

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON
LEGAL AFFAIRS**

FUTURE OF POLICING IN THE ACT

REPORT NO. 1

SEPTEMBER 1995

COMMITTEE MEMBERSHIP

Mr Connolly
Mr Osborne
Mr Kaine

(Chairman)
(Deputy Chairman)

Secretary:
Research Officer:

Margaret Jones
Chris Papadopoulos

TERMS OF REFERENCE

On 5 April 1995 the committee resolved to inquire into:

the future of policing arrangements for the ACT in particular to examine accountability arrangements including the possible creation of a statutory office of Commissioner of Police for the ACT.

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RECOMMENDATIONS

Recommendation 1

The Committee recommends that the ACT Government consult with the Commonwealth Government to change legislation to allow the statutory appointment of an ACT Police Commissioner by mid 1996.

Recommendation 2

The Committee recommends that the ACT Government renegotiate the present policing arrangement, with the Commonwealth Government, within six months of the Commissioner's appointment, to give the ACT Minister an appropriate level of control over policy and resources.

Recommendation 3

The Committee recommends that the ACT Legislative Assembly establish a selection process, similar to that used for statutory appointments, to elect the ACT Commissioner of Police.

Recommendation 4

The Committee recommends that legislation/procedures be established to allow the ACT Attorney General to have input into the handling of complaints against police.

1. Introduction

1.1. The Standing Committee of Legal Affairs was formed on 9 March 1995 to:

...examine matters related to administrative law, civil liberties and human rights, censorship, company law, law and order, criminal law, and consumer affairs.

1.2. On 5 April 1995 the Committee resolved to:

inquire into the future of policing arrangements for the ACT and in particular to examine accountability arrangements including the possible creation of a statutory office of Commissioner of Police for the ACT.

Conduct of the Inquiry

1.3. The inquiry was advertised in *The Canberra Times* on 12 May 1995.

1.4. On April 26 1995 the Committee held private discussions with government officials from the Attorney General's Department and the Australian Federal Police on matters in the Attorney's portfolio and in the consumer affairs area.

1.5. The Committee also wrote to a number of organisations requesting a written submission. A total of four submissions were received. A list of those who provided written submissions is at Appendix A.

1.6. The Committee held a public hearing on 17 August 1995. At the hearing representatives from the Attorney General's Department, the Australian Federal Police, The Canberra Police Association (CPA), the Commonwealth Ombudsman and the Australian Federal Police Association (AFPA) were questioned at length by the Committee. A list of those who appeared as witnesses is at Appendix B.

2. POLICING IN THE ACT - A HISTORICAL VIEW

Background to the Commonwealth -Australian Capital Territory Policing Arrangement

Formation of the AFP

2.1. In 1983 New South Wales (NSW) Police established the first police station in Canberra. In 1911 the Territory separated from NSW; however, it was not until 1926, that the first Chief Officer of the Australian Capital Territory was appointed. The Commonwealth Attorney General's Department was invested with control of the Police Force.

2.2. On May 9 1927 police officers from all over Australia were assigned for duty in the Federal Capital Territory. Until the opening of a Court at Acton in 1930, hearings for Canberra prisoners were held in Queanbeyan.

2.3. In 1950 the Department of the Interior took over control of the Police Force. By 1960 the Police Force consisted of some 188 police and 22 public service personnel.

2.4. The Australian Federal Police Force was established on 19 October 1979 pursuant to the *Australian Federal Police Act 1979* (AFP Act), and incorporated the Australian Capital Territory Police, Commonwealth Police and representatives of the Narcotics Bureau of the Department of Customs and Excise.

2.5. At the time the ACT Police Force was incorporated within the new Australian Federal Police Force (AFP) there were 581 police personnel and 73 public service personnel.¹

The Commonwealth-ACT Policing Arrangement

2.6. In 1988 amendments to the ACT (self-government) Act and the Australian Federal Police Act of 1979, provided that subject to an arrangement being made between the Territory and Commonwealth Governments, the AFP could continue to provide the police services in the ACT, including community police services.

2.7. The Commonwealth-ACT Policing Arrangement was signed on 25 July 1990 by the then ACT Attorney-General, Mr Bernard Collaery, and the Commonwealth Minister for Justice, Senator Michael Tate.

2.8. During the Assembly debates on the Arrangement, the Attorney-General told the Assembly that a combination of constraints in the Self-Government Act and the AFP Act, together with the fact that the general revenue grant paid to the ACT by the Commonwealth did not include the capacity to provide police services in the ACT, made it impractical to enter into an arrangement with any police force other than the AFP.²

¹ Attorney General's Department/Australian Federal Police Joint Submission, p 15

² Hansard, 21 February 1990; N. Grant, *Accountability for Community Policing in the ACT and the Commonwealth-ACT Policing Arrangement*, (Masters sub-thesis), p1

2.9. In addition to the abovementioned legislative constraints, and the clear preference of the Commonwealth for the AFP to continue to provide policing services to the Territory, a further consideration was the Commonwealth's commitment to pay for the cost of police services for the first year of the Arrangement.

2.10. The Arrangement's provisions addressed, among other matters:

- access to information, consultation and reporting arrangements;
- appointment of the Chief Police Officer (CPO);
- deployment of additional resources;
- employment conditions;
- revenues;
- financial principles relating to ACT Policing;
- monitoring and financial accountability;
- disputes; and
- amendment and termination of the Arrangement.

2.11. The Self-Government Act gives the Territory Executive power to make laws in respect of law and order. While the Assembly is not expressly constrained from legislating in relation to police services, subsection 23 (1)(c) prevents it from making laws with respect to "the provision by the Australian Federal Police of police services in the Territory". Furthermore, any Territory law which is inconsistent with the AFP Act, which expressly makes the policing of the ACT an AFP responsibility, would have no effect to the extent of that inconsistency.³

2.12. Under this arrangement *policing in the ACT clearly remains under overall Commonwealth control*.⁴

Royal Canadian Mounted Police (RCMP) Model Arrangement

2.13. The Commonwealth/ACT Arrangement used the RCMP Arrangements as a model. This model provides for an agreement between the Government of Canada and provincial and municipal governments for the provision of police services by the RCMP.

2.14. While the Commonwealth/ACT Arrangement includes many provisions found in the Canadian model, the RCMP model differs in two important respects: it allows a provincial Attorney-General to give directions to the chief police officer and to determine objectives, priorities and goals; and to have an input into the handling of complaints against police.⁵

³ Attorney General's Department/Australian Federal Police Joint Submission, p5

⁴ AG's/AFP joint submission; Grant, p 1

⁵ AG's/AFP joint submission, p6; Grant, pp34-35

Role of Commissioner of Police

2.15. The Commissioner is responsible for the overall administration and the control of the operations of the AFP, including the ACT. As such the Commissioner is responsible for the internal management and discipline of the police service, including the administration and application of professional police standards. Appointment of officers to senior ranks (ie Commander and Assistant Commissioner) remained the responsibility of the Commissioner.

2.16. The Commissioner is responsible for providing advice to the Minister for Justice and the ACT Minister specifically on the general policy to be pursued by the AFP in relation to the performance of its functions in the ACT.⁶

Role of Assistant Commissioner (ACT Region)

2.17. The Assistant Commissioner is authorised by the Commissioner to manage the day-to-day operations and administration in the ACT Region. He or she is the first point of contact with the ACT Minister (and the ACT Administration) on ACT community policing matters. The position is authorised to provide reports to the Minister on local issues related to community policing, day-to-day administration and operations. The Assistant Commissioner is the Principal Adviser to the Commissioner on general policing issues in relation to ACT community policing matters.

2.18. This position was accorded the title of Chief Police Officer to the ACT.⁷ The appointment of the Chief Police Officer to head the ACT Region is subject to consultation with the ACT Minister.

The Review of ACT Policing Services

2.19. The Arrangement provided for a review of goals and objectives and resource levels associated with the ACT police services by 30 June each year through consultation between the ACT and Commonwealth Ministers.

2.20. Successive ACT Governments have expressed satisfaction in principle with the continued provision of ACT policing services by the AFP, and surveys suggest that this is a view shared by the community at large. Even so, Government has noted the inadequacy of its level of control on the delivery of police services to the public and its limited capacity to formally influence policing priorities, both of which situations are a reflection of the legislative framework surrounding the Agreement.

2.21. On 24 February 1993, the then Chief Minister wrote to the Prime Minister, to express the view that “the main disadvantage of the current Arrangement is that, while there is a certain amount of consultation and acknowledgment of Government priorities, the AFP (ACT Region) is not accountable directly or legally to the ACT Government and very little real information on programs, costs and priorities is provided. The problem is not made easier by the overlap of ACT and Commonwealth responsibilities”.⁸

⁶ *ibid*, p6

⁷ *ibid*, p7

⁸ *ibid*, p8

2.22. Following the expression of the Chief Minister's concerns over the operations of the Arrangement, in April 1993 the ACT Attorney-General and the Commonwealth Minister for Justice agreed on a more general review of policing services in the ACT.⁹

2.23. Stage One of the review, a fact-finding exercise detailing the nature and cost of ACT policing, has been completed. Stage Two of the review will focus on issues of accountability to the ACT Government. It will investigate, inter alia, a policing model contemplating an appropriate legislative base to support the statutory appointment of an ACT Police Chief as well as how policing services can best be provided in the ACT. Stage Two will review the Arrangement's provisions for the ACT Minister's involvement against the experience since the inception of the Arrangement, the requirements of the ACT Government and the need to balance the Commonwealth's interests in the ACT.¹⁰

2.24. With respect to the role and perceptions of the Chief Police Officer, Stage Two of the review will consider issues including:

- the Chief Police Officer being appointed by the ACT Executive, but with the Commonwealth having some sort of veto;
- a selection process giving a pivotal role to the AFP Commissioner (eg the Commissioner might chair a selection committee, on which the ACT Government would also have a representative, and convey its recommendation);
- the Chief Police Officer having the same rank and status as an AFP Deputy Commissioner (recognising, inter alia, the additional formal responsibilities that would go with the position);
- the Chief Police Officer having, within the AFP structure of command, direct statutory responsibilities, to the ACT Minister, for defined ACT community policing services (this would be a matter of some drafting intricacy); and
- the Chief Police Officer having, within the ACT financial structures, direct program management responsibility (ie Audit Act, accountability for program expenditure).¹¹

2.25. The Attorney-General's Department/AFP joint submission maintains that the ideal situation would see the AFP retaining the function of ACT Police services and the commensurate benefits for its national policing responsibilities, and the ACT Government having a capacity to determine policing policy in the ACT including overall resource allocation while retaining the advantages of being a part of the Commonwealth's primary law enforcement agency. That element of the AFP providing police services in the ACT will be able to operate as an ACT Government agency and establish relationships with relevant agencies within the criminal justice system.

⁹ *ibid*, p6

¹⁰ *ibid*, p9

¹¹ *ibid*, p11

3. CURRENT STATUS OF POLICING IN THE ACT

Interim Arrangement for Chief Police Officer

3.1. Since the retirement of the former Chief Police Officer, Mr Peter Dawson, the AFP Commissioner, Mr Mick Palmer, has taken over the CPO's functions until the conclusion of the Review of ACT Policing Services.

Staffing and Resources

3.2. The funding level for ACT community policing is monitored by the Commonwealth Grants Commission, as part of its analysis of all State and Territory budgets, on an annual basis. Running costs for ACT community policing have been reduced by 2% for the last three years in line with an ACT Government budget decision. This will continue until 1996-7. In order to identify savings the AFP has conducted a number of management reviews which have resulted in the implementation of a number of measures such as correction of overlapping functions and improvements to services in a range of areas ie property handling, case management, search and rescue and water policing.¹²

3.3. The actual budget allocation for ACT Policing in 1993-94 was some \$53.665 million.¹³ AFP ACT Policing staffing levels comprise some 690 positions; with 90 positions being paid for by the Commonwealth.

General Policing

3.4. In 1992/93 the AFP ACT Region comprised three Districts, City, Belconnen and Southern. This followed an internal review by the AFP in 1988, prior to the Policing Arrangement, which recommended the centralisation of specialist functions and the location of policing facilities as close as possible to the community. This was later increased to four districts in 1993/94 with the division of Southern District into Woden and Tuggeranong Districts. Each district has a staff complement and a range of core functions, including response patrols and criminal investigation capabilities; proactive community policing squads; Juvenile Aid, Neighbourhood Watch; and administrative functions.¹⁴

3.5. Some of the extensive range of activities undertaken by the AFP ACT Region in 1993-94 include:

- making Civic a safer place at night;
- developing an ACT Drug Strategy;
- piloting a country town policing approach;
- instigating a diversionary conferencing process which provides the opportunity for victims to participate in the process of seeking reparation;
- establishing Safety Houses; introducing road safety advertisements;
- targeting "Black Spot" road accident sites;
- coordinating the Apex, "Stop, Revive, Survive Program"; and

¹² *ibid*, p7

¹³ *Australian Federal Police ACT REGION - Annual Report on Policing in the Australian Capital Territory 1993-1994, Commonwealth of Australia 1994, p40*

¹⁴ *AG's/AFP joint submission, p19*

-conducting Random Breath Tests; as well as other investigative and general policing activities.¹⁵

3.6. The AFP ACT Region also employed marketing and research consultants to undertake community attitude surveys to assist the police force to be more responsive to the demands and expectations of the ACT community.

Complaints against the AFP - Role of the Commonwealth Ombudsman

3.7. The Commonwealth Ombudsman (CO) is responsible for ensuring the proper investigations of complaints about the AFP under the provisions of the Complaints (Australian Federal Police) Act 1981 (the Complaints Act), in conjunction with the AFP's Internal Investigation Unit (IID). The Ombudsman's jurisdiction includes complaints made to the Office of the CO or direct to the AFP.¹⁶

3.8. The Commonwealth Ombudsman:

- is an independent statutory authority who independently and impartially considers complaints and makes appropriate recommendations based on the investigation;
- has extensive powers to obtain evidence;
- has the role of being the only source of external review of complaints against the AFP's Witness Protection Program; and
- may inform the Prime Minister as well as report to the Commonwealth Parliament if a formal recommendation made to the Commissioner of the AFP is not acted upon within a reasonable time.¹⁷

3.9. Most complaints are investigated by the IID, however the CO has the power to investigate the matter if it relates to the practices and procedures of the AFP. The staff of the Commonwealth Ombudsman also scrutinise the investigation report where the investigation was conducted by the IID to ensure the matter has been adequately handled. If the CO is not satisfied a further investigation may occur.¹⁸

3.10. A large number of complaints about the AFP relate to community policing in the ACT. In fact 63% of the complaints received in 1993-94 were related to ACT policing. Statistics also illustrate that there is a higher proportion of ACT complaints on the AFP's role in providing policing to the ACT community, compared with its law enforcement role in the other states and territories of Australia. AIDEX demonstrations resulted in a particularly high level of complaints in 1991-92.¹⁹

3.11. The Complaints Act prevents the CO from providing details of individual complaints to either the public or members of Parliament or the ACT Legislative Assembly. However, the CO may provide information to an Assembly member who

¹⁵ *Australian Federal Police ACT REGION - Annual Report on Policing in the Australian Capital Territory 1993-1994, Commonwealth of Australia 1994, p2-12*

¹⁶ *Commonwealth Ombudsman, Submission, dated 11 May 1995, p1*

¹⁷ *ibid, pp2-4*

¹⁸ *ibid, p1*

¹⁹ *ibid, p2*

passes on a complaint on behalf of a constituent, as they are considered to be acting on behalf of the complainant.

3.12. In January 1995 Federal Parliament provided the CO with the power to undertake investigations of the AFP on its own initiative. Further in April 1995 the AFP commenced a six month trial of a new procedure, called workplace resolution, for handling less serious complaints. This initiative was developed in conjunction with the working party reviewing the IID. The CO still monitors the complaints to ensure they have been handled correctly. If the Commissioner and the CO do not reach agreement on any decision the matter is decided by the Federal Attorney General.

3.13. The CO believes *that the Ombudsman should have the capacity and resources to investigate more of its own investigations into serious complaints alleging violence and/or assault rather than referring them to the IID in the first instance; and to ensure public confidence in the police complaints process, urges the inclusion of external scrutiny of complaint handling in any future policing arrangements in the ACT.*²⁰

Complaints against the AFP - Role of the ACT Attorney General

3.14. The ACT Attorney General's Department reports that complaints against ACT Region officers make up approximately 75% of total complaints against the AFP. The ACT Attorney General often becomes involved in complaints against the police via media reports and through issues raised by constituents.

*Given the close relationship between community policing and their Government, the ACT Attorney General is often seen as the responsible Minister when complaints arise and there will be expectations as to the Minister's responsibilities that are far more detailed than, say, for the Commonwealth Minister in relation to Australia wide complaints.*²¹

3.15. In response to the ACT Government's expressed concerns regarding the handling of complaints, the Commonwealth Attorney General's has issued terms of reference to the Australian Law Reform Commission to inquire and report on ways by which the ACT Government can be more involved with complaints concerning AFP staff and police under the command of the Chief Police Officer of the ACT or practices and procedures applicable to that command.²²

²⁰ *ibid*, p5

²¹ *Ag's/AFP Joint Submission*, p12

²² *ibid*, p7

4. ACCOUNTABILITY

Accountability to the Executive and the Legislature

4.1. Police in Australia are governed by the principles of responsible government, one of which is accountability to the legislature and the Executive. Since colonial times ministers and commissioners of police have followed the conventions of responsible government and police forces have had a statutory basis. In more recent times there have been statements in High Court judgements, and pronouncements by Royal Commissions clearly indicating that police are accountable to the Executive.²³

4.2. The question of police responsibility to the Executive has arisen in various Royal Commissions concerning police. South Australia's *Royal Commission on the September Moratorium Demonstration 1970* found that there was no specific statutory power available to the government of the day under which it could direct the Police Commissioner. Nevertheless, the Royal Commission was in no doubt as to the basic position. "In a system of responsible government there must ultimately be a Minister of State answerable in parliament and to parliament for any Executive operations."²⁴

4.3. A crucial element in the whole question of accountability to the Executive is the need to avoid political interference (as opposed to legitimate Executive direction) in the police force. The police force must be seen to be accountable to government for administration on the one hand, and as free as possible from political influence in operational matters on the other.²⁵

4.4. In 1978, a South Australian Royal Commission chaired by Justice Mitchell found that, while the Police Commissioner's independence could not be properly impugned by the Government,

*[t]he Government is subject to election, the Police Force is not. So that, although the Commissioner of Police should not be subjected to Ministerial interference in the day to day process of law enforcement, it is essential that he co-operate with the [Minister] who has the Police Force within his portfolio.*²⁶

4.5. In 1989, the Fitzgerald Report described the improper mixing of police and political activities under the Bjelke-Petersen Government by Queensland Police Commissioner Terence Lewis and various Government ministers.²⁷ Lewis' predecessor, Ray Whitrod, "became increasingly concerned at Bjelke-Petersen's interference in police operational matters which were contrary to Whitrod's

²³ Grant, *op cit*, pp10-11

²⁴ *Report of the Royal Commission on the September Moratorium Demonstration 1970* (Bright Report). Adelaide, Government Printer, 1971, p79 (quoted in Grant, *ibid*, p11)

²⁵ Grant, *op cit*, p11

²⁶ *Report of the Royal Commission on the Dismissal of Harold Hubert Salisbury* (Mitchell Report). Adelaide, Government Printer, 1978, p. 43; Grant, *op cit*, p11)

²⁷ *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct* (Fitzgerald Report), 1989, pp82-85 (quoted in Grant, *op cit*, pp12-13)

understanding of the proper relationship between the Government and the Police Commissioner.”²⁸

4.6. Commissioner Fitzgerald expressed the view that “the Minister can and should give directions to the Commissioner on any matter concerning the superintendence, management, and administration in the force”.²⁹ Policy directions from the Minister, and advice from the Commissioner to the Minister, would be recorded in a register to be tabled in parliament annually.³⁰

4.7. Fitzgerald was also careful to distinguish between the Minister’s power to direct the Commissioner on management and administration of the force, and the Commissioner’s authority with respect to operational matters:

*The Commissioner of Police should continue to have the independent discretion to act or refrain from acting against an offender. The Minister should have no power to direct him to act, or not to act in any matter coming within his discretion under laws relating to police powers.*³¹

4.8. The Committee believes that the correct distinction between the proper powers of the Executive on the one hand and the Police Commissioner on the other is to leave management of the force to the Commissioner but allow for Executive direction on policy matters.

4.9. To facilitate this, practical, statutory provisions can be implemented that lay down and enforce the distinction. The Fitzgerald Report’s recommendation that policy directions from and advice to the Minister be tabled in Parliament annually is one example of possible provisions.

4.10. Commissioner Fitzgerald further advocated that the Police Commissioner be contracted for three to five years, on the basis that secure tenure would insulate the position against potential political interference.³²

4.11. Fitzgerald said the contract of employment should provide for termination prior to completion of the specified term on the grounds of established disability or misconduct, and inefficiency or incompetence evidenced by failure to achieve agreed goals, standards of discipline and performance of the Police Force.³³

4.12. Fitzgerald stressed, however, that safeguards were required to prevent the premature dismissal of a diligent Commissioner for political reasons. To achieve this, he recommended that the contract should stipulate that action for dismissal on the grounds of incompetence or inefficiency would only proceed on the recommendation of his proposed Criminal Justice Commission to that effect, endorsed by a proposed

²⁸ *ibid*, p42

²⁹ Fitzgerald Report, p278

³⁰ *ibid*, p278, 383

³¹ *ibid*, p279

³² *ibid*, p278

³³ *ibid*, p278

parliamentary standing committee³⁴ (the Assembly's Standing Committee on Legal Affairs could fill this latter role).

4.13. Fitzgerald's model provides a good model for ensuring the Commissioner's (and the police force's) accountability to the Minister without giving unconditional authority to the Executive.

Accountability and the ACT

4.14. Section 7 of the Agreement, which deals with access to information, consultation and the reporting arrangement, provides that ACT community interests, as represented by the ACT Minister, be taken into account in ACT policing; that the ACT Minister is entitled to be properly informed about policing matters affecting the ACT community; that there be proper co-ordination and communication between the AFP and agencies of the ACT Government; and that the ACT Minister is entitled to request that the CPO provide information and reports relating to the provision of Police Services.

4.15. While these provisions give the responsible ACT Minister the right to be informed and consulted, there is no effective way of enforcing the provisions. Under the Arrangement, therefore, the AFP (ACT Region) and its Chief Police Officer are accountable not to the ACT Minister but to the Commonwealth through the responsible Federal Minister, and the ACT Government has no capacity for statutory policy direction other than through a submission to the Federal Minister:

“[The Arrangement] is silent on the question of what recourse is available if the requirements of the Arrangement are not met or, more likely, if ACT Government is not satisfied with the level of information or consultation made available. Without amendments to the Arrangement itself, and to . . . the AFP and Self-Government Acts, there is not a great deal an ACT Government can do about this situation.”³⁵

³⁴ *ibid*, p279

³⁵ Grant, *ibid*, p13

APPENDIX A

Written Submissions Received

Ms Philippa Smith

Commonwealth Ombudsman

Commissioner Palmer/Chris Hunt

Joint ACT Attorney General's
Department and Australian Federal

Police

Steve Mullins

Canberra Police Association (CPA)

Robin Wheeler
Association

Australian Federal Police
(AFPA) ACT Branch -

APPENDIX B

List of Witnesses

Sue Pidgeon	Commonwealth Ombudsman
John Taylor	Commonwealth Ombudsman
Chris Hunt	ACT Attorney General's Department
Gavin Cashman	ACT Attorney General's Department
Keith Simpson	ACT Attorney General's Department
John Ireland	Australian Federal Police
Commissioner Mick Palmer	Australian Federal Police
Jim Allen	Australian Federal Police
	Canberra Police Association (CPA)
	Canberra Police Association (CPA)
Patrick Law	Australian Federal Police Association (AFPA)
Robin Wheeler Association	Australian Federal Police (AFPA) ACT Branch

Submission No 1 - Ms Phillipa Smith - Commonwealth Ombudsman

- Under the provisions of Complaints (Australian Federal Police) ACT 1981 (the Complaints ACT), the Commonwealth Ombudsman is responsible for ensuring the proper investigations of complaints about the Australian Federal Police (AFP), in conjunction with the AFP's Internal Investigation Unit (IID). The Ombudsman's jurisdiction includes complaints made to the Office of the CO or direct to the AFP.
- A large number of complaints about the AFP relate to community policing within the ACT. For example during the financial year 1993-94, the AFP and the Office of the Commonwealth Ombudsman received a total of 559 complaints, of which 63% (373) related to ACT policing.
- The Complaints ACT provides that, in the first instance, most complaints are investigated by the IID. If the Complaints relates to the practices and procedures of the AFP, the Commonwealth Ombudsman has the power, under section 23, to investigate the matter. Where the investigation is by the IID the staff of the Commonwealth Ombudsman scrutinise the investigation report to ensure the matter has been adequately handled. If the CO is not satisfied a further investigation may occur.
- Statistics illustrate that there is a higher proportion of ACT complaints on the AFP's role in providing policing to the ACT community, compared with its law enforcement role in the other states and territories of Australia. Complaints received in 1991-92 was particularly high due to those received during AIDEX demonstrations. 93/94 - ACT 373/Total 595 - 63%; 92/93 - ACT 400/Total 583 - 69%; 91/92 - ACT 501/Total 693 - 72%.
- Complaints ACT prevents CO from providing details of individual complaints to either the public or MPs or MLAs, I may give info to an Assembly member who passes on a complaint to my Office on behalf of a constituent - member acts on behalf of complainant.
- CO has power to make public information about significant cases and general issues in both Commonwealth and ACT annual reports and in special public reports.
- CO is an independent statutory authority who independently and impartially consider complaints and makes appropriate recommendations based on the investigation.
-