a co-operative system. It is a supportive system. As I said, it is not seen as a punishment, it is remedial, meant to correct behaviour before it does flow into something else more significant.⁷⁹

4.28 Like the NSWPF, the PIC regarded an EIS as providing the framework which could improve accountability and ensure consistency within an organisation:

Mr PRITCHARD: ... it does improve accountability within the organisation, particularly supervisory accountability given the important relationship that an EIS has between the supervising officer and the officer concerned, and that is an important responsibility that the Police Force should be interested in, in terms of making supervisors accountable for those officers that come under their supervisory jurisdiction.

But it is also transparent. A large part of the EIS is all the information, the indicators and so on, that everybody is aware of how they will be treated, what systems will be used, what information will be used. So no-one is left in the dark and, as we all know from a prevention point of view, transparency is very important in fostering and building corruption resistance within an organisation, and also, instilling within the public confidence that something is being done about problem behaviour before it turns into something more full blown.

It is a system-wide, organisation-wide process. It is at least a consistent framework of identifying and managing behaviour and giving some sort of uniformity, which is always a benefit or certainly a hallmark of any effective prevention, so that there is not select enforcement of measures to correct behaviour so that one officer does not get treated differently to another. It does have that sort of uniformity, that consistency of framework about it, which allows for some sort of certainty, which helps to again instil some confidence amongst the officers themselves.⁸⁰

4.29 For the Police Association, the potential of an EIS to proactively intervene in order to manage problematic behaviours in a non-disciplinary way had benefits across the board:

Mr REMFREY: It is designed to prevent the punitive. At the end of the day, if we can get a system that keeps people out of the punitive disciplinary side of the organisation we are doing them a huge favour, we are doing the community a favour and we are doing our legal fund a massive favour as well at the end of the day. It is all up side, which is why we are there. We want it to work because it has got some benefits.⁸¹

4.30 The evidence of PANSW was in accord with that of the NSWPF and the PIC on the positive impact an EIS could have on the functions of managers and supervisors in

⁷⁹ Transcript of evidence, Public Hearing 19/11/2008, PIC, see Appendix 4.

⁸⁰ *ibid.*

⁸¹ Transcript of evidence, Public Hearing 19/11/2008, PANSW, see Appendix 4.

the NSWPF. It identified the benefits to supervisors in providing a framework for consistency and objectivity, providing that this did not become overly bureaucratic:

Mr REMFREY: I think you will also find that good supervisors will be intuitively doing some of this stuff. It is part and parcel of what makes a good supervisor, trying to guide their younger officers down a decent path, prevent problems for themselves and their team, and giving them a structure around which they can do this would be of assistance.

We have got to make sure that it does not become overly bureaucratic and just another 'tick and flick' – I think someone mentioned ticking boxes a little earlier in the discussions today. The last thing we need to do is impose upon busy supervisors an arduous additional red tape, but providing there is the framework and some skills to do what ought to be the function of a management and supervisor, I think is really important.

Ms SYLVIA HALE: What advantage would you think the system would have in terms of poor supervisors? You say that good ones could well be doing it at the moment, what about the poor supervisors, how do you think it would help them?

Mr REMFREY: I think those that are not doing it intuitively would in a sense be forced to do it, because the system would be in place. It would give them structure around which they could look at it, so it is a good way to be able to do it.

Ms SYLVIA HALE: Making them aware of the problems?

Mr REMFREY: Exactly. It would provide some assistance in uniformity, which is a bit of a problem, which is why we are not so keen about the subjective approaches and given the changes that happen in policing through promotion, transfer, medical exits and the like, you do get a turnover of supervisors, so you want to have a consistent system so that a new supervisor coming in can pick up where his or her predecessor left off, and objective measures are pretty important in that regard, because you start to get into the subjective measures, it creates a huge problem and those sorts of challenges.⁸²

- 4.31 In its evidence to the Committee, the NSW Ombudsman, Mr Barbour, stated that:
- Our view is that there is benefit in New South Wales Police Force developing an EIS, but only if it is done properly. This is consistent, I think, with the position of the Police Integrity Commission, the Police Force itself and also the Police Association.
- We have set out obviously in our submission the history of our involvement and our general position to date...⁸³

- 4.32 The Ombudsman's submission set out the multiple benefits which could be associated with the development of an effective EIS as including:
- for officers – more effective support in the workplace;
 - for Commanders and supervisors -
 - Improved management of officers arising from a practical and effective tool to identify and address misconduct risks; and
 - More comprehensive data concerning policing activity;
 - for NSWPF – A means of demonstrating to the public that it is committed to managing the risk to the public posed by officers engaging in misconduct [*"EIS systems have emerged as an important mechanism for ensuring police accountability"* (Walker 2003:1)]; and

⁸² Ibid.

⁸³ Transcript of evidence, Public Hearing 19/11/2008, NSW Ombudsman, see Appendix 4.

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- for the Community – a well managed and responsive Police Force that deals with problems at an early stage.⁸⁴

Could the introduction of an EIS have unintended or undesirable impacts?

4.33 In addition to taking the views of the key stakeholders on the benefits of introducing an EIS, the Committee was interested in their assessments as to whether this could have any undesirable or unintended effects.

4.34 The PIC was of the view that:

...with the proper planning mechanisms in place; executive commitment within the organisation; and the necessary technical expertise and resources, it is unlikely that the implementation of an EIS within a law enforcement agency will be met with major undesirable and unexpected effects.⁸⁵

4.35 On the question of whether an EIS could be effectively integrated into the NSWPF's current organisational structure and processes the PIC stated that:

Whilst the details regarding how the EIS is to be integrated into existing systems and processes have not yet been decided, there appears to be a consensus amongst participating members of the EIS project planning process (NSWPF, PIC, NSW Ombudsman and Police Association) that an integrated EIS is achievable and desirable for the NSWPF.⁸⁶

4.36 The NSW Ombudsman identified a potential risk in that an EIS could be perceived by officers as being a regime for increasingly pervasive supervision but believed this risk could be addressed during the implementation stage:

Whilst there is a strong case for arguing that an EI system will assist officers to achieve their potential, and for marketing it to them accordingly, there is a risk that they will perceive it as essentially intrusive. The extent to which this is so will depend somewhat on the indicators selected. But, in any event, because officer acceptance of the system is critical for success, it is likely that this risk will need to be addressed in the training and marketing of the system.⁸⁷

4.37 The importance of securing officer "buy in" for any new system through appropriate training and education was also made by the PANSW in their evidence to the Committee:

...but if you are going to introduce something like this, the education and the training needs to come through before the system is introduced so people are comfortable with the logic behind it, what it is going to be used for and they get a feel for the fact that it is going to be developmental rather than punitive.⁸⁸

4.38 In developing an EIS that would be capable of gaining the officer acceptance critical for its success, the NSWPF recognised the key role of the PANSW on the multi-agency project steering committee:

CHAIR: What do you see as the key elements requiring the support of police officers across the State for the early intervention system to be put in place?

Mr CAREY: Well the experience of the ORA and my understanding of the experience of the LAPD model is that it cannot be seen as punitive, if it is used to come along and

⁸⁴ Submission Number 3, NSW Ombudsman, p.12.

⁸⁵ Police Integrity Commission, Answers to Questions on Notice

⁸⁶ Ibid.

⁸⁷ NSW Ombudsman, Answers to Questions on Notice

⁸⁸ Transcript of evidence, Public Hearing 19/11/2008, PANSW, see Appendix 4.

hit the officer over the head with a stick or simply to stop him being promoted or being moved around. It should be about a process where we are helping the officer along the way in his career and that there is some early opportunity in relation to the conduct or behaviour or performance or attitude to intervene, to raise these sorts of issues and provide some sort of helping guidance or helping action.

If it is seen as punitive it will fail. It will not have the support, which is one of the reasons why we obviously have the Association. They are actually sitting on the steering committee. There is no use at the end of the day developing a system without their co-operation and they are concerned if we develop it outside of that consultation, then it will fall over again. We need to listen to them.⁸⁹

- 4.39 In his opening statement to the Committee, the Ombudsman wanted to avoid any risk of misconceptions about the introduction of an EIS in the NSWPF.
- 4.40 He made the point that one of the benefits often associated with EIS in other jurisdictions was the alternative which they provided to the formal punitive approach to performance issues. However, this was not the case in NSW, where the complaints system was already proactively managing emerging risks of misconduct in a non-punitive manner.
- 4.41 In this sense, the Ombudsman felt that the introduction of an EIS in NSW, should not “cast unfounded aspersions or misunderstand the existing complaints system, which in my view is running very well and producing good outcomes.”⁹⁰
- 4.42 The Ombudsman saw benefits in the NSWPF developing an EIS provided that it was done properly. There was not, in his view, any significant risk that the development of an EIS would impair the operation of the existing complaints system because there was a consensus on the part of the Steering Committee and Project Team that the functions of these two systems were distinct.
- 4.43 However, the Ombudsman did see some risk of duplication if an EIS was developed which was over reliant on complaints data, for example, an EIS that flagged officers for intervention on the basis of a complaint threshold and then implemented a remedial managerial intervention aimed at addressing a risk of future misconduct. This was already an expected outcome of the existing complaints system.⁹¹
- 4.44 The use of complaints data as a potential indicator in any EIS for the NSWPF is discussed in greater detail in Chapter Five.

Comment

- 4.45 The Committee was pleased to find a consensus among the key stakeholders in relation to the specific question of the positive impacts of an EIS in the NSWPF. These were identified in written submissions and evidence and were consistent with the Committee’s own research, which included a review of EIS both in theory and in practice.
- 4.46 The Committee agrees with the NSWPF, that an EIS could perform a function that is distinct from any existing early intervention policies and guidelines. The current steps being taken by the NSWPF to recruit, train and maintain officers who meet its professional standards do not obviate the need for an EIS. Its role in utilising a wide

⁸⁹ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

⁹⁰ Transcript of evidence, Public Hearing 19/11/2008, NSW Ombudsman, see Appendix 4.

⁹¹ NSW Ombudsman, Answers to Questions on Notice

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range of selected officer activity data in order to proactively identify and address the risk of officer misconduct is not replicated in any current NSWPF strategy.

4.47 Nor would an EIS impair or duplicate those current strategies. Rather it would serve to complement and integrate them. The Committee agrees with the Commissioner of the PIC who made it clear in his evidence that an EIS:

... is not the silver bullet even as a prevention tool within the NSW Police Force, so to suggest that this would replace every other measure or tool that they have in place in that respect is wrong. It is just going to be one of a suite of provisions available.⁹²

4.48 The Committee considered the question of whether the development of an EIS for the NSWPF could penalise high performing officers (i.e. by not placing officer activity data in context) or be perceived by officers as a punitive or intrusive system.

4.49 It is of the view, that whilst these are risks associated with EIS, they can be avoided or mitigated through the design and marketing of the system and do not represent fundamental impediments to an EIS delivering the desired outcomes for the NSWPF.

4.50 On the specific question of whether an EIS could impair the existing complaints system, the Committee is satisfied with the Ombudsman's analysis, that this would be unlikely because of the consensus which exists among the key stakeholders about the distinct functions of these two systems.

4.51 However the Ombudsman noted there was a risk that an EIS might duplicate the complaints system if it was designed in a way that made it over reliant upon complaints based indicators.

4.52 The Committee agrees with the Ombudsman that such a risk can be addressed through the selection and development of appropriate indicators and it notes that complaints are just one potential indicator among many. This and other key issues in the delivery of an EIS for the NSWPF are discussed in the following chapter.

4.53 It is the Committee's conclusion that an effective EIS can deliver sustained and tangible benefits to the NSWPF at the strategic and operational level. Establishing a process through which problematic behaviours may be identified and managed proactively in a non-punitive way, should enhance the safety and welfare of NSWPF officers and serve to strengthen accountability processes and build integrity within the organisation.

4.54 This in turn should assist the PIC and the NSW Ombudsman in their respective roles as the external oversight agencies (e.g. enhanced data on policing activity and a reduction in poor performance or misconduct) and the work of the Police Association of NSW through ensuring more effective support for officers in the workplace (e.g. through providing intervention and support services to reduce career threatening risks).

4.55 Finally, in the wider context of service delivery in NSW, it should be noted that the development of an EIS is in accord with the NSW Government State Plan Fairness and Opportunity Priority F4 '*Embedding the principle of prevention and early intervention into Government Service delivery in NSW*' which states that:

...acting to prevent a problem from arising or taking action early in the life cycle of a problem is an extremely powerful mechanism for generating improved outcomes for individuals, communities or populations, or the environment in which we live.⁹³

⁹² See transcript of proceedings, Appendix 4.

⁹³ NSW Government, *State Plan: A new direction for NSW*, online version modified 20 May 2008,

RECOMMENDATION 1: That the introduction of an EIS for the NSWPF be completed as soon as possible.

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Chapter Five - What are the issues in delivering an EIS for the NSWPF?

- 5.1 In the previous chapter, the Committee set out its commitment in principle to an EIS for the NSWPF. The focus of this chapter is to identify any specific issues in the delivery of an effective EIS and set out the Committee's views in relation to them.

The EIS Steering Committee and Project Team

- 5.2 In its written submission to the Inquiry, the PIC stated that previous efforts by the NSWPF to develop an EIS had, in part, been hampered by the lack of an effective project planning and management regime and it was their view that such a regime would be essential if the NSWPF were to successfully implement an EIS.⁹⁴

- 5.3 The PIC regarded such a framework as providing a robust means of dealing with problems and ensuring the delivery of the desired outcomes for the project.

Mr KEARNEY: I think the biggest challenges are in maintaining the executive commitment and maintaining resources and a project management approach in the conduct of the project.

If you have executive commitment, if you follow a well established project management approach, then ultimately all other problems can be dealt with.⁹⁵

- 5.4 The components of the EIS project plan and the phases for their delivery were set out for the Committee by the NSWPF in its written submission (see 1.21). The initial phase of the project had been completed and provided a definition of business requirements for the design, development and implementation of an EIS.

- 5.5 By developing an EIS through a steering committee and project team which represented key stakeholders, the NSWPF was confident that the problems associated with the previous ORA project could be avoided:

Mr PEARCE: How do you see this developing as different from your project which apparently fell over?

Mr CAREY: The ORA, which is a 2005 matter. My understanding of the ORA, and I was not in professional standards then, was it was an officer risk assessment. It was not well received, there was no buy-in at the officer level. In fact, the officers saw it as a punitive approach.

The indicators that were used were not based on any sort of solid research, that is university or others assisting, so that is why it fell over. The system, in terms of who we are working with, is much more robust. PIC have a particular interest for a reason, the Ombudsman have an interest for a reason, the Police Association has a different reason, so I think having those three groups working with us is certainly the way forward.⁹⁶

- 5.6 The project management approach which was being taken by the NSWPF, in developing an EIS, gave the PIC considerable encouragement that there would be a successful outcome:

⁹⁴ Submission Number 1, PIC, p. 4.

⁹⁵ Transcript of evidence, Public Hearing 19/11/2008, PIC, see Appendix 4.

⁹⁶ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

What are the issues in delivering an EIS for the NSWPF?

Mr KEARNEY:...the whole project is now being managed in accordance with an established project management framework. We are a lot more confident that we will get to a successful outcome here than we have ever been.⁹⁷

Comment

- 5.7 The Committee supports the establishment of the EIS Steering Committee and Project Team. The involvement of the key stakeholders from the inception stage will most likely result in a well defined project whose objectives, scope and expected benefits are clearly understood and agreed upon by those stakeholders.
- 5.8 Consistent with its 2002 recommendation, the Committee supports the utilisation by the NSWPF of the research capabilities and systemic knowledge of the external oversight agencies in relation to its current project to develop an EIS.
- 5.9 The Committee also regards the participation of the PANSW on the Steering Committee and Project Team as representing the best means of developing and delivering an effective EIS capable of securing the officer support which is critical to its success.
- 5.10 The Committee sees a well-established project management process as critical to securing the desired outcome of an effective EIS for the NSWPF. The appointment of a dedicated project manager and the development of a detailed project plan, for the design and delivery of an EIS, represents good timely progress toward this end.
- 5.11 It is the Committee's view that the continuation of the executive commitment shown by the NSWPF coupled with ongoing project management best practice should provide a robust framework with which the project can meet its future challenges.

<p>RECOMMENDATION 2: That the multi-agency approach to developing and implementing an EIS remain in place.</p>

The proposed EIS

- 5.12 During the course of its Inquiry the Committee reviewed the following issues in relation to the current project to deliver an EIS for the NSWPF:
- database elements (indicators);
 - identification and selection stages;
 - intervention stage;
 - monitoring interventions;
 - implementation;
 - evaluation;
 - funding;
 - developing a compliant EIS.

⁹⁷ Transcript of evidence, Public Hearing 19/11/2008, PIC, see Appendix 4.

The database elements (indicators)

- 5.13 The NSWPF informed the Committee that it was anticipated that the database element for the proposed EIS would be developed in-house to capture data from internal systems:

CHAIR: You are intending to purchase the software, or are you going to build that in-house? Are you looking at the software that already exists out there and are you going to implement that, or are you going to develop your own software?

Mr CAREY: We have all the information in relation to the LAPD material and their system. We have looked at Phoenix in terms of IA Pro, which is a popular program that has been purchased. We have a wealth of information already internally on a number of our systems and suffice to say we are looking at developing our own system which captures data from our own internal systems.

CHAIR: So it is a mixture?

Mr CAREY: It is a mixture. We are not buying something off the shelf. We would have to develop a system, but it would use much of the data that we already have available, which is why we are looking at the data sets that we currently have to develop the indicators.⁹⁸

- 5.14 Internal systems such as the Computerised Operating System (COPS) for operational activity, human resources data from SAP and the complaints history of officers from the C@tsi system would provide the majority of the data sets required. Some policing activity data such as that on the use-of-force would need to be developed by the NSWPF as a separate project.

- 5.15 A use-of-force register was, in the view of the NSW Ombudsman, a critical component of the EIS and a valid data source in its own right:

Mr BARBOUR: The use-of-force register is a very significant thing, we believe, and any EIS in my view ought to have it as a component. It is something that we have been asking for the police to develop for quite some time. In my understanding there is a project under way and they are going to be looking at it. That is a clear area where records need to be kept: when are police using force; in what circumstances; which particular officers are using it; why are they using it; is it because they are front line and working in a local area command environment which is particularly difficult, or is there no explanation for it and, if not, why not.⁹⁹

- 5.16 The Ombudsman recognised that there was a strong case for including complaints data as a performance indicator in an EIS, but wanted to make it clear that the particular value of an EIS lay in its ability to draw upon data from a wide range of policing activities, outside of the complaints system, in order to identify officers at risk of misconduct:

Mr BARBOUR: To the extent to which a proposed EIS is reliant and focuses on complaint and misconduct related data, it will likely duplicate the existing complaints system and probably not add a great deal in my view. To the extent to which the proposed EIS is able to draw on new and other existing and relevant policing activity data, the potential for improvement is significantly increased. In this regard the need for development, for example, of a use-of-force register and a capability to extract data about things like duty driving critical incidents would be extremely important in order to develop and test the validity of any EIS.

⁹⁸ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

⁹⁹ Transcript of evidence, Public Hearing 19/11/2008, NSW Ombudsman, see Appendix 4.

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I hope that has been helpful. I wanted to set out very clearly at the start what I thought was the relevance of the complaints system vis-a-vis an EIS and how the two could potentially work together rather than one duplicating the other.¹⁰⁰

5.17 Paragraphs 2.20 -2.21 of this report noted the views of EI experts on the desirability of building as full a picture as possible of officer performance and the particular difficulties associated with an over reliance on complaints data when seeking to identify all potential misconduct. The Ombudsman's view is one that is consistent with this 'broad range' approach:

This is not to say that there may not be some real benefit from an additional opportunity, created by an EI system, to assess the needs of an officer, free from the other concerns that the complaint system seeks to address, such as the expectations of complainants, and the need to reinforce police force standards. But, in my view this opportunity would be much greater where an officer is flagged by non-complaint related data, such as use-of-force, or some other combination of performance related indicators, because we know that there is a greater likelihood that these officers would otherwise go undetected, and the opportunity to intervene at an early stage lost.¹⁰¹

5.18 In responding to a Question on Notice following the hearing, the NSWPF advised the Committee that the proposed model for its EIS would integrate complaints data as one of a wide range of indicators. Other indicators would include, for example, use of police weapons, on-duty driving incidents and use-of-force patterns.

5.19 These indicators would only serve as the first screening point. Any officers identified through the initial data driven process would then be subject to further analysis by the EIS Central Support Team in order to identify any false positives, check the validity of the data and assess the need for intervention. This "two-stage process" of identification and then selection would occur prior to the initiation of an intervention phase.

5.20 The EIS would promote effective liaison between the corporate owners of systems to ensure that inclusion and integration would occur rather than duplication of existing systems and the generation of additional "red tape".¹⁰²

5.21 Once the developmental work to provide any additional data types (e.g. use-of-force) had been completed, it was envisaged by the NSWPF that:

...the integrated data will provide a snapshot of officers compared to their respective peer groups (i.e. similar duty types in similar locations) against the following indicators (note that this aspect will be subject to testing):

Complaints;

Attendance at critical incidents;

Arrest patterns;

Use of police weapons;

Traffic violations by officer;

On-duty driving matters;

Failed prosecutions/Legal;

Leave patterns;

Use-of-force patterns;

Mandatory training;

¹⁰⁰ Ibid. p. 103

¹⁰¹ NSW Ombudsman, Answers to Questions on Notice, see Appendix 5.

¹⁰² NSW Police Force, Answers to Questions on Notice, see Appendix 5.

Improper associations;
Misuse of information; and
Inadequate investigations.¹⁰³

- 5.22 A need for ongoing evaluation was clearly anticipated by the NSWPF, both in relation to the indicators and the system as a whole:

Ms McCARTHY: ... The model always has that it is an indicator and it is not that it is going to be a foregone conclusion and that assessment time and the local knowledge of the local area where the officer is, discussions about what the appropriate intervention might be, and then some follow up and whatever. We will learn as we go.

It is certainly something where we would constantly be evaluating and reviewing and asking what is this telling us, has it been useful. I would imagine that in time you would have a subset of officers who have gone through the process, and talk to them and ask what benefit it had. It is not going to be something that is clinical that we can actually say with any definition that is it.¹⁰⁴

- 5.23 This research based approach was as the PIC noted in its reply to a question from the Committee, a markedly different approach to that which was taken by the NSWPF in developing its Officer Risk Assessment tool (ORA):

Mr KEARNEY: ...The ORA system relied on a set of indicators that were not proven. It was a bit of a grab bag of whatever data and indicators were available at the time. The issue that we had with it was that there wasn't any research or evidence to back up the use of those indicators and that data as a means of indicating future problematic behaviour.

We are at a different place now. The system that is being developed by New South Wales Police is now fundamentally underpinned by research. New South Wales Police are now moving towards researching their own data to see what that tells them about what should and should not be an indicator and the whole project is now being managed in accordance with an established project management framework. We are a lot more confident that we will get to a successful outcome here than we have ever been.¹⁰⁵

- 5.24 The PIC also emphasised the role of an EIS as a framework that utilised existing processes:

Mr PRITCHARD: ... The whole idea is not to try to create another level of information that needs to be caught, but to use information that has already been captured for other reasons, for operational reasons, legislative reasons, what have you. The whole idea is to put an overarching program over the top of that to say in terms of indicators or terms of information relevant for an EIS, from the information that you already capture this is what we would like you to pull out.¹⁰⁶

Comment

- 5.25 The Committee is of the view that in adopting a research and development approach to devising a range of evidence based indicators, which are appropriate to its own policing experience and utilise existing processes, the NSWPF should be successful in establishing this key component.¹⁰⁷ The Committee acknowledges the progress made by the NSWPF to this end.

¹⁰³ NSWPF, Answers to Questions on Notice

¹⁰⁴ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

¹⁰⁵ Transcript of evidence, Public Hearing 19/11/2008, PIC, see Appendix 4.

See also Submission Number 3, NSW Ombudsman, pp.9-10 and Submission Number 3, PANSW pp. 2-3.

¹⁰⁶ Ibid.

¹⁰⁷ The function of indicators in an EIS is discussed in detail in paras 2.14 – 2.36 of this report.

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- 5.26 In so far as the experiences of other jurisdictions can serve as any guide, the NSWPF can, in the Committee's view, expect that the database component of their proposed EIS will require further testing and refinement.
- 5.27 The Committee notes the PIC's research paper on developing an EIS provides advice on the engineering of indicators and methods of testing their reliability and validity in the development, implementation and maintenance stages of an EIS.¹⁰⁸ The Committee commends the research work undertaken by the PIC in this key area to the EIS Steering Committee and Project Team for their further consideration.

RECOMMENDATION 3: That the NSWPF conduct periodic reviews of the EIS, including the indicators, to ensure its ongoing effectiveness.

The identification and selection stages under an EIS

- 5.28 It is envisaged at this stage in the systems development, that officer identification would be made on the basis of meeting or exceeding indicator thresholds (data driven referral) or by a general referral. General referrals could be from the officer, their manager, colleagues or from a source from outside the organisation, such as family or friends.
- 5.29 The proposed system would also allow for officers to interact with the system by viewing their position in relation to the indicator thresholds and in requesting the correction of any data on the system which they consider to be inaccurate:
- CHAIR:** How do you see the transparency of the scheme, like the Phoenix model where they can log in, view their record, correct anything that is considered wrong or for some sort of dialogue on that. Do you see that as a way forward in regards to the transparency and involvement of the officers in this system?
- Mr CAREY:** In my understanding that is exactly what we will do.
- Ms McCARTHY:** I think the only way that you can actively convince people that it is a transparent system is for people to be able to actually see that that is there. The Phoenix model allows officers to see their reports and it helps in terms of implementation of the model and helps it to be seen as not punitive. In fact, they can actually see the threshold equations as well, where they are up to on that and I guess that gives the opportunity for self correction, which is probably the aim of what you are wanting, that they actually intervene themselves.¹⁰⁹
- 5.30 Once initially identified, an officer would then be subject to analysis by an EIS Central Support Team in order to identify any false positives, check the validity of the data and assess the need for intervention. Often referred to as a two-stage process, this analysis can be incorporated into EIS in preference to relying solely on a data driven process (see paras 2.30 -2.36).
- 5.31 The risks of relying solely on a data driven process are that without interpretation of that data, large numbers of officers could be wrongly identified as being in need of intervention and this may generate negative perceptions of the EIS amongst officers and place unnecessary demands on resources.
- 5.32 If, on the basis of further analysis by the EIS Central Support Team, a notification for action or EIS Flag is approved and actioned, then the next step in the NSWPF's

¹⁰⁸ Bertoia, op.cit., pp. 9 -18.

¹⁰⁹ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

proposed process would be a meeting between the officer and their manager to consult on the matters raised by the EIS Flag to determine what, if any, intervention might be required.

5.33 The outcomes of the meeting would then be entered into the EIS database and the intervention process would be managed through to completion. It would be followed by an evaluation stage to determine whether the intervention was successful or whether further action is required.

5.34 The merits of this central/local management approach were discussed by the PIC in reply to a question by Mr Pearce on how an EIS could affect change and avoid becoming merely a box ticking exercise:

Mr PRITCHARD: I suppose you are right. It would, effectively, in many respects, be seen as a desk audit, if you like, and that is why it combines the two elements of a central coordination of it in terms of collection of information, but the actual implementation of the intervention has to come in at a local level so that you do not have the distance between those officers out there in the field who have to carry this out and the central command where maybe the information or the triggers are kept, so you do have to balance the sort of local level with the central level.

There will have to be a commitment at all levels of supervision for it to be translated and to trickle down at the local level, otherwise that is what it will turn into, particularly for regional areas.¹¹⁰

5.35 The PANSW noted that the work of the EIS Steering Committee and Project Team in developing an EIS was ongoing and no final decisions had been made on the best model for the NSWPF. However the PANSW saw a locally managed process as more likely to achieve its aims of addressing the issues raised by the identification stage in a non-punitive way:

CHAIR: The data identifies an officer as being at risk in the EIS, then by whom and through what process should the intervention decision be made?

Mr TUNCHON: I think the indications at this stage are that it should be locally managed. It is probably a little bit too early to articulate that any further than that. As I said, we are a part of the steering committee. We are represented on that by Greg Chilvers. I am not so sure that they have actually worked through in totality what that might be.

Mr REMFREY: I think you are right though in terms of it being locally based in the first instance, it is probably less likely to be feared by officers as a punitive event if their local management team is handling it in a moderate way and just having a chat to them about the fact that they have been identified and trying to manage the issues, rather than having some external group come in, that would be viewed probably a lot more seriously. Seriously is not the right word, but a lot more concern from the individual and less likely to involve a cultural change, but more likely to involve a defensive arrangement.¹¹¹

Comment

5.36 The Committee notes, that in proposing to incorporate a “two stage process” of identification then selection, the proposed EIS model is allowing for the human interpretation of data. Accordingly the NSWPF should be able to maximise its potential to effectively identify officers at risk and enhance evaluation of the performance of the systems processes.

¹¹⁰ Transcript of evidence, Public Hearing 19/11/2008, PIC, see Appendix 4.

¹¹¹ Transcript of evidence, Public Hearing 19/11/2008, PANSW, see Appendix 4.

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- 5.37 By combining a centrally co-ordinated process with action at the local level the proposed model is demonstrating one of the principles of the EIS concept, in that it does not seek to undermine or replace the role of the supervisor, it aims to enhance their traditional role by providing them with officer performance data and an organisational structure that is supportive of remedial action (See Chapter 2, paras 2.37 -2.51).
- 5.38 Such an approach has merit, in the Committee's view, in that it combines a transparent and consistent centrally managed framework with a locally managed consultation process by managers who know the officers and the issues best. Accordingly the Committee supports its further consideration by the Steering Committee and Project Team.

The intervention stage

- 5.39 The intervention stage follows any identification of problematic behaviours and should take the form of a non-punitive remedial course of appropriate action to help the officer to address those issues.
- 5.40 Remedial interventions common to many EIS include informal counselling provided by supervisors or professional counselling by external organisations, refresher or additional police training and peer support or mentoring programs.
- 5.41 The NSWPF described for the Committee how the intervention process might work in practice:

CHAIR: Can you describe for us how you see the intervention process operating once an officer has been identified? For example, who will make the intervention and how will the effectiveness of the intervention be measured?

Ms McCARTHY: I think I did start to describe how we see the intervention rolling through. I think that again, because we want to trial the data sets and hopefully get to some indicators, I mean it is actually going to be a trial looking at the process as well, and what is the best process for dealing with this. I think obviously there will have to be a decision made on the level as you described it, where that is actually going to sit. That is the indicator. There will then definitely have to be the referral. At this stage what is being envisaged is that there will actually be a small central team that will be responsible for looking at those particular indicators, making the referral to the local area, getting that local assessment and feedback and then a round table discussion, if you like, about what is the appropriate intervention.

There could be a range of interventions if you are talking about an early intervention system. It could be mental health, it could be support, it could be career counselling. I think that there would be a whole range of things. Another essential component would be review and follow up by that central team. Obviously then we need to make sure that we have a system for collecting that information to make sure it is evaluated against the agreed evaluation criteria.¹¹²

Comment

- 5.42 The merits of an EIS model, which combines a centrally co-ordinated process with action at the local level, have been discussed in relation to identification phase but they are also realised in the intervention and monitoring phases.
- 5.43 The Committee notes that the NSWPF intends the EIS to complement existing strategies and serve as an "umbrella" over current policies and intervention programs such as counselling, immediate and alternative dispute resolution and peer support

¹¹² Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

and mentoring. This should, in the Committee's view, be expedient, avoiding any unnecessary duplication of resources and utilising tried and tested means of addressing problem behaviours.

- 5.44 The Committee is pleased to find that there is a clear recognition on the part of all of the agencies represented on EIS Steering Committee and Project Team that identification by the system is not, of itself, misconduct and that, accordingly, any interventions should be developmental rather than punitive.

Monitoring interventions

- 5.45 In the course of its literature review and study tour the Committee noted several methods of monitoring interventions that are being practised by US and Canadian law enforcement agencies. These methods are discussed in Chapter 3 (see 2.52 – 2.54) and Appendix 1.
- 5.46 The Committee also notes the work undertaken by the PIC in its Research and Issues Paper (PIC Research Paper)¹¹³ and its recommendation that it is desirable that a formal system of monitoring and documentation be developed, where possible, in order to allow for evaluation and continuous improvement of the system.
- 5.47 It is envisaged that in the EIS for the NSWPF, 'case management' of an intervention would be formally administered through the EIS database. Following the completion of the intervention stage, the officer and their supervisor would conduct an evaluation of its effectiveness. This evaluation would be based upon the objectives which were identified by the officer and their supervisor at the initial consultation meeting.
- 5.48 The NSWPF described the proposed monitoring component in their submission to the Committee's enquiry as:
- ...ensuring that the officer's progress after intervention is observed and either resolving the identified issues or continuing to intervene if necessary until the issue is resolved. It involves the overseeing of the progress of an officer undergoing an intervention, ensuring that the intervention is completed with all relevant issues being addressed in the process.¹¹⁴
- 5.49 The PIC Research Paper suggests that outcome measures might be used in a monitoring phase depending upon the selected intervention method:
- For example, a professional psychological counselling-based intervention might require monitoring to consist of a combination of subjective outcome measures (such as counsellor's reports) and objective outcome measures (such as the number of complaints of a particular kind over a certain time period). On the other hand, a training-based intervention might rely more heavily on objective outcome measures (such as performance in the training course).¹¹⁵

Comment

- 5.50 It is the Committee's view that in proposing to monitor the extent to which an intervention has delivered the desired effect (i.e. a positive impact on the problem behaviours which were identified at the outset) the proposed EIS is following best practice. By utilising the expertise of the EIS Steering Group and Project Team, the

¹¹³ Police Integrity Commission, Tony Bertoia, *Developing an Early Intervention System for Police Misconduct in a Law Enforcement Agency*, Research and Issues Paper Number 01, August 2008.

¹¹⁴ Submission Number 4, NSWPF, p. 2.

¹¹⁵ See Bertoia, *op. cit.*, p. 23.

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Committee is confident that the NSWPF will be successful in developing an intervention monitoring process that is fit for purpose.

Implementing the EIS

- 5.51 The extent to which an EIS could be effectively integrated into the NSWPF's current organisational structure and processes and the importance of mitigating the risk of any negative officer perceptions of any new system through training and education have been discussed in Chapter 4 (see paras 4.36 – 4.39).
- 5.52 Also discussed in this report (see Chapter 3, paras 3.19 – 3.31) were the early EIS of the LAPD and the LASD which suffered problems of implementation and maintenance respectively. Problems, which can, in part, be attributed to a lack of training and support services.
- 5.53 Despite the very different circumstances in which the EIS for the NSWPF was being developed, the NSWPF noted that key lessons on the importance of training and marketing could be learned from the LAPD's experience:
- ...Despite this the NSW Police Force, EIS Steering Committee and Project Team have liaised extensively with the LAPD in order to understand what worked for it, what failed and what the LAPD could have done better. This includes obtaining access to the LAPD Business Case and presentations. Relevant information and knowledge obtained has been translated into the EIS Requirements Definition Document. Key lessons from the LAPD include the importance of training and education about the EIS, as well as the need for a comprehensive internal marketing strategy.¹¹⁶
- 5.54 In response to a question on notice following the hearing, that related to a report on the LAPD's early history with an EIS, the NSW Ombudsman noted that:
- ...In my view, the report highlights the need for on-going training to support the operation of an EI system. It also points to the need for a central quality control role responsible for the ongoing evaluation of the system. I note that the current project Requirements Definition Document includes an EIS Central Support team. It also expressly provides for training. It will be vital to the success of an EI system that these roles be appropriately resourced.¹¹⁷
- 5.55 The NSW Ombudsman also set out the value of integrating EIS record keeping into the normal operational work of officers, citing the proposed use-of-force register as one process which could be included in the current COPS system.
- 5.56 Another data source available to the EIS would be complaints data, a process scrutinised by the NSW Ombudsman and one which he judged to be working well within the NSWPF.
- 5.57 Whilst marketing the system to officers and training them in its use was seen by all stakeholders as being a critical component in the EIS project, the PIC's evidence in particular emphasised for the Committee the scope of the task and the commitment it would require:
- Mr PRITCHARD:** ...training is one of the areas where there is some commitment and that will take some time because, as I have said, you can imagine the general duties officer out in the suburbs or elsewhere, getting his head around these sorts of concepts and not thinking this is just another layer of red tape that is going to weigh me down, take me away from my front line duties, keep me stuck at a desk, and things like that.

¹¹⁶ NSW Police Force, Answers to Questions on Notice

¹¹⁷ NSW Ombudsman, Answers to Questions on Notice

That sort of reaction is going to be very important in any initial stages to try to address those concerns and suggests that it may involve a little extra work but there may be ways to cut down extra paperwork so it does not add an extra burden to the point where it might scare people off altogether from having anything to do with it.¹¹⁸

- 5.58 The PIC Research Paper provides advice on the training and support services which would be required for the implementation of an EIS to succeed.¹¹⁹ This includes training for all staff in relation to their roles and responsibilities and a 'helpdesk' facilitated by the central support structure to provide an enquiry service and receive feedback, advice which the Committee notes, has been incorporated into the current project Requirements Definition Document.
- 5.59 The PIC's paper also makes the point that 'no early intervention system is complete upon implementation' and recommends a six stage process:
- implementation of EIS trial;
 - evaluation of EIS trial;
 - refinement of EIS;
 - implementation of revised EIS on a large scale;
 - evaluation of revised EIS; and
 - regular monitoring of EIS.¹²⁰

Comment

- 5.60 The Committee notes the range of expertise on the EIS Steering Committee and Project Team and the value of the PIC Research Paper in informing their consideration of the implementation stage. This knowledge, allied to an ongoing executive commitment to the system, should ensure that the EIS is successfully implemented and achieves its strategic and operational objectives.

Evaluating the EIS

- 5.61 Interviews conducted during the Committee's study tour to the United States and Canada identified the evaluation of EIS as being a major challenge, with methodologies still being developed (see Appendix 1).
- 5.62 A case in point, was the Phoenix Police Department where there was a sense that implementation had achieved positive results including a reduction in 'frivolous law suits', greater communication between supervisors and employees and a reduction in risk through enhanced knowledge and training. However this was proving difficult to quantify. It was the belief of the administrative team that future interventions would yield success in employee retention but PAS was still a new system and had been actively identifying employees for less than one year.
- 5.63 In their evidence, the PIC described for the Committee the problematic task of evaluating an EIS:
- Mr PRITCHARD:** Like most prevention tools, evaluation is always flakey, if I can put it that way. It is not easy to evaluate how successful you have been in preventing something that has not happened...

¹¹⁸ Transcript of evidence, Public Hearing 19/11/2008, PIC, see Appendix 4.

¹¹⁹ Bertoia, op. cit., p. 27.

¹²⁰ Ibid. p.28 –30.

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There does appear to be some learning as you go along, as it were. There is no easy answer to that. There is certainly no program available that I am aware of that allows some prevention program to be measured and so on and here is your result.¹²¹

5.64 That being said, the PIC's research and issues paper makes some broad suggestions as to how the objectives of the system might be evaluated (an outcome evaluation) and how effective the system is in terms of its procedures (a process evaluation):

The methods for an outcome evaluation of an EIS depend on the objectives agreed to for the system as a whole. For example, if an objective is to encourage perceptions of transparency within the system, it would be prudent to encourage honest appraisals of the system during an evaluation. One method of encouraging honest responses in any survey-style aspect of an evaluation is by providing a variety of responding options. This is important because some people might be more comfortable in responding anonymously while others prefer face-to-face interviews. Outcome evaluation methods might include paper-and-pencil surveys, web-based surveys, face-to-face surveys, pre- and post-intervention comparisons, and pre- and post-EIS system implementation comparisons.

An evaluation of an EIS also requires a process evaluation, which involves describing and critiquing, and where possible, measuring, the procedures involved in the EIS. A process evaluation could consider the impact of several factors, including the frequency and duration of interventions, whether there are checks on non-compliance and unsatisfactory execution of interventions and whether there are barriers to participating in the intervention...

There would be merit in appointing a suitably qualified group or individual independent of the organisation to undertake and oversee the process and outcome evaluation of the EIS. This would reduce the risk of any perceived conflict of interest.¹²²

5.65 The PANSW also identified an outcome evaluation approach, but cautioned against the adoption of the evaluation methodologies of other agencies, whose objectives might be very different:

To evaluate the effectiveness of the program, we need to go back to the objectives of the system... Each of these objectives can be broken down into objectively measurable bits that can form the basis for an evaluation of the program. It could be counterproductive to utilise evaluation methodologies from agencies whose objectives, against which the system is evaluated, are different.¹²³

5.66 In its research, the NSW Ombudsman had yet to identify any methods in other jurisdictions which it would recommend and saw the work of the EIS Steering Committee and Project Team as ongoing in developing appropriate evaluation methods suitable to NSW:

Mr BARBOUR: I cannot say to you how I think it should be evaluated but what I would say is that the starting point would certainly be to look at other systems, other jurisdictions, and see how they are being evaluated. Our research in relation to this and one of the views that we have taken to the working party is that it does not appear that the evaluations that are being done in some of the other jurisdictions are particularly strong or particularly good. One of the things that we would be wanting to do is work as a group to ensure that whatever we came up with as an evaluation process was appropriate and was worthwhile and provided a good information base on which to act. That would be part of that working party process.

¹²¹ Transcript of evidence, Public Hearing 19/11/2008, PIC, see Appendix 4.

¹²² Bertoia, *op. cit.*, p. 22.

¹²³ PANSW, Answers to Questions on Notice

I cannot say to you at this stage what I think all the components should be, but clearly you would be looking at measurable outcomes and you would be obviously looking at things over a period of time, to see whether or not the introduction of this removed the frequency of particular issues and particular risks arising.¹²⁴

- 5.67 For the NSWPF, the development of appropriate evaluation methods would be a task in which they would continue to work with the external agencies on the EI Steering Committee. It stated that it would also look to involve academics in the process:¹²⁵

CHAIR: How do you propose to evaluate the EIS programs?

Mr CAREY: During our research we have managed to work with Tim Prenzler and a number of academics from a number of universities and we would, in terms of evaluating the project, seek to continue the role of the steering committee. We currently have a steering committee which has the Ombudsman, the PIC and the Police Association. We would propose that steering committee continue to oversight the implementation of the EIS. We would seek to involve those external agencies in the review of the establishment of an EIS. We would seek to involve academics such as Tim Prenzler from the university in relation to assessing what we have done with the system.

Mr PEARCE: You are talking about continuing the involvement of the role of the steering committee. Is there virtue in having an external body watching this?

Mr CAREY: I think there is some value in that external evaluation. The steering committee captures the external agencies that have an interest in the police force developing a early intervention system for all the good reasons, as well as the employee association, which is the New South Wales Police Association. That steering committee in the last six months, I think, has taken this project to the point we are at in a very short period of time. I think there is some value, given the commitment by those external organisations and the Police Association and the interest and I guess the independence that has been shown through the university in continuing to help us evaluate the system if it is put into place.¹²⁶

Comment

- 5.68 It is the Committee's view, that developing an effective evaluation process will be a challenging but critical element in delivering and maintaining an effective EIS for the NSWPF. That being said, the collaborative approach demonstrated by the NSWPF in seeking to utilise the expertise of the EIS Steering Group and Project Team and appropriate academic institutions, represents the optimal means of developing an evaluation process, which is fit for purpose. Furthermore, the PIC and the NSW Ombudsman will continue to play an evaluative role into the future through the exercise of their police oversight functions.

Funding an EIS for the NSWPF

- 5.69 The Committee looked at a number of overseas and the Western Australian EI systems during the course of its Inquiry. However when it comes to the specific issue of costs, it does not regard any of these systems as providing useful indicators of the likely expenditure that would be incurred when developing, implementing and maintaining an EIS in NSW.

¹²⁴ Transcript of evidence, Public Hearing 19/11/2008, NSW Ombudsman, see Appendix 4.

¹²⁵ Tim Prenzler is a Professor at Griffith University whose research expertise includes corruption prevention and criminal justice ethics.

¹²⁶ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

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- 5.70 For example, both the LAPD and the PPD have developed highly regarded EIS in-house for the capital costs of \$US11 million and \$US475,000 respectively. The significant variation in the cost of these two systems reflect the unique policing environments in which they were developed and whilst both provide valuable case studies of EIS (see Appendix 1) they do not offer NSWPF meaningful comparisons on cost.
- 5.71 Likewise the \$141,000 cost to WAPOL of purchasing an IAPro EIS was determined by factors which were specific to that agency such as the numbers of personnel and the tasks of customising software and integrating existing data sets (see paras 3.46 – 3.60).
- 5.72 The NSWPF informed the Committee that, with the EIS currently at the pre-development stage, the process of developing a business case which would examine costs, had not yet commenced:

Mr CAREY: In terms of funding for the development of the system, that is yet to be developed in terms of a business case but that would be the formal process. There would be an expectation that once we get to a point where we can develop a business case, it would look at what the costs would be both in any sort of capital funding, current funding, staffing, and what we could do internally.¹²⁷

- 5.73 Though there was a commitment to an EIS as part of their core business, the NSWPF recognised that, once developed, the business case would be one of a number of significant projects competing for funding:

Mr CAREY: I am able to tell you today that the implementation of the EIS is technically possible but it may have to take its place in the queue of a number of pressing and competing priorities within the police that we have to deal with over the ensuing months and years.¹²⁸

- 5.74 For its part, the PIC also recognised the issue of funding as being one of the major challenges to an EIS for the NSWPF but that the expected costs should be seen in the context of its value in reducing costs to the organisation and in effectively delivering services:

Mr KEARNEY: ...It is probably an area I do not want to dwell on too much, but budget will be an issue for NSW Police and something which will have to be addressed in the near future. That probably presents as a significant challenge at this time.

The Hon. CHARLIE LYNN: Is this considered to be frontline activity or the other activity in regard to budgeting?

Mr PRITCHARD: Sorry, you mean in terms of commitment?

The Hon. CHARLIE LYNN: Well, there is a lot of talk within Parliament, we hear that frontline services will not be affected by any budget cuts. Is this a frontline service?

Mr PRITCHARD: Commissioner Scipione is probably the best person to answer that, but I certainly would see it that way. I mean, it is dealing with officers who are front line, sworn officers are frontline. Without sort of being aware of what the definition of frontline is in terms of how Treasury approaches that, but I think there is a very strong case to see it as frontline.

Mr KEARNEY: If I could perhaps elaborate. This is about retaining NSW Police officers and about addressing problematic behaviour before it becomes significant. It reduces overall costs to the organisation.

¹²⁷ Ibid.

¹²⁸ Ibid.

The idea is to prevent police officers attracting complaints, prevent police officers from engaging in misconduct. Ultimately that will have a flow on effect to frontline services.¹²⁹

- 5.75 The NSWPF had information on their current staff turnover rates and would consider evaluating the effectiveness of an EIS in preventing the premature ending of police officers careers but this had not yet been developed into the form of a cost benefit analysis:

The Hon. LYNDA VOLTZ: Earlier in your opening statement you said that this was a competitive number of other priorities... Have you done any cost benefit in terms of turnover, that you are going to make some savings in the long term?

Mr CAREY: I do not think that we have done that work yet.

Ms McCARTHY: We certainly have an understanding of what our current turnover rates are, so we have a benchmark piece of information. That is something that we could consider in the overall evaluation about whether it has had any impact on turnover rates. It is quite valid.¹³⁰

- 5.76 The NSW Ombudsman took a similar view on the benefits that an EIS could deliver in return for the investment, provided the system was fit for purpose:

Mr KERR: Obviously the implementation of early intervention systems comes at a cost. Would you see that as expenditure on frontline policing?

Mr BARBOUR: If police officers can be more confident in knowing that they are working in a collegiate sense with officers who do not present a risk to them, then I think it is valuable.

Obviously you need to assess that in terms of how much it is, I do not think that there is an infinite amount that I would attach that to as being okay, but more and more I see and our Office sees in our dealings with the police, a desire by police to be confident that the person that is standing up next to them or their colleagues are working in an ethical and appropriate way.

It is very rare these days that you see tolerance for unethical conduct and I am pleased to see that that is the case. There will always be areas where there are problems, but I think, yes, it is money well spent, provided we get it right.

What I would be concerned about is that we develop something without very, very carefully examining everything. It needs to be right, otherwise it potentially is going to be like the ORA system or something else where there is going to be money put into it and it is going to end up being disbanded.¹³¹

- 5.77 The PANSW expressed concerns that the EIS could be shelved due to budgetary concerns and that if it were then an ideal opportunity to capitalise on the collaborative work of the Steering Committee and Project Team would be lost:

Mr TUNCHON: Whilst we are pleased with the progress that the steering committee has made, there is one area of concern that remains valid and that relates to budgetary constraints. No system, can be developed and implemented without some additional cost, whether that is in respect of upgrading technical resources, modification of existing systems, or in training and general support. The association is concerned that this important initiative might very well be shelved due to a lack of adequate financial support.

It is my understanding that the work of the steering committee and in particular the development of the model has reached a stage that additional financial resources are now required. These financial cost increases flow on to affect important issues like

¹²⁹ Transcript of evidence, Public Hearing 19/11/2008, PIC, see Appendix 4.

¹³⁰ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

¹³¹ Transcript of evidence, Public Hearing 19/11/2008, NSW Ombudsman, see Appendix 4.

What are the issues in delivering an EIS for the NSWPF?

marketing, ongoing training and, most notably, an evaluation program, all of which we see as being intrinsic in the introduction of an EIS.....

It is not very often in policing that you get a collaborative approach where everybody seems to be singing from the one song sheet. In this case the PIC, the Ombudsman and Professional Standards Command, the police, and us. That seems to be my impression of the way in which this steering committee is moving. It is an ideal opportunity to seize that and it would be a shame if for budgetary constraints it was shelved.¹³²

Comment

5.78 The Committee recognises that the future work of the Steering Committee and Project Team in developing a business case will be the most reliable indicator of the cost of an EIS for the NSWPF and would expect this case to be a key determinant in placing the project in the queue of priorities.

5.79 Whilst the Committee does not wish to be prescriptive in regard to developing this element of the business case, it believes some examples of demonstrable cost-benefits include:

- cost-related benefits:
 - cost reductions derived through reducing the operational costs (for example, fewer complaints, increased corruption resistance and less risk of litigation); and
 - cost avoidance derived through reducing the turnover of staff, career threatening risks and stress-related leave.
- service-related benefits:
 - achievement of policy objectives (for example, safer workplaces, improving the public perceptions of police accountability and public confidence in policing standards);
 - service enhancement (for example, better infrastructure support for staff, better service delivery and improved morale, safety and welfare); and
 - improved productivity (for example, better integration and utilisation of assets, improved reporting to external oversight agencies).

5.80 Accordingly the Committee is of the view, that an EIS is likely to be a cost effective tool for reducing the organisational costs of the NSWPF and delivering enhanced services to the people of NSW.

RECOMMENDATION 4: That the development and implementation of an EIS for the NSWPF be given budgetary priority.

Compliance with Privacy and other NSW legislation

5.81 At hearings before the Committee, the Deputy Chair, Mr Pearce, asked if there was a perceived need for some legislative changes in relation to the keeping and use of certain information under an EIS.

5.82 In reply A/g Deputy Commissioner Carey stated that:

¹³² Transcript of evidence, Public Hearing 19/11/2008, PANSW, see Appendix 4.

We do not think so at this stage. In relation to that historical information we use, particularly in relation to officer's complaints history, for example, we are the keepers of that and we use that in relation to integrity information.¹³³

Comment

- 5.83 The Committee is of the view that an EIS may raise privacy and related issues due to the collection into a database of personal information about individual officers and its subsequent use for the purpose of applying the EIS.
- 5.84 The Committee acknowledges that the ability of supervisors and others to access personal and other information about individual officers is a key element in an effective EIS. However, the Committee notes that this could have an impact on an officer's right to privacy. For this reason, it is essential that the EIS model adopted by the NSWPF balances this right with the operational needs of an effective EIS. The EIS must also protect officers from misuse or unauthorised use of their personal information.
- 5.85 While this may not necessitate legislative change, the Steering Group and Project Team should ensure, at an early stage in the development of the EIS, that it is compliant with the *Privacy and Personal Information Protection Act 1998*, which governs the collection, storage and use of personal information, and with all other relevant legislation.

RECOMMENDATION 5: That the EIS Steering Group and Project Team give full consideration, in the early stages of the development of an EIS, to ensuring that it is compliant with NSW legislation, including the *Privacy and Personal Information Protection Act 1998*.

¹³³ Transcript of evidence, Public Hearing 19/11/2008, NSWPF, see Appendix 4.

Appendix 1 – Study tour report

INQUIRY INTO EARLY INTERVENTION SYSTEMS TO IDENTIFY OFFICERS 'AT RISK' OF CORRUPTION

Study Tour to the United States of America and Canada 6 to 13 June 2008

One strand of the Committee's inquiry was to examine the use of early intervention systems [EIS] in comparable jurisdictions in order to better consider both the utility of an early intervention system in NSW and of any recommendations on a best practice model. The United States of America and Canada are the countries that have the greatest experience of developing, operating and analysing EI systems. In the USA, the states of California and Arizona offer a range of fully operational EI systems; while the province of Alberta offers a comparative example of an EI system within the Canadian law enforcement context.

At its deliberative meeting held on 3 April 2008 the Committee therefore resolved to send a delegation to the US and Canada to gather information for the Committee's inquiry by observing at first hand the work of police agencies in comparable jurisdictions that are implementing, maintaining and evaluating an EIS. The delegation consisted of Ms Angela D'Amore MP, the Committee Chair, and Mr Peter Draper MP, Committee member and was accompanied by Mr Leslie Gönye, Clerk-Assistant (Committees).

The delegation's itinerary is set out below:

June 2008	Time	Agency
Friday 6	2.00 pm	San Francisco Police Department
Monday 9	9.30 am	Edmonton Police Service
	1.30 pm	Edmonton Police Commission
	3.15 pm	Call on the Alberta Legislative Assembly
Tuesday 10	2.00 pm	Arizona Peace Officer Standards and Training Board
	4.00 pm	Phoenix Law Enforcement Association
Wednesday 11	9.00 am	Phoenix Police Department
	12 noon	Call on the Arizona House of Representatives
Thursday 12	9.00 am	Los Angeles Sheriff's Department
	11.30am	LAPD Ombudsman
	12.30pm	Office Of The Inspector General, LAPD
	3.00 pm	Police Assessment Resource Centre
Friday 13	9.00 am	Los Angeles Police Department (LAPD)

Common themes to emerge from this study of early intervention systems were:

- An EIS is a risk management tool and a performance-enhancement program, not a disciplinary process.
- Major stakeholders should be involved in the process at an early stage.
- It is essential to educate police officers about the system and train supervisors to use the system effectively.
- Data entry should be timely.
- Thresholds should reflect the requirements of the organisation and can be adjusted as the system evolves.
- Evaluating the effectiveness of the EIS is difficult.
- The confidentiality of EIS data must be safeguarded.
- EIS should be regarded as part of the human resources division of the organisation.

Summaries of the discussion with each agency are set out chronologically below.

Friday 6 June 2pm

SAN FRANCISCO POLICE DEPARTMENT (SFPD)

Profile

The SFPD serves the city and county of San Francisco, California. The Department has over 2000 officers and is divided into four bureaux: administration; airport; field operations (consisting of ten stations) and investigations. Specialised units include Eco-Cops; Graffiti Abatement Unit; Missing Persons Unit; School Resource Officer; Special Investigations Division and Vicious/Dangerous Animals Unit. The SFPD is overviewed by the San Francisco Police Commission.

Participants:

Lt Anna Brown, Professional Standards Unit (Early Intervention System and Staff Inspection)

Jim Villaluna, Project Director, Professional Standards Unit

Lt Bob Moser, Management Control Division (Internal Affairs)

Asst Chief Jim Lynch

Commander Sylvia Harper, union representative on the Board

Notes of discussion

The SFPD began discussing the introduction of an EIS in 2005 with the police union and other stakeholders. An EIS was seen as a non-disciplinary way to improve its existing Early Warning system. The SFPD model is based on the Phoenix EIS and uses a software package produced by On Target Performance Systems.

The SFPD defines the EIS as a data-based management tool designed to:

- identify members whose performance exhibits at-risk behaviour;
- provide interventions to correct those behaviours which may be problematic;
- improve performance at the individual, unit and overall department level;
- reinforce sergeant and unit responsibility overall for supervision and training;
- serve as an important mechanism for ensuring police accountability;
- help officers before problems occur.

The EIS has ten primary indicators and fourteen associated factors. The data is analysed by the unit supervisor and the EIS Unit, with officer being compared with other officers in similar assignments. Employees have access to their personal EIS data. A comprehensive information and training package, estimated to take 6-8 months to complete, has been rolled out to educate staff about the system.

Only the primary indicators have thresholds which trigger alerts; however, once an alert is triggered, items listed under the associated factors will be considered as part of a comprehensive review to determine whether intervention is required. Intervention options include:

- coaching or counselling;
- follow-up monitoring and documentation at regular intervals;
- voluntary referrals to mental or medical health professionals, peer support, employee assistance programs or spiritual care;
- temporary work hour adjustments;
- temporary or permanent transfer;
- modification of existing policies or introduction of new policies;
- Department-wide training;
- intervention option agreed between supervisor and member (followed up at 90 days and one year).

The EIS Unit reviews the system daily to determine if any member has passed a threshold. If it appears that a pattern of 'at risk' behaviour exists, information is sent electronically to the officer's commanding officer for further review and intervention by the officer's immediate supervisor.

A supervisor is required to perform a daily review of the EIS record of officer under their supervision. This enables a supervisor to initiate a counselling session before a threshold is passed. Counselling sessions are not regarded as discipline but are noted on an officer's file. However, where a threshold has been passed and an intervention has taken place, further EIS entries within a six month period trigger involvement of more senior personnel in the intervention. If the officer does not comply with the intervention process, the EIS Unit recommends to the Chief of Police that an administrative investigation be initiated.

Each Deputy Chief must ensure that supervisors under their command comply with EIS orders. The Commanding Officer of the Risk Management Office audits, every six months, the EIS data entry system, the quality and outcomes of supervisory evaluations and the quality of supervisory reviews. The EIS Unit provides statistical reports on a quarterly basis to the EIS Board and to the Police Commission.

Because interventions are non-disciplinary, the EIS Unit is part of the Human Resources division of the SFPD.

Key findings:

- Ownership needs to be taken by managers and supervisors – EIS is not just a risk management project with quarterly reporting.
- Only one point is assigned to an incident which may have triggered a lot of indicators, eg

a vehicle pursuit leading to an on-duty accident, then use of force, a complaint, followed by a civil suit.

- To develop an effective EIS:
 - invest time in planning the system so that its evolution is not reactive;
 - get as many people as possible involved in the genesis of the system.

Monday 9 June 9.30am

EDMONTON POLICE SERVICE (EPS)

Profile

The EPS serves the city of Edmonton, the capital of Alberta, Canada. It has over 1320 sworn officers and 360 non-sworn officers patrolling a population of over one million. The EPS focuses on eight crime categories: homicide; sexual assault; assault; robbery; break and enter; auto theft; theft from auto and theft over \$5,000. EPS policing is based on four critical areas: preventing crime, maintaining social order, enforcing the law and ensuring public safety. The executive body of the EPS comprises the Chief of Police and three deputy chiefs. The EPS is oversighted by the Edmonton Police Commission.

Participants:

Sergeant Tom Pallas, EIS

Charmaine Ronney, EIS Analyst

Deputy Chief David Korol, Specialized Community Support Bureau

Acting Inspector Chris Boehnke, Major Case Section, Professional Standards Branch

Notes of discussion

History of Edmonton Police Service EIS

1990s	An informal EIS would commence for members with three or more complaints or excessive use of force.
2001	EIS became a CALEA ¹³⁴ Standard, and therefore a more formal process. There was an obligation to be pro-active towards officers.
2003-2005	Purchase of IAPro, an integrity software package which tracks data, generating alerts based on statistical analysis, as well as facility for case management. EIS indicators were decided, an EIS policy was developed and formalised interventions began.
2006	Analyst and sergeant employed. A system review was conducted.
2007	In-service training provided throughout EPS

EIS is part of the newly created 'Wellness' branch¹³⁵ of the human resources section of the service. Because the EPS is a small force of 1500 officers, the system is monitored centrally (unlike the Los Angeles Police Department where supervisors have responsibility for monitoring the records of those in their charge).

¹³⁴ Commission on Accreditation for Law Enforcement Agencies

¹³⁵ Deals with employee and family assistance, OHS, health nurses etc

Implementation

Two main concerns about the introduction of the EIS were:

- failure to communicate the nature and purpose of the system during the planning stage. Officers were uncertain about the system. The union was consulted during the building of the system and is very supportive of a system which they see as being fair to, and in the interest of, its members. The system is non-disciplinary. Participation is voluntary but officers who do not wish to participate are advised that, if their behaviour escalates, they may be subject to progressive discipline and a performance contract, handled by Internal Affairs.
- failure of some command officers to follow through on their responsibilities.

Current concerns:

- lack of EIS knowledge, understanding and intervention training.
- reactive rather than proactive. The EPS's goal is to detect an individual's behavioural trends from the data it receives and intervene even earlier than alerts triggered by IAPro. The EIS is being promoted as a 'one stop shop', which supervisors can contact with any concerns about their members.
- lack of consistency and inability to determine whether or not interventions are occurring.
- inability to transfer knowledge within the organisation. By 2009 supervisors will be able to access the records via the web which would ensure continuity where members are transferred within the service.

Operation of the EPS EIS

There are twelve individual thresholds which are monitored to ensure accuracy. There are also supervisor thresholds which ensure that behaviour patterns of a squad are monitored and can be compared to those of other squads in a division. An alert is generated by IAPro. The EIS analyst monitors alerts and reports on any emerging trends. A report will include any previous intervention history, what threshold generated the alert, a timeline and a peer group analysis (a comparison with other members in the division and across the service).

The report is sent to the Inspector in charge of the Professional Standards Branch who reviews it and decides whether intervention is warranted. If the decision is not to intervene, the EIS sergeant is notified, who in turn notifies the member's supervisor. If the supervisor confirms that there is no concern, the alert is closed. If the Inspector decides an intervention is warranted, the EIS sergeant generates a review of the member's human resources record. The entire information package is then reviewed by the Inspector in charge of Human Resources (HR), who confirms that an intervention is necessary. The EIS sergeant then notifies the member's Divisional Commander who identifies the best person to conduct the intervention, usually the immediate supervisor. The EIS sergeant will review the member's record with the supervisor and a meeting will be scheduled with the member. The meeting is informal and an action plan is developed with the member which may include training, re-assignment or employee assistance referral. There is a follow-up at six months to see whether the intervention has been successful.

The sergeant in charge of EIS:

- coordinates all EIS interventions within the EPS.
- provides continuity of information and effective knowledge transfer.
- assists the Divisional Commanders with employee performance management within their area.

- develops proactive approaches to improve overall organisational performance.

Challenges

- Funding for the implementation of IAPro (approximately \$Can140,000).
- Fostering supervisor/employee understanding and support.
- De-centralising data entry so that information, and therefore intervention, is timely.
- Human resources.

Other issues

- Thresholds don't have to be met for the EIS process to be initiated. Intervention can begin following observations by the EIS analyst or input from a supervisor.
- The confidentiality of EIS data is emphasised. It is stored separately from HR or Professional Standards files.
- Members can access their own files at any time, as well as any supervisors in a member's chain of command.
- EIS information can be included in a member's performance appraisal. This could be positive, eg where a member has changed their behaviour following intervention.
- The records are kept indefinitely.
- Under freedom of information, a complainant can have access to information about their particular complaint but is denied access to any other information held about a member.

The system is constantly evolving as feedback is received. There are plans to extend the EIS to the EPS civilian employees.

Key findings:

- Educating police members about the purpose of EIS is vital.
- Particularly in the early stages of EIS, interventions should be handled carefully to ensure they are done from a human resources perspective, and not seen by members as being a disciplinary process.
- The system should aim to be proactive where possible rather than reactive.
- Data entry should be timely so that intervention can be timely.

Monday 9 June 1.30pm

EDMONTON POLICE COMMISSION

Profile

The EPC is a civilian body overseeing the Edmonton Police Service.

Participants:

Brian Gibson, Commission Chair

Doug Tupper, Executive Director

Bryan Sarabin, Legal Counsel/Public Complaint Director

Sarah Doyle, Communications Director

Notes of discussion

The Police Commission's role is to oversee municipal police services, respond to citizens' concerns on policing matters, assist in developing the annual policing plan and budget, and build positive relationships with community partners. The Commission is independent and apolitical and does not become involved with day-to-day police operations and investigations. The City Council appoints seven Edmonton citizens and two City Councillors as Commissioners for a two year term (up to a maximum of six years). The Commission meets monthly and half of the meeting is held in public.

The Commission, together with the Police Chief and the Police Service, devises a three-year policing plan to meet community priorities. The budget is built around the policing plan and presented for the approval of Edmonton City Council. The Commission devises policies and sets priorities while the Chief of Police is responsible for procedures and operations. Policing standards are set by the Solicitor General.

The Commission promotes ethical policing, ensures there is no political interference and fosters public confidence and trust. The Commission receives its mandate from the Police Act. This includes the strategic planning of policing priorities; budgeting and financial management; setting policy; hiring the Chief of Police, overseeing the public complaint system; and representing the voice of the community. The Commission ensures that the police service is effective, accountable and transparent and that its focus is on citizens and its conduct is professional.

Complaints can be made to both the Edmonton Police Service (EPS) and the Police Commission. Complaints concerning Police Service practices, policies or officers are dealt with by the Professional Standards Branch of the EPS with oversight by the Commission. Complaints concerning the Chief of Police are dealt with by the Commission. A complaint must be made within a year of the incident. The complaint process may result in a disciplinary hearing. Almost all the disciplinary hearings are conducted in public and the decisions of the presiding officer are posted on the EPS public website. Decisions made by the EPS or the Commission are subject to appeal or review.

In terms of the operation of the EIS, the Commission has concerns about whether supervisors are accepting the responsibilities the EIS places on them, or whether they are simply referring matters to Professional Standards.

Tuesday 10 June 2pm

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD (AzPOST)

Profile

AzPOST is a state-licensing agency that certifies peace officers to practise law enforcement. The Board enforces standards of conduct that each officer must maintain in order to retain certification and has a staff of investigators who investigate complaints of misconduct.

These cases are then considered by the Board for discipline, ranging from suspension of certification to revocation (a permanent disbarment from being a peace officer in Arizona).

There are 170 separate law enforcement agencies in Arizona that employ over 15,000 peace officers. All of these officers must hold AzPOST certification. While AzPOST does not utilize an early warning system, it encourages the law enforcement agencies it regulates to use them.

Participants:

Thomas J. Hammarstrom, President
Lyle Mann, Deputy Director

Notes of Discussion

AzPOST likens itself to a board of medical examiners in that they license officers to practise law enforcement in the same way that a medical board might license doctors. AzPOST employs a total of 30 staff, who are predominantly former police officers. The standards that they set for officers have legal force.

Prior to the 1968 Act (which established AzPOST), there were no uniform officer selection, recruitment or retention and training standards. In the last 40 years Arizona's population has grown rapidly with a corresponding increase in the number of police officers from 2,000 to 16,000.

Funding of \$US7-9 million per year is provided by means of a 'perfect users tax' which is a surcharge levied on criminal and traffic fines.

The organisation regards the enforcement of selection standards as being one of its most important functions and these standards include background checks and polygraph tests.

...who gets through the gate is the most important determinant of what kind of corruption and what kind of misconduct you are going to see down the road.¹³⁶

Reading about the serious and minor misconduct of other officers appears to have an educative and deterrent effect. Accordingly, the *Integrity Bulletin* is regularly published as one means of promoting self-regulation among police officers.

AzPOST do not generally see cases of officers engaging in corrupt behaviour; the most common areas of misconduct are sexual or narcotics related. Officers are under AzPOST's jurisdiction at all times, on or off duty, and if they lie about their conduct after they have been advised that they are under investigation, they are liable for dismissal.

Disciplinary and non-disciplinary interventions are the responsibility of 170 separate law enforcement agencies in Arizona in 99% of cases. When one of those agencies terminates the employment of its officers it must notify AzPOST, which then investigates the case and determines whether or not to revoke that officer's licence.

If an officer has been dismissed but has then successfully appealed to the agency to be reinstated, a separate investigation by AzPOST may still determine that the officer's licence

¹³⁶ Interview with Tom Hammarstrom, Executive Director, Arizona Peace Officer Standards and Training Board, 10 June 2008

be revoked thus making them ineligible to serve in the state. Whilst this revocation does not have the force of law elsewhere in the US they are unlikely to pass another state's integrity requirements.

Last year AzPOST considered 160 cases of which proceedings were initiated in 64 cases. The proceedings take the form of an adversarial hearing before an administrative law judge who then makes findings that are considered by the AzPOST Board. The Board consists of 13 members including the Attorney General, police officers of various ranks from large and small agencies and members of the public.

AzPOST is not an employer of police officers but recognises the value of early intervention systems as a means for assisting at-risk officers. It regards EIS to be a service that helps the officer and enhances supervision. In one recent case AzPOST considered, an officer had failed to file 157 reports, an extreme situation that demonstrated failure on the part of management as well as the employee. An EIS would be an important supervisory tool capable of flagging such problems to supervisors before they escalate.

AzPOST advised that an appropriate department for the administration of an EIS system is human resources. It also recommends union participation throughout the process of development and implementation and, as an example, the Phoenix Police Department's *Personnel Assessment System* could not be bettered in its view.

Key findings:

- The licensing of officers to practise law enforcement by a Board
- The Board regards the enforcement of selection standards as being one of its most important functions.
- It regards EIS to be a service that helps the officer and enhances supervision.

Tuesday 10 June 4pm

PHOENIX LAW ENFORCEMENT ASSOCIATION (PLEA)

Profile

PLEA employs 6 full time staff all of whom are sworn Phoenix Police Department (PPD) officers.

Participants:

Mr Mark Spencer, President
Mr Ken Crane, PLEA Board of Trustees
Billy Coleman, Chair, Grievance Committee

Notes of Discussion

The PPD, having observed the imposition of Early Intervention Systems by Consent Decrees in other jurisdictions, was keen to develop its own system rather than have one mandated. The PPD's system is called the Personnel Assessment System (PAS).

The PPD actively secured union backing for the system, a key to winning officer support in its view. Once PLEA was assured that the system would be a means of offering assistance and performance enhancement rather than a means of disciplining officers, they agreed to work with the PPD.

Examples of the kinds of issues which it regards as relevant for an EIS are:

- an officer is late for work several times because of a domestic problem and an intervention offers him alternative working hours to assist him;
- an officer is stressed and this is picked up in the EIS through peer or supervisor input, resulting in a counselling offer.

Misuse of the system by the PPD, say for disciplinary purposes, has the potential to damage officer confidence.

You know how sceptical police officers are; once they doubt, you have lost them forever, for a generation.¹³⁷

The PAS system uses a variety of indicators such as arrests, police accidents, overtime and off duty work data, the latter two being factors supervisors may look at if an officer starts to make mistakes in the work place, as fatigue may be a possible factor.

PLEA was involved in the process of setting thresholds for intervention as it wanted to ensure these reflected fairly on the nature of the work officers were performing. For example, if an officer is with the Canine Unit, it is likely that the number of 'use of force' data arrests will be higher than average, because this unit is specifically called upon to police highly volatile situations. Similarly a patrol officer working in a precinct which has a high representation of a particular ethnic group is likely to make a correspondingly high proportion of stops or arrests from amongst that group. The thresholds need to be sensitive to the environmental context or these officers may feel they are being unfairly targeted as being racist. White officers working in predominantly African-American precincts likewise attract a higher proportion of complaints and vice versa.

The use of ratios and peer group thresholds to overcome these issues has been successful but the review panel is conscious that the system needs to evolve over time.

In two recent cases at the PPD a detective stole property and a second detective stole \$US9000 from a drug dealer; however each officer had a green light on the PAS system as neither had exceeded any of the thresholds.

In another case, a sergeant, who was having a personality conflict with one of his officers, had not documented data about that officer's conduct on PAS at the time at which they occurred. He wished to enter the data retrospectively in order to prompt an intervention notice but the PAS administrators said this was not acceptable as the system was not a repository for officer notes.

¹³⁷ Interview with Mr Mark Spencer, President, Arizona Phoenix Law Enforcement Association, 10 June 2008

PLEA believes the PAS system is there to help officers not discipline them. Accordingly, it needs to be administered by Human Resources rather than Internal Affairs.

Records access is an issue, as members of the public can access records (with a generic rather than a specific cover sheet) for the cost of printing. Accordingly, PLEA believes it is especially important that data is correctly entered and appropriately worded in the system. PAS data is only to be kept for 5 years and should flag itself for deletion – a self-purging system.

Data may be added into PAS by the officers themselves; for example some officers have filed a self-report to flag marital problems, bereavements etc. They can delete this whenever they choose.

Sergeants may enter PAS related to their squad. Officers are a further source of data and may enter data on colleagues, for example if they are aware that a fellow officer has personal problems or is stressed after having been involved in a critical incident such as a shooting or death in custody. The PAS system provides for up to 6 free counselling sessions as an intervention option for officers.

PAS has not markedly reduced the amount of time PLEA spends in disciplinary proceedings but it has provided supervisors with counselling options which has helped them to avoid turning an officer's personality traits or mannerisms into disciplinary issues.

Isolated events across a 26 year career may never trigger a PAS threshold, which is why the system should be seen as one tool among many for supervisors. It is a means of assisting, not replacing, the human element.

The system should be evaluated to show that it is working as intended.

Key findings:

- The union was supportive of a non-disciplinary means of performance enhancement and assistance.
- Intervention thresholds must take account of the environment in which the officer is performing their duties.
- Records access by the public is an issue; what goes on the system must be correctly entered and appropriately worded.
- PAS should be seen as one tool among many for supervisors.

Wednesday 11 June 9am

PHOENIX POLICE DEPARTMENT (PPD)

Profile

The PPD currently employs more than 3,800 officers and support personnel who protect a population of more than 1.55 million and patrol almost 516 square miles. There are six precincts.

Participants:

Sgt Richard Cosena, Administrative Services Bureau

Det. Lynne Paul, Administrative Services Bureau

James Glen, Project Manager

Vyvian Reque, Community Relations Bureau

Notes of Discussion

The Department's early intervention system is called the Personnel Assessment System (PAS). It arose from the need to establish a risk management system while avoiding the difficulties experienced by other agencies in Pittsburgh, Los Angeles and New Jersey where a system had been mandated via a Consent Decree.

The process began with focus groups for all staff from the executive grades through to rank and file officers. Focus groups were an important means of securing the employee "buy-in", which the PPD's preliminary research had indicated would be critical to the system's success, allowing them to take ownership of the project. The focus groups also provided the opportunity to set out from the beginning the aims of the system which were to:

- identify problematic behaviours that could lead to employee failure;
- use non-disciplinary intervention to help those individuals;
- increase supervisor accountability;
- decrease liability and future risk to the agency.

This approach was successful in mitigating the suspicions and rumours that can be generated when a system is imposed on employees with a lack of consultation or information.

Every one of the Agency's 4,100 employees went through a hands-on training course to learn about PAS and how to navigate the system. The post-training survey returned a 97% approval rating and also generated some good ideas (including suggestions on indicators), which were incorporated into the final product. This in turn strengthened the sense of employee ownership.

If you want true employee "buy-in" you better educate. Lack of knowledge by the employees you are trying to help will be the death of your program.¹³⁸

The focus groups determined that all employees would be able to access their own information. This approach achieves a number of important objectives as it demonstrates the system is a transparent information resource and it allows for employees to be self-correcting by generating their record which lets them see how they are performing. Moving the administration of the system from Professional Standards to the Human Resources department was also seen as a positive message.

¹³⁸ Administrative Services Bureau, Phoenix Police Department, *Personnel Assessment System (PAS)* [2008]

Appendix 1 – Study tour report

The project team was able to successfully argue the case that PAS was a gateway system which brought together data which already existed, but now employees could access it and determine its accuracy. The electronic notification ‘data fix’ module in PAS allows employees to send a correction which leads to a review process to have data corrected within 24 hours. This has proved to be a very reassuring feature for employees.

PAS does not have an intervention threshold for every data set it collects, as some data collected is tracked but cannot be categorised as an indicator of “at risk” behaviour. One such example is off-duty work data. While there is an interest in recording it by the Department of Justice, there is no indication that it is a problem and the PPD’s Risk Management Unit does not set out-of-hours restrictions.

Whilst individual officers can access their personal data, supervisors may access the data of all of their employees. Executive staff have total system access.

Data is uploaded into the system every 24 hours but some of it is self-reporting and if an officer, for example, for some reason did not enter data on an event, then it is unlikely to be recorded. This means the ‘bad apples’ can cheat the system, particularly if they are in a rural area where they may be the only PPD officer.

A memorandum of understanding allows for data to be kept for five years. The only exception to this is the data on employee commendations, which is a popular feature. This was the only part of PAS that required the agency to input data and it took time for operators to be trained and to complete the work across twenty-seven different bureaux and precincts.

The PPD is finding that evaluating the success of PAS is a challenge, which seems to be a common problem across the country. Whilst there is a sense that EIS has a positive effect, it is proving difficult to demonstrate this statistically. One current PPD project is to look at whether there is a relationship between the number of interventions made under PAS and the number of complaints the agency receives.

PAS cost \$US475,000 excluding staff costs and this was funded through grants. There are now “off-the-shelf” EIS products that agencies can purchase that were not available when they were developing PAS.

The PPD conducts polygraph tests and background checks when recruiting officers. Recently, one of their officers was involved in a bar fight and the media asked why PAS had not identified them as an ‘at risk’ officer. When the officer’s PAS record was reviewed some items that looked, in retrospect, indicative of future misconduct did not trigger an intervention decision at the time. The perception can be that an early intervention system is a guarantee of preventing misconduct. This is not the case.

Not all interventions are generated by the system; rather some referrals are from supervisors, fellow employees or friends and family. PAS has an option which allows for self-referral and officers have used it to request help. In one case, following an officer’s locker room comments to colleagues that he was suicidal, he was referred by a fellow employee and counselling led to a positive outcome.

The extensive case management system in PAS is intended to ensure that employees receive the help they need. All levels of supervision are notified about each employee review and their reviews and responses are bound by timelines. Supervisors need,

therefore, to be trained in conducting a review, communicating and the like to deal with employees in need. The non-disciplinary process inherent in early intervention systems is a relatively new concept in policing and requires supervisors to develop or practise new skills.

Whilst some supervisors wait for a PAS notification before addressing employee behaviours, others are more proactive. The PAS supervisor training emphasises the system's role as a tool in identifying problem behaviours but that it is not a substitute for supervision. On average around 10% of a supervisor's time is spent on administration.

The PPD has not found any magic formula when it comes to setting an intervention threshold. The advice they received from Dr Sam Walker was to set thresholds based on available information, monitor them and then adjust accordingly. Every agency is different and trial and error is the only acknowledged way to develop indicators that are 'fit for purpose'.

Key findings:

- Buy-in from employees was vital to success.
- Focus groups and training were an important means of securing this acceptance.
- Employees have access to their own information and can request data correction.
- A memorandum of understanding allows for data to be kept for 5 years.
- Cost \$US475,000 excluding staff costs.
- The PPD are finding that evaluating the success of PAS is a challenge.
- PAS is not a guarantee against officer misconduct.
- Supervisor training emphasises that PAS is not a substitute for supervision.
- Supervisors have developed new skills as a result of PAS.
- On average around 10% of supervisors time is spent on administration.
- No magic formula when it comes to setting an intervention threshold.

Thursday 12 June 9.00 am

LOS ANGELES SHERIFF'S DEPARTMENT (LASD)

Profile

The LASD, the largest sheriff's department in the world, services Los Angeles County comprising 88 cities over 4,084 square miles. The LASD is divided into eleven divisions each of which is headed by a Division Chief. The Department operates as a subdivision of the state and provides numerous services including law enforcement, property assessment, tax collection, public health protection and public social services.

Participants:

Captain David Long, Head, Risk Management Bureau
Captain Steven Roller, Internal Crime Investigations Bureau
Captain Karyn Mannis, Head, Internal Affairs Bureau
Lieutenant Pat Hunter, Criminal Investigations

Notes of discussion

The LASD regards its EIS as both a risk management tool and a performance-enhancement program. It is not a disciplinary system. The major component of the EIS is the Personnel Performance Index (PPI), which was originally introduced to record information, which could then be used to defend police officers against lawsuits. The PPI has developed into a databased system, which tracks both good and bad behaviour. The system is transparent and officers get a copy of their PPI record at their annual performance evaluation¹³⁹ or can ask their unit commander for access to it. A unit commander can also look at the PPI of an incoming officer to see how they will fit into the unit or to review the performance of officers in the command.

The PPI can be a predictor for future behaviour and either help weed out officers whose behaviour makes them unsuitable for policing, or assist in retaining officers whose employment may have been terminated if their behaviour had been left unchecked. The Department has recently introduced an education program, triggered by policy violations recorded on the PPI tracking system, which educates employees about the consequences of negative behaviour.

The PPI identifies eight categories or ‘dimensions’ and establishes thresholds within those categories. Crossing a threshold triggers the next stage in the EIS: ‘profiling’. Profiling is necessary because thresholds are electronically generated and do not provide a context. For example, an apparent excessive number of use of force incidents may be explained by the area where the officer is working and there needs to be consideration of other factors such as whether the officer has been given directives by his superiors or has followed proper procedures. The LASD does not do peer group comparisons (i.e. comparing the performance of an employee with the performance of others undertaking similar duties).

Performance mentoring is the third stage in the EIS and commences if profiling indicates that an employee needs an intervention. The mentoring program is non-punitive and aims to prevent further bad behaviour. Mentoring is one-on-one and tailored to the particular employee’s problem behaviour. The mentor is required to write a regular report. This process is time-consuming but effective. The majority of LASD employees have made positive comments about the performance mentoring program in their exit interviews.

An employee is mentored over a mandatory two-year period. Eighteen months into the program, and if the progress of the mentored employee is satisfactory, the captain of their unit makes a presentation to a panel of three commanders who make the final decision on whether the employee exits the program. As well, the unit captain must conduct an exit interview to obtain the employee’s feedback on the program. On graduation, an employee is monitored for three more years, with particular attention given to the behaviour for which they originally entered the program. Currently 105¹⁴⁰ out of a total 16,000 LASD employees are in a mentoring program.

The success of the EIS depended on changing the prevailing culture of the organisation: deputies had to learn that EIS is not “big brother-style” oversight and supervisors had to

¹³⁹ Discussing the PPI with an employee at their evaluation is also a way to check the accuracy of the recorded data.

¹⁴⁰ Includes civilian employees

accept the responsibility the system entails. The LASD is currently encouraging peer reporting of problem behaviour. Employee support services are provided.

The LASD emphasised the need to:

- keep the system simple in the beginning;
- tailor the system to meet your own particular needs;
- convince line staff of the benefits of the program; and
- enter data in a timely manner.

The EIS was tailor-made for the LASD and originally audited by an external authority on a six-monthly basis. Fine-tuning of the system continues to take place.

Key findings:

- The EIS should be tailored to suit the needs of individual police services.
- The success of the EIS depends on educating officers about its purpose and supervisors about their responsibilities.
- Keep the system simple in the beginning.
- Data entry should be timely.

CONFERENCE REPORT – EARLY INTERVENTION SYSTEMS FOR POLICE: THE STATE OF THE ART

Material provided to the Committee delegation by the LASD included a report¹⁴¹ on a conference held in March 2008 to examine currently operating early intervention systems. The conference was attended by representatives from the Los Angeles Police Department, the Los Angeles Sheriff's Department, the Phoenix Police Department, the Charlotte-Mecklenburg (North Carolina) Police Department, and the Miami-Dade Police Department.

*Major findings and conclusions of the conference*¹⁴²:

- Enhanced police accountability
The capacity to identify and correct officers' problems is enhanced by EIS monitoring and first line supervisors are more accountable.
- No fundamental administrative flaws
There were problems with technical aspects of the systems, not with their concept or design.
- No opposition from unions
Initial suspicions that EIS might be a 'big brother' operation have been allayed.
- No one model recommended

¹⁴¹ *Early intervention systems for police: the state of the art*. Draft report of the conference hosted by the Los Angeles Police Department with the support of the Los Angeles Police Foundation, March 28, 2008, Los Angeles California.

¹⁴² Evidence was anecdotal. The report emphasised the need for research on the impact of EIS.

Appendix 1 – Study tour report

Variations included:

- * the number and nature of performance indicators
 - * the thresholds for identifying officers
 - * the frequency of assessments and reports
 - * use of peer group comparisons
 - * the inclusions of non-sworn personnel
 - * officer access to own EIS files.
- Potential for changing the organisational culture
- Some participants reported officers were showing a greater commitment to accountability. Supervisors were beginning to see EIS as an aid to doing their job. Some officers had referred fellow officers needing help, independent of the EIS.

Concerns and issues:

- No consensus on thresholds for identifying officers needing intervention
- The following approaches have been used to establish thresholds: absolute numbers; ratios; and peer-group comparisons. However there was general agreement that thresholds should be continually re-evaluated and fine-tuned. There was concern that some officers whose performance was satisfactory were being identified while others, who may need intervention, were not.
- Balancing effectiveness and efficiency
- There was concern that EIS was not utilizing enough of, or perhaps all, the right data; others were concerned about capturing more data than could be effectively used.
- Timeliness of data entry
- EIS places considerable demands on data systems and on the data entry process. Generation of monthly, rather than quarterly, reports could identify the lack of timely data. A quality control system may be required.
- Training
- All members of a department should fully understand the purpose and procedures of the EIS. Hands-on experience with the system has proven successful in overcoming officer fear and suspicion and employees should be encouraged to view an EIS as assisting them to improve their performance.
- Data retention
- Some departments retain data in perpetuity; others place limits on its retention.
- Need for in-service training for supervisors
- It is critical for the success of an EIS that supervisors fully understand all the available intervention tools.

Future needs:

- Independent evaluation of EIS effectiveness
- A number of approaches were suggested; however, it was recognised that complex methodologies would be necessary to control for all the relevant variables.

- Evaluating supervisors and departmental units through an EIS
Again, complex methodologies would be necessary.

Thursday 12 June 11.30am

LOS ANGELES POLICE DEPARTMENT OMBUDSMAN'S OFFICE

Profile

The Ombudsman Office was created in 1997 to assist the Department's risk management and wellness efforts. The purpose of the Ombudsman's Office is to prevent minor interpersonal conflicts from escalating into personnel complaints, grievances or lawsuits. The Ombudsman's Office is a resource for Department personnel seeking to resolve a myriad of personnel issues and disputes in a confidential and neutral environment. This is achieved by providing confidential third party neutral assistance through mediation and conciliation of disputes.

The professional staff of the Ombudsman's Office are trained as neutral third party facilitators and are committed to creating a positive work environment by providing feedback and assistance to employees while maintaining confidentiality for those who seek guidance in resolving conflicts in the workplace. The Ombudsman's Office will assist all employees with issues including, but not limited to, general concerns of harassment and discrimination, personality conflicts, difficult working conditions, interpersonal conflicts, as well as military and wellness issues.

The Ombudsman Officer exercises line command over the operations of the Ombudsman's Office including the Assistant and Associate Ombudsman Officers, the Wellness Coordinator, the Women's Coordinator, the Workplace Assessment Team and the Military Liaison Officer. In addition, the Ombudsman Officer advises the Director of the Office of Support Services and the Chief of Police of relevant trends and environmental issues negatively affecting the workplace¹⁴³.

Participant:

Lieutenant Wes Buhrmester, Workplace Assessment Team

Notes of Discussion

The operation of the Ombudsman's Office is a risk management tool that is complementary to Early Intervention Systems. Previously there was no informal means of addressing minor issues and disputes were addressed through a more adversarial 'complainant versus defendant' Personnel Department hearing process. That process could, in a simple case, require around 40 hours work.

The Ombudsman's Office provides a neutral and confidential conciliation service to both sworn and unsworn officers. Agreements are non-binding. The service is voluntary and the objective is to resolve grievances before they escalate into lawsuits or a more dysfunctional workplace.

¹⁴³ Los Angeles Police Department, *Ombudsman's Office*,
<http://www.lapdonline.org/search_results/content_basic_view/6494> accessed on 21 October 2008.

Supervisors or other managers are not notified that an employee has attended a session and there is no record of the sessions on the personnel files of employees. The Office discourages union representation at sessions because they would like employees to speak for themselves.

Cases are referred to the Office from both management and unions. The Office does not deal with serious allegations such as sexual harassment or fraud as these are properly matters for the disciplinary system. A typical complaint resolution might be resolving a problem between two divorced police officers having problems working with one another. Another typical dispute would be an employee's reaction to legitimate management processes, for example, their not being promoted in a recruitment exercise.

There are four sergeants and two civilians on the staff. A sound understanding of the police service is seen as a prerequisite for staff members and all are provided with mediation training. The Office currently deals with 10-12 cases a month but increased awareness of the service has seen the number of cases begin to rise.

There is no formal evaluation of the service but the Office contacts clients post-intervention seeking their view on the effectiveness of the reconciliation process. Typically, a one-hour dispute resolution conversation between the parties in dispute has avoided potential lawsuits.

Key findings:

- A risk management tool that is complementary to Early Intervention Systems.
- Agreements are non-binding.
- The objective is to resolve grievances in a conciliatory way before they escalate.

Thursday 12 June 12.30pm

OFFICE OF THE INSPECTOR GENERAL (OIG), LAPD

Profile

The OIG provides independent oversight of the Los Angeles Police Department (LAPD) and ensures that both the OIG's as well as the LAPD's responsibilities under the federal Consent Decree with the US Department of Justice are being met. In addition, the OIG conducts community outreach to educate the community about the OIG, the Police Commission (Commission), and the LAPD on a periodic basis, but especially in the wake of high-profile use of force incidents and other newsworthy developments of particular interest to the community. The OIG carries out its mission through three discrete sections: the Complaint, Audit Section, and Use of Force Sections¹⁴⁴.

¹⁴⁴ Office of the Inspector General Los Angeles Police Department, *Mission Statement*, <<http://www.lacity.org/oig/isgig1.htm>> accessed on 18 September 2008.

Participants:

Mr Andre Birotte Jr, Inspector General
Mr Django Sibley, Assistant Inspector General
Mr John Grosiddler, Police Performance Auditor
Ms Susan Hudson, Assistant Inspector General

Notes of Discussion

In 2001, the Federal Government entered into a Consent Decree¹⁴⁵ with the City of Los Angeles, which stipulated the implementation of an early intervention system in the LAPD. It was known as the Training Evaluation and Management System (TEAMS II).

The OIG is mandated to oversight and audit TEAMS II to assess and report on its efficacy. It has thirty two staff members including lawyers, policy analysts and former officers, providing the Office with a wide range of skills and experience.

TEAMS II established thirty one peer groups for some 9000 LAPD Officers. The rationale for the peer groups is a need to compare officers performing similar work. For example, an officer working in an anti-gang unit is interacting with the public and is likely to attract more complaints due to the difficult nature of that work than, for example, an officer performing an internal administrative role. Setting thresholds for intervention on the basis of the ratio of complaints received, use of force etc ensures that active officers are not penalised. It is important that the system does not act to discourage high-performing officers and to reward officers for not being proactive.

The OIG audits TEAMS II to assess whether it is functioning correctly, for example, by reviewing whether the 'action item' generated by the system correctly identified a vulnerable officer and the remedial intervention (such as training or counselling) that ensued. It will attend the scene of a shooting, death in custody and the like in its capacity as the complaint oversight agency and will check officers' TEAMS records when investigating whether any actions were 'out of policy'.

Vexatious complainants are an issue. For example, one citizen has filed 102 complaints and individual officers have even been known to sue complainants. Previously in the LAPD, having a complaint pending was a bar to promotion and this was used by some sections of the community in order to undermine officers.

The greatest current challenge for any early intervention system lies in getting the thresholds right for identifying an officer as being in need of intervention: for example, are five complaints too few, are eleven too many? In the first five months of 2008 the system generated approximately 2000 action notices for a force of around 9000 officers, representing a considerable demand on time and resources. Only by testing the system over a period of time can effective indicators be developed which do not falsely identify officers as being "at risk".

Assessing the effectiveness of TEAMS II at this early stage is difficult but the OIG does regard it as having a positive effect on managers. It gives them 'a sense of who they have in their shop' - a very important factor in an agency where staff move around a great deal.

¹⁴⁵ See footnote 4

Since the 2001 Consent Decree, crime rates in LA have been declining, which the OIG attributes in part to police officers doing their jobs. Thus there is scant evidence in LA that the introduction of an Early Intervention System has reduced the effectiveness of the police, as some critics claimed.

The cost of developing Early Intervention Systems is significant. Until the Consent Decree, there was no political will for this kind of outlay. Other US jurisdictions are now, however, looking at that experience and saying, “Let’s get ahead of the curve”.

An important factor to bear in mind when considering the costs of early intervention systems is its risk management role. Up-front investment has to be weighed against the potential costs to an agency in the event of lawsuits, loss of officers and loss of reputation should an incident occur which an EIS could have prevented.

TEAMS II was an expensive option because the LAPD developed it in-house rather than adapting an existing product. A number of contractors worked on particular parts of the project and they did not always liaise effectively with the agency or with one another.

Data has to be collected and processed properly so that it is meaningful when accessed as an indicator in the EIS. As some serious complaints can take up to 12 months to investigate, an early intervention system may only have access to partial data.

Involvement of the rank and file in developing the system leads to better outcomes. A problem with TEAMS II was that the contractors didn’t understand the processes for which they were developing software. This often resulted in a data entry process that was inconsistent with the information that would be gathered by officers at the scene of an incident. As one participant observed regarding the TEAMS II use of force indicator: “Whoever designed it never set foot in a police station”¹⁴⁶.

The OIG’s advice to other agencies that are looking to develop an early intervention system is to involve the major stakeholders in the process from the beginning and make sure that they understand its objectives. It is important to send out the message that this process will be managed properly. Any early intervention system is based on the best information held at inception but it should develop as more information becomes available on the effectiveness of the thresholds, peer groups etc. It is important that this developmental process is understood and allowed to happen.

Key findings:

- The OIG is mandated to oversight and audit TEAMS II.
- TEAMS II established 31 peer groups for around 9000 LAPD Officers.
- It is important that the system does not act as a disincentive to high-performing officers and reward officers for not being proactive.
- Only through testing the system over a period of time can effective indicators be developed which do not falsely identify officers as being ‘at risk’.
- Assessing the effectiveness of TEAMS II at this early stage is difficult.
- TEAMS II gives managers “a sense of who they have in their shop”.

¹⁴⁶ Interview with Mr Andre Birotte Jr, Inspector General, 12 June 2008

- Involving the rank and file officer in developing the nuts and bolts of the system leads to better outcomes – contactors don't necessarily understand the processes.
- Involve the major stakeholders in the process at an early stage and make sure that they understand its objectives and that the system will develop over time.

Thursday 12 June 3.00 pm

POLICE ASSESSMENT RESOURCE CENTRE (PARC)

Profile

PARC is a non-profit organization that conducts projects in the United States of America and abroad to assist government officials and others seeking to institute policing and law enforcement oversight reforms. The organisation has conducted a number of projects that have focused on assessing and strengthening citizen oversight agencies and have reviewing early warning systems.

Participant:

Mr Merrick Bobb, Executive Director

Notes of Discussion

Merrick Bobb considers the LAPD, LASD and Phoenix Early Intervention systems as being amongst the best in North America.

The LAPD's early intervention system was a recommendation of the Christopher Commission, which conducted an examination of the structure and operations of the LAPD in the wake of the beating of Rodney King by LAPD officers in 1991.

The Commission found that the LAPD had no way of identifying officers who were using excessive force and recommended they implement a computerised tracking system to intervene and turn problem officers around before their behaviours escalated. Mr Bobb served as a legal officer on the Commission's staff and assesses that, at that time, forty four officers were causing 50% of the LAPD's problems.

When the Rampart scandal occurred in 1999 it became apparent that the LAPD had not implemented an early intervention system and the US Department of Justice invoked its powers to intervene in agencies engaging in unconstitutional practices. In 2001 the City of Los Angeles entered into a Consent Decree with the DOJ. The decree is wide-ranging and detailed and includes the mandatory implementation of an early warning system and changes to internal investigation procedures.

The decree was due to expire in 2006 but was extended because the LAPD had failed to meet its requirements. The LAPD's early intervention system known as TEAMS II (Training Evaluation and Management System) is now implemented and functioning but Mr Bobb did not consider that a performance evaluation could currently be undertaken.

Mr Bobb feels the LAPD “chafes” under the Consent Decree and the unions are very unhappy about the requirement that narcotics officers make financial disclosures, as they see this as a presumption of guilt. Mr Bobb is not sympathetic with this viewpoint as, although there are questions over the effectiveness of disclosures as an indicator, it can have a deterrent effect.

At around the time of the beating of Rodney King, the LASD were experiencing similar issues and resolved to implement an Early Intervention System. Mr Bobb conducted a series of research interviews with managers across the department and asked them what indicators could be used to successfully identify officers ‘at risk’. Indicators such as use of force, complaints and internal affairs investigations were identified through this process and these were incorporated into a relational EIS database.

The database provided the means by which officers were identified and an internal committee was established to determine what intervention was required. The membership of the committee consisted of precinct captains, psychologists, union representatives and lawyers with experience of labour laws. Their intervention recommendations included providing officers with anger management counselling, further training on the appropriate use of force or developing their communication skills.

In general, Early Intervention Systems provide a means by which managers can hold their station captains responsible as the statistics generated by the system show, for example, which precincts have higher ratios of complaints etc. This provides the station captains the data they need to identify ‘at risk’ officers and provide non-disciplinary means to resolve problematic behaviours.

Mr Bobb regards union concerns that early intervention systems make officers fearful and less productive as ‘urban myths’. Other concerns about the uses the data could be put to are more understandable; for example, using the data to inform decisions about promoting officers or selection for special duties. These issues can be the subject of heated negotiations between the unions and management, particularly in regard to using unsubstantiated complaints data.

Business rules are essential for determining access to the data that Early Intervention Systems provide. In the LASD officers can access their data and seek to have incorrect data amended. A captain or lieutenant at a precinct station may access the records of their subordinates for as long as those individuals are under their command and regional commanders have access to the data of those officers in their region. In the LASD, only senior executives have access to all of the data on the Early Intervention Systems.

One of the critical issues in Mr Bobb’s view is data retention: whether the data should be kept for five or ten years, the term of employment for that officer, or in perpetuity. He advocates a long period of time in order to ensure problem officers cannot leave one employer and join another without their records being available to the new employer.

PARC has evaluated the effectiveness of Early Intervention Systems in Los Angeles and has concluded that they have reduced the number of lawsuits against the City and the amount of damages paid out to citizens. There has also been a reduction in the severity of allegations made against the City’s police officers. However, there is a recognised risk that

greater publicity about Early Intervention Systems could promote an increase in the number of vexatious complainants but there may be methods of blocking this effect.

It is Mr Bobb's view that Early Intervention Systems could be an effective tool in identifying officers 'at risk' of corruption, which he regards as a more prevalent form of officer misconduct in Australia, than excessive use of force.

Key findings:

- Early intervention systems provide a means by which managers can hold their station captains responsible.
- Union concerns that early intervention systems make officers fearful and less productive are 'urban myths'.
- There are understandable concerns about the uses EIS data can be put to and therefore business rules are essential for determining access.
- Data retention is a critical issue; a longer retention is preferable.
- PARC has assessed that EIS has reduced the number of law suits against the City and the amount of damages paid out to citizens.
- Early intervention systems could be an effective tool in identifying officers 'at risk' of corruption.

Friday 13 June 9.00 am

LOS ANGELES POLICE DEPARTMENT (LAPD)

Profile

The LAPD serves a population of over 4 million and patrols an area of over 468 square miles. It employs over 9,700 sworn officers and 3,200 civilian officers. The LAPD is the fifth largest law enforcement agency in the United States of America, comprising 19 stations or divisions. The LAPD have a number of specialised units including SWAT; Mounted; Special Operations Support Division; Air Support Division; Art Theft Detail and K-9 Unit. In 1991 the LAPD were the centre of controversy over police brutality against African-Americans. Four police officers were acquitted of using excessive force against Rodney King, sparking the 1992 Los Angeles race riots. The LAPD is overviewed by the Los Angeles Board of Police Commissioners.

Participants:

Ms Maggie Goodrich, Police Administrator III, Commanding Officer, TEAMS II Development Bureau

Sergeant Jennifer Thomas, Commander's Aide, LAPD Training Group

Notes of Discussion

An early identification system for the LAPD was a recommendation of the Christopher Commission, which conducted an examination of the structure and operations of the LAPD in the wake of the beating of Rodney King by LAPD officers in 1991.

The implementation of the Training Evaluation and Management System (TEAMS) was intended to identify and address the problem behaviours amongst police officers that the Commission had identified as being at the heart of the agency's difficulties. However, in 1996 a report to the Los Angeles Police Commission found the TEAMS system to be inadequate and federal funding was provided for an enhanced system known as TEAMS II¹⁴⁷.

In 1999 the Rampart scandal demonstrated the LAPD's shortcomings in regard to its failure to implement either TEAMS II or the recommendations of the Christopher Commission¹⁴⁸. This prompted a civil investigation by the US Department of Justice (DOJ) into allegations of misconduct involving the LAPD. The Department of Justice found that there was a pattern or practice of excessive force, false arrests and unreasonable searches and seizures in violation of the constitution.

The Department determined that the LAPD had failed to supervise officers properly because it had not identified and responded to patterns of at-risk behaviour. In 2001, the City of Los Angeles entered into a Consent Decree with the DOJ that mandated the implementation of an 'early warning system'. Thus the LAPD's system differs from other agencies that have voluntarily introduced EIS, because the LAPD must achieve certain outcomes in order to avoid the Federal Government taking civil court action against it.

The early intervention element within TEAMS II is called the Risk Management Information System or RMIS.

The LAPD enters a range of employee information into their central database on a daily basis and feeds the RMIS overnight with data from fourteen specific sources. Once an employee has a 'triggering event', such as a 'use of force' incident or a complaint, the system compares them to their peer group and determines whether or not they are deviating from the average.

The peer groups were developed with the assistance of North West University and are established on the basis of factors such as geographical location and duties performed. The purpose is therefore to make useful comparisons between officers who are doing similar work, in order to identify those who deviate from the average. Thus an officer performing an administrative role or those based in a rural area with a low crime rate would not have their use of force or complaints data compared to narcotics officers or patrol officers in an area with a high crime rate.

It is the officer's ratio of traffic collisions, lawsuits etc that is taken into account when making comparisons rather than the total number; this is intended to avoid penalising the exemplary officer. For example, an officer who has made one hundred arrests and received two complaints may not be identified because the ratio is acceptable for their peer group, whereas, another officer who has made four arrests and received two complaints may be identified.

¹⁴⁷ Samuel Walker, *The new world of police accountability*, Sage, California., 2005, p.130.

¹⁴⁸ The Rampart scandal refers to corruption in the LAPD's anti-gang unit, the Rampart Division, in the late 1990s. Following an internal investigation by the LAPD, officers in the unit were implicated in misconduct ranging from unprovoked shootings to perjury.

Once an officer is identified by the system as deviating from the average, then their supervisor is immediately notified that there is an 'action item' which they must review. Notices are also generated for the next tier in the management structure in order to ensure a further degree of oversight.

There may be a determination that no further action is required or a recommendation for an intervention such as the officer receiving further training or counselling. In some instances an officer could be commended for their exceptional performance. Currently the LAPD do not monitor their officers following an intervention.

Meaningful evaluation of the system has proved elusive. One approach has been to look at the conduct of officers 180 days before and 180 after an intervention to establish whether there has been a behavioural change. A positive outcome should be fewer "at risk" behaviours post-intervention though it is difficult to attribute this to the intervention as other factors, such as lower productivity, could also bring about this result.

A second approach to evaluating the system has been to test the indicators (e.g. complaints, use of force) against dismissed officers. It was found that over half of those officers dismissed in 2007 would have been identified as individuals whose behaviour required intervention, if the indicators had been applied.

The number of 'false positives', i.e. those officers who are being wrongly identified as demonstrating problem behaviours, is proving a cause for concern. Over 80% of the 'action items' have resulted in a recommendation for no further action and there is a concern that the peer group definitions are too restrictive, resulting in almost any event, such as a single use of force incident, triggering an 'action item'.

The system has struggled to win over rank and file officers because of the stigma attached to it, due to its introduction through a Consent Decree. A further issue has been ongoing concerns on the part of the Los Angeles Police Protective League, the union which represents LAPD officers. The League is concerned about the Consent Decree requirement for mandatory financial disclosure and is contesting this in court.

TEAMS II is resource intensive and likely to continue to be so. The initial funding of \$US11 million was spent over five years and the annual running costs are \$US1 million. No cost benefit analysis of the system has been conducted to date.

Key findings:

- Intervention thresholds are dependent on peer group ratios.
- Currently the high number of 'false positives' is a concern.
- Evaluation of the effectiveness of TEAMS II is proving difficult but work is ongoing.
- Currently the LAPD do not monitor their officers following an intervention.
- The set up costs were \$US11 million with \$1 million running costs p.a.
- The LAPD's system was mandated by law; consequently this stigmatises it in the eyes of some officers.

Appendix 2 – List of submissions

Submission No	Organisation
1	Police Integrity Commission
2	Western Australia Police
3	NSW Ombudsman
4	NSW Police Force
5	New Zealand Police
6	Police Association of New South Wales

Appendix 3 – List of witnesses

Public hearing held on Wednesday 19 November 2008	Witnesses	Organisation
	Mr John Pritchard, Commissioner Mr Alan Kearney, Director Prevention and Information	Police Integrity Commission
	Mr Bruce Barbour, Ombudsman Mr Greg Andrews, Assistant Ombudsman, Police Division	NSW Ombudsman
	Mr Peter Remfrey, Secretary Mr Phil Tunchon, Assistant Secretary Legal	Police Association of NSW
	A/Deputy Commissioner, Paul Carey A/Assistant Commissioner, Karen McCarthy	NSW Police Force

Appendix 4 – Transcript of proceedings

NOTE: The proceedings took place on Wednesday 19th November 2008 at Parliament House, Macquarie Street, Sydney.

JOHN WILLIAM PRITCHARD, Commissioner, Police Integrity Commission, Level 3/111 Elizabeth Street, Sydney and

ALLAN KEARNEY, Director Prevention and Information, Police Integrity Commission, Level 3/111 Elizabeth Street, Sydney affirmed and examined:

CHAIR: Thank you very much for appearing before the Committee and the Committee is very keen to hear your evidence today.

I am advised that you have been issued with a copy of the Committee's terms and references and also a copy of the Legislative Assembly Standing Orders 291, 292 and 293 that relate to the examination of witnesses. Is that correct?

Mr PRITCHARD: Yes, that is correct.

CHAIR: Is it your desire for your submission to be part of your formal evidence?

Mr PRITCHARD: I have no problem with our submission being made a public exhibit.

CHAIR: Do you have any objections to taking further questions on notice?

Mr PRITCHARD: I am more than happy to take questions on notice.

CHAIR: What are the particular benefits of implementing the early intervention system as distinct to the NSW Police current strategies to address the problems of behaviour and reduce corruption?

Mr PRITCHARD: Well, I think there are a number of benefits in particular that derive from particularly an early intervention system. One of those, of course, is as a prevention tool, to correct behaviour of officers before it becomes something more full blown, as it were, and something more serious, and therefore, may require something in the way of disciplinary action to be taken.

So to that extent it is seen as remedial as opposed to punitive and officers are an asset for the NSW Police Force. The NSW Police Force invests a lot of money, training and time in an officer, so there is an obligation on the Force as an employer to ensure that it does everything it can to assist any officer who might be having some problems – is the best way of putting it – and retains those officers because, as I said, they are important assets and any attempt to stop leakage or departure of officers from the Force is to be encouraged.

That is one of the underpinning philosophies of an EIS system and it is also, as I said, important from the officers' point of view as well, and the Force as a whole. It encourages morale, it is a co-operative system. It is a supportive system. As I said, it is not seen as a

punishment, it is remedial, meant to correct behaviour before it does flow into something else more significant

Some of the American literature, which you may be aware of also, I suppose it comes from the peculiar American perspective of looking at reducing costs for the organisation. There are various aspects of that – some of them I have referred to as officers being seen as assets of the Force.

Some of the American literature refers to reduction in liability costs, exposure to liability claims and things of that nature from members of the community for some of the behaviour that may result in action of that kind being taken.

The two other essential elements which are part of any sort of prevention tool are that it does improve accountability within the organisation, particularly supervisory accountability given the important relationship that an EIS has between the supervising officer and the officer concerned, and that is an important responsibility that the Police Force should be interested in, in terms of making supervisors accountable for those officers that come under their supervisory jurisdiction.

But it is also transparent. A large part of the EIS is all the information, the indicators and so on, that everybody is aware of how they will be treated, what systems will be used, what information will be used. So no-one is left in the dark and, as we all know from a prevention point of view, transparency is very important in fostering and building corruption resistance within an organisation, and also, instilling within the public confidence that something is being done about problem behaviour before it turns into something more full blown.

It is a system-wide, organisation-wide process. It is at least a consistent framework of identifying and managing behaviour and giving some sort of uniformity, which is always a benefit or certainly a hallmark of any effective prevention, so that there is not select enforcement of measures to correct behaviour so that one officer does not get treated differently to another. It does have that sort of uniformity, that consistency of framework about it, which allows for some sort of certainty, which helps to again instil some confidence amongst the officers themselves.

CHAIR: On page 4 of the submission from the Commission it states that an effective project planning and management regime will be essential if the early intervention system is to be implemented successfully. How do you assess the progress of the NSW Police Force in developing that regime?

Mr PRITCHARD: I might defer to Mr Kearney in terms of the details. Mr Kearney is the Commission's representative on the working group steering committee at the moment.

I think it is fair to say, and it is not earth shattering to acknowledge, that the Police Force's commitment to the EIS and where it is at the moment, it has been a difficult birth – if I can put it that way – slow perhaps, not as timely as it could have been. There have been some false steps along the way with different sorts of concepts with the officer risk assessment, early warning systems, things of that nature, but Mr Kearney may be in a better position to assist with detail.

I think generally the signs at the moment are good, they are positive, they are on the right track. There certainly appears to be a commitment to it and at the highest levels. I do not think that there is any doubt that you cannot have an EIS that would not have the support of the executive team and a commitment to doing it, because these are somewhat nebulous concepts I suppose, and you can well understand that the general duties officer out in the suburbs or in a regional area reading this sort of material and learning about these sorts of things, and experience from other jurisdictions suggests that there is a general reluctance or hesitancy about taking on or getting involved in systems of this kind – red tape, paperwork, more procedure, things of that nature, so the fact that there is commitment from the Commission's executive team is very important.

With regard to any further detail, as I said, Mr Kearney might be in a better position to drill down, as it were, a bit more as to where the current position is.

Mr KEARNEY: I think as Mr Pritchard mentioned, there have been some impediments along the way. It has been a quite lengthy process to date.

We were distracted during 2005 following a police decision to set aside the EIS, or early warning system, EWS as it was at the time, in favour of the officer risk assessment, or ORA, and we were also labouring under an absence of a systematic project planning and management approach.

However, following in November 2007, NSW Police secured executive endorsement for the project by the Commission's executive team. The Commission considered that a critical first step in moving the project ahead.

Since then, a dedicated project manager has been allocated to the project and the EIS has achieved some steady progress. A project plan has been developed, including quite detailed work breakdown structures - those packages of work that need to be done in order to estimate, cost and resource the project - and the conduct of an extensive literature review to inform the development of indicators, the conduct of a workshop with internal and external stakeholders, again, to assist in the development of indicators. The EIS has also been assisted by the involvement of academic institutions.

The current situation is that broad data sets have been identified. A very detailed requirements document has been endorsed internally by the steering committee - this requirements document canvasses the data that will be examined, it canvasses policies to be developed, procedures and training that need to follow - and the project team is currently working with the NSW BTS, their IT area, to develop a means to access the necessary data. Firstly, to see what the data can tell them about the probable character of some of the indicators, and also to determine the best approach to the system development. The system might be an off the shelf purchase, an in-house development or it might leverage off existing technology.

This last area is a particular priority for it determines the approach to the overall project.

CHAIR: You see the main challenges for the NSW Police Force and external stakeholders in developing appropriate structure and the biggest challenge is actually implementation, as Mr Pritchard said, down to the grass roots level.

Mr KEARNEY: I think the biggest challenges are in maintaining the executive commitment and maintaining resources and a project management approach in the conduct of the project.

If you have executive commitment, if you follow a well established project management approach, then ultimately all other problems can be dealt with.

It is probably an area I do not want to dwell on too much, but budget will be an issue for NSW Police and something which will have to be addressed in the near future. That probably presents as a significant challenge at this time.

The Hon. CHARLIE LYNN: Is this considered to be frontline activity or the other activity in regard to budgeting?

Mr PRITCHARD: Sorry, you mean in terms of commitment?

The Hon. CHARLIE LYNN: Well, there is a lot of talk within Parliament, we hear that frontline services will not be affected by any budget cuts. Is this a frontline service?

Mr PRITCHARD: Commissioner Scipione is probably the best person to answer that, but I certainly would see it that way. I mean, it is dealing with officers who are front line, sworn officers are frontline. Without sort of being aware of what the definition of frontline is in terms of how Treasury approaches that, but I think there is a very strong case to see it as frontline.

Mr KEARNEY: If I could perhaps elaborate. This is about retaining NSW Police officers and about addressing problematic behaviour before it becomes significant. It reduces overall costs to the organisation.

The idea is to prevent police officers attracting complaints, prevent police officers from engaging in misconduct. Ultimately that will have a flow on effect to frontline services.

The Hon. CHARLIE LYNN: It seemed to me that complaints come from all sorts of different sources, vexatious complaints, unsubstantiated and so forth. Some of them are quite innocent, whether seeking information or giving information. In one case study where they realised that, they then reported it and stated they may have had a conflict of interest and so forth.

Is there a system in the system whereby they record every action they take in regard to a reaction? For example, they contacted A and made a statement to A and this is the response recorded as a form of diary I suppose, electronic diary.

Mr KEARNEY: The police have quite detailed record keeping systems. COPS – the computer operated policing system – there is the complaints system, there is the case management system – these all have acronyms, which I will not trouble you with.

They all record the operational dealings of NSW Police. There is quite a vast array of data available within NSW Police systems.

The Hon. CHARLIE LYNN: It would seem to me that there is a lot of paperwork and a lot of reading and some would read it in more detail than others. What about the

reinforcement of the training for, particularly, this sort of information?

Mr PRITCHARD: That is obviously another important limb to it, that you do have to give training across the board, not only to those who have to be responsible for implementing it but those who are going to be subject to it as well. There is no doubt what you pick up on is a relevant factor. The whole idea is not to try to create another level of information that needs to be caught, but to use information that has already been captured for other reasons, for operational reasons, legislative reasons, what have you. The whole idea is to put an overarching program over the top of that to say in terms of indicators or terms of information relevant for an EIS, from the information that you already capture this is what we would like you to pull out.

In terms of pitching it to the police force it sounds a bit onerous but it does not necessarily mean creation of another layer of information gathering and all the bureaucracy that goes with that. It is a matter of working out systems to pick out information you are already collecting, but training is one of the areas where there is some commitment and that will take some time because, as I have said, you can imagine the general duties officer out in the suburbs or elsewhere, getting his head around these sorts of concepts and not thinking this is just another layer of red tape that is going to weigh me down, take me away from my front line duties, keep me stuck at a desk, and things like that.

That sort of reaction is going to be very important in any initial stages to try to address those concerns and suggests that it may involve a little extra work but there may be ways to cut down extra paperwork so it does not add an extra burden to the point where it might scare people off altogether from having anything to do with it.

The Hon. CHARLIE LYNN: The emphasis being on early intervention, if the early intervention for the divulgence of confidential information becomes a value for them, a very important value in regard to the integrity of policing, because later on, and I would say the divulgence of information in regard to maybe drugs or people under investigation, that is really serious stuff and that undermines the value of the policing in general so I would see here, going back to this question here where it is said the New South Wales Police Force when they discontinued work on the early warning system and implemented a separate process, the officer risk assessment 2005, which was contrary to your advice, does the early warning system they have now satisfy you?

Mr KEARNEY: Yes. The ORA system relied on a set of indicators that were not proven. It was a bit of a grab bag of whatever data and indicators were available at the time. The issue that we had with it was that there wasn't any research or evidence to back up the use of those indicators and that data as a means of indicating future problematic behaviour.

We are at a different place now. The system that is being developed by New South Wales Police is now fundamentally underpinned by research. New South Wales Police are now moving towards researching their own data to see what that tells them about what should and should not be an indicator and the whole project is now being managed in accordance with an established project management framework. We are a lot more confident that we will get to a successful outcome here than we have ever been.

CHAIR: Performance indicators are regarded as critical elements in the EIS. What, in your view, are the appropriate indicators and how do you think that the police are placed to deliver and maintain this in regards to what you have just said?

Mr KEARNEY: We do not have a view as to what particular indicators should be. We know what other agencies use. We know that other agencies' indicators won't

necessarily be appropriate for New South Wales Police. Different issues affect each jurisdiction. For example, in America, use of firearms can be an indicator of problems. However, use of firearms in Australia is not such a big issue for our police. We cannot necessarily transplant what another agency is doing here. New South Wales Police has to learn from its own experience and from its own data.

There are a number of methodologies they can use to explore that data and use research to come up with some evidence based indicators but we do not have a fixed view as to what those indicators may be. We have a fixed view about the process that should be used in order to get there.

Ms SYLVIA HALE: How long will it take you to develop those indicators?

Mr KEARNEY: It depends on the resources allocated to it and police are stretched like all public sector agencies at the moment. I expect it is going to take a little longer than it might have done at a different time.

Mr PRITCHARD: The important thing is that it is an evolving process. Some of the examples from the US experience have been that what you learn initially you feed into subsequent development of the indicators, so to suggest that they will get it right the first time is probably not realistic and that is not necessarily a bad thing. There is no doubt that there is an instant attraction about things like complaint figures. That is a broad church, complaint figures, sustained, not sustained, what sort of complaints, what sort of behaviours are the subject of complaints.

While there is an initial attraction about them, in that they do have some appeal about suggesting if an officer has a high level of complaints that might suggest they are at risk but that do not necessarily follow. As Mr Kearney said, you do have to put a bit of science around it, a bit of architecture around it to think if you are going to look at complaints, what sort of complaints, sustained, not sustained. If you are going to look at use of force, what sort of circumstances, car accidents, vehicles, while there are those broad general sorts of areas, to dig deeper and say what are they going to tell us, that is where the effort at the moment is going to be in putting some research behind those to come up with some worthwhile indicators.

There is no doubt that the indicators are the major plank. They are the limb to how this will succeed but I would expect certainly from the American experience that early on there will be some refinement of those as the process goes along.

Mr PEARCE: I do not think there is any real dispute as to the objective here of getting in early in the piece and, if you like, achieving cultural change within force that is necessary to minimise the opportunities or the risk of individual officers going off the rails. I assume that you will be looking at integrating this into the training or beefing up the initial training down at Goulburn or whatever. The one concern I have about this sort of management type indicator type approach which is being discussed here is that I have seen this in other areas where it simply becomes a box ticking exercise so, in a sense, you tick the boxes and that therefore relieves management or whoever of a potential liability in the future, rather than actually achieving a cultural change amongst the officers you are talking about.

Without the support of senior officers and obviously bringing the general duties officers on board, how do you avoid that sort of circumstance developing, in which case it just becomes a box ticking exercise and you achieve zilch at the end of the day apart from possibly protecting yourselves from a liability action in court?

Mr PRITCHARD: I suppose you are right. It would, effectively, in many respects, be seen as a desk audit, if you like, and that is why it combines the two elements of a central coordination of it in terms of collection of information, but the actual implementation of the intervention has to come in at a local level so that you do not have the distance between those officers out there in the field who have to carry this out and the central command where maybe the information or the triggers are kept, so you do have to balance the sort of local level with the central level.

There will have to be a commitment at all levels of supervision for it to be translated and to trickle down at the local level, otherwise that is what it will turn into, particularly for regional areas.

Mr PEARCE: I was about to get on to that. When you are talking about the local level you are then talking to some extent about the concept of community policing where there are practices which may not necessarily tick the box but because of the individual community they are working in and the necessity to establish some form of intelligence gathering, or relationship with that individual community, how do you ensure that you do not have, if you like, somebody sitting there ticking the boxes and saying you have not ticked this box, what is happening here, and taking into account the community policing approach which, from my experience, if it is done well can be extremely effective but does not necessarily result in every box being ticked.

Mr PRITCHARD: No. Again, I can only say that there has to be a commitment to an emphasis at the local level so that even if something centrally is clicked and a box is ticked and a trigger is reached which says officer X out at Coonamble has met these criteria, that alone is not sufficient. You then have what the literature refers to as the human validation by going out to the supervisor and saying look, the triggers have been set off in relation to this officer, but part of the proposal is before we actually rush in now and do some intervention, your involvement, your input now has to come into it because it does have to take into account the peculiar circumstances, not only in relation to regions but commands.

The police force is not a homogenous body. Different officers exercise different powers and functions, counter-terrorism, dog squad, all of those sorts of things, so if you have one size fits all it will not work. The answer to that is to try to address it by saying all right, there is the trigger and now we have to go out to the local area and get down to that level of the supervisor and the officer and saying to the supervisor does this confirm your observations and understanding of that officer and then you might move to the intervention stage.

The end part is monitoring it. You have to follow it up with monitoring. You can intervene but then it has to be monitored. That is probably again where there will be a test of commitment.

Mr KERR: You mentioned the budget, Mr Kearney. How big do you see the budget being?

Mr KEARNEY: I really cannot provide that advice. I do not know.

Mr KERR: Would it be millions of dollars?

Mr KEARNEY: I would not think so, but I really have no figures available to me at all.

The Hon. LYNDIA VOLTZ: How is the efficacy of the system going to be evaluated given what you have said about overseas experience and other jurisdictions? Are you looking at their evaluation methods?

Mr PRITCHARD: Like most prevention tools evaluation is always flakey, if I can put it that way. It is not easy to evaluate how successful you have been in preventing something that has not happened.

The Hon. LYNDIA VOLTZ: If it has not happened it is very successful.

Mr PRITCHARD: That is right. You can rely on the negative, I suppose. To that extent you can only learn from the experience in other jurisdictions where they have surveyed those involved regularly in relation to how they have considered it, how successful they have been and no doubt facts and statistics in relation to how many triggers have been sent off, compared with how many interventions have been required, so there is statistical data. I would have thought that similarly with evaluating any prevention tool that some sort of survey or valuation from those directly involved would have to be a central plank to that.

It would be no different from those tools that are used to evaluate any sort of prevention program. I think you will see from some of the literature in the United States that they have refined their processes as a result of a constant evaluation of it. Some of those statistics in the Phoenix area suggest that there was a high number of officers identified for an intervention but when compared with the actual figures where intervention was taken, there was quite a drop and they appear to have stabilised a bit.

There does appear to be some learning as you go along, as it were. There is no easy answer to that. There is certainly no program available that I am aware of that allows some prevention program to be measured and so on and here is your result.

Ms SYLVIA HALE: I imagine for the police officers on the ground, that they could well view the system as another form of punishment or punitive system and I think that you suggest that to counteract that there is a great need for transparency. Transparent to whom and how would you make it transparent?

Mr PRITCHARD: I think most importantly it is transparent to those who are going to be subject to it, in that the officers who are, I suppose not only responsible for implementing it, but who will be the subject of it, they need to know, if only to have some consistency in decision making.

They need to know when it will be that their behaviour might attract attention, and they need to know that it is going to be across the board. They need to be aware of what the indicators are, what the thresholds are, at what point those indicators will be relevant and they need to know the process that will be applied by the supervisor as regards to any intervention.

Whether you go further as say, some of the American jurisdictions, where there is public participation by way of a member of the public on the boards and the bodies that are put together that actually review or monitor it is a different matter, but I would have thought from a transparency point of view, it is very important to begin with that the actual officers who are going to be responsible for not only carrying it out but they are going to be subject to it, to know exactly everything.

I think some of the American literature refers to the officers having a 'read only' access to their own individual files, as it were, or information that is gathered in relation to them and they can see that daily and see how they are travelling.

They can measure that against standards that are available for everybody to see and which apply to everybody else.

That is probably where we would be looking at, at the moment.

Ms SYLVIA HALE: If an officer has access to it, can read it but not edit it in any way. Will there be any appeal process or any way in which they can respond to information that is there, if they genuinely believe, for example, that complaints were unfounded?

Mr KEARNEY: Those sorts of decisions need to be made as part of the development of the policy associated with the EIS. I think you may well have heard of the Phoenix police and the example there.

They do provide access to their officers, read only access, so they can see where they sit in respect to each of the thresholds and also where the average police officer sits. So they can compare themselves to the average officer.

Through that access they are able to correct any errors that might occur, so a further check on the accuracy of the system, Phoenix are finding that they do in fact report those errors. They are also finding that, as officers are approaching the thresholds, they are also self referring. So they are bringing themselves to attention and raising the issue of possible intervention.

Ms SYLVIA HALE: Would self referring be a tick, whereas non-self referring would be a black mark? Could that construction be placed upon it?

Mr KEARNEY: The indicators are complex beasts. That may happen. That may influence an indicator, but I really could not tell you.

Mr PEARCE: I can see the way this would operate with local area commands, with general duties police and obviously with detectives, etcetera within the command. How would this work without an external oversight body when you are talking about specialist squads?

Historically in New South Wales we have had squads such as Special Branch, the Vice Squad in the late sixties, early seventies, etcetera, where there has been an entrenched process which would be viewed as unacceptable and was viewed as unacceptable in the Royal Commissions and judicial enquiries.

How would those squads, where you get a culture within those squads, and you can see it now allegedly in a couple of the Victorian Police specialist squads. How would that be able to be, if you like, intervened with to prevent the officers at risk without an external body functionally?

Mr PRITCHARD: I suppose this is where there might become an issue that the EIS is not meant to be seen as a panacea for every unsavoury aspect of policing within the police force.

The answer to your question may be that it does not deal with that and that there have to be other provisions in place to deal with those sort of things, and that is where this body itself would come into play there.

To the extent that that sort of behaviour that you indicated manifests itself, then I think it would be fair to say that an EIS is not really meant to address that. It might be meant to stop it occurring, but when it does you are no longer in the EIS stream, you might be moving to full disciplinary oversight regime. So to that extent maybe the EIS is not the answer.

Mr PEARCE: The reason I raise that is that some years ago the specialist squads were disbanded, partly because of cultural issues that were developing within those squads.

From a policing perspective, the existence of those specialist squads is quite often the most effective and efficient way to deal with specific crime areas.

In a way, if you are going to look at the efficacy of the policing, you have somehow got to get something that goes in there and this is where I see the role of an external body.

There was a question regarding the external boards, and that is following on from what Sylvia said about the external boards. Would you see a value in an external auditing process, if you like?

Mr PRITCHARD: I suppose to a large extent that would be a necessary part of evaluating it. I don't know whether they have got that far yet. The answer probably is that they have not in relation to the model that they have had in mind of what the specifics of any monitoring or valuation of it would be.

Going down the American track, I think some of the jurisdictions have that board with community representation. I would be surprised if that was the direction that was taken here. Is that a good thing or a bad thing? I don't think it really matters one way or the other.

It comes back to the fact, this is not the silver bullet even as a prevention tool within the NSW Police Force, so to suggest that this would replace every other measure or tool that they have in place in that respect is wrong. It is just going to be one of a suite of provisions available.

You would probably have to fall back on those arrangements that are already in place to deal with that sort of behaviour and it is not meant to substitute for that. I think that is probably the answer.

Mr PEARCE: Leading from that, then how do you ensure that the police officers involved do not simply see it as another piece of red tape?

Mr PRITCHARD: That is a concern; that is a fear. Experience from some of the American jurisdictions certainly suggests that that is an initial reaction and there is some pessimism, there is some reluctance. Certainly when I started to get into it that was the reaction that I had.

It is just another layer of bureaucracy, another layer of control, another layer of oversight, fighting crime with one hand tied behind my back, that sort of thing. Refuting that

and addressing that is going to be difficult because there is no doubt that it requires the co-operation and input of the officers for it to work and if that is not dealt with early, then it could create problems.

I think the only way you can really do it is to try the carrot first as opposed to the stick and say, look, there are benefits in this for individual officers, for you. You may not appreciate or have an insight into the fact that your behaviour is such that it could lead to other things.

I would anticipate that this sort of system is probably going to be picking up officers who are less experienced, junior officers. History and experience suggests that officers do not go bad overnight and that it is probably the junior, younger, less experienced officers where this will start to come into play.

If you can get them on board early and pitch it to them: it's not in your interests to have a stalled career, to have a bit of a cloud over you in some respects and if you can deal with that early and use examples of success stories and so on. I suppose there are various options that can be implemented, but you are right, that is a problem which will have to be addressed early and in a very concerted way.

CHAIR: Is it your view that you are going to oversee what is occurring in regards to the implementation of the EIS, particularly with a view to keeping it on track so it does not drift off?

Mr PRITCHARD: We are deliberately very careful about what our role is. We have staked out our position before. It is not ours, we do not own it, we are not driving it, we are participating and we are happy to assist, and to assist as much as we can.

Certainly we would be expressing our concern, as we did say with the ORA process where we think they might be heading in the wrong direction, and one would hope that with the project plan and all the interested parties will pull together in the right direction, but in terms of our future involvement, we are just one of the other players, aside from the Force itself, but if we do think they are heading in the wrong direction, as we have done in the past, we certainly would not be backward in telling them that.

The Hon. CHARLIE LYNN: Getting back to my earlier statement about the early intervention and the training and development of young police officers so this sort of thing becomes of value, and I think the more oversight you have on this sort of thing at a senior level, the more they play the system so to speak.

Mr PRITCHARD: Yes.

The Hon. CHARLIE LYNN: Rather than focus on what their essential duty is, which is effective policing.

Mr PRITCHARD: I can only agree with that Mr Lynn and I agree that if it is not pitched in such a way that it is just seen as: We have to do this. The powers that be decided this has to be done. It is just part and parcel of being a police officer these days. There are burdens and layers of oversight, you have to put up with it. Hopefully that would not be the approach that would be taken.

As I said, the carrot, and I think there is a lot to be said about the carrot from a young officer's point of view. I mean, presumably one would hope those joining the police force these days do see it as a career, do see it as a long term commitment, do see it as a way of progressing themselves, if not within the force, then in life generally and it is not in their interests to have to be stalled, as it were, in terms of career or leave under circumstances that they do not regard as desirable.

The Hon. CHARLIE LYNN: What sort of feedback mechanisms then do you have or do the police have to find out how they feel? Let's say you have a policeman join, he is three years, four years on the beat, he has come across a range of things, but what does he or she feel about the oversight or the values or whatever? Is there any work in that area?

Mr PRITCHARD: I suppose it is only anecdotally to a large extent. That probably raises bigger issues which may go beyond this immediate focus. Certainly from my moving around with police officers and talking to them, as I occasionally do, look, I am sure in a perfect world they would like to have oversight abolished tomorrow and I do not begrudge them for that, but I think generally there is a lot of acceptance now that it is a good thing.

The current Commissioner has stated his position quite clearly that he is a big supporter of oversight and he does that I think because it is in his interests. It is not in his interests to have the police force on the front page every day being treated in relation to misconduct or corruption. That does nothing for public confidence in his ability to do his job.

There is no doubt that oversight can be burdensome, it can be inefficient. There is no doubt about that. As someone who sits here from the perspective of an oversight agency, I would like to be the first to acknowledge that. We are seen as a handbrake sometimes, we are seen as a speed bump. A lot of the times we are, I would say for good reason, but you do have to be mindful that at the end of the day it is a very important function that the police force serves and we have to be careful that we do not swing, as it were, to one extreme where we unduly hamper them in their ability to do that.

I am sure the police would say we do that already, that is probably fair enough. I am happy to wear that.

(The witnesses withdrew)

(Short adjournment)

BRUCE ALEXANDER BARBOUR, New South Wales Ombudsman, Level 24, 580 George Street, Sydney, and

GREGORY ROBERT ANDREWS, Assistant Ombudsman, Level 24, 580 George Street, Sydney, affirmed and examined:

CHAIR: I am advised that you have been issued with a copy of the Committee's terms of reference and a copy of the Legislative Assembly Standing Orders 291, 292 and

293 that relate to the examination of witnesses. Is that correct?

Mr BARBOUR: Yes.

Mr ANDREWS: That is correct.

CHAIR: The Committee has received a submission from your organisation. Is it your desire that this submission be part of your formal evidence?

Mr BARBOUR: Yes, thank you, Chair.

CHAIR: What are the particular benefits of implementing an early intervention system, as distinct from the New South Wales Police Force current strategies to address problem behaviours and reduce corruption?

Mr BARBOUR: I am happy to answer that question. I wonder whether with your indulgence before doing so I could make a brief opening statement which I think would help focus the Committee's attention on some of the issues that we see and also some of the areas that we have identified from some of our own research into this area.

Our view is that there is benefit in New South Wales Police Force developing an EIS, but only if it is done properly. This is consistent, I think, with the position of the Police Integrity Commission, the Police Force itself and also the Police Association.

We have set out obviously in our submission the history of our involvement and our general position to date, but there are a couple of things I wanted to particularly draw the Committee's attention to.

Firstly, the literature around early intervention systems is largely based on the US experience and it tends to contrast those systems which are intended to be non-punitive, remedial systems with existing police disciplinary systems and arrangements. They are traditionally characterised as formal and punitive. There is a risk, I think, that such generalisations be uncritically applied within New South Wales and within the New South Wales context.

The benefits of an EIS system drawn from other Australian jurisdictions also need to be seen in context and treated with similar caution because in the main those jurisdictions also continue to adhere to an older disciplinary model of police complaints and police complaint systems.

I note, for example, that the Office of the Police Integrity Commissioner in Victoria recently described the Victoria Police discipline system as archaic, punitive, bureaucratic and slow, which is certainly something that we are familiar with from some time ago in New South Wales. It recommended that they adopt a system that is simpler, faster, less formal, more remedial and more proactive.

New South Wales has already moved to a managerial approach to complaint handling. The post Royal Commission complaints system in New South Wales, which the Committee endorsed in its own 10 year evaluation of that system, has been designed to be flexible not formal, remedial not punitive, and managerial not disciplinary. Whilst there is always room for improvement there is clear evidence that commanders and managers use the complaint system as it currently exists to proactively manage emerging misconduct risks. We need to ensure that any consideration of an early intervention system does not cast unfounded aspersions or misunderstandings on the existing complaints system, which in my view is running very well and producing good outcomes.

Secondly, the adoption of negative generalisations about the nature of a complaint system can also result in overstating the benefits to be gained from the introduction of an EIS by underestimating the extent to which the existing complaints system is both remedial and proactive. For example, the very good research paper of the PIC Commission, which I think has been provided to the Committee, provides a list of management actions that it describes as remedial interventions. They would be typically used in an EIS. It also contrasts these with a list of punitive interventions which would be typical of a more formal disciplinary system. What is interesting to observe is that 63 percent of complaint management actions taken on complaints finalised last financial year were what PIC described as remedial, whereas only seven percent were what the PIC described as punitive.

In relation to proactive intervention, in our last annual report we also reported that management action was taken in 58 percent of the nearly 2,000 more serious complaints that were fully investigated by police. It is clear, in our view, that the New South Wales Police Force is already being proactive in addressing a range of performance issues and needs through the existing complaints system. I am not advocating that in exclusion to an EIS, but I think it is important to note that an EIS would be complementing the system here in New South Wales by providing commanders with feedback on officer performance, on a range of other activities to enable interventions where deemed appropriate.

To the extent to which a proposed EIS is reliant and focuses on complaint and misconduct related data, it will likely duplicate the existing complaints system and probably not add a great deal in my view. To the extent to which the proposed EIS is able to draw on new and other existing and relevant policing activity data, the potential for improvement is significantly increased. In this regard the need for development, for example, of a use of force register and a capability to extract data about things like duty driving critical incidents would be extremely important in order to develop and test the validity of any EIS.

I hope that has been helpful. I wanted to set out very clearly at the start what I thought was the relevance of the complaints system vis-a-vis an EIS and how the two could potentially work together rather than one duplicating the other. I am very happy to answer any questions.

The Hon. CHARLIE LYNN: Just going back, in relation to a previous question, looking at the EIS almost as a value system in the training cycle of junior police, if you like, so it becomes a value, which I think refers to what you are saying there, that it is a managerial issue rather than a punitive issue, but I think early in their careers, as I understand it, and that is a very important value at this stage of information and it is reinforced in training and then leadership in the force I think it would be very good.

Mr BARBOUR: Yes. I agree with that entirely. I think the earlier police are exposed and trained around these issues the better. It would not only ensure that they adhere to this and understand it more, but hopefully with adequate information being provided to them they will be able to see the benefits, not only for the broader community and the New South Wales Police Force as an entity, but also for individual officers in terms of their career.

The Hon. CHARLIE LYNN: We asked previously about having an objective system or a system to get the feedback as to what they think about it because if they believe it is enhancing their career and is part of their value system as being a police officer and it is accepted, then they will add value to it but if they see it as a punitive type of thing or another oversight on their duty and they do not accept it, they will play the game or play the system. Do you have any comment?

Mr BARBOUR: I think once again I agree with you. I think certainly in our experience with the complaint system police are clearly understanding that the system operates fairly, openly, transparently, that is it is designed to deal with misconduct or complaint issues, to either improve performance or to rid the force of people that they should be rid of. There is a much greater openness to the benefits that flow from it and an acceptance of it and certainly that is one of the reasons why we think police make so many complaints themselves, which come within the system, because they have grown to accept the principles that you are talking about underpinning the success of something like this.

Mr PEARCE: On the summary, that you would be aware of presumably.

Mr BARBOUR: I will not guarantee that without having it in front of me.

Mr PEARCE: It says here that the Ombudsman identifies important features of an EIS as being a system based on objective rather than subjective indicators. A lot of the public concern that we get, certainly in our offices about police behaviour is essentially subjective, rather than that they have not objectively done their job, it has been attitudinal approach, that sort of thing, which essentially falls into the subjective area. If you are looking at an objective system how do you avoid a box ticking exercise? That does not really address what is quite often the public concern about their relationship with the police, which is often an attitudinal thing and a subjective thing. Can you comment on why you make that assessment? I understand the need to be fair to the police and obviously objectivity allows that level of fairness, but is that going to miss on of the public concerns about the relationship with the police?

Mr BARBOUR: I think that very much depends on what the indicators are going to be and how they are implemented over time. I know that the Commissioner is very keen on introducing a much better and stronger customer service ethic within New South Wales Police and there is a great deal of work being undertaken in that regard to ensure that the interaction between police and the community is much stronger and police recognise the need to be polite, be courteous, provide information, all those sorts of things and of course we can take it right through the continuum to much more serious conduct.

I think that if the indicators are clear it should not be just a box ticking exercise. Undoubtedly any system of this kind is going to require data to be gathered and there are going to be some parameters around what that data ought to be and there needs to be agreement about that. The success of it, however, is how it is used and how police interact with it. One of the things that I think, and I am sorry to keep harping back to the complaints system but it is of course one of my bread and butter issues and I know it best, but one of the things I see arising from that system is that because we now have managers responsible for dealing with complaints they first hand get to develop a much clearer understanding of any problems as they arise through that focus, through the complaints focus, with their officers and what we encourage them to do is manage those issues.

If they have got an officer who is regularly the subject of a complaint about rudeness, then we expect that manager to take that issue up with the officer and deal with it. Similarly, if there are multiple complaints about excessive use of force, to then counsel that officer, look at that person's performance and perhaps maybe monitor that person and take some direct action in relation to how that person might in future interact with the community. They are things that I think can be done either through a complaints system or through an EIS system. I think there will be an element of ticking the box.

The use of force register is a very significant thing, we believe, and any EIS in my view ought to have it as a component. It is something that we have been asking for the police to develop for quite some time. In my understanding there is a project under way and

they are going to be looking at it. That is a clear area where records need to be kept: when are police using force; in what circumstances; which particular officers are using it; why are they using it; is it because they are front line and working in a local area command environment which is particularly difficult, or is there no explanation for it and, if not, why not. Those sorts of issues can come up. There is a bit of a tick of the box there if you are keeping all that data, but how you then apply it is where you exercise the flexibility.

The Hon. LYNDA VOLTZ: Do you define, on that use of force, the difference between different types of officers as well? Where people may see a male police officers as threatening, they may not see a female officer in the same way. Is there a different reaction to different types of officers as well?

Mr BARBOUR: That probably would not come under a use of force register. The use of force register would document people physically exercising restraint or force on somebody, or using a weapon, a baton, capsicum spray, or a taser. Indeed I have just released and done a press conference this morning in relation to our taser report. That is one of the areas which dramatically points, in my view, to the need for a use of force register.

Whether you would want to try to take that further to look at those sorts of very subjective issues, I think it would be challenging because it would be very difficult to maintain data that you could objectively assess.

Ms SYLVIA HALE: In your submission you talk about 12 percent of officers receiving about 30 percent of complaints, in round figures. Has there ever been any longitudinal study to show that those officers who were the subject of the complaints were subsequently punished or in some way expelled from the force, or whether their behaviour improved? Would the complaints system in itself, particularly if it were coupled with a use of force register, be sufficient to render an EIS unnecessary?

Mr BARBOUR: No. I do not think so. I think one of the benefits that is a separate benefit from the EIS is that you can look at a whole range of issues and information factors that are not necessarily made the subject of a complaint, and I think the preference in many jurisdictions for an EIS is to ensure that the data is coming in at an early enough point where you can almost try to prevent the misconduct happening rather than waiting for the complaint cycle to start.

In answer to the first part of your question, I am unaware of any longitudinal study. Certainly the report that we issued in 2002 about officers at risk demonstrated a need for commands to manage those issues effectively and we, when we go out to local area commands and are dealing with commanders, we discuss officers that they think or that we think are potentially at risk as a result of the complaints process. We are actually trying to manage that process.

That information undoubtedly comes into play, however, when complaints are being investigated and dealt with. Clearly a complaint history is going to be an issue that is going to be considered when decisions are made about what the appropriate way of dealing with a particular issue is.

If you have already dealt with someone for similar issues before and you tried to counsel them and manage them, then if the same issue keeps arising, you are going to need to think of alternative action that might be more punitive.

CHAIR: We have heard performance indicators are regarded as critical elements in the EIS. What, in your view, are the appropriate indicators and how do you think the police force can deliver and maintain these indicators? We have heard about complaints, but there are other indicators that are needed as well. What is your view in regards to that?

Mr BARBOUR: Certainly use of force I think is an area that needs to be looked at and in my view that covers a vast range of things.

Performance issues is a concept where it is very hard to have a start point and an end point and you need to look at what you see as being the indicators that are going to best provide information to you.

I guess this underpins both ours and PICs and NSW Police Force's submission about the need to really do a lot of research to get these indicators right if they are going to be meaningful.

What are you going to target? Are you going to target someone who is perpetually late for work? Are you going to target someone who is constantly rude? Are you going to look at secondary employment? Are you going to look at whether there are any breaches that are identified in terms of the honesty with which someone has provided information?

There is a range of performance based things that potentially you have to look at in addition to the complaints system.

I want to re-emphasise, I am not in any way suggesting the complaints system is a substitute for an EIS. It is not, but what I am saying is that it complements an EIS very well and if I do have any concern about the action to date, it has been that that has not been properly said anywhere and I wanted to make sure that I said it, because it ought to be acknowledged by all of the people that are giving evidence to you, because without it, we would not have the sorts of managerial based response to issues that we currently do.

CHAIR: The Phoenix police officer EIS is a transparent system where police officers actually go on line and view their own records. Do you see the benefits of that approach in the EIS implemented in New South Wales?

Mr BARBOUR: I think transparency is important for everybody. I think if you want to have ownership by police, they need to be really clear about what is happening. They need to have an opportunity to know what is going on.

I think that it is very important to any of the oversight bodies that are going to be involved in making assessments from this, it is going to be very important to managers to have that and most importantly, it is going to be important to the community to have that.

If the purpose behind having an EIS is to try to identify problems before they exist, to provide the community with a more robust, more ethical, better performing police force, then we need to make sure that the community know that it is happening as well and they need to understand that that is in place. So, I am a great advocate for transparency.

Ms SYLVIA HALE: But does that go as far as public participation in the process in any way or access to data?

Mr BARBOUR: I am not sure about public access to data. I think where the public comfort comes from is knowing that the system is in place and that there are independent agencies on behalf of the public that are monitoring and checking that that is going on.

Ms SYLVIA HALE: You would see that as the PIC and the Ombudsman?

Mr BARBOUR: Absolutely, yes.

Ms SYLVIA HALE: But there is public participation in overseas EISs.

Mr BARBOUR: I would need to look at that to see what the benefits were as against the negatives, but I guess I am in a position where I could not say I would automatically endorse that. It would need to depend on more information and the level of information.

There are other Ombudsman Offices in the world where the media are able to come in and have a look at absolutely any file in relation to the Ombudsman Office – I do not endorse that process either.

Mr KERR: Obviously the implementation of early intervention systems comes at a cost. Would you see that as expenditure on frontline policing?

Mr BARBOUR: If police officers can be more confident in knowing that they are working in a collegiate sense with officers who do not present a risk to them, then I think it is valuable.

Obviously you need to assess that in terms of how much it is, I do not think that there is an infinite amount that I would attach that to as being okay, but more and more I see and our Office sees in our dealings with the police, a desire by police to be confident that the person that is standing up next to them or their colleagues are working in an ethical and appropriate way.

It is very rare these days that you see tolerance for unethical conduct and I am pleased to see that that is the case. There will always be areas where there are problems, but I think, yes, it is money well spent, provided we get it right.

What I would be concerned about is that we develop something without very, very carefully examining everything. It needs to be right, otherwise it potentially is going to be like the ORA system or something else where there is going to be money put into it and it is going to end up being disbanded.

The Hon. LYNDA VOLTZ: On page 12 of your submission you have highlighted the cautions when you were examining the experience of other jurisdictions in the early intervention systems. To what extent can those experiences in developing and implementing the early intervention system in New South Wales be useful? We have heard about the cautions, but can they also be useful?

Mr BARBOUR: Undoubtedly they can be useful. I think the reason that we have said we need to exercise caution is that in our review of the literature and the start up of these, there seems to have been very little evaluation and what seems to have happened is

there is almost a chain reaction – people think that it is a good thing to have and it is often in response to a very specific incident that receives a great deal of public attention and the answer to it is: Let's have an early warning system or an early intervention system. Then you have a particular software package that is marketed and then that is the solution and everybody just puts it in place.

What we believe is that of course we can learn from those experiences. It would be good to see how they are evaluating them; if they are evaluating them; what the positive outcomes are.

But for my mind the jury is still out on all of that and we put them into the mix by all means, but we also recognise that we have got a very different system in New South Wales, which might mean if we are going to introduce an EIS, we do not simply adopt an off the shelf model or what has happened elsewhere, but we work out what is right for us.

CHAIR: Some serious allegations can take a long time to investigate. Can this partial data be effectively used in an EIS? In other words, where there is an ongoing investigation, can we use partial information from those ongoing informations on police officers in the EIS?

Mr BARBOUR: When you say investigations, what type of investigations?

CHAIR: Longstanding complaints against officers?

Mr BARBOUR: I think any information is useful when you investigate complaints, partial, complete, incomplete, but what you always need to do, is you need to apply appropriate reservations around anything that is incomplete, and you need to make sure that you acknowledge that and you have regard to it before you actually draw any conclusions.

I think it would very much depend on the nature of the information; how relevant it was to the issue the subject of the investigation, but if you have some data that helps you either clear the officer or is compelling in terms of recognising that there is a problem there, then you would have regard to it.

CHAIR: In the particular features of the EIS system, could you see an expiry date on complaints against officers or date for data items or a process through which officers can request conditions or changes? Do you see that as essential?

Mr BARBOUR: I think you would need to look at what indicators you come up with and see which ones are ones that ought to be maintained either permanently or for a long period of time and which ones, after a period of time, might be able to be relaxed.

I do not have a firm view either way in a dogmatic sense about that. I think it would very much depend on the indicators.

For example, if one of the indicators around performance was punctuality, if you had a record that went back five years because someone was late for work twice five years ago and you were still applying it in some way on a performance based process five years later, I would be troubled by that. But if you have got a history five years ago of violence of

violence or mis-use of force or inappropriate conduct, that might be something that you would appropriately keep on base. So I think it would be a weighting issue in relation to those categories.

We have done a lot of work with NSW Police, as you know, to remove from our direct oversight a whole lot of minor matters and the very minor customer complaint type issues now. There are now records that are kept and we think that is appropriate over a period of time.

Ms SYLVIA HALE: I would imagine there is a general perception that the EIS would be most effective in the early years of the police officer's career. What happens when you get to those levels of middle management and beyond when there is likely to be a much more entrenched culture, where people are less likely to be prepared to modify their behaviour. Would you see the system not applying at that level or how would it apply?

Mr BARBOUR: I think if we came up with a good EIS the benefit should be that over a period of time, by bringing it in with young officers, getting them used to it, having them involved with it, that in fact you would see significant improvements over time as they rose through the ranks.

If there was going to be any resistance to it, it may well come from the more senior ranks currently who might resent the introduction of this, but that, once again, would be an issue around how you would phase this in, what the indicators were, how you do the details, do you apply it to everybody from day 1 or do you apply it in a staggered approach to people as they are recruited and as they come on line.

That would be one of the issues you would need to look at in terms of any evaluation of this particular system, and I think you could make persuasive arguments for both courses.

Mr PEARCE: Given your earlier comments, which I took as being critical of the earlier ORA system, what in your view are the lessons that can be drawn from the NSW Police Force's previous efforts to develop early intervention risk assessment tools?

Mr BARBOUR: I think as we have already said, and I think everybody has made this point in their submissions – and I agree with it – that we have got to properly evaluate it.

I think one of the benefits of what we are doing at the moment is, this is not only an issue that the Committee is taking an interest in and it needs looking at, but we have got a working party which comprises our office, PIC, NSW Police Force and also the Association.

In previous policy development and functions that were put together, we did not have that spread of involvement and I think that is going to be a really significant benefit.

The other thing is that you need to get it right and you need to put in the hard yards beforehand. Even if that means that we do not have something up and running for a longer period of time, I would far rather see that outcome than bring something in which we have either got to tinker with constantly or we end up rejecting it because it is not working.

Mr KERR: I do not think that answers the question of what the problems were.

Mr BARBOUR: The problem with ORA is that that was very much a Police Force initiative and we did not have very much involvement with it, and at the time when everybody was looking at how it was going to be evaluated, it became pretty clear that it was very difficult to evaluate it and the problems with it and so they withdrew it.

Mr KERR: But what were those problems?

Mr BARBOUR: I am not sure of all of the problems, because it was not our initiative, it was a Police Force initiative and they themselves concluded that it was not good. I am happy to get some research on that.

Mr KERR: That would be useful, yes.

Mr BARBOUR: I will take that on notice.

Mr PEARCE: That is a little bit concerning, that it was an internally structured event, it was identified there were problems, nobody knew what the problems were and the thing was withdrawn.

The Hon. LYNDA VOLTZ: Maybe we could ask the Police Force.

Mr PEARCE: I think there is an issue there.

CHAIR: That is something we can take up this afternoon.

Mr BARBOUR: My colleague, Greg Andrews, is just saying that he thinks some of the problems were that the indicators that were identified had not been properly researched enough. They were applying it to every officer in circumstances where it did not seem as though it was necessarily going to provide benefit and it had been opposed by the Police Association because it seemed to be relating very much to issues that were beyond the brief of what it was designed to achieve.

CHAIR: You can ask further questions on that this afternoon.

Ms SYLVIA HALE: Obviously we are entering times of great budgetary stringency and presumably not everything that one would like to do can be done. Assuming you retain the complaint system, if you had to make a choice between a use of force register and further work on an EIS system, which would you prefer to see? Which do you think would have the greater benefits for the community?

Mr BARBOUR: I am hoping it would not be an either or, in the sense that typically a use of force register is a component of an EIS and I think an EIS would need to have that. Whether an EIS was introduced, my answer would be that the police should introduce a use of force register. We have been arguing for that for a long time. Whether we go down the EIS path or not, I believe that the cost of developing a use of force register is definitely beneficial and worthwhile. If we are going to do an EIS then certainly that in my view would be a component that you would look at as a starting point as being an integral indicator.

The Hon. CHARLIE LYNN: Mr Barbour, could you explain how the effectiveness of an early intervention system for the New South Wales Police should be evaluated and, for example, could evaluation models or methods from other police agencies' early intervention systems be usefully applied in New South Wales?

Mr BARBOUR: I cannot say to you how I think it should be evaluated but what I would say is that the starting point would certainly be to look at other systems, other jurisdictions, and see how they are being evaluated. Our research in relation to this and one of the views that we have taken to the working party is that it does not appear that the evaluations that are being done in some of the other jurisdictions are particularly strong or particularly good. One of the things that we would be wanting to do is work as a group to ensure that whatever we came up with as an evaluation process was appropriate and was worthwhile and provided a good information base on which to act. That would be part of that working party process.

I cannot say to you at this stage what I think all the components should be, but clearly you would be looking at measurable outcomes and you would be obviously looking at things over a period of time, to see whether or not the introduction of this removed the frequency of particular issues and particular risks arising.

Mr PEARCE: Some of the overseas models have external bodies. We have a number of different bodies which have different roles, vis-a-vis the police force. Would you see your role as being an external body or would you see that there would be a valid role for a further external body?

Mr BARBOUR: No more bodies please.

Mr PEARCE: That is the reason I asked that question. Would you see your role as an Ombudsman fulfilling that role as an external body, should there be perceived at the end of this process a need for some sort of external body?

Mr BARBOUR: Potentially we could perform that function. I would not say definitively because what I would like to do is if we go down the path of introducing an EIS, I would like to look at what the indicators are. If the complaints system and the complaints process was one of the indicators, I would want to make sure that there was no potential conflict for us in also looking at the broader EIS. On the face of it I do not think there would be, but I would like to reserve my judgment. I have no hesitation in taking on additional responsibilities if they are consistent with our mandate and they do not affect our independence or the integrity of our processes.

On the face of it I think there would not be a problem but rather than say categorically yes we can do this, I would rather wait to see what it was and what it looked like and what the indicators were, to see whether there was any potential risk at all in terms of our existing functions.

Mr PEARCE: Given your part of the process which is developing this, how does that make you an independent external auditor?

Mr BARBOUR: Clearly we have probably the most significant experience in relation to police conduct of any agency in the state. Not only do we handle the complaints system but we deal with a significant amount of project work. I have just tabled this morning a 100 page report on the use of tasers by New South Wales Police.

We deal with thousands of complaints a year and we deal with 99 percent of reported instances of misconduct or conduct problems of police in the state. Clearly we would probably be best placed of any agency to provide a contribution to the work from our experience along those lines. Working on the working party I do not see a problem.

Looking at it in a final process, looking at how it is figured and what the mechanics of

it are, I would need to look at it to make sure there was no problem. I do not think there would be, but one of the things you learn in this job is to exercise caution around committing to something of that kind.

CHAIR: If the Committee in its deliberations have any further questions could they put them on notice to you?

Mr BARBOUR: Absolutely. You are very welcome to and we will respond to them as quickly as possible.

(The witnesses withdrew)

(Short adjournment)

PHILLIP JAMES TUNCHON, Assistant Secretary, Police Association of New South Wales, Level 4, 154 Elizabeth Street, Sydney, and

PETER JAMES REMFREY, Secretary, Police Association of New South Wales, Level 4, 154 Elizabeth Street Sydney, sworn and examined:

CHAIR: I am advised that you have been issued with a copy of the Committee's terms of reference and also a copy of the Legislative Assembly Standing Orders 291, 292 and 293 that relate to the examination of witnesses, is that correct?

Mr TUNCHON: Yes.

CHAIR: The Committee has received a submission from your organisation. Is it your desire that that submission form part of your formal evidence and do you have any opening statements?

Mr TUNCHON: That is correct and I do have an opening statement if I might.

I appear before this Committee on behalf of the Police Association of New South Wales. As I indicated, I am employed by the association as the Assistant Secretary and I have responsibility for the association's legal services. I am a former police officer with 31 years service and I am a former elected president of the Police Association between 1994 and 1998, which you may recall were the years that coincided with the Wood Royal Commission.

I refer to the document provided to the Committee by our Director of Research and Resource, Greg Chilvers, and formally indicate that it outlines generally the position of the Police Association in respect to early intervention systems.

I would also indicate that since approximately August 2006 the association has actively pursued and been involved in a cooperative approach with the New South Wales Police Force in the development of an EIS model for use in New South Wales.

In that regard the association is represented on the New South Wales Police Force Steering Committee for the development of an EIS model, along with representatives from

the Police Integrity Commission, the Ombudsman's Office and various sections from within the New South Wales Police, primarily the Professional Standards Command.

I would point out at this time that the association views the work of this steering committee as ongoing and from the elected officials' perspective there has been no final endorsement of the EIS model.

Whilst we are pleased with the progress that the steering committee has made, there is one area of concern that remains valid and that relates to budgetary constraints. No system, can be developed and implemented without some additional cost, whether that is in respect of upgrading technical resources, modification of existing systems, or in training and general support. The association is concerned that this important initiative might very well be shelved due to a lack of adequate financial support.

It is my understanding that the work of the steering committee and in particular the development of the model has reached a stage that additional financial resources are now required. These financial cost increases flow on to affect important issues like marketing, ongoing training and, most notably, an evaluation program, all of which we see as being intrinsic in the introduction of an EIS.

The Hon. CHARLIE LYNN: Would you see the issue as being a front line support issue? When Governments talk about budgets they talk about front line policing and they talk about support staff. Do you see this as being a front line issue that should be almost segregated from any budgetary cuts?

Mr TUNCHON: I would put it into that category, yes.

The Hon. CHARLIE LYNN: If I could go to a statement or a concern that you have, which is the caution over which EIS models developed in the United States and other jurisdictions could be successfully adapted to the needs of New South Wales, could you elucidate on that concern?

Mr TUNCHON: I think there are significant differences between what takes place in the United States and what happens here in New South Wales. For argument's sake, the use of force is clearly a defining issue. Whilst it is one for great consideration over there with the number of lives that are at risk, from the community at large or from a police officer who might be potentially injured in the process, we do not have that degree of problem in New South Wales, so I do not think you can holus bolus pick up what happens in the United States and introduce it blindly here in New South Wales. There are some elements of very good EIS systems in the United States that could form part of what we do in New South Wales, but would have to look at each one.

The Hon. CHARLIE LYNN: You are probably giving your experience of 31 years in the police force starting, I assume, from a constable on the beat right through. The early intervention system, it would seem to me, should be a value that is incorporated into young police officers. It is part of the handling of confidential information and so forth and if it is part of training structure and part of the ethics, if you like, of being a police officer, then they accept it, but if it is imposed on them as another onerous oversight or something they have to do and they do not accept it, then they are probably more liable to play the system for the sake of playing the system, rather than accepting it as a value as part of their duties as a police officer and their responsibilities. Would you have any comment on that?

Mr TUNCHON: I think you are right. That is why I made the point about the training and education arrangement for this. You have to get it right from day one and that includes involving officers themselves in the development of it.

I note with some interest the model that is in place in Phoenix, where they actually allow access to it by the police officers themselves and they can make suggestions and changes to that which are often adopted, so at grass roots level it is very important that the ownership is there.

The Hon. CHARLIE LYNN: Would you look at a system whereby the system gets feedback from the people it applies to, particularly in the early years, as to how they see the effectiveness of it in regard to being onerous, or whether they perceive it to be punitive, or whether they perceive it to be a proper part of their duties, so feedback from the officers on the beat, if you like, being an important part of it?

Mr TUNCHON: I think that is important, the feedback aspect of it, and I think the issue about it being punitive in its nature is probably one of the problems that existed under the original model, the officer risk assessment model that was looked at some years ago, where there was a quantum leap from assessing somebody to going straight into punishment mode.

The Hon. CHARLIE LYNN: If there was a cut to the budget and the early intervention system was put on the back burner, would you see that as maybe having a short-term gain budgetary wise with a longer term consequence?

Mr TUNCHON: Yes, I think so. It is not very often in policing that you get a collaborative approach where everybody seems to be singing from the one song sheet. In this case the PIC, the Ombudsman and Professional Standards Command, the police, and us. That seems to be my impression of the way in which this steering committee is moving. It is an ideal opportunity to seize that and it would be a shame if for budgetary constraints was shelved.

CHAIR: What other key elements do you see as being needed to acquire and retain the support of police officers for an EIS, other than what we have just spoken about? What do you see needed in the EIS to keep the support of officers and to retain that support?

Mr TUNCHON: Primarily their involvement in the development of it and part of that is the education and training arm that we see as intrinsic. There has to also be a proper evaluation process and the opportunity for the system itself, the model itself, to evolve. If those elements are not there, then you are not going to have the interests of the members themselves.

Mr PEARCE: You are familiar with the summary?

Mr TUNCHON: Yes.

Mr PEARCE: I had to ask that because I do not think the Ombudsman was. You say there that you support it, subject to a series of dot points, one of which is that it uses evidence based indicators and your following dot point is development and not punitive. I think there is a general consensus, from what I am picking up, about not adopting it as a punitive approach. You have described it as developmental, establishing a particular culture early in the piece you go through. There is in my mind a slight conflict there in so far as if you are going to have evidence based indicators then you are looking at a series of objective standards. The trouble with objective standards in isolation is that they run the risk of becoming box ticking, which ultimately leads to possibly a punitive response. In actual fact I take it that what everyone seems to be working around is if it is developmental you are talking about subjective elements as well. Am I correct in my understanding that you are looking at an objective series of standards as opposed to subjective, or are you looking at a

mix and, if so, how are you likely to achieve that?

Mr REMFREY: The report is designed around saying that the standard should be objective and evidence based, the evidence being that they are reasonable predictors of potential problems down the track but, of course, what it means in essence, or what it ought to mean, is that these officers are only at risk but that risk has yet to materialise. It needs to therefore be used in a developmental way, so that you use the objective measures but you use them when you implement the system. You are using them to develop the officers and create a culture, as the Chair indicated, whereby people are not fearful when they are identified as having these identifiers placed before them and it is used to develop them. It is used to identify to them that there are risk factors there and they can learn from them and can identify for themselves that there are issues that they are facing.

We would prefer the objective evidence based indicators to use, rather than subjective indicators. The reason for that is that it allows for a consistency across the organisation and takes out the personality issue that sometimes might happen between a manager and an individual officer.

Mr PEARCE: I was working around towards that. Whilst it is not necessarily looking at the management issues between the officer and the manager, a lot of what we receive in our electorate office is not necessarily a complaint against a police officer for a specific offence, but rather an attitudinal approach. When you are talking attitudinal you are really talking about a subjective assessment.

A lot of what goes into the Ombudsman, not necessarily what the Ombudsman investigates or chooses to investigate, but a lot of complaints that go in there are essentially attitudinal issues, that somebody was a bit rough when they picked them up, or they were rude to them, or whatever it may be. All of that unfortunately, I would think, would feed into an indicator base because we are not just talking about potentially corrupt conduct here, we are talking about a general risk that may be presented in terms of the relationship of the police to the community so, to me, there needs to be some subjective elements brought in there but from what you have said, you express some reservations about that. You prefer an objective set of standards?

Mr REMFREY: We do. Both Phil and I worked through the period of the Royal Commission and the subsequent reforms. Part of the process of the reforms was to remove what we would call customer service issues away from the disciplinary system into a more modern managerial approach.

Mr PEARCE: Which, I might add, I would agree with.

Mr REMFREY: Absolutely, and that is the day to day responsibility of supervisors and managers, to deal with attitudes, if they might not be entirely appropriate and to deal with customer complaints, rather than ending up in electoral offices, as it were. I think this system sits and ought to sit above the day to day customer service attitudinal issues that any manager in any enterprise ought to be dealing with. That would be certainly our view.

CHAIR: If that were the case, how would you have an early intervention system for someone who is displaying vigorous arrests out there in the customer service area, because that would be coming through. I am saying that would not be picked up, which would be a concern, because that could scale up down the track.

Mr REMFREY: That is where the blurry line between customer service and the next level of intervention needs to happen. That is not always clear. The more that can be done in a managerial way and an educative way, the better we would say and that works really

well where we have good managers.

CHAIR: If I was a police officer, if my attitudinal problem was at my arrest stage where I am showing signs of aggressiveness and so on, I would rather that be nipped in the bud than have some sort of disciplinary issue further down the track.

Mr REMFREY: Sure, and I think we would all agree with that. It is probably a case where managers are monitoring attitudinal issues and customer service issues and whether or not those problems materialise to the next level.

CHAIR: It comes down to whether that is objective or subjective?

Mr REMFREY: I think if you get enough of those customer service issues it comes into the next level.

The Hon. LYNDA VOLTZ: On objective things like use of force in arrest, which is one of the issues raised as objective, I did not quite get the answer from the Ombudsman but how do you define different reactions of people to different types of police? If you are a female police officer people react differently to the way you approach and ask them to do something. If you are a big burly police officer they are going to react differently. There is a reality that some people are going to need to approach certain people differently and some people are more reticent with certain officers and they may need to use force whereas other officers may not. At the end of the day a physical presence is something about policing that is very difficult. With that objective level how do you define someone who is using force more often simply because of the physical presence?

Mr REMFREY: I think that gets back to Phil's opening comment, that transplanting one of the American models which uses use of force as an indicator might not necessarily be appropriate, but certainly not appropriate here where we do not have the level of use of force that they have.

The Hon. LYNDA VOLTZ: The other one just on subjective, one of the examples that was used was late for work, those kind of issues. Things such as length of time to complete an investigation, whether all witness statements have been completed as part of that investigation, are they subjective or objective?

Mr REMFREY: In the category of objective I think and it is already pretty well covered in the discipline management matrix at the moment. People do get disciplined and whatever definition there is of that for failure to complete.

The Hon. LYNDA VOLTZ: Because that is a common complaint you do get in electorate offices, the length of time that certain police officers take to complete an investigation and the actual follow up. You would see that as an objective indicator?

Mr REMFREY: Yes.

CHAIR: Performance indicators are regarded as critical elements in the EIS. In your view what are the appropriate indicators and how do you think the Police Force would be best placed to deliver and maintain these indicators?

Mr REMFREY: That might be one we have to take on notice I think Chair. The author of this report, as you have probably noted, is not here because he is overseas.

CHAIR: We are happy for you to take it on notice.

Ms SYLVIA HALE: What role would you see the Ombudsman playing in the EIS system? For example, if the Ombudsman is investigating a complaint, do you think they should have access to any reports that have been generated as a result of the EIS?

Mr REMFREY: Our position is for a single oversight body, we do not see a role for the Ombudsman period in policing.

CHAIR: The data identifies an officer as being at risk in the EIS, then by whom and through what process should the intervention decision be made?

Mr TUNCHON: I think the indications at this stage are that it should be locally managed. It is probably a little bit too early to articulate that any further than that. As I said, we are a part of the steering committee. We are represented on that by Greg Chilvers. I am not so sure that they have actually worked through in totality what that might be.

Mr REMFREY: I think you are right though in terms of it being locally based in the first instance, it is probably less likely to be feared by officers as a punitive event if their local management team is handling it in a moderate way and just having a chat to them about the fact that they have been identified and trying to manage the issues, rather than having some external group come in, that would be viewed probably a lot more seriously. Seriously is not the right word, but a lot more concern from the individual and less likely to involve a cultural change, but more likely to involve a defensive arrangement.

CHAIR: If an officer has intervention in his job, do you feel it should be recorded on his personal record?

Mr TUNCHON: That is an interesting question because we have always been at loggerheads with the Service about how long matters should remain on their record. Again, it would have to be driven by what it is that is the subject of the intervention. Some of the more serious matters, yes perhaps. Some of the more day to day HR related matters, no.

CHAIR: If it was just coming to work late, that should be dismissed within six months, but if someone is constantly using their revolver instead of capsicum spray that should stay there?

Mr TUNCHON: The alarm bells would be ringing fairly loudly I would suspect.

Mr REMFREY: An extreme example but I think I understand your point.

Mr PEARCE: Your comment about the Association's policy in relation to single bodies. The models from the US have external oversight boards. You would have some concern with that as a model?

Mr REMFREY: Our view is that the Police Integrity Commission is the appropriate oversight body for police. We have supported not only the Royal Commission, but the establishment of PIC and we have supported their existence subsequently. We believe that

given the Ombudsman's existence in terms of oversight of police pre-dated the PIC, it is now time, certainly over time for that to be called into some question.

We certainly support the concept of external oversight. It has been a clear view of the union for the better part of a decade and a half and nothing has changed in that regard, notwithstanding we might have some day to day issues with particular investigations that PIC is undertaking and the fact that we have now got the oversight of the PIC and an opportunity to go elsewhere is fine, but we do not see any need for two bodies to be overseeing the police.

Mr PEARCE: So you certainly would not see the need for any other oversight body as per, say, the model in Phoenix?

Mr REMFREY: I am not familiar specifically with Phoenix. Phil has referred to it in respect to the EIS system, but as far as general oversight goes, we think the system is right insofar as PIC is concerned, purpose built organisation that is designed to oversee police and we would not support any additional oversight.

Ms SYLVIA HALE: Your submission is quite damning of the officer risk assessment, it refers to it as discredited. Do you think, therefore, that when it was in operation it created such unhappiness and misgivings that it would, in effect, take a long time for that to be broken down and for an EIS to become effective?

Mr TUNCHON: I do not know that we even got to the stage where it was broadly introduced. Certainly in terms of its preparation, it was poor. There was absolute indecent haste in the development of it. It was cumbersome. It was punitive in its nature. It lacked any form of research and no opportunity for any evaluation. It was not supported by us at all. In fact, we worked vigorously to try and get it removed.

Ms SYLVIA HALE: Do you know why it abandoned, presuming your view was not universally shared?

Mr TUNCHON: I think we were able to convince the people in the right place to take that view, that it was never going to work.

Mr REMFREY: Your point about cultural acceptance is very critical I think. Whether or not these systems have been discredited by that model is probably not the important issue, but if you are going to introduce something like this, the education and the training needs to come through before the system is introduced so people are comfortable with the logic behind it, what it is going to be used for and they get a feel for the fact that it is going to be developmental rather than punitive.

Ms SYLVIA HALE: Do you see it as a system that would be effective only in the early years of an officer's employment or how far do you see it percolating up the chain of command?

Mr TUNCHON: I cannot see any reason why it would not remain there.

Ms SYLVIA HALE: You would say all levels?

Mr TUNCHON: Yes.

Mr REMFREY: In order for it to have credibility amongst the frontline operation officers, it would also apply in equal measure to the supervisory and managerial levels I would have thought, which in many cases their decisions are arguably more critical in terms of affecting more people than the decisions of an individual officer at a patrol. I cannot, as Phil said, see any reason why it ought not be universally applied.

CHAIR: Considering your comments on ORA, does the Police Association see the issue of having to get in there and work as a team to build this process and put this process in place for the benefit of everyone and are you critical of an EIS being part of the team rather than having it forced upon you?

Mr TUNCHON: I think it is vital that we remain involved in it. As I said, we are part of the collaborative effort to develop it. If there is no buy-in by us, then it is never going to fly.

Mr REMFREY: I think the fact that we are at the table gives an indication that we think, in principle, the system has got some merit. The last thing we want to see, representing members, is that someone's behaviour can be modified and prevent them from going down the path that no-one wants.

CHAIR: As long as it stays as intervention rather than punitive.

Mr REMFREY: It is designed to prevent the punitive. At the end of the day, if we can get a system that keeps people out of the punitive disciplinary side of the organisation we are doing them a huge favour, we are doing the community a favour and we are doing our legal fund a massive favour as well at the end of the day. It is all up side, which is why we are there. We want it to work because it has got some benefits.

The Hon. LYNDIA VOLTZ: And it is aimed at keeping the police in the force for the long term.

Mr REMFREY: Yes, correct.

The Hon. LYNDIA VOLTZ: Supervisors are going to play a key role in the implementation of this. Have they made any comment about the impacts it is going to have?

Mr TUNCHON: Well it has not been that widely spread to them yet, so that is the difficulty.

The Hon. LYNDIA VOLTZ: Do you have a view on the impacts?

Mr TUNCHON: Other than to say that broadly at this point in time we are very happy with what has been developed so far. There are one or two little areas that have to be tweaked, we believe, but we are working on that.

Mr REMFREY: I think you will also find that good supervisors will be intuitively doing some of this stuff. It is part and parcel of what makes a good supervisor, trying to guide

their younger officers down a decent path, prevent problems for themselves and their team, and giving them a structure around which they can do this would be of assistance.

We have got to make sure that it does not become overly bureaucratic and just another 'tick and flick' – I think someone mentioned ticking boxes a little earlier in the discussions today. The last thing we need to do is impose upon busy supervisors an arduous additional red tape, but providing there is the framework and some skills to do what ought to be the function of a management and supervisor, I think is really important.

Ms SYLVIA HALE: What advantage would you think the system would have in terms of poor supervisors? You say that good ones could well be doing it at the moment, what about the poor supervisors, how do you think it would help them?

Mr REMFREY: I think those that are not doing it intuitively would in a sense be forced to do it, because the system would be in place. It would give them structure around which they could look at it, so it is a good way to be able to do it.

Ms SYLVIA HALE: Making them aware of the problems?

Mr REMFREY: Exactly. It would provide some assistance in uniformity, which is a bit of a problem, which is why we are not so keen about the subjective approaches and given the changes that happen in policing through promotion, transfer, medical exits and the like, you do get a turnover of supervisors, so you want to have a consistent system so that a new supervisor coming in can pick up where his or her predecessor left off, and objective measures are pretty important in that regard, because you start to get into the subjective measures, it creates a huge problem and those sorts of challenges.

CHAIR: Are there any particular features you would like to see in place in the EIS, such as data entries as far as officers are concerned, the time the data is on their record in regards to requests for corrections or inaccurate information on their record, anything like that you would like to address?

Mr TUNCHON: I think I will take that one on notice. I know that Greg has had some discussions about it, but to what extent I am not entirely sure.

Mr REMFREY: Transparency would be the key, and in broad terms without getting into those specifics, you would want to have a system that allows an officer to have a look at what is there and to do, as you have suggested, ask for the changes if it is inaccurate, but the specifics need to be looked at.

That will actually have an impact on acceptability and it will have an impact on the red tape argument that we were articulating a little earlier.

Ms SYLVIA HALE: Do you consider the system sufficiently important that even in an era of budgetary cuts it should be persisted with or is it an optional extra which will not result in the major improvements that the budget might require?

Mr TUNCHON: I see it as vital. Anything that can affect or curb aberrant behaviour that might lead or connect to some formal disciplinary process being invoked where there

are enormous costs involved anyway, if we could stop the problem back here before you get there, you are going to save money anyway in the long term.

CHAIR: Is there any risk that the EIS is going to penalise high performing officers, for example, by not using peer group analysis when evaluating officer activity data in regards to what they are doing?

Mr TUNCHON: I do not see how it could.

CHAIR: When officers are actually operating on a different level, if they are undercover or whatever, you really cannot compare them to some of the frontline services, can you?

Mr REMFREY: I am not quite sure where your question is coming from, but in terms of different duty types—

CHAIR: The dog squad officers compared to tactical response group are quite different data entries, quite different issues. So if you are using the same level of questions on the dog squad as compared to the tactical response group, it is not going to be the same questions, it is not going to be the same outcomes.

Mr TUNCHON: I think the core questions are still going to be the same. There might be some additional ones that you might look at for varying groups, but basically a constable is a constable, the same as a sergeant is a sergeant.

The Hon. LYNDA VOLTZ: They are all the same?

Mr REMFREY: There are already identified high risk areas in policing, be they high risk of corruption, high risk of injury, high risk of psychological injury. They are already identified, perhaps not as much in some cases as they ought to be and the organisation has had to take some action in respect to those. A good example of that is in the child mistreatment area the union ran a particularly significant case many years ago about an officer in that area who had suffered significantly and as a result they have had to introduce particular sets of arrangements in that area to reduce the risks, rotations, limited tenures et cetera. There are equal situations in respect of corruption in the IA area and drug squad et cetera so your point is correct but I do not necessarily see that it ought to cause a problem, or the sort of problem you have raised.

The Hon. LYNDA VOLTZ: The point you are making is the EIS can deliver the benefit in terms of people suddenly behaving aggressively, where it is as a result of the stress of their job, you can get the medical intervention needed to make sure that does not become a problem that is not identified.

Mr REMFREY: Yes, and in those areas we have introduced compulsory quarterly psych testing to identify early whether or not they are having any dramas and to move them into other duties or take some intervention action at an early stage.

Ms SYLVIA HALE: Presumably at the moment there are criteria that have to be met if you are joining the tactical response group. The EIS process would not in any way duplicate that. How would the two mesh together?

Mr TUNCHON: It is hard to say. I do not think it would override it. It might be something that would be considered as part of the evaluation process of someone's

suitability.

Ms SYLVIA HALE: If you are going to take it into consideration, can it be perceived by your constables and whatever as being a device whereby they will be denied promotion, or denied access to a particular squad, and how do you overcome that?

Mr REMFREY: I think in our submission we talk about it being developmental rather than punitive. If it was used as a method of denying someone an opportunity in one of those areas, then immediately you are hitting the punitive button. We would be, I think, opposed to it being used as anything other than a developmental tool, simply to identify that there is a potential for a problem and taking action to rectify it. To deny someone an opportunity in an area where there has been no evidence of a problem, other than we have some objective criteria by which we have flagged someone that they might be going to have a problem, would be a massive issue.

Ms SYLVIA HALE: If you do not take it into account then you might get within a special unit a culture developing that is contrary to the culture you are trying to foster via the EIS. It does seem to me there is a real conflict there between the two outcomes, as it were.

Mr REMFREY: That needs to be fixed in terms of the implementation.

Ms SYLVIA HALE: Do you think it can be resolved, because I am hard put to see how you can resolve it really.

Mr REMFREY: I think it is being used solely as a developmental tool, and presumably once the individual is transferred to another unit it does not mean that the EIS material or information is not continued in that area and they can continue to be developed and monitored et cetera, but as soon as we get down that path of denying someone a transfer or promotion, or some other economic benefit to them, I think that is when the system would fall into disrepute as far as our members are concerned.

Mr PEARCE: Do you see this EIS as being used solely within the job as a police officer in the role of a police officer, or do you see it also looking at risk factors as a result of their general social activities outside? I do not mean if there is an offence such as drug use, but I am talking about who they are mixing with, if they are a punter or that type of thing.

Mr TUNCHON: I think all of those fall into the category of indicators that the steering committee is looking at and they do form a work picture of the individual.

Mr PEARCE: Do you see that as appropriate?

Mr REMFREY: It is just a reality that police officers are police officers 24/7 and the off duty conduct of police officers is as significant as their on duty conduct. There have been numerous situations where off duty mixing, as you have described it, has been regarded as inappropriate and it is better for that to be identified early and some developmental action be taken.

Mr PEARCE: Rather than it developing into punitive?

Mr REMFREY: Correct.

CHAIR: That is why it is seen as a closed shop because they tend to mix with themselves rather than outside because they leave themselves open. I think that is a very sad situation.

Mr TUNCHON: The EIS might not be the panacea that everybody thinks it is. I think that as part of the research package New South Wales Police is ideally placed to be able to tap into this body of knowledge, if you like. There have been any one of a number of people appearing at PIC who would have been identified as being involved in corrupt conduct. Whatever the final model might look like, it would be a useful exercise to track people through that and apply it to those individuals just to see whether or not they would have been identified in the process.

Ms SYLVIA HALE: Do you think there are sufficient indicators at the moment to go back retrospectively and assess someone's career?

Mr REMFREY: You could certainly test the system by grabbing one or two cases or more, based on what was known about those people and see whether or not the system would have identified them.

Mr PEARCE: Whether the alarm bells are ringing.

Ms SYLVIA HALE: Or should have rung.

CHAIR: If we have any further questions as a result of our deliberations is it all right for us to give them to you on notice?

Mr TUNCHON: No problem. We are happy to do that. Thank you very much for the opportunity.

(The witnesses withdrew)

(Luncheon adjournment)

PAUL ANTHONY CAREY: Acting Deputy Commissioner, Specialist Operations, New South Wales Police Force, Elizabeth Street, Sydney and

KAREN JANE McCARTHY, Acting Assistant Commissioner, Professional Standards Command, Clarence Street, Sydney, sworn and examined:

CHAIR: I am advised that you have been issued with a copy of the Committee's terms of reference, is that correct?

Mr CAREY: Yes it is.

CHAIR: The Committee has received a submission from you or your organisation. Is it your desire that that submission form part of your formal evidence?

Mr CAREY: Yes, Mr Chair.

CHAIR: Do you have any opening statements?

Mr CAREY: I do if I am permitted to read. I welcome the opportunity to make a brief opening statement today in regard to developments in early intervention systems within the

New South Wales Police Force, after which we will both be pleased to take any questions from the Committee on this topic.

The New South Wales Police Force does not currently have formally a designated EIS as such, although we have a strong commitment to developing such a system. Our Steering Committee has made vast progress in scoping our system requirements during 2008. We have done this work in consultation and collaboration with the police oversight agencies, both the PIC and the Ombudsman, as well as the Police Association. As the Chair of that Committee I have been most grateful for their support.

For the New South Wales Police Force early intervention is about engaging as early as possible those police who come to the notice of their commanders, according to a defined set of indicators, to enable the organisation to offer them support and guidance. Many of our commanders already do this as good managers. However, a central EI system would enable us to intervene more effectively and consistently, hopefully before an officer ends up in one of our more formal accountability processes on conduct competence or performance grounds, matters that can significantly affect their career.

Our research shows that early intervention programs are well recognised as being able to prevent serious behavioural problems arising, that if unchecked could shortcut a police officer's career. Given the immense cost to the community of training and employing a police officer, for financial reasons alone, although this is not the reason alone for having an EIS for return on investment, it is best achieved if police are able to remain in the workplace as productive officers.

Early intervention systems everywhere are based on the adage that prevention is better than cure, although the actual systems vary significantly in approaches taken and the source data used, with many US and even Australian systems focussed primarily on the complaints systems received against police. Of course early intervention does not negate the need for other types of intervention for manifest instances of misconduct, corruption, and our commitment to such intervention remains in place.

The New South Wales Police Force is therefore committed to integrating an early intervention approach as a core element of its integrity measures that will support officers on the front line at all stages of their careers. This is consistent with the Government's aim in the State plan to imbed the principle of prevention and early intervention into Government service delivery in New South Wales.

Having said that, the cost of such a system is not free. Comparative systems such as those that operate in LA, with the Los Angeles Police Department for instance, that were implemented as part of their consent decree cost \$11 million and there are many annual ongoing costs as well.

As such, significant progress has been made on developing requirements for an early intervention system and the system is now at the pre-development stage with the Professional Standards Command. We are looking at allocating recurrent funding for the system, as we have adopted the view that early intervention is part of our core business.

Having said that, there is always great competition with employers for funding of significant projects. I am able to tell you today that the implementation of the EIS is technically possible but it may have to take its place in the queue of a number of pressing and competing priorities within the police that we have to deal with over the ensuing months and years.

With that in mind we are now available to answer the Committee's questions.

CHAIR: Can you summarise for us what you see as being the distinct project phases for implementing EIS in the police force and how you describe the progress to date?

Mr CAREY: The progress in the last six months has been significant. There has been a commitment through the Professional Standards Command and through my position to researching and developing an EI system. The phases that we have been through to date, that research phase, we took a fairly extensive research program around the world in respect of EI systems. We are now moving to a phase where we are looking at what data sets are available and testing data sets which may give us some indicators in respect of an EI system. We have committed recurrent funding from within our own command and a number of staff from within our own command to the project and we are at a stage now where we can test the data sets that we have.

CHAIR: You are intending to purchase the software, or are you going to build that in-house? Are you looking at the software that already exists out there and are you going to implement that, or are you going to develop your own software?

Mr CAREY: We have all the information in relation to the LAPD material and their system. We have look at Phoenix in terms of IA Pro, which is a popular program that has been purchased. We have a wealth of information already internally on a number of our systems and suffice to say we are looking at developing our own system which captures data from our own internal systems.

CHAIR: So it is a mixture?

Mr CAREY: It is a mixture. We are not buying something off the shelf. We would have to develop a system, but it would use much of the data that we already have available, which is why we are looking at the data sets that we currently have to develop the indicators.

Mr PEARCE: There has been some discussion from others in relation to the relative virtues of objective tests, as opposed to subjective assessment measures. In your view is there a role for both and, if so, how would you bring those subjective tests into any equation when you are looking at what you are looking at within the EIS?

Mr CAREY: There is a raft of information available. Much of that information is about behaviour and so in that effect it is subjective. A lot of the data that is produced is simply objective. It would be about numbers of things, so it is a combination of both. You are not reliant on either. That system would be based around those two. It is not subjective or objective.

CHAIR: How do you propose to evaluate the EIS programs?

Mr CAREY: During our research we have managed to work with Tim Prenzler and a number of academics from a number of universities and we would, in terms of evaluating the project, seek to continue the role of the steering committee. We currently have a steering committee which has the Ombudsman, the PIC and the Police Association. We would propose that steering committee continue to oversight the implementation of the EIS. We would seek to involve those external agencies in the review of the establishment of an EIS. We would seek to involve academics such as Tim Prenzler from the university in relation to assessing what we have done with the system.

Mr PEARCE: You are talking about continuing the involvement of the role of the steering committee. Is there virtue in having an external body watching this?

Mr CAREY: I think there is some value in that external evaluation. The steering committee captures the external agencies that have an interest in the police force developing a early intervention system for all the good reasons, as well as the employee association, which is the New South Wales Police Association. That steering committee in the last six months, I think, has taken this project to the point we are at in a very short period of time. I think there is some value, given the commitment by those external organisations and the Police Association and the interest and I guess the independence that has been shown through the university in continuing to help us evaluate the system if it is put into place.

Mr PEARCE: How do you see this developing as different from your project which apparently fell over?

Mr CAREY: The ORA, which is a 2005 matter. My understanding of the ORA, and I was not in professional standards then, was it was an officer risk assessment. It was not well received, there was no buy-in at the officer level. In fact, the officers saw it as a punitive approach.

The indicators that were used were not based on any sort of solid research, that is university or others assisting, so that is why it fell over. The system, in terms of who we are working with, is much more robust. PIC have a particular interest for a reason, the Ombudsman have an interest for a reason, the Police Association has a different reason, so I think having those three groups working with us is certainly the way forward.

Ms SYLVIA HALE: You were talking earlier about the availability of data sets. Does that suggest that you already have, in one form or other, all the informations that you would need to develop indicators or would there be need for further research as to the types of indicators you were looking for?

Mr CAREY: We have got a significant number of data sets, many of which lend themselves to some of the indicators that appear in other systems, although most of the other systems were developed overseas, particularly in the US, where their primary interest is probably use of force, given the proliferations of firearms, potential for violence, violence against police officers.

So it is one of the strong indicators and this is a different community, different society and we operate under different laws as well.

So we are looking at the current data sets that we hold in relation to not only the officers but the environment that we live in and I think that would help develop our indicators.

Karen's normal responsibilities are in terms of employee management. We actually hold some of those data sets.

Ms McCARTHY: I think that NSW Police have the majority of data sets that we actually think will be useful. I guess, the difference is for it actually to become an indicator, then we actually have to do some research around what will be the threshold, if you like, of when that indicator throws up an alarm for a particular officer.

We actually have the information, what we do not have is the system that can draw it together and put the analysis over it that we need to actually work out what the threshold is.

Of course, we need to trial that and one of the important things is that is where the objective analysis is of the information.

Then we also probably need to have a look at making sure that we actually are comparing the same thing together, so the NSW Police Force is a very large organisation with lots of people doing different types of roles and tasks, so therefore a particular indicator for one area might not be the same for the other. So there will certainly be an emphasis on doing some peer group review and that is really the stage that we are at, at the moment.

We have what we think would be the data sets. What we need to do, if you like, is have a sandpit approach and start trialling some of this. We are obviously informed by the research, but we actually need to be informed by our own environment in New South Wales as well.

CHAIR: You were saying Karen you have not set a threshold. What are the key indicators you are going to be looking at? You have cited how much strength is used during arrests or violence used in arrests, what are the others?

Ms McCARTHY: The other sorts of things I guess is the normal human resource data that we have access to, say sick leave patterns, annual leave patterns, perhaps areas that police officers have been before, so particular areas that we know are particularly high risk in terms of emotional well being for officers, in child protection investigation areas, homicide investigation areas, maybe an officer who has done a lot of very frontline general duties policing and has attended a number of deaths, critical incident type incidents.

Obviously when police officers attend there is a lot of media attention and there is a lot of human tragedy. Those types of things can have an impact, not maybe immediately on the officer at that point in time when there is some support, but later on throughout that officer's career or the next ensuing few months.

I think there is a range of data sets. Obviously complaints information is important. That is another data set that we hold. What that particular link is in terms of the threshold equation, if you like, in terms of complaints data, is something that we need to explore but it is something that we have.

We have suspension information, where officers are suspended from duty. There is a range of things that we have - failed prosecutions in the legal system. So I think there is a range of data sets that possibly could be used as indicators.

CHAIR: I am just concerned from hearing what you say, considering this is an early intervention system, if you are going to be using failed prosecutions, suspensions, that type of thing, that is not what I would call early intervention or have I got the wrong handle on early intervention?

Mr CAREY: I think what we are talking about is these are the range of data sets that are available to us that occur at different times and independently of each other.

An early intervention system would seek to capture that data and signal what is going on in an officer's career as they move along.

They are some of the things that they need to look at and test. Others are things like secondary employment, improper associations, the outcomes of complaints, the sanctions against officers who have had complaints sustained against them.

They are all the data sets that we have got that do occur at different points in their career. It is about the EIS capturing that data and starting to send signals to us.

Mr PEARCE: Just following on what the Chairman had to say there, when you have got such things as some form of disciplinary action or a record such as failed prosecutions, etcetera, what we are actually looking at is something that prevents, if possible, those things occurring.

So in order to actually make that data meaningful, there has to be, if you like, an analysis of how Officer X got to that point.

I would be very surprised – but pleasantly surprised – if the data is there that allows that analysis. Am I correct or do you believe there is data there which allows almost a longitudinal study of how he got to that point?

Mr CAREY: There is data available. An officer can have a failed prosecution very early in his career. I guess some of the intervention systems already exist in relation to a life of a student before they are tested as a probationary constable. There are a range of intervention systems in relation to managing a probationary constable during their first twelve months, including both academic and operational, so those systems are happening.

For example, a failed prosecution could happen very early in the piece. There are systems in place that we have to ensure that failed prosecutions do not happen, but they still happen. It may be that it could be some other parts of our system that failed in respect of that, in other words, supervisors, brief handlers.

CHAIR: It might be the judicial system, who knows.

Mr CAREY: The failed prosecutions that we deal with Chairman are the ones that we consider are our fault, if we failed at Court to prove prima facie then that is a failure on our part.

The Hon. LYNDA VOLTZ: With the early intervention system, what we are really looking for is changes in behaviour as opposed to simply being about the 'new kid on the block' that might need some intervention or direction.

Mr CAREY: I think it is about behaviour, conduct, performance.

CHAIR: Culture.

Mr CAREY: It is about all of those things.

The Hon. LYNDIA VOLTZ: It is called early intervention, but intervention can come six or seven years into a career, with someone's behaviour where you get a number of complaints and then you get some aggressive behaviour in terms of force used as an indicator to go in. So early intervention does not mean early in your career, it means early intervention in the change of behaviour.

Mr CAREY: That's true.

Ms SYLVIA HALE: I think everyone who has spoken to us today has expressed the need to distinguish between a program that is developmental and one that is punitive, but it does seem to me that can be difficult when you are assessing someone for a promotion or transfer or whatever, if you are really going to make a good judgment based on all the information that is available. It does seem to me that you need to take into account some of the information that is drawn out by the EIS. So how will you deal with that on a practical level?

Mr CAREY: In terms of promotion?

Ms SYLVIA HALE: I am just saying if you have got someone who wants to move to a tactical response unit but the EIS has indicated this person may be temperamentally not suitable for that career. To move them to that squad, ignoring the indicators, would seem to me to be contrary to the public interest, but then again, failing to move them may be seen as a punitive response.

Mr CAREY: There are already a number of checks and balances, particularly for some of those specialist areas, such as TOU or child protection or those sorts of areas. There are already some checks and balances in relation to testing an officer before they go into those areas.

In relation to promotion there are a range of checks in relation to the person's integrity and their history, particularly in relation to their complaints history and their suitability for promotion. That, I guess, in simple terms gets tighter the further you go, but certainly sergeant, inspector, superintendent, there is a fairly good process in terms of integrity, probity checks and then for those matters where we are seriously considering not promoting people, a committee which is known as the Integrity Committee chaired by me, with another Assistant Commissioner on it and we actually provide advice to the Director of Human Resources or the Commissioner of Police about whether or not that person should be promoted.

That person is given the opportunity for a 'show cause' if you like as to why they should be promoted, so there is some fairness in the process but we are also considered based on their background whether they should or should not be promoted.

CHAIR: What do you see as the key elements requiring the support of police officers across the State for the early intervention system to be put in place?

Mr CAREY: Well the experience of the ORA and my understanding of the experience of the LAPD model is that it cannot be seen as punitive, if it is used to come along and hit the officer over the head with a stick or simply to stop him being promoted or being moved around. It should be about a process where we are helping the officer along

the way in his career and that there is some early opportunity in relation to the conduct or behaviour or performance or attitude to intervene, to raise these sorts of issues and provide some sort of helping guidance or helping action.

If it is seen as punitive it will fail. It will not have the support, which is one of the reasons why we obviously have the Association. They are actually sitting on the steering committee. There is no use at the end of the day developing a system without their co-operation and they are concerned if we develop it outside of that consultation, then it will fall over again. We need to listen to them.

CHAIR: How do you see the transparency of the scheme, like the Phoenix model where they can log in, view their record, correct anything that is considered wrong or for some sort of dialogue on that. Do you see that as a way forward in regards to the transparency and involvement of the officers in this system?

Mr CAREY: In my understanding that is exactly what we will do.

Ms McCARTHY: I think the only way that you can actively convince people that it is a transparent system is for people to be able to actually see that that is there. The Phoenix model allows officers to see their reports and it helps in terms of implementation of the model and helps it to be seen as not punitive. In fact, they can actually see the threshold equations as well, where they are up to on that and I guess that gives the opportunity for self correction, which is probably the aim of what you are wanting, that they actually intervene themselves.

CHAIR: When you are setting the thresholds of some of these models, how are you actually going to come to that, because you are going to be – and quite fairly – setting the bar at this level, the Association is going to set it at this level and probably the community want the bar set at this level – so how are you actually going to come to an outcome that is beneficial for everyone?

Mr CAREY: I guess that is one of the dilemmas, but I guess that is why we have got everybody around the table to work through those sorts of issues. Early is early for us.

CHAIR: We all understand that. We can understand the Association wanting it at this level, we can understand the community wanting it at this level. We all around this table expect it to be set early and so does everybody else by the way, it is just where in early do you expect that level to be seen?

Mr CAREY: I think that is also about testing the data sets and seeing what we come up with in relation to the information that we already hold, but for us it is early. I guess that is about working with the Association in particular, that it is not a punitive approach, the earlier we identify matters.

CHAIR: In the Phoenix model where is the bar set?

Ms McCARTHY: Again, in the Phoenix model it is the peer group review and so it is set, I guess, on what their research told them for each peer group on the different indicators.

I guess that when you are dealing with the management of human beings you are not going to have a clinical answer that says at 35 percent this now means X or it now means Y.

What you get if you agree that it was 35 percent is an opportunity for discussion, an opportunity to say there may be an issue here. The model always has that it is an indicator and it is not that it is going to be a foregone conclusion and that assessment time and the local knowledge of the local area where the officer is, discussions about what the appropriate intervention might be, and then some follow up and whatever. We will learn as we go.

It is certainly something where we would constantly be evaluating and reviewing and asking what is this telling us, has it been useful. I would imagine that in time you would have a subset of officers who have gone through the process, and talk to them and ask what benefit it had. It is not going to be something that is clinical that we can actually say with any definition that is it.

CHAIR: You would have an oversight committee. Do you see the committee overlooking this and for how long, or do you see this as general overlooking?

Mr CAREY: Mr Chair, that is one thing we would consider down the track. It is a good, independent evaluation of what we are doing. If we implemented an EI system it would be implemented and reviewed over a period of time and that might be a year or two and it might be very valuable to have the independent steering committee looking at the work and looking at the implementation, with the expertise and controls of PIC and the Ombudsman have, looking at what we are doing and it would seem to me to be reasonable.

The Hon. LYNDA VOLTZ: Earlier in your opening statement you said that this was a competitive number of other priorities. In terms of turnover rates in the police force, have you done a cost benefit analysis identifying early, and things like stress, and getting that early intervention, whether you are going to get a cost benefit out of this program in the long term, even though there is a short-term cost. Have you done any cost benefit in terms of turnover, that you are going to make some savings in the long term?

Mr CAREY: I do not think that we have done that work yet.

Ms McCARTHY: We certainly have an understanding of what our current turnover rates are, so we have a benchmark piece of information. That is something that we could consider in the overall evaluation about whether it has had any impact on turnover rates. It is quite valid.

Mr PEARCE: Just following on from what you were saying, Karen, in relation to taking local factors into account, I find this is something that has to be fleshed through because a purely objective assessment may have a tendency towards box ticking and one size fits all, whereas in fact successful policing and working with communities on a community policing basis has to take into account a certain amount of subjective factors and local factors. If you apply the system, given that the association prefers some form of objective assessment criteria, how are you going to be able to marry those two concepts without seeing either an officer slipping through the net or an officer being applied to a standard which is not an appropriate standard, given the community they are working in?

Mr CAREY: Karen might want to respond to this but one of the good things we learned from LAPD, and we have spoken to a deputy chief and also had a conference with the operators of that system, and we have had access to all their information, is the peer group averages, so we are not comparing a general duties constable working by himself of herself at White Cliffs with a homicide detective. That is really one very valuable thing out of the LAPD model, that we have 15,500 or 16,500 police officers and we do not have a standard.

We need to think about those sorts of issues, people operating in country locations, or busy metropolitan locations, or specialist duties in child mistreatment, or TRU, or the marine area command, so I think we have to develop along those lines and try to develop those sorts of peer group averages.

CHAIR: Can you describe for us how you see the intervention process operating once an officer has been identified? For example, who will make the intervention and how will the effectiveness of the intervention be measured?

Ms McCARTHY: I think I did start to describe how we see the intervention rolling through. I think that again, because we want to trial the data sets and hopefully get to some indicators, I mean it is actually going to be a trial looking at the process as well, and what is the best process for dealing with this. I think obviously there will have to be a decision made on the level as you described it, where that is actually going to sit. That is the indicator. There will then definitely have to be the referral. At this stage what is being envisaged is that there will actually be a small central team that will be responsible for looking at those particular indicators, making the referral to the local area, getting that local assessment and feedback and then a round table discussion, if you like, about what is the appropriate intervention.

There could be a range of interventions if you are talking about an early intervention system. It could be mental health, it could be support, it could be career counselling. I think that there would be a whole range of things. Another essential component would be review and follow up by that central team. Obviously then we need to make sure that we have a system for collecting that information to make sure it is evaluated against the agreed evaluation criteria.

CHAIR: You are saying that it would come from a central team rather than the local command?

Ms McCARTHY: I am saying that I think in the early days in order to get a consistent coordinated approach across quite a large organisation with lots of officers in different areas, that a small central team would be the way to do that.

CHAIR: What sort of costs would that have?

Ms McCARTHY: In terms of the central team I think that is probably a matter for the substantive commander of PSC.

CHAIR: That team would be, in the first two years, absolutely swallowed up in what they are doing to implement it across the state.

Ms McCARTHY: Yes. Obviously within the New South Wales Police, in terms of human resources that could make up that small team, I think that could be done within existing resources.

CHAIR: The team that put ORA out there in initial stages, has that been disbanded and the budget taken away from that, or is that budget sitting there waiting to be utilised to implement an EIS?

Ms McCARTHY: I am not aware of whether the ORA had its own individual budget. My understanding was that it was done within the existing budget of the command.

CHAIR: If that could be done within existing budgets why could this not be?

Mr CAREY: Karen is right. In terms of the team it probably could be, depending on priorities. In terms of funding for the development of the system, that is yet to be developed in terms of a business case but that would be the formal process. There would be an expectation that once we get to a point where we can develop a business case, it would look at what the costs would be both in any sort of capital funding, current funding, staffing, and what we could do internally.

CHAIR: Would not that all been part of the ORA budget? That would had to have come out of somewhere. That is going to be implemented in regards to existing budget, and you are saying the early intervention system cannot be implemented, or is going to be a long way off implementing because we are going to have budgetary requirements that are problematic. If we are going to do it inside our existing budget we could have done it with ORA.

Mr CAREY: I think ORA was a different system. I do not know the details of ORA and I will take that question on notice, but there is certainly a 2004-05 model and there have been some priority changes, I would suggest, in that time.

CHAIR: Would not the EIS be as high a priority as ORA?

Mr CAREY: It is probably a higher priority than ORA, but in the scheme of things in relation to the whole of force there are a number of competing priorities and it is a matter at the end of the day for the Commissioner's executive team to determine the priorities.

CHAIR: I am curious as to your opening statement where you made remarks about the budgetary requirements of the EIS, but in 2004 we were keen to commence implement an ORA project which was going to do virtually similar outcomes as your EIS, maybe not as well as everybody wants, but we are saying in 2004-05 we could implement it from an existing budget but in 2008 we are going to have budgetary requirements and we are going to be competing with other issues which we were not in 2004-05 and I wonder why those budgetary requirements have changed so much?

Ms McCARTHY: I think that there is a difference between what we are currently proposing and what the officer risk assessment was. The focus of the officer risk assessment was identifying officers at risk and the system was not a research system on indicators. It was essentially, as I understand, a manual system where it was going to be done locally by the local commands, who were going to draw together their information and then they were going to identify that a particular officer was at risk, and I think that was part of the Police Association's concern that it was being implemented in a different way in different locations.

CHAIR: That was part of their concerns?

Ms McCARTHY: That was part of their concerns, and this system is obviously trying to have a focus of getting away from people interpreting that as a punitive system and moving towards an intervention system. In order to do that you need to demonstrate that the particular data sets that you have are reasonable data sets to use and then because you are actually going to build into the system the assessment, the review, the local involvement, that there is more opportunity for that to be dealt with properly.

The Hon. LYNDIA VOLTZ: This system will have its own dedicated IT software. Is that the kind of system, as opposed to the manual system that you had before?

Ms McCARTHY: That is the proposal.

The Hon. LYNDA VOLTZ: The criteria of the cost analysis will be based upon the complexity of the scheme, because you do the front end software and the more complex the scheme, the harder the IT and the harder the integrated hardware technology.

Ms McCARTHY: That is right, and if you want the officers to be able to view the information, you have to build it into your existing system so that the officer sitting at Broken Hill can have a look at it. It also has to fit in with the overall technical architecture of the force as well, so that it doesn't become a system that you put there and then the maintenance costs and the costs of the licensing impede the overall implementation of it.

The Hon. LYNDA VOLTZ: There are currently two different computer programs that the Police Force run, is that correct, two different recording systems that are being integrated into one? Am I right? Within the police system itself some information that you have gathered is recorded on one computer system and some is gathered on another system and you are integrating that to the one system?

Ms McCARTHY: There is a number of what is referred to as front line systems and that is where these data sets are. They are different systems.

The Hon. LYNDA VOLTZ: You have an underlying intranet system?

Ms McCARTHY: The issue is that the middle part of the system, which is where you can pull your sources of truth of your data into that, there are difficulties in pulling the information and integrating it.

The Hon. LYNDA VOLTZ: You have done no cost analysis on that, because that is fairly large.

Ms McCARTHY: At the moment there is a current proposal being examined which is actually looking at what are the options for technical solutions for this and what are the ball park sort of figures on the cost of that. We are doing some analyses on whether it is off the shelf, whether it is a front end access system.

Mr CAREY: We will be able to access those data bases and access them through the intranet.

Ms SYLVIA HALE: The focus primarily is upon supervisors intervening at an early stage to modify the behaviour of people who are below them. On the basis of the research you did overseas, was there any evidence of the system working in a reverse direction, whereby the behaviour of the supervisors was monitored in any way and modified?

CHAIR: Is that not caught up with the whole system too?

Mr CAREY: Supervisor's behaviour, with the LAPD experience my recollection is that there were problems in relation to the take up in respect to their supervisors.

Ms SYLVIA HALE: So it was voluntary?

Mr CAREY: I just cannot turn my mind to that, but I am sure there was an issue in relation to the supervisors in LAPD, even with their system picking it up.

Ms SYLVIA HALE: Presumably if it were introduced into New South Wales there would be an emphasis upon supervisors co-operating and being involved in the system.

Mr CAREY: Absolutely. I mean, sergeants of police or supervisors are the frontline supervisors.

Ms SYLVIA HALE: If and when it is finally introduced, do you see that it will have a gradualist approach, in that what you will be modifying is the behaviour of new entrants rather than the behaviour of people who have already made their way somewhere up the hierarchy or do you see it having an immediate impact on everyone or potentially an immediate impact on everyone?

Mr CAREY: I think it has the potential to have an impact on everyone. I think the question earlier was about early intervention when a matter is identified. Some police officers go through ten or fifteen years and then something happens in their life that affects their conduct, behaviour or performance and that could be something outside the work environment. It could be an officer who has got ten years' service and there is all of a sudden something that we start to identify that changes their performance or behaviour or attitude versus someone who has been a constable after their probationary period and starts to have similar sorts of issues.

Ms SYLVIA HALE: Do you anticipate coming up entrenched cultures, entrenched responses which may not be consistent with what the ends are that you want to achieve?

Mr CAREY: I think in relation to human nature – I have been a commander for a long time, I was a local area commander for eleven years all over the metropolitan area and from time to time I have had to tap people on the shoulder and talk to them about things. Some people do not like that. You are talking about their performance, whether they did or did not wear a hat or it may be far more serious, but that sort of intervention has to happen.

It is about an expectation in their professional lives and there may also be some concerns about their own safety and well being as well. So some people might not like that intervention, but I think it is important.

Mr PEARCE: A lot of the emphasis has been on intervention, so as not to be punitive in its nature. We are obviously not starting from Ground Zero here, we are going to rely on historic data to be operating on. Some of that historic data was gathered from a point of view of for punitive action. How are you going to assess that and is there going to be an opportunity for, if you like, a purge of those older records or are they simply going to remain sitting there and possibly colour an interpretation of latter actions, when in fact that is now ancient history in every sense.

There is always a problem when you are relying on historic data, for that reason, because it was gathered for the purpose other than what you are now using it for.

Ms McCARTHY: With the intervention system, because it is going to have that commitment to being non-punitive, from a policy perspective you can certainly address that by simply saying that anything that relates to this particular issue is maybe not going to be looked at.

The difficulty for us as an organisation is by legislation we are required to keep that information and there is a legislative framework about how you need to use that information.

I think with this particular system, this is coming in purely on a policy and procedural level. It is aimed at being good management and good intervention, and I think over time that is hopefully how it would be seen. It would give us some positive outcomes, but certainly, I agree with you, it could be quite challenging in the beginning.

Mr PEARCE: Just from what you have said, would you perceive there may be a need for some legislative changes?

Mr CAREY: We do not think so at this stage. In relation to that historical information we use, particularly in relation to officer's complaints history, for example, we are the keepers of that and we use that in relation to integrity information.

We conduct an assessment of an officer's complaint history in terms of matters sustained, the length of time, the number of complaints, the type of complaints, particularly in relation to people being promoted into sergeant's positions, inspector's positions and superintendent's positions.

By the time some people get to those ranks they have got fifteen or twenty years' service and some of those matters on the record may be five, ten, fifteen years' old and may have related to the type of duty they were doing at the time, so we certainly assess that material in that way and by and large use that information system about a person being suitable for promotion, particularly the commission ranks of inspectors and superintendents.

CHAIR: Would it be all right by you if during our deliberations after the meeting, if we have any questions on notice we wish to pass on, that that would be okay?

Mr CAREY: Yes, certainly.

CHAIR: Thank you very much for your attendance.

(The witnesses withdrew)

(The Committee adjourned at 3.10 p.m.)

Appendix 5 – Questions on Notice

Questions on Notice to the NSW Ombudsman

1. *What, in the Ombudsman's view, are the lessons which can be drawn from the NSW Police Force's previous efforts to develop early intervention and risk assessment tools?*

Following the release of the Committee's report, *Research on Trends in Police Corruption*, in 2002, the Ombudsman and the Police Integrity Commission participated in a joint research project with Professional Standards Command aimed at developing a model for an Early Warning System for NSW Police. As a result of the project Professional Standards Command issued the report, *The Early Warning System: A Behavioural Risk Management Strategy*, in April 2005. Consistent with the work of the project, the report recommended that NSW Police develop an early intervention system. However the report also recommended that this be deferred, and that, as an interim measure, a NSW Police corporate officer risk assessment tool be developed and implemented. An officer risk assessment tool was not part of the scope of the joint research project. We did not endorse this recommendation and we were not a part of the *Officer Risk Assessment* (ORA) project that implemented it.

ORA was subsequently launched as a corporate risk assessment tool in 2005. Significantly, as we understand it, the risk areas that it focused on were not based on research. Following an initial small scale trial, ORA was made the subject of a six month trial in seven Commands commencing mid 2005. After the initial trial, the Commander, Employee Management Branch, met with this office and the PIC. He indicated that their initial assessment of the trial was positive and that the Police Association (PANSW) was supportive of a broader trial of the tool. This office, and the PIC, indicated that that the trial would need to be appropriately evaluated. We were informed that an evaluation was to commence in December 2005.

In March 2006, the Commander, Employee Management Branch arranged a further meeting with this office and the PIC. He indicated that some limited evaluation had been conducted and that this was positive. We commented that this evaluation was far short of the sort of evaluation we had discussed at our earlier meeting. We were also advised that the Commissioner's Executive Team had endorsed the statewide rollout of ORA. Both this office and the PIC indicated that we believed a more comprehensive evaluation was required in order to be sure that the tool was achieving its intended purpose. We were advised that a more detailed evaluation would be conducted after the rollout and we were invited to indicate what we wanted to see in it. We advised that we could not endorse the rollout of ORA in these circumstances.

In September 2006, the ORA rollout was suspended, following its implementation in 14 commands. Professional Standards Command indicated to us that this was due to concerns raised by several stakeholders. This included concerns raised by the PANSW, who, we understand had concerns at the expansive nature of the risks ORA sought to address (extending well beyond misconduct risks to, for example, whether the officer had accumulated a large amount of leave). We also received feedback from local area commanders that the resource impost was excessive. This was due largely to a requirement that all officers be risk assessed annually; a requirement that we had previously cast doubt on.

At a meeting involving Professional Standards Command, PIC, PANSW and this office on 14 September 2006 there was a consensus that ORA required a proper evaluation before the roll out was allowed to continue. Implicit in this was the view that substantial reengineering of the tool would probably be required. At the invitation of Professional Standards, we provided detailed comment regarding what we considered an appropriate evaluation. No further response was received from PSC until we were advised formally in April 2007, that ORA had been permanently “retired”.

In my view the lessons to be drawn from the earlier early warning system project and the subsequent introduction of ORA include the following:

- The need for indicators to be research based

As I understand it the ORA risk indicators were not research based. Questions subsequently arose as to why some of the indicators had been chosen and how they were linked to a risk of engaging in misconduct.

- The importance of ownership by NSWPF

The diversion of a project aimed at developing a model for an early intervention system into recommending the introduction a corporate risk assessment tool, points to the importance of organisational commitment and of ownership. In particular, I note that the ORA project was proposed in place of the development of an EI system, following a decision by NSWPF that expressly committed it to the development of a corporate risk assessment tool.

An EI system will only be successfully implemented if NSWPF are committed to it and take ownership of it.

- Consultation with stakeholders

It is likely that many of the shortcomings of ORA could have been addressed by consultation at the design stage with relevant stakeholders, including supervisors, commanders, the PANSW and oversight agencies.

- Appropriate evaluation

As we understand it, the evaluation of the ORA trial sites was very limited. A more comprehensive evaluation of the trial was needed in order to ensure that the tool was identifying risks appropriately and that this was leading to the effective treatment of these risks.

- The importance of proper project management

In my view, many of the shortcomings associated with the failure of ORA could have been better addressed through appropriate project management of its development and introduction. Whilst I am not entirely sure of the extent to which this occurred, it appears to me unlikely that the project included much in the way of formal project management.

2. On page 8 of the transcript of its evidence, the Office of the Ombudsman undertook to do some research on what it regards as being the problems with the NSW Police Force’s ORA system. Is there anything you wish to add to those specific problems which were identified for the Committee at the hearing?

As I indicated to the Committee, this office was not directly involved in the ORA project. In my answer to question 1 I have set out my understanding of the problems associated with the ORA project. I trust that this information is of assistance to the Committee.

3. *The Los Angeles County Sheriff's Department's EI system was widely regarded by many experts as the most sophisticated system in the US, until a report in 2003 identified serious problems with its management. These included failure to enter performance data into the system; failure to clarify what constituted a citizen complaint; and senior staff that were unaware of the system's capabilities.*

What steps therefore can be taken by the NSWPF and external stakeholders to ensure that this EI system will not be the Rolls Royce which "has hardly ever been taken out of the garage."

I have reviewed the relevant report. In my view, the report highlights the need for ongoing training to support the operation of an EI system. It also points to the need for a central quality control role responsible for the ongoing evaluation of the system. I note that the current project Requirements Definition Document includes an EIS Central Support Team. It also expressly provides for training. It will be vital to the success of an EI system that these roles be appropriately resourced.

These measures should help to ensure that commanders are made aware of the system's capabilities. Use and awareness of the system by commanders could also be reinforced by inclusion in regular reviews of command performance such as the Command Management Framework.

Data entry can be seen as onerous and non-compliance is often a risk. One way of addressing this is to, as much as possible, integrate record keeping into the normal operational work of officers. A use of force register, for example, will be most successful if it is integrated into the COPS system so that its maintenance becomes part of the normal recording of officer operational activity.

In so far as the risk of failure to enter data could involve complaints, I can advise that this office annually inspects the records of NSWPF pursuant to section 160 of the *Police Act*. This requires that we keep police complaint handling systems under scrutiny. Our audits of local area commands suggest that there is currently a high level of compliance with the complaint recording requirements of the Act. This data is recorded onto NSWPF's C@tsi system and would be available for upload into an EI system.

In relation to the issue of the level of understanding of what constitutes a complaint, again our audits suggest that there is a good level of understanding of this in NSWPF. I note that the NSWPF complaint handling guidelines include advice in relation to this. We also invite commanders and investigators to contact us to discuss any difference of opinion about whether a matter should be treated as a complaint for the purpose of the Act.

4. *The Committee notes the views of the Ombudsman that an EIS needs to be complementary to the existing complaints system. To what extent can the NSWPF effectively integrate an Early Intervention System without duplicating or impairing its current organisational structure and processes?*

There is a consensus that any EI system developed by NSWPF should be distinct from the existing complaints system. This is reflected in the project draft Requirements Definition Document. As such, I do not believe that there is a significant risk that an EI system could impair the operation of the complaint system. But there is some risk of duplication. As I submitted to the Committee, the benefits of an EI system will be greatest, and, therefore, the risk of duplication smallest, to the extent that the system is able to draw on data outside of the complaints system.

There is strong evidence that commanders are proactively managing officers within the complaints system. Accordingly, whilst there is a strong case for including complaints as an indicator, an EI system too reliant on complaint based indicators runs a risk of duplicating some of the work of the complaints system. Conversely, to the extent that the EI system is able to draw on indicators of policing activity other than complaints, such as officer use of force, the opportunity to identify officers at risk who would otherwise not be identified is significantly enhanced.

For example, if complaints were included as an indicator in an EI system, an officer might be flagged because he or she has exceeded a threshold of, say, three complaints in a six-month period. Under the EI system, this would result in some remedially based management intervention aimed at addressing the risk of future misconduct. But this is also one of the outcomes we would expect to see from the complaints system, which also aims to respond to complaints proactively. This is not to say that there may not be some real benefit from an additional opportunity, created by the EI system, to assess the needs of an officer, free from the other concerns that the complaint systems seeks to address, such as the expectations of complainants, and the need to reinforce police force standards. But, in my view this opportunity would be much greater where an officer is flagged by non-complaint related data, such as use of force, or some other combination of performance related indicators, because we know that there is a greater likelihood that these officers would otherwise go undetected, and the opportunity to intervene at an early stage lost.

5. If an officer were to undergo some form of intervention should that be recorded on their personnel record?

In our view some record of interventions ought to be made within the EI system itself. But there is a good case for not including it in an officer's personnel file, unless it is the kind of data that is already included on human resource systems.

An EI system identification is not of itself misconduct. Making a record on an officer's personnel file may be perceived as a negative when the intention is merely to encourage officers away from potential, rather than actual problem behaviour. Having said this, most organisations would usually have records for human resource related matters, such as training. It is probably appropriate to record all training undertaken by an officer, whether as a result of an EI system identification or otherwise, for completeness of records.

I note that in 2007 the San Francisco Office of Citizen Complaints (OCC) recommended that the San Francisco Police Department allow for the accessing of EI system data for discipline, promotion, transfer and special assignment purposes, where this was appropriate and consistent with existing departmental policy. In the view of the OCC Attorney, to do otherwise would be to require the Department to obtain by more inefficient means information that departmental policy indicates is relevant to these considerations, and which could be readily obtained through the EI system. This may be more of an issue in US jurisdictions, where I understand comprehensive recording systems for many kinds of complaint and human resource related data may not exist outside of the EI system.

6. Can Early Intervention systems have any unintended or undesirable effects? For example is there a risk they could penalise high performing officers?

Given that an EI system is designed to be remedial rather than punitive, it should not penalise high performers as such. It must be remembered that the system will flag officers based on a number of indicators. This identification must then be interpreted by the officer's

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supervisor as to whether it raises any concerns that may warrant a remedial intervention. In the case of a high performing officer, the supervisor may decide to take no action once the data is considered in the context of the officer's overall work performance. Having said this, there is a risk that negative perceptions of an EI system could take root among officers, if it is perceived that the system, in effect, defines high performance as "problem behaviour." This, in turn, could demotivate some officers.

I note that at least one study found that high performing officers were more likely to be the subject of an EI system identification. I also note that the law enforcement agency concerned had indicators based on raw numbers of use of force incidents. The study points out that an alternate approach is to use indicators based on ratios, for example, rather than a raw total, use of force arrests as a proportion of total arrests.¹⁴⁹

In my view there is also a risk that officers may perceive an EI system as essentially a regime for increasingly pervasive supervision. Whilst there is a strong case for arguing that an EI system will assist officers to achieve their full potential, and for marketing it to them accordingly, there is a risk that they will perceive it as essentially intrusive. The extent to which this is so will depend somewhat on the indicators selected. But, in any event, because officer acceptance of the system is critical for its success, it is likely that this risk will need to be addressed in the training and marketing of the system.

Questions on Notice to the NSW Police Force

1. *What are the particular benefits of implementing an Early Intervention system as distinct from the NSW Police Force's current strategies to address problem behaviours and reduce corruption?*

The EIS will complement existing strategies and coordinate the range of relevant interventions and policies currently available to the NSW Police Force's officers.

The most relevant related strategy is the officer performance management system (referred to as the Career Management System). A critical difference to the EIS is that the CMS is not data driven to proactively identify officers but is driven by the individual officers with a strong annual performance goals focus. The EIS' focus is on building corruption resilience and reducing complaints through positive intervention over the medium to long term where this is considered necessary.

The EIS program will serve as a discrete 'umbrella' over existing NSWPF policies including, but not restricted to, the following:

- a) Conflicts of Interest (Improper Associations) Policy and Guidelines.
- b) Conflicts of Interest Policy and Guidelines.
- c) Drug and Alcohol Policy.
- d) Drug Compulsory Treatment Guidelines.
- e) Electronic Mail (Email) Guidelines and Procedures/ Electronic Mail Policy.
- f) Gender Based and Sexual Harassment Policy.
- g) Guidelines for the Management and Investigation of Critical Incidents.
- h) Internet Content Guidelines.
- i) Internet Users Policy

¹⁴⁹ Lersch KM, Bazley T, Mieczkowski T, "Early Intervention Programs: an effective police accountability tool, or punishment of the productive?", *Policing: An International Journal of Police Strategies and Management*, Vol 29 No 1, 2006 pp58-76

- j) Police Leave Conditions.
- k) Secondary Employment Policy and Guidelines.
- l) The Commander's Role In Helping To Maintain The Psychological Wellbeing Of Their Staff Policy
- m) Employee Assistance Program
- n) Fitness For Duty

The EIS program will also serve as an 'umbrella' over existing interventions, facilitating officer participation in the following current interventions or their referral to external providers as required:

- a) Counselling - Supervisor
- b) Counselling - Professional
- c) Training
- d) Immediate and Alternative Dispute Resolution
- e) Peer Support
- f) Mentoring
- g) Mental Health Intervention
- h) Police Chaplain

2. *The Committee notes the views that the Office of the Ombudsman expressed in their evidence, that an EIS needs to be complementary to the existing complaints system. To what extent can the NSWPF effectively integrate an Early Intervention System without duplicating or impairing its current organisational structure and processes?*

An effective EIS program should intervene before an officer becomes the subject of a complaint. The program's focus is welfare driven, with complaint reduction in the medium to long term a major objective, rather than complaint management.

The proposed EIS will therefore not duplicate the police complaints system but integrate current data sources and processes.

Data sources will include the:

- a) Computerised Operating System (COPS) for operational activity;
- b) SAP for human resource information; and
- c) C@tsi for police officer complaints history.

The integrated data will provide a snapshot of officers compared to their respective peer groups (i.e. similar duty types in similar locations) against the following indicators (note that this aspect will subject to testing):

- a) Complaints
- b) Attendance at critical incidents
- c) Arrest Patterns
- d) Use of police weapons
- e) Traffic violations by officer
- f) On-duty driving matters
- g) Failed Prosecutions/Legal
- h) Leave Patterns
- i) Use of force patterns
- j) Mandatory Training
- k) Improper Associations
- l) Misuse of Information
- m) Inadequate investigations.

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The final indicators (i.e. data sets) will simply be the first screening point for identified officers. All officers identified by this data driven process will be subject to further analysis by the EIS Central Support Team. This team will identify any false positives rising from the data and re-check its validity and the need for intervention prior to contacting the officer's supervisor in the first instance (the intervention phase).

Complaints history is only one of a range of indicators referenced by the EIS. This data is used to assist the analysis process prior to contacting the officer's supervisor.

The need to avoid duplication of existing systems and to minimise 'red tape' through has been a guiding principle for the EIS Steering Committee and the Project Team since its inception. Liaison with the corporate owners of the relevant internal capabilities is ongoing to ensure inclusion and integration of the EIS system rather than duplication will occur. The Steering Committee is also firmly committed to minimising any additional paperwork for Commanders/managers at the frontline.

3. If an officer were to undergo some form of intervention, should that be recorded on their personnel record?

The intervention would be centrally recorded on the EIS database by the officer concerned. All officers will have electronic access to their personal EIS record at any time to ensure transparency and accuracy. This includes a capacity for the officer to correct any errors in the EIS record.

An intervention would only be placed on the separate personnel record at the officer's request. Personnel records are maintained by Corporate Human Resources which is a separate department to the Professional Standards Command. In the event that Corporate Human Resources requested access to an officer's EIS record, the officer would need to give their permission. This process reduces the risk or perception that the system is punitively rather than positively focussed as regards process and outcome.

4. Can Early Intervention Systems have any unintended or undesirable effects? For example is there a risk they could penalise high performing officers?

The EIS Steering Committee and Project Team have identified these and other risks based on in-house analysis and research into other early intervention systems both in Australia and overseas. Effective risk management is central to preventing and/or managing unintended or undesirable effects arising from an EIS system.

The particular risk that high performing officers would be penalised is reduced at two key points:

- a) At the point of the initial analysis for false positives conducted by the EIS Central Support Team which is completed prior to the supervisor being notified; and
- b) Throughout an ongoing monitored consultation process between the identified officer and their supervisor.

The EIS process supports the discretionary authority of local management (i.e. commanders/managers) to deal with an intervention, whilst seeking to ensure organisational consistency. The process integrates local management, interventions and central support, capacity building across the organisation.

The six-step process in all interventions is:

1. Identification: Thresholds & Referrals

2. Consultation and Assessment Meeting
3. Intervention: Selection
4. Case Management: Intervention - Participation & Monitoring
5. Case Management: Intervention - Completion & Evaluation
6. Monitoring & Review

5. *On page 9 of the transcript of its evidence, the NSWPF undertook to provide further information on the proposed funding for the Officer Risk Assessment system (ORA). Is there any information you wish to provide about ORA relevant to the resourcing of the current EI system project?*

The Officer Risk Assessment (ORA) was the NSW Police Force's first effort to implement a standardised risk assessment tool to assist in the early identification of police officer misconduct. In September 2006 the ORA rollout was suspended following its implementation in 14 commands. This suspension was driven by a range of valid concerns including:

- a) The fact that the ORA was not data driven (compared to the EIS) and therefore vulnerable to subjective bias.
- b) External stakeholders (PIC and the Police Association of NSW) expressed serious concerns about the paper-based process which related to methodology, scope and organisational fit.

The current EIS Steering Committee and Project Team have learned from the ORA trial and its subsequent evaluation. These lessons informed the development of the current EIS program. Key lessons included recognising the need for:

- a) Open consultation (internal and external).
- b) Research and advice.
- c) Centralised support capability for the EIS.
- d) Access to valid data and frontline testing of the EIS.
- e) Funding scoping (application development).

6. *On page 2 of the transcript of its evidence, the NSWPF refers to the cost of the Los Angeles Police Department's EI system - the Training Evaluation and Management System (TEAMS). The Committee understands that the development and implementation of the in-house TEAMS systems proved to be problematic and expensive projects to deliver. What can the NSWPF learn from the LAPD's experience in developing costing and implementing TEAMS, both in terms of best practice and avoidable risks?*

In contrast to the NSW, the LAPD's EI system was imposed on the LAPD through a federal consent decree. The NSW Police Force Professional Standards Command is not seeking to adopt another agency's EIS, but is conducting internal and external consultation to design and implement an EIS that works for the NSW policing environment, which the PJC will have seen through its study tour, is markedly different from the LAPD environment.

Despite this *the* NSW Police Force EIS Steering Committee and Project Team have liaised extensively with the LAPD in order to understand what worked for it, what failed and what the LAPD could have done better. This includes obtaining access to the LAPD Business Case and presentations. Relevant information and knowledge obtained has been translated into the EIS Requirements Definition Document. Key lessons from LAPD include the

importance of training and education about the EIS, as well as the need for a comprehensive internal marketing strategy.

The Professional Standards Command considers that the EIS is a key professional standards strategy; it is one end of a continuum of strategies that promotes corruption resistance and the reduction of complaints against police.

7. *The Los Angeles County Sheriff Department's EI system was widely regarded by many experts as the most sophisticated system in the US, until a report in 2003 identified serious problems with its management. These included failure to enter performance data into the system; failure to clarify what constituted a citizen complaint; and senior staff that were unaware of the system's capabilities.*

What steps therefore can be taken by the NSWPF and external stakeholders to ensure that this EI system will not be the Rolls Royce which "has hardly ever been taken out of the garage"?

The NSWPF is not adopting any other jurisdiction's EIS and the problems cited within the LA County Sheriffs Department seem to be management problems rather than systems design deficiencies. Despite this the USA jurisdictions' experiences have been invaluable in instructing the NSW adaptation in terms of what works, what did not, and what we need to do better in the NSW policing environment.

For instance, in the NSWPF environment, the proposed EIS will be a 'working model' integrating existing systems capability with scope for upgrade in the future, hence it has not been 'over designed' at the outset. It is designed as a base line system that will combine hard data with human factor analysis at all levels.

The EIS is now regarded as core business for the NSWPF in terms of helping to build corruption resistance and reducing complaints that can be attributed to the EIS key indicators, but with the longer-term objective of career enhancement for police officers.

Furthermore the risk of failing to enter performance data into the EIS does not apply in this instance as the EIS database will access existing corporate data (ie. COPS, SAP, c@tsi) electronically to populate the EIS database. Some technical application work will be necessary for the EIS database to achieve and the NSW Police Force Business and Technology Services (corporate information technology capability) are working on the issue.

In the NSW Police Force's EI system, the responsibility for intervention progressing will be in the first instance, placed on the subject officer's supervisor. That is, the Commander/manager/supervisor of the officer identified by the EIS will need to consider the requirement for intervention and both decision-making and outcomes will be monitored by the EIS Central Support Team, a small team with state-wide screening and support capabilities.

In terms of senior staff awareness, the EIS program is a Commissioner's Executive Team (CET) priority with a CET member, the Deputy Commissioner, Specialist Operations being the program's sponsor. The marketing strategy will target all staff at all levels, given that all officers are potential clients of the EIS.

Finally, please find attached a copy of the EIS Program Requirements Definition Document (RDD) which is a detailed 'blueprint' for the design and delivery of the EIS program in the NSW Police Force. The RDD was endorsed by the program's high level multi-agency Steering Committee and has been provided to our Business Technology Services (BTS) for further development, with respect to the EIS' technical requirements.

Questions on Notice to the Police Association of NSW

- 1. Performance Indicators are regarded as critical elements of any Early Intervention system. What in your view are appropriate indicators and how do you think the NSWPF would be placed to deliver and maintain these?*

There are a large number of possible indicators that could be included in an EIS. Complaints, use of force, critical incidents, failed prosecutions, etc. The NSWPF already has an enormous amount of available data that could support anyone of a number of indicators. The real question is how do you determine what are valid indicators for the purpose of an EIS. The problem with the earlier ORA was that indicators were chosen without any way of knowing that the indicators were, in fact, validly able to predict potential behaviour. The EIS Project team is attempting to take a number of potential indicators and test them against the available data relating to known aberrant behaviour amongst police to see if their predictive potential is real. This is a complex process that requires sophisticated manipulation of the available data. However, without a set of predictors that can be validated, the danger is that we will simply collect information and flag officers on the basis of information that has no predictive value at all. The difficult part of this project is in getting the indicators right. It would be a great mistake simply to use indicators that have been developed from other jurisdictions, especially the USA. For example, in NSW the discharge of a firearm is a very rare occurrence - not so in the USA. Complaints data is clearly a contender for an appropriate indicator. However, such data needs to be further broken down. The current NSW system lumps all complaints together in a fairly unsophisticated way. Complaints about performance and customer service (managerial issues) would not have the predictive value of complaints about serious misconduct or criminal behaviour. Certain duty types may attract more (unsubstantiated) complaints. Merely to use numbers of complaints as an indicator is inappropriate. The way complaints are analysed should be part of the testing process to establish indicators. Once developed, the indicators need to be regularly assessed and tested against the data to ensure that they remain valid and to see if new indicators emerge as the context of policing evolves.

- 2. Are there any particular features you would wish to see in an Early Intervention System – for example an expiry date for data items or a process through which officers could request corrections to inaccurate data?*

As a matter of natural justice, to ensure that decisions are not been taken in relation to any officer on the basis of incorrect information, officers should have access to the data being held and have the opportunity to correct any inaccurate data. In regard to the length of time that data is held - it is really a matter of how long a data item continues to be used in the EI process. This should be established through the same process of testing that identifies the indicators. It would be, however, unusual for an EIS to be relying on information that is more than two years old.

- 3. How would you assess the value of using complaints data as a performance indicator in an Early Intervention system for the NSW Police Force?*

One of the clear desired outcomes of an EIS should be a reduction in the number of complaints against police. In those American jurisdictions that have successfully introduced an EIS, the associated reduction in complaints has been a primary measure of success.

4. *How should the effectiveness of an Early Intervention system for the NSW Police Force be evaluated? For example could evaluation methods from other police agencies' Early Intervention systems be usefully applied in NSW?*

To evaluate the effectiveness of the program, we need to go back to the objectives of the system. One of the problems of the ORA was that it was not clear what it was attempting to achieve. In the current Requirements Definition Document for the EIS, objectives include:

- a) The EIS improves public perceptions of police professionalism and public confidence.
- b) The EIS assists the NSW Police Force and external oversight agencies (Police Integrity Commission, NSW Ombudsman) in their roles and responsibilities.
- c) The EIS is a standard tool and framework for the NSW Police Force that reduces complaints and reduces risk at corporate, command and individual levels.
- d) The EIS is a standard tool and framework that integrates and capacity builds on other NSW Police Force systems and practices, improving support networks, transparency, knowledge and practice.
- e) The EIS provides all sworn officers with individualised, confidential and practical intervention and support services that promote positive behaviours.
- f) The EIS provides all managers at all levels with a legitimate workable tool for identifying sworn officers at need of effective intervention, support and monitoring.

Each of these objectives can be broken down into objectively measurable bits that can form the basis for an evaluation of the effectiveness of the program. It could be counterproductive to utilise evaluation methodologies from agencies whose objectives, against which the system is evaluated, are different.

5. *The Los Angeles County Sheriff Department's EI system was widely regarded by many experts as the most sophisticated system in the US, until a report in 2003 identified serious problems with its management. These included failure to enter performance data into the system; failure to clarify what constituted a citizen complaint; and senior staff that were unaware of the systems capabilities.*

What steps therefore can be taken by the NSWPF and external stakeholders to ensure that this EI system will not be the Rolls Royce which "has hardly ever been taken out of the garage"?

The first Interim Report of the Wood Royal Commission (February 1996) at pages 122 - 124, noted that the NSW Police Service (as it was then) was very good at developing policies and programs, but hopeless at implementing them. The Commission recognized that, on paper, the plans and policies looked good - but there was little commitment from the leadership to make them work. The Los Angeles County Sheriff Department's EIS failure is not an indictment on the system, but on implementation. There are a number of steps that need to be taken to ensure that the system works:

- i) There needs to be strong commitment from the leadership, especially the Commissioner and the Deputies - the successful implementation of the EIS should be part of the accountabilities of senior command.
- ii) The development and ongoing support of the EIS needs to be properly funded as a separate item. The injection of funds up front will result in considerable savings in the long run with the anticipated reduction in complaints against police. Without appropriate funding, the Rolls Royce might look good, but will lack an engine and never leave the garage.

- iii) There needs to be a permanently established section to administer the EIS and to audit and quality-check the implementation of the EIS across the organization.
- iv) Data collection needs to be rigorous - training of supervisors is essential and clear procedures need to be developed. Data validation should be built into the system
- v) Realistic non-punitive interventions need to be developed and regularly evaluated. If officers recognize the benefits of interventions they will succeed.
- vi) The EIS should, when implemented, be widely and regularly promoted both through training and the Force's publications.
- vii) Key stakeholders need to be involved at all stages of the implementation of the EIS.
- viii) A process for ongoing regular evaluation of the EIS and the indicators should be established at the outset.

Questions on Notice to the Police Integrity Commission

1. *What, in the Commission's view, are the lessons which can be drawn from the NSWPF's previous efforts to develop early intervention and risk assessment tools?*

The Commission's involvement, since 2003, in collaborating with the NSWPF with regards to the development of an Early Intervention System (and their Officer Risk Assessment process – ORA) suggests that several factors are important in ensuring the successful development and implementation of an Early Intervention System, including:

- Support from the senior executive levels within the organisation – particularly executive buy-in and commitment to the adoption of a misconduct prevention approach within the Relevant technical expertise – in particular research skills, information technology skills, and consultation with external experts when the relevant expertise is not available within the organisation;
- Provision of relevant resources, and a commitment to obtain the necessary resources where such resources are not currently available within the organisation – for instance, an appropriate software tool to assist with identifying officer exhibiting problem behaviours;
- Adopting a rigorous project management approach – in particular, considering employing the services of an external project manager/consultant if the relevant expertise does not exist within the organisation; and
- Adopting a systematic and staged approach, including formalising anticipated costs and making informed decisions based on accurate cost estimates.

2. *On page 6 of the transcript of its evidence, the PIC discusses the "test of commitment" when it comes to monitoring interventions. The Los Angeles County Sheriff Department's EI system was widely regarded as the most sophisticated system in the US, until a report in 2003 identified serious problems with its management. These included failure to enter performance data into the system; failure to clarify what constituted a citizen complaint; and senior staff that were unaware of the system's capabilities.*

What steps therefore can be taken by the NSWPF and external stakeholders to ensure that this EI system will not be the Rolls Royce which "has hardly ever been taken out of the garage"?

It is our understanding that the main purpose of this question is to seek a list of actions that will assist in ensuring that there is commitment within NSWPF to using an early intervention system effectively over time. The Commission is of the view that an Early Intervention System should be tailored to the needs of the NSWPF. Accordingly, failure to take into account the specific operational and corporate needs within the NSWPF could be detrimental to the success of an EIS. There are legitimate concerns that a poorly planned development and implementation process could lead to an Early Intervention System that is underused, unsupported, and financially burdensome to NSWPF.

The Commission is of the view that several steps can be taken to ensure that an Early Intervention System within the NSWPF is a valuable and efficacious misconduct prevention tool, including:

- Ensuring that the executive level within the NSWPF is committed to providing resources and funding to support the development of an EIS through to project completion, implementation, and for the future maintenance of the system;
- Ensuring that there are appropriate processes in place to measure the performance of the Early Intervention System within the NSWPF, via, for example, periodic evaluations of the system and regular monitoring of results and interventions;
- Ensuring that the EIS is developed through a systematic and staged project management approach, so that the planning process takes into account the needs of the relevant internal and external stakeholders through detailed consultation and collaboration; and
- Ensuring that the NSWPF achieves buy-in from the field and reinforces the values of an Early Intervention System throughout the organisation, via, for example, the provision of regular and appropriate training for supervisors and managers; raising awareness of the system's benefits amongst all staff; and ensuring that the system is appropriately transparent to encourage compliance.

3. *Can the NSWPF effectively integrate an Early Intervention System into its current organisational structure and processes?*

Throughout its involvement in the NSWPF's efforts to develop an EIS, the Commission has consistently expressed the view that it is feasible for the NSWPF to effectively integrate an EIS into its existing organisational structure and processes, and to leverage the EIS off its existing data capture systems and processes for managing conduct and performance in the workplace.

Whilst the details regarding how the EIS is to be integrated into existing systems and processes have not yet been decided, there appears to be a consensus amongst participating members of the EIS project planning process (NSWPF, PIC, NSW Ombudsman and Police Association) that an integrated EIS is achievable and desirable for the NSWPF.

The Commission understands that the NSWPF has various other processes in place to address problem behaviours that are beyond the scope of an EIS – that is, that are not 'early' indicators of misconduct. An EIS has the potential to be integrated into existing systems and processes through multiple uses of relevant data - for example, complaints data can be used as a data source for an EIS as well as to develop a risk profile for a subject officer in a complaint investigation. Additionally, an EIS can be integrated into existing management structures that serve performance management goals, for example via the use of existing training facilities and services.

4. Are there any particular features you would wish to see in an Early Intervention System – for example an expiry date for data items or a process through which officers could request corrections to inaccurate data?

It is the view of the Commission that the EIS should be developed around some broad underlying principles, including a focus on misconduct prevention, accountability and transparency. Any specific features of an EIS discussed within the context of Project Team meetings and Steering Committee meetings are a natural consequence of these broad concepts underpinning the EIS.

The Commission is of the view that the final version of the NSWPF's EIS be developed in consultation with the external stakeholders, in the spirit with which such discussions have been undertaken in recent months. Under these circumstances, the Commission has been involved in debating and discussing the various detailed aspects of the EIS with NSWPF and the other external stakeholders. The Commission is of the view that an appropriate EIS model would involve four main stages: identification of officers exhibiting problem behaviours; deciding which intervention to choose based on all available information; implementing the appropriate intervention; and monitoring of officers post-intervention. The identification phase should involve a robust set of evidence-based indicators contained in a centrally-administered electronic database, and that this centralised aspect should be complemented by the ability of local managers to refer an officer to an EIS based on observed qualitative behaviours (local knowledge via automatic referral). Where possible, indicators should take into account relevant aspects of performance (for example, rather than using crude indicators involving the total number of complaints, instead use indicators that take into account arrest rates etc).

Decisions regarding interventions should ultimately be made at the local level with input from the centralised component. Interventions should be conducted by the appropriate service provider (either internal or external), and progress should be monitored by local and central components of the EIS to ensure that lessons learnt are fed back into the system for future improvement, and that local knowledge is not neglected.

5. If an officer were to undergo some form of intervention, should that be recorded on their personnel record?

The fundamental underlying purpose of an Early Intervention System is that it addresses identified problems in a remedial manner in order to prevent the escalation of problem behaviour that could lead to misconduct. There is strong consensus among the members of the EIS Project Team (NSWPF, PIC, Ombudsman and Police Association) that the EIS should focus on remedial strategies, and, where possible, avoid the inclusion of any punitive aspects to the system.

There has been some discussion among the EIS project participants regarding the issue of whether participation in an EIS should be recorded on an individual's personnel file. It is the Commission's view that, in line with the underlying preventative philosophy of the EIS, an officer's participation in an EIS should be recorded in their personnel file, but that such information should only be used for recording purposes and not for punitive purposes.

6. Can Early Intervention Systems have any unintended or un-desirable effects?

The Commission does not wish to speculate on possible unintended effects in relation to the NSWPF's Early Intervention System. However, some lessons can be gleaned from the experiences of other jurisdictions that have implemented EISs (although caution should be

exercised when applying the experiences of overseas agencies to the specific policing context of NSWPF).

Phoenix Police Department, an oft-cited example of a law enforcement agency that has implemented a successful Early Intervention System, has documented some findings on its website in relation to the implementation of its EIS, referred to as a 'Personnel Assessment System' (PAS). In particular, Phoenix Police Department observed that when the system was implemented, first and second-level managers initially expressed concerns that the new system would lead to increased workload. Additionally, training was initially met with some negative attitudes. These initial concerns were later supplanted with support for the system, presumably as participants gained further experience with using the system.

It is important to note that whilst the lessons of overseas jurisdictions can provide some insight into possible undesirable effects of system implementation, the Commission has encouraged the NSWPF to exercise caution in applying such lessons of external agencies to the NSWPF.

The Commission is of the view that with the proper planning mechanisms in place; executive commitment within the organisation; and the necessary technical expertise and resources, it is unlikely that the implementation of an EIS within a law enforcement agency will be met with major undesirable and unexpected effects.

7. Some serious complaint allegations could take a long time to investigate. Can this partial data still be effectively used in an Early Intervention System?

Depending on the indicators used within an EIS, it is possible that data arising from an ongoing complaint investigation could be relevant for the purposes of an EIS. The Commission has consistently maintained throughout its dealings with the NSWPF that it would be useful to canvass a wide variety of data sources for potential inclusion in an EIS. There may be circumstances, for example, whereby an officer who is the subject of a complaint investigation may need to be inducted into an early intervention process for a relevant issue arising from the complaint investigation. The Commission does not wish to speculate on specific instances whereby data arising from complaint investigations could be used in an EIS, but maintains the view that such data should be considered as being potentially useful, depending on the final list of indicators.

8. To what extent can the experiences of other jurisdictions, in developing and implementing EI systems, be usefully applied in NSW? For example the experience of the LAPD in developing their in-house TEAMS I and TEAMS II systems?

The Commission has consistently encouraged the NSWPF to be cautious when applying the experiences of other jurisdictions to the specific context of policing in NSW. Historically, this advice has not always been accepted. For example, one of the major reasons for the NSWPF adopting the ORA process was the belief that an EIS would be an expensive and unaffordable system – a belief that was formed via informal discussions with LAPD regarding the costs of their TEAMS systems.

There have been discussions amongst the NSWPF EIS project planning participants regarding circumstances in which the experiences of other jurisdictions could be readily applied (for example, the use of complaints data in developing indicators), and, conversely, situations in which the experiences of other jurisdictions have been more difficult to apply in the Australian context (for example, the use of firearm discharges as an indicator in many

US jurisdictions, where such an indicator would not easily be justified in the NSW context given that the number of such incidents is far greater in US jurisdictions than in NSW).

The Commission maintains that understanding the experiences of other jurisdictions should be focused on the processes that were undertaken to develop their EIS, rather than specific aspects of the EIS, such as what indicators are used. In other words, the focus should be on learning how other jurisdictions have developed their EIS, and applying the relevant lessons to NSWPF, instead of focusing on context-specific details such as what indicators were used and what interventions appear to be effective. By focusing on the broader processes rather than specific outcomes, the experiences of other jurisdictions could be very useful in enabling NSWPF to develop a robust and effective EIS.

Appendix 6 – Committee Minutes

Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission (No. 6)

10.00 am Tuesday 11 March 2008
Jubilee Room, Parliament House

Members Present

Ms D'Amore MP	Mr Draper MP	Ms Hale MLC
Mr Kerr MP	Mr Lynn MLC	Mr Pearce MP
Ms Voltz MLC		

Also Present

Nina Barrett, Jonathan Elliott, Samantha Ngui, Hilary Parker, Pru Sheaves

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Deliberative Session

The meeting commenced at 12.25pm

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2. Inquiry into Early Intervention Systems

The Chair and the Committee Manager briefed the committee on the background to the inquiry. Resolved on the motion of Mr Pearce that:

- in accordance with its statutory functions under s.95 of the *Police Integrity Commission Act 1996*, the Committee on the Office of the Ombudsman and the Police Integrity Commission conduct an inquiry into:
 1. the role of early intervention systems in managing vulnerable law enforcement officers and assisting in corruption reduction;
 2. current early intervention initiatives by New South Wales Police Force;
 3. the utility and further development of an early intervention system for NSW Police Force;
 4. any other matter the committee considers relevant to the inquiry;

and report to both Houses of Parliament on the inquiry.

- the committee advertise for and invite submissions and the Secretariat begin organising hearings for the inquiry.

The committee adjourned at 12.30pm until Thursday 13 March 2008.

Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission (No. 9)

10.30 am Thursday 3 April 2008
Room 1102, Parliament House

Members Present

Ms D'Amore MP	Mr Draper MP	Ms Hale MLC
Mr Kerr MP	Mr Pearce MP	Ms Voltz MLC

Apologies: Mr Lynn MLC

Also Present

Nina Barrett, Samantha Ngui, Hilary Parker, Pru Sheaves

The Chair opened the meeting at 10:40am.

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4. Inquiry into Early Intervention Systems

The Chair briefed the Committee on a proposal for a comparative study tour to the United States and Canada.

Resolved on the motion of Mr Pearce that the Committee approve the proposed study tour program in order to inform its consideration of both the utility of an Early Intervention System in New South Wales and any recommendations it may wish to make on a best practice model; and that a memo be sent to the Speaker recommending the expenditure of funds to this end.

Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission (No. 10)

10.30 am Thursday 5 June 2008
Room 1102, Parliament House

Members Present

Ms D'Amore MP	Mr Draper MP	Ms Hale MLC	Mr Kerr MP
Mr Lynn MLC	Mr Pearce MP	Ms Voltz MLC	

Also Present

Jonathan Elliott, Helen Minnican, Hilary Parker

The Chair opened the meeting at 10:35am.

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5. Inquiry into Early Intervention Systems

The Committee noted for information the following items of correspondence which had been received in relation to the Committee's call for submissions:

- (a) New Zealand Police, dated 29 April 2008
- (b) South Australia Police, dated 7 May 2008.

Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission (No. 11)

10.30 am Thursday 19 June 2008
Room 1102, Parliament House

Members Present

Ms D'Amore MP Ms Hale MLC Mr Kerr MP
Mr Pearce MP Ms Voltz MLC

Apologies

Mr Draper, Mr Lynn

Also Present

Nina Barrett, Jonathan Elliott, Helen Minnican, Hilary Parker

The Chair opened the meeting at 10.45am.

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4. Inquiry into Early Intervention Systems

The Chair briefed the Committee on the recent inquiry study tour to the United States and Canada.

Resolved on the motion of Ms Voltz that the Chair issue a press statement on the Committee's overseas study tour (6-13 June 2008) and that the Chair, Committee Manager and Senior Committee Officer be permitted to correct stylistic, typographical and grammatical errors.

Mr Kerr then moved an amendment that the names of the relevant Committee Members be included in the statement. The Committee adopted the resolution as amended.

Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission (No. 12)

10.30 am Thursday 23 October 2008
Room 1102, Parliament House

Members Present

Mr Draper MP Ms Hale MLC Mr Hickey MP Mr Kerr MP
Mr Lynn MLC Mr Pearce MP

Apologies

Ms Voltz

Also Present

Jonathan Elliott, Hilary Parker, Ian Thackeray

The Acting Chair opened the meeting at 10.35am.

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4. Inquiry into Early Intervention Systems

(a) Hearing:

- (i) Submissions to the inquiry were distributed to Committee members.
- (ii) Members noted the hearing schedule set down for 19 November 2008.

(b) and (c) Members noted correspondence from the Australian Federal Police dated 26 June 2008 and from the South Australia Police, dated 7 May 2008, declining the Committee's invitation to make a submission to the Early Intervention Systems inquiry.

Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission (No. 13)

10:45am Wednesday 19 November 2008
Waratah Room, Parliament House

Members Present

Ms Hale MLC Mr Hickey MP Mr Kerr MP
Mr Lynn MLC Mr Pearce MP Ms Voltz MLC

Apologies

Mr Draper

Also Present

Jonathan Elliott, Victoria Maigre, Hilary Parker, Ian Thackeray

EIS Inquiry

The Chair commenced the proceedings at 10:50am.

Mr John Pritchard, Commissioner, and Mr Allan Kearney, Director, Prevention and Information, Police Integrity Commission, Level 3/111 Elizabeth Street, Sydney, affirmed. Mr Pritchard tabled the Commission's submission. The Chair questioned the witnesses followed by members of the Committee. Evidence concluded, the Chair thanked the witnesses and the witnesses withdrew.

Mr Bruce Barbour, NSW Ombudsman, and Mr Gregory Andrews, Assistant Ombudsman, Level 24, 580 George Street, Sydney, affirmed. Mr Barbour tabled his submission and made an opening statement. The Chair questioned the witnesses followed by members of the Committee. Evidence concluded, the Chair thanked the witnesses and the witnesses withdrew.

Mr Phillip Tunchon, Assistant Secretary, and Mr Peter Remfrey, Secretary, Police Association of NSW, Level 4, 154 Elizabeth Street, Sydney, took the oath. Mr Tunchon tabled the Association's submission and made an opening statement. Committee members questioned the witnesses. Evidence concluded, the Chair thanked the witnesses and the witnesses withdrew.

The Committee adjourned at 1.15pm for a luncheon break and resumed at 2:15pm.

Paul Carey, Acting Deputy Commissioner, Specialist Operations, NSW Police Force, Elizabeth Street, Sydney and Karen McCarthy, Acting Assistant Commissioner, Professional Standards Command, NSW Police Force, Clarence Street, Sydney, took the oath. Deputy Commissioner Carey tabled the NSW Police submission and made an opening statement. The Chair questioned the witnesses followed by members of the Committee. Evidence concluded, the Chair thanked the witnesses and the witnesses withdrew.

The Committee adjourned at 3.00pm and resumed at 3.10pm.

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Minutes of Proceedings of the Committee on the Office of the Ombudsman and the Police Integrity Commission (No. 13)

10.30 am Thursday 26 March 2009
Room 1102, Parliament House

Members Present

Mr Draper MP	Ms Hale MLC	Mr Hickey MP	Mr Kerr MP
Mr Lynn MLC	Mr Pearce MP	Ms Voltz MLC	

Also Present

Les Gönye, Hilary Parker, Indira Rosenthal

The meeting commenced at 10.40am.

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4. Inquiry into Early Intervention Systems

(a) Consideration of draft report

Resolved on the motion of Ms Hale, seconded by Ms Volt, that the draft report be the Report of the Committee, that it be signed by the Chair and presented to the House, together with the minutes of evidence and the study tour report, and that the Chair, Committee Manager and Senior Committee Officer be permitted to correct stylistic, typographical and grammatical errors.

(b) Publication of outstanding submissions

Resolved on the motion of Mr Kerr, seconded by Ms Voltz, that the Committee publish the submissions from Western Australia Police and New Zealand Police.