



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON AN INDEPENDENT
INTEGRITY COMMISSION 2018

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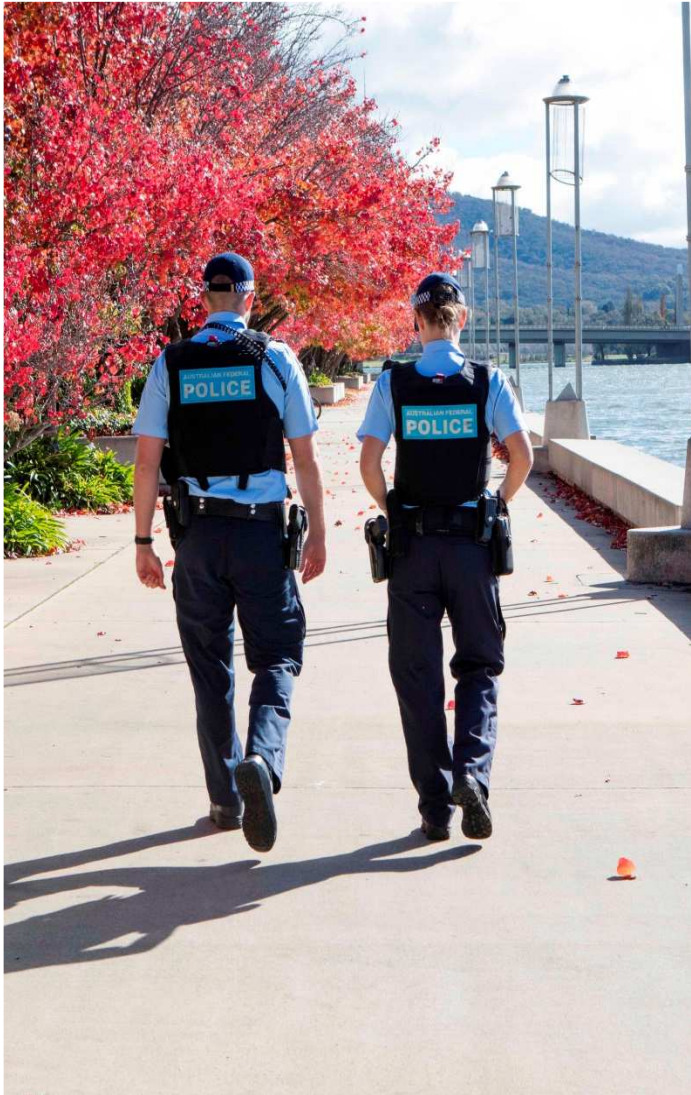
Submission Cover Sheet

Inquiry into an Independent Integrity Commission 2018

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ACT Policing Submission

Select Committee on an
ACT Independent
Integrity Commission
2018

August 2018

Submission by ACT Policing

UNCLASSIFIED

A. Introduction

1. ACT Policing welcomes the opportunity to make a submission in relation to the following proposed legislation to establish an Independent Integrity Commission in the ACT:
 - *Anti-Corruption and Integrity Commission Bill 2018* introduced in the Legislative Assembly by Mr Alistair Coe MLA on 6 June 2018; and
 - The ACT Government Exposure Draft *Integrity Commission Bill 2018*.
2. For the Committee's information, ACT Policing and the Australian Federal Police (AFP) have previously made submissions to the Select Committee on the establishment of an ACT Independent Integrity Commission in May 2017 and October 2017 respectively. Both ACT Policing and the AFP maintain the position, highlighted in previous submissions, that the existing robust internal and external integrity mechanisms that AFP members (including ACT Policing members) are subject to diminish the need for ACT Policing to also be subject to ACT Independent Integrity Commission oversight.

B. Proposed Legislation

3. ACT Policing notes that both the *Integrity Commission Bill 2018* and the *Anti-corruption and Integrity Commission Bill 2018* include ACT Policing within the purview of the ACT Independent Integrity Commission, with a proposed 12 month delay in ACT Policing falling within the jurisdiction of the Commission in the Government's Exposure Draft Bill.
4. Section 23 of the *Australian Capital Territory (Self Government) Act 1988* prevents the ACT Government from making laws for the provision by the AFP of police services to the Territory. ACT Policing does not support the provisions in either Bill that bring ACT Policing members within the purview of an ACT Independent Integrity Commission until such time that the Commonwealth has agreed and progressed necessary amendments to Commonwealth legislation.
5. ACT Policing is aware that the ACT Government has been in negotiation with the Commonwealth regarding the application of the ACT Independent Integrity Commission to ACT Policing and preliminary advice received from the Commonwealth is that it is not supportive as the Australian Commission for Law Enforcement Integrity (ACLEI) already performs this function and it would be duplicative and require de-confliction with existing integrity bodies.
6. A significant body of work is still required between the ACT Government and the Commonwealth to address a range of complex legal and policy issues before it would be feasible and workable for ACT Policing members to fall within the purview of the ACT Independent Integrity Commission. These include:
 - Progressing amendments to the *Australian Capital Territory (Self Government) Act 1988* to allow the ACT Government to pass laws relating to AFP members providing police services in the ACT.
 - Addressing implications of the ACT Independent Integrity Commission conducting search warrants and potentially using surveillance devices on Commonwealth premises.

- Addressing whether AFP officers servicing the ACT (but not being a member of ACT Policing as referred to in the Bills) would be subject to ACT Independent Integrity Commission oversight.
 - Establishing a clear policy position on the relationship between the proposed legislation, *the Law Enforcement Integrity Commissioner Act 2006 (Cth)* and *the Australian Federal Police Act 1979 (Cth)*.
 - Progressing amendments to various pieces of Commonwealth legislation to permit the desired information sharing.
7. Retaining provisions that bring ACT Policing members within the jurisdiction of the ACT Independent Integrity Commission before resolving these complex policy and legislative issues, including progressing necessary amendments to Commonwealth legislation may require further amendments given that it is unknown whether the Commonwealth will agree to the ACT's request and if so on what terms. The inclusion of ACT Policing at this point also risks causing confusion within the community about the scope of the legislation and duties of the Commission. It would be more appropriate to progress subsequent amendments to the ACT legislative framework following the resolution of policy and legislative issues between the ACT Government and the Commonwealth.

C. Conclusion

10. ACT Policing and the AFP recommends that all references to ACT Policing falling under the purview of the ACT Independent Integrity Commission in both the *Anti-Corruption and Integrity Commission Bill 2018* and the Exposure Draft *Integrity Commission Bill 2018* be removed until the Commonwealth has had an opportunity to fully consider the legislative framework and its overlap with the existing internal and external integrity mechanisms over ACT Policing members.
11. ACT Policing and the AFP remain open to considering mechanisms to strengthen information sharing to enhance the ACT Government's and the public's level of insight into ACT Policing integrity matters under existing legislative frameworks to ensure confidence in current processes.