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Improper Associations in the NSW Police Force: A Review of Compliance with Policies and Guidelines

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Summary

The aim of this study was to determine the extent to which NSW police officers are complying with the *Conflicts of Interest (Improper Associations) Policy and Guidelines* with regards to declaring their improper associations. The results showed a poor level of compliance with the policy. Very few police officers with a known improper association made a written declaration regarding their association. Recommendations for improving compliance with the policy are outlined in this paper.

INTRODUCTION

Employees of the New South Wales (NSW) Police Force are expected to perform their duties fairly, impartially and without personal gain. A conflict of interest can occur if an employee's private interests have the potential to influence the performance of their professional duties. Improper associations are a type of conflict of interest for NSW Police Force employees. An improper association is defined by the NSW Police Force as an association between an employee and a person, group or organisation that is involved (or perceived to be involved) in an activity that is incompatible with the NSW Police Force's role to uphold the law.[1] In other words, an improper association is an association between a NSW Police Force employee and a person who is a known criminal, or is suspected or perceived to be involved in criminal activities.

Reports of police officers being involved in improper associations are often made by members of the public or other police officers who have become aware of a police officer associating with a criminal (or suspected criminal) in either a social or business context. The Police Integrity Commission (PIC) regularly assesses allegations of NSW police officers being involved in improper associations. In 2008-2009, the PIC assessed more allegations of improper associations than any other form of

[1] *Conflicts of Interest (Improper Associations) Policy & Guidelines*, October 2006, p.5.

misconduct. Of the 2932 allegations of misconduct assessed by the PIC, 199 referred to improper associations.[2]

Harm arising from Improper Associations

The effects of improper associations can be severe and can be felt by both the NSW Police Force and the community it serves. Three different types of harm can arise from improper associations: actual harm, potential harm and perceived harm.

Improper associations can cause actual harm in a number of ways, including compromising investigations; allowing criminals to avoid detection and prosecution; damaging the credibility and reputation of the NSW Police Force; and putting the safety of police officers and others at risk.[3] Case Study 1 provides an example which shows that although the only visible aspect of any misconduct by a police officer was an improper association, the actual harm being incurred through the association was significant.

Case study 1 – Actual harm arising from an improper association.

In early 2004 the PIC received information about a suspicious relationship between a police officer and a known criminal. There was no information to indicate that criminal offences were occurring through this association. The evidence obtained during the investigation of the allegations revealed a startling level of corrupt conduct on the part of that police officer and his criminal associates. The conduct included extortion, theft, perverting the course of justice and the unauthorised release of confidential information. In its report of the investigation, the PIC observed that this officer was prepared to involve himself in a variety of corrupt activities provided there was a prospect of a monetary reward. The PIC's investigation revealed the police officer's serious corrupt activities had been occurring at the time the allegation had surfaced regarding his improper association.

Potential harm can also occur when an improper association exists. Police officers who maintain social or business relationships with criminals or suspected criminals, though they may not be planning or engaging in any illegal acts and may never intend to do so, nonetheless place themselves in a position of risk. There is a potential that at some point in the future a criminally-active friend or associate may seek a favour, whether it be in the form of sensitive police information or some other form of assistance. In such circumstances, a police officer may experience a conflict between

[2] *Police Integrity Commission Annual Report 2008/2009*, Appendix 3, Types of Allegations Assessed, p.65. In 2007-2008, the Commission also assessed more allegations of improper association than any other form of misconduct. In that year, of the 1704 allegations of misconduct assessed by the PIC, 143 related to improper associations. *Police Integrity Commission Annual Report 2007/2008*, Appendix 3, Types of allegations, p.59.
[3] For example, see the PIC's *Report to Parliament Operation Jade, Regarding The Former Task Force Bax of the New South Wales Police Service*, October 1998, pp.3-6.

their professional duties and the loyalty they feel towards their friend or associate. An example of this is provided in Case study 2.

Case study 2 – Potential harm arising from an improper association.

In July 2003, a drug user and supplier was arrested for possession of drugs. After he was released on bail he contacted a friend whom he had known since school who was a police officer. This officer was also a user of recreational drugs. The officer accessed police records and gave the drug dealer confidential information regarding his arrest. The officer later admitted that at the time he had divulged this information he had recognised that there was a conflict of interest between his friendship with a drug dealer and his duty as a police officer, but had chosen to stand by a friend who needed help.

Another type of harm that can result from an improper association is perceived harm. If a police officer is known to be in an association with a criminal, or suspected criminal, it can – rightly or wrongly – raise questions about their ability to impartially enforce the law. It can also invite speculation that the association is being used to facilitate one or more criminal ventures. Perceptions of this kind can impact adversely, even in a small way, on the community's confidence in the NSW Police Force. Case study 3 highlights how even casual contact between police officers and criminals, or suspected criminals, can be problematic.

Case study 3 – Perceived harm arising from an improper association.

During the course of an investigation being conducted in 1999, the PIC obtained information that a police sergeant had been seen drinking socially with a well-known corrupt former police officer. The sergeant claimed that the meeting was not planned and did not consider it in any way to be a problem. The sergeant did not make a note of the meeting or report it to his superiors. During the PIC's hearing in relation to this investigation, it was suggested to the sergeant that if an outsider had seen him in the company of the former corrupt officer, they may have 'cast some suspicious connotation' upon the association. It was further noted that had he reported the meeting, some of the suspicion may have been alleviated. The PIC concluded that the officer should have been conscious of the potential for his conduct to not only reflect poorly on his professionalism and the NSW Police Force as a whole, but set a bad example for junior officers to follow.

Management of improper associations

The management of improper associations and the misconduct risks they pose is far from straightforward for police organisations. Improper associations invariably involve

off duty activities, family associations, personal friendships and business activities. Because some associations are unavoidable, they are difficult to regulate in a manner which is appropriate to the working environment of NSW Police Force employees. The key policy document of the NSW Police Force that governs the management of conflicts of interest that may arise from improper associations is the *Conflicts of Interest (Improper Associations) Policy and Guidelines.*

The *Conflicts of Interest (Improper Associations) Policy and Guidelines* recognises that some personal associations have the capacity to compromise a NSW Police Force employee's integrity. Consequently, these associations can also affect public perception of the integrity of the NSW Police Force.[4] In October 2006, the NSW Police Force released a revised version of this policy. According to the revised guidelines, all NSW Police Force Employees (sworn and unsworn officers) are required to report to their commanders, managers or supervisors in writing if they have formed an association which may be deemed improper.[5] Commanders, managers or supervisors are then required to assess the association and manage it, if necessary. Management options can include monitoring and reviewing the situation, or removing the employee from likely contact with the association while at work.[6]

It is important to note that the existence of a conflict of interest (in the form of an improper association) is not in itself regarded as misconduct by the NSW Police Force. According to the policy, a misconduct concern exists when an employee fails to identify an improper association, report an improper association and/or cooperate in the effective resolution of a conflict of interest arising from an improper association.[7] In other words, an association which could be deemed improper is not in itself a breach of the *Conflicts of Interest (Improper Associations) Policy and Guidelines*. A failure to declare an association and/or cooperate in its management is a breach of the policy.

Aims of the study

The aim of this study was to determine the extent to which NSW police officers are complying with the *Conflicts of Interest (Improper Associations) Policy and Guidelines* with regards to declaring their improper associations. In achieving this aim, the study also explored some of the characteristics of improper associations and their investigations, including awareness of the policy by NSW police officers, the relationships between the police officers and their alleged associates, and the action taken once an improper association became known to the NSW Police Force.

[4] *Conflicts of Interest (Improper Associations) Policy & Guidelines*, October 2006, p.2.
[5] *Conflicts of Interest (Improper Associations) Policy & Guidelines*, October 2006, p.3.
[6] *Conflicts of Interest (Improper Associations) Policy & Guidelines*, October 2006, p.10.
[7] *Conflicts of Interest (Improper Associations) Policy & Guidelines*, October 2006, p.3.

This paper presents the findings of this study and a series of recommendations as to how the process within the NSW Police Force to manage the risk associated with improper associations might be strengthened. This study considered only sworn employees of the NSW Police Force (i.e. police officers). The recommendations made are, however, also appropriate for non-sworn employees.

METHODS

This study employed two distinct methodologies to determine the extent of compliance with the NSW Police Force's *Conflicts of Interest (Improper Associations) Policy and Guidelines* in relation to declarations of improper associations.

Firstly, the PIC explored information contained within its holdings (including complaints and intelligence records) to identify known instances of officers with improper associations. This information was then checked against information derived from written declarations of improper associations held by the NSW Police Force to determine the extent of compliance with the policy.

The second methodology employed in this study involved an exploration of a representative sample of complaints about police officers who were allegedly involved in improper associations. This information was also checked against information derived from written declarations of improper associations held by the NSW Police Force to determine the extent of compliance with the *Conflicts of Interest (Improper Associations) Policy and Guidelines.* This method provided a more accurate estimate of the extent to which NSW police officers were complying with the policy than the first method because it used an unbiased sample of police officers with known improper associations, rather than the sample collected by the PIC (which may have been biased because it was collected for specific purposes concerned with the investigative work of the PIC).

These two approaches, described in detail below, were also used to examine the characteristics of improper associations. Together, they provided converging evidence of the extent of compliance in the NSW Police Force with regards to the declaration of improper associations.

In order to complete the study, it was necessary to examine the declarations of improper associations held by the NSW Police Force. Copies of written declarations of improper associations were therefore requested from all local area commands and

the State Crime Command in the NSW Police Force.[8] These commands represented over 80% of the total number of sworn officers within the NSW Police Force.[9]

Analysis of improper associations using information held by the PIC

The PIC's internal records of complaints and intelligence holdings were searched to identify the existence of any improper associations involving NSW police officers. The improper associations identified by the PIC and the written declarations provided by the NSW Police Force were examined to determine how many police officers with improper associations known to the PIC had submitted a written declaration regarding their associations.

Analysis of improper associations using complaints about police officers

Complaints about NSW police officers are generally made to the NSW Police Force, the NSW Ombudsman's Office or the PIC. Once a complaint is made, it is entered into c@ts.i, the NSW Police Force's complaints management system.[10] This system electronically stores and files all documents associated with the complaint and its investigation, including letters received from complainants, documents used in the investigation of the complaint and an investigator's report on the complaint. In addition, each complaint recorded in c@ts.i is categorised at two levels to describe the nature of the complaint. These levels are referred to as *major category* (i.e. a broad description of the alleged misconduct such as "Investigations") and *minor category* (i.e. a specific description of the alleged misconduct such as "Inadequate investigation / lack of impartiality").

Complaints are generally investigated by the NSW Police Force unless they are of a very serious nature, in which case they may be investigated by the PIC. The NSW Ombudsman may also directly investigate a complaint or monitor the NSW Police Force's investigation of a complaint. Some complaints are declined for investigation, such as those where the complaint is considered frivolous, vexatious or not made in good faith.[11]

Complaints that are investigated are finalised after a decision is made regarding the outcome of the investigation. Once finalised, a report containing the outcome of the investigation is created and stored in c@ts.i. A copy of the report is also forwarded to

[8] Requests for the declarations were made between June and August 2008 and all responses were received by October 2008.
[9] Based on an estimate of 15,333 sworn police officers current at end June 2007 (NSW Police Force Annual Report 2007-2008).
[10] The exception to this practice is in circumstances where the PIC decides to investigate a complaint that has been made to it rather than referring it to the NSW Police Force to be entered into c@ts.i.
[11] See section 141 of the *Police Act 1990.*

the NSW Ombudsman who determines if the NSW Police Force has properly dealt with the complaint in an effective and timely manner. Generally, if sufficient evidence has been obtained to indicate that the police officer who is the subject of the allegations engaged in misconduct, the outcome of the investigation is that the complaint is 'sustained'. Complaints are generally 'not sustained' if there is insufficient evidence indicating misconduct or if the police officer involved in the alleged misconduct cannot be identified.

Complaints recorded in c@ts.i regarding incidents of improper associations that occurred after 1 November 2006 were used in this study because these improper associations should have been declared. The requirement to declare improper associations was introduced when the *Conflicts of Interest (Improper Associations) Policy and Guidelines* was updated in October 2006. Complaints were included in this study if sufficient details were available on c@ts.i.[12] For example, if the investigation into the complaint was not completed, or the name of the officer was not mentioned, the complaint was not included. Complaints were only included if the minor category was recorded by the police as "improper association". It is possible that other complaints existed which included allegations of an improper association, but "improper association" was not entered as a minor category. These complaints could not be included because they could not be easily identified. In some cases, the complaint contained more than one minor category. Minor categories other than improper associations were also not included.

For some complaints, the date of the alleged misconduct incident was missing. In these cases, the incident date was replaced by the date in which the complaint investigation was initiated, which represents a date after the incident date. It is therefore possible that some complaints describe alleged incidents of misconduct which occurred before the policy was implemented and before the cut off date used in this study (1 November 2006). The complaints used in this study contained 12 cases with missing incident dates. In 10 of these 12 cases, the initiation date was at least six months after 1 November 2006 and it is therefore unlikely that the incident occurred before 1 November 2006. It is possible that the alleged incidents of misconduct occurred before the policy was implemented in two cases.

Using the criteria described above, 207 complaints regarding incidents of improper associations were identified. A sample of 100 complaints was randomly selected and used in this study.

The details for each complaint used in this study were sought from the complaint investigation report within the c@ts.i file. Some complaints did not include an investigation report, generally because the report was not yet officially finalised. In

[12] Only if sufficient details were available by 15 December 2008, the day the data was downloaded.

some of these cases, the c@ts.i file included an investigator's report or sufficient details that could be used in this study.

The following details of each complaint and its investigation were obtained from the c@ts.i files:

- whether the complaint was investigated;
- whether a declaration regarding an improper association was submitted before the complaint was made;
- if a declaration was not submitted, whether the officer was asked why it was not submitted;
- whether the officer was aware of the policy;
- whether the complaint was sustained;
- whether there was an indication that the policy was breached;
- the relationship between the officer and the alleged associate;
- whether management action was taken; and
- whether a declaration was submitted after the investigation.

Information derived from the complaints was then compared to that derived from the written declarations of improper associations held by the NSW Police Force.

RESULTS

Analysis of improper associations using information held by the PIC

Eighty one written declarations of improper associations were provided to the PIC by the NSW Police Force. Fifty two improper associations were identified from the PIC's information holdings. A detailed breakdown of these by region or command is presented in Table 1.

When the information provided by the NSW Police Force was compared with that held by the PIC, none of the police officers identified through the information held by the PIC had made declarations about their improper associations.

Improper associations often arose from family connections. Of the 52 police officers identified by the PIC to have an improper association, there were 28 police officers with immediate family members who have criminal records and who are the subject of criminal intelligence reports. For example, a Senior Constable was the subject of a complaint alleging she had supplied confidential information to her brother. This person has an extensive criminal record and numerous intelligence reports linking him to drugs, break and enter offences and theft. While the allegations in the complaint were not sustained, the Senior Constable has never provided a written declaration in relation to her brother.

Table 1: Number of improper associations identified by the PIC and number of improper association declarations made by police officers by region/command within the NSW Police Force.

Region / Command	Actual number of police[13]	Number of improper associations identified via PIC research & inquiries	Number of written declarations submitted by police officers
Central Metropolitan	2479	7	7
North West Metropolitan	2211	10	11
Northern	2294	3	24
South West Metropolitan	2128	15	19
Southern	1680	7	9
State Crime Command	655	5	5
Western	1203	5	6
Total	**12650**	**52**	**81**

In circumstances where an improper association was investigated, the issue of compliance with the *Conflicts of Interest (Improper Associations) Policy and Guidelines* was neglected in the following ways:

- Investigators of the complaints often failed to indicate in their reports whether the subject officers were aware of the policy and its requirements; and
- Police officers were not required to make a declaration about their improper associations in the wake of a sustained complaint.

Analysis of improper associations using complaints data

Of the 100 randomly selected complaints considered in this study, 85 were investigated by the NSW Police Force and 15 were not investigated. A breach of the *Conflicts of Interest (Improper Associations) Policy and Guidelines* occurred in 24 of the 100 complaints. That is, in 24 cases, there was evidence of an improper association. Significantly, however, none of the 24 subject officers had submitted an improper association declaration prior to the complaint about them being made.

Twenty three of the 24 complaints were investigated and resulted in a sustained finding. The remaining complaint was not investigated because the officer who was

[13] These figures were obtained from the NSW Police Force website www.police.nsw.gov.au for July 2008. The website further states: "Police numbers change from month to month as the result of the recruitment of new police officers as well as resignations and retirements. The number of police on duty at a Local Area Command fluctuates daily due to court appearances, training commitments, special operations, leave and sick leave".

the subject of the complaint openly admitted to an association that could be deemed improper, hence an investigation was not required.[14]

According to the investigation reports examined, only three of the 23 police officers who breached the *Conflicts of Interest (Improper Associations) Policy and Guidelines* and who were the subject of an investigation were asked why they had not submitted a declaration.

Of the 23 cases where there was a breach of the *Conflicts of Interest (Improper Associations) Policy and Guidelines*, and which were investigated by the NSW Police Force, only 10 investigation reports included information about the officer's awareness of the policy. Three officers said they were not aware of the policy and seven admitted they were aware of it.

Management action was taken in 21 of the 23 complaints that were investigated and subsequently sustained. This included counselling, warning notices, criminal charges or notices considering the officer's removal from the NSW Police Force. For the other two cases that were sustained, no management action was taken.

Of the 24 officers who breached the *Conflicts of Interest (Improper Associations) Policy and Guidelines*, three submitted declarations after the complaints against them were sustained, four were removed from the NSW Police Force and one was, as at the time of writing, in the process of being considered for removal.

The types of relationships between police officers and their alleged improper associates varied, but were mainly based on friendships. Only 38 of the 100 complaints about improper associations included information about the relationship of the police officer and the alleged associate. Figure 1 shows the types of relationships between the subject officers and their alleged associates that were identified, and whether or not the *Conflicts of Interest (Improper Associations) Policy and Guidelines* was breached.

Of these 38 complaints:

- 12 contained an allegation that the associate was a friend of the police officer (in 10 of these cases, the policy was breached);
- eight contained an allegation that the associate was a person with whom the police officer was in a relationship (in 7 of these cases, the policy was breached); and
- seven contained an allegation that the associate was an acquaintance (in 3 of these cases, the policy was breached).

Smaller numbers of complaints included information to suggest the associate was:

[14] This officer was counselled and asked to discontinue the association described in the complaint.

- an informant (5 complaints, the policy was not breached in any of these cases);
- an old school friend (3 complaints, the policy was breached in all these cases);
- a business associate (2 complaints, the policy was breached in 1 of these cases); or
- a family member (1 complaint, the policy was not breached).

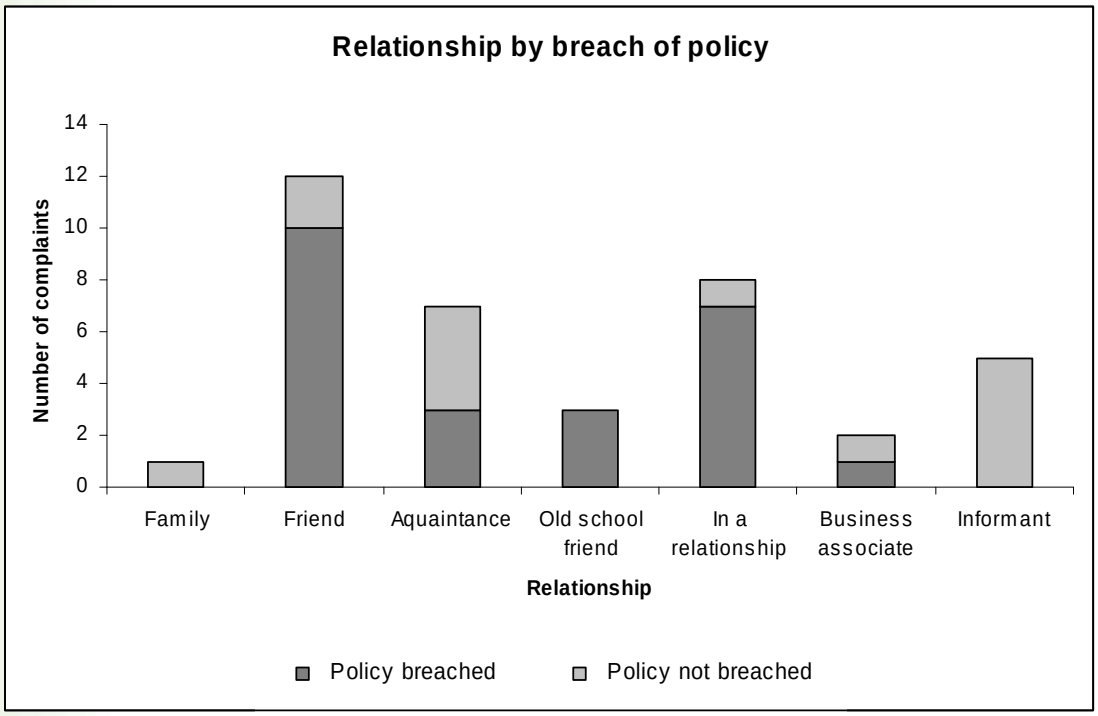


Figure 1. The types of relationships described in complaints between the subject officers and their alleged associate(s) by whether or not the *Conflicts of Interest (Improper Associations) Policy and Guidelines* was breached.

Additional issues arising

It is important to note that of the 81 written declarations of improper associations provided by the NSW Police Force, 79 were made by police officers without their associations being brought to the attention of the NSW Police Force through complaints or intelligence gathering.[15] This demonstrates that some police officers *do* comply with the *Conflicts of Interest (Improper Associations) Policy and Guidelines*.

From the responses received by the NSW Police Force when requesting declarations of improper associations as well as further enquiries regarding these declarations, it became clear that written declarations regarding improper associations are stored in individual commands and there is no central repository for their storage. Further enquiries made with the NSW Police Force also revealed that once an officer

[15] Two declarations were made after a complaint about the association was lodged and/or sustained.

transfers to another command, the contents of complaint files, including any reports disclosing improper associations, move with the officer.

Also, in the material collected from the NSW Police Force, one command stated that it held no officer-initiated declarations regarding improper associations and that the question of improper associations tended to be addressed only if a complaint was made about an officer. There was, therefore, no expectation by the command for officers to declare any improper associations prior to such associations being reported via a complaint.

From the cases examined through the PIC's existing information and through complaints, several instances were identified where officers claimed that they had told their superiors about improper associations, however, there were no written declarations to confirm this claim. For example, a Constable was the subject of complaint which alleged the constable had an improper association with a person who is a member of an outlaw motorcycle gang (OMCG). The Constable stated during the investigation that he told his supervisors of his association; however he did not provide a written declaration, as required by the policy.

SUMMARY OF RESULTS

- Of the 52 police officers whose improper associations were identified through information held at the PIC, none had submitted declarations regarding their association.

- Of the 24 police officers whose improper associations were confirmed from a random sample of 100 complaints relating to improper associations, none had submitted a declaration prior to complaints being made about them.

- Almost all sustained complaints about improper associations resulted in management action.

- Of the 23 cases where there was a breach of the *Conflicts of Interest (Improper Associations) Policy and Guidelines*, and which were investigated by the NSW Police Force, only 10 investigation reports included information about the officer's awareness of the policy.

- Of the 24 officers who breached the *Conflicts of Interest (Improper Associations) Policy and Guidelines*, three submitted declarations after the complaints against them were sustained, four were removed from the NSW Police Force and one was, as at the time of writing, in the process of being considered for removal.

- Analysis of the information held by the PIC showed that a large proportion of improper associations were between police officers and family members. In contrast, analysis of the 100 complaints showed that a large proportion of improper associations were between police officers and friends or acquaintances.

- Some police officers have verbally declared their improper associations, but have not submitted written declarations.

- One command manages improper associations through the complaints process. Improper associations for police officers in this command are therefore only recorded after a complaint is made.

- Written declarations of improper associations are not recorded in a central location.

CONCLUSION

The NSW Police Force's *Conflicts of Interest (Improper Associations) Policy and Guidelines* includes a reasonable requirement that police officers make declarations regarding their improper associations. The expectations of the NSW Police Force communicated via the policy are clear, as are the consequences of failing to comply with it. Despite this, the results of this study showed that while some written declarations of improper associations are made by NSW police officers, a very small proportion of the improper associations that become known through complaints or intelligence holdings are declared via a written declaration. There is, therefore, a poor level of compliance with the requirements of the NSW Police Force's *Conflicts of Interest (Improper Associations) Policy and Guidelines* regarding the making of declarations of improper associations.

As outlined above, copies of declarations of improper associations were requested from all local area commands and the State Crime Command within the NSW Police Force. Together, these commands account for 12,650 police officers (approximately 80% of all police officers) in the NSW Police Force. Also as outlined previously, complaints about police officers involved in alleged improper associations exist in relatively large numbers; the PIC assess more allegations of improper associations than any other form of misconduct and has assessed 342 allegations regarding improper associations between mid 2007 and mid 2009. In addition, this study identified 207 complaints describing incidents that involved alleged improper associations that occurred between November 2006 and December 2008 (of which 100 were examined in detail).[16] It is noteworthy that despite the large number of police officers employed at the commands from which declarations were requested

[16] It is possible that some of the complaints recorded in the NSW Police Force's complaints management system are the same as those assessed by the PIC.

and the existence of a relatively large number of complaints about police officers involved in alleged improper associations, a very small number of declarations of improper associations were held by the NSW Police Force (81).

The poor level of compliance may be the result of poor awareness and understanding of the policy and its requirements by some police officers. A small proportion of complaint investigators included information in their reports about the subject police officer's awareness of the policy and its requirements. Some police officers admitted they were not aware of the policy. Others admitted they were aware of it, yet had not submitted a declaration. It is also possible that the poor level of compliance with the policy stems from a belief among police officers that a declaration of an improper association implies a police officer is engaged in misconduct or corruption. This is, in fact, not the case. An association that could be deemed improper is *not* in itself a breach of the *Conflicts of Interest (Improper Associations) Policy and Guidelines*. Failing to declare the association, however, *is* a breach of the policy.

Managers within the NSW Police Force may need to do more to increase awareness and understanding of the *Conflicts of Interest (Improper Associations) Policy and Guidelines* and encourage compliance with it. Managers must ensure that police officers understand that making a declaration does not imply they are involved in misconduct or corruption and that police officers will not be punished or disadvantaged if they make a declaration.

There may also be merit in changing the title of the policy. Under the current policy, an officer in the act of making a declaration effectively submits to labeling their association as 'improper', even though that officer may have in every way complied with the expectations of the NSW Police Force. When used to describe a relationship that a police officer is involved in, regardless of the nature of that relationship, the term 'improper association', tends to denote impropriety on the part of the officer. Though the policy itself is clear, the title of the policy, and the term applied to the declarations made under the policy, may possibly have created confusion amongst some police and deterred others from coming forward. As an alternative, and as a means of attracting a greater level of compliance, the NSW Police Force should consider using a title for the policy that does not have a negative connotation. In this regard, the term 'declarable association', used by Victoria Police, is worth considering.

The results of this study also showed a widespread failure by police officers to make written declarations of improper associations after complaints about the association had been sustained or after verbal declarations of an improper association had been made, even after management action was taken. Although commanders at the police stations in which the subject officers were stationed would have become aware of the improper association after a complaint was sustained or a verbal declaration was made, the practice of not submitting a written declaration could result in a loss of

information over time, particularly if the commander or the subject officer move to a different command. In other words, when a declaration is not made in the wake of a sustained complaint, the possibility exists for the management of the risk posed by the association to be neglected, particularly if the police officer transfers to a different command.

Managing improper associations solely through the complaints process, as indicated by one command, also has its problems. Similar to many other types of misconduct by police officers, the number of complaints made about improper associations is probably much smaller than the number of improper associations that truly exist.[17] Also, complaint investigators are often faced with great difficulties finding sufficient evidence that misconduct, such as an improper association, has occurred. In this study, 23 of the 85 complaints investigated were sustained which is not surprising because it is well known that rates of substantiations of complaints against police officers are low.[18] While requesting police officers to declare their improper associations relies on individual officers to be forthcoming about their associations, waiting for complaints about improper associations to be made relies on the small chance that the association is reported and the complaint is sustained. Using the complaints process as the only method to manage improper associations can therefore encourage some police officers not to make written declarations, but rather to take the risk that their improper association (no matter whether it is likely to cause harm or not) will never be reported, will not be sustained and/or will not result in serious management action. While the complaints process can be useful in detecting improper associations, it should not be the only method used to identify and manage them. The complaints process can be considered an additional tool in identifying improper associations, but should not replace the process of making and recording declarations.

There is a further problem with using the complaints process to record improper associations and manage the risk they pose. A complaint, once initiated, requires the allocation of investigative and administrative resources at the command level. Resources are also expended internally in other sections of the NSW Police Force as well as externally, through oversight agencies, such as the NSW Ombudsman's Office. Although some complaints about improper associations will need to be investigated regardless of whether or not a declaration exists, there is the possibility that some complaints will not need investigation, particularly if a declaration about that association has been made. Compliance with the *Conflicts of Interest (Improper Associations) Policy and Guidelines* by making declarations of improper associations would therefore be likely to reduce the resources needed to investigate complaints

[17] Criminal Justice Commission, 1997. *Reducing police-civilian conflict: An analysis of assault complaints against Queensland Police*, Brisbane.
[18] For example, Goldsmith, A.J., 1996. What's wrong with complaints investigations? Dealing with difference differently in complaints against police. *Criminal Justice Ethics. 15(1)*: 36-55.

about improper associations and consequently result in a more efficient use of resources.

The practice of storing improper association declarations on hard-copy files at individual commands may not be an ideal method for managing this type of risk. Keeping information about improper associations at individual commands does not allow for this information to be readily available at a corporate level, creating difficulties for auditing or quality control. It is also possible for the hard-copy files to be misplaced or lost. The *Conflicts of Interest (Improper Associations) Policy and Guidelines* does not stipulate a method of storage for improper associations declarations and simply recommends that police officers keep a copy of their declarations for future reference.[19] No mention is made of any requirements for the NSW Police Force to store written declarations in a particular manner or to ensure that declarations are transferred with police officers if they transfer to a different command. Storage of declarations of improper associations at a corporate level would be more appropriate.

While the current policy makes it clear that officers are to make declarations regarding any improper associations they may have, it does not indicate the information that should be included in those declarations. This creates a circumstance where officers may comply with the requirement to make a declaration but may, inadvertently, leave out important information. As a means of ensuring greater consistency, the NSW Police Force should consider providing additional guidance to officers about the information to be included in improper associations declarations.

Improper associations involving family members can be particularly problematic and difficult to manage because these types of associations are obviously unavoidable. When the relationships between police officers and their associates were examined, the different techniques of sampling in this study yielded different results. The information held by the PIC showed that improper associations between police officers and family members were common. The complaints data showed that improper associations between police officers and friends or acquaintances were common and there was only one allegation of an improper association with a family member. The extent to which different types of relationships in improper associations occur is, therefore not easily discernible. Although the samples examined from the information held by the PIC are less likely to be representative of all police officers than the 100 randomly-selected complaints, it is nonetheless interesting that the differences in results between the two samples were so great. Exploration of this issue would require further research.

[19] *Conflicts of Interest (Improper Associations) Policy & Guidelines*, October 2006, p 3.

Managing the risk posed by improper associations is an important, yet difficult, task. Non-compliance with the *Conflicts of Interest (Improper Associations) Policy and Guidelines* makes the management of improper associations for NSW Police Force employees even more challenging. Although this study was based on the improper associations of sworn police officers, similar types of problems are likely to occur for non-sworn officers. While not involved in conducting criminal investigations and other operational duties performed by sworn officers, some non-sworn employees of the NSW Police Force have access to sensitive information which may represent a risk in circumstances where they have an association with a person who has a criminal record or is the subject of criminal intelligence reports.

All NSW Police Force employees need to be made aware that it is important to declare any improper associations so that the association can be managed. Without a written declaration from an officer regarding an improper association, there is little impetus for managers to evaluate the nature of the risk posed by an improper association or to establish a plan for managing it. In addition, by encouraging officers to make declarations of improper associations, rather than waiting for complaints to be made, commands would also be assisting their officers to avoid any perception of impropriety concerning their association. The NSW Police Force cannot effectively manage the risks arising from improper associations if the *Conflicts of Interest (Improper Associations) Policy and Guidelines* is not enforced. Failure to properly address and manage the risks related to improper associations could also lead to an erosion of community confidence in the NSW Police Force.

RECOMMENDATIONS

The findings of this report suggest that the NSW Police Force should:

1. raise awareness of the existence of the *Conflicts of Interest (Improper Associations) Policy and Guidelines*, its requirements and of the consequences of failing to comply with it;

2. provide balanced and consistent messages to all NSW Police Force employees about the risks that can arise from improper associations on the one hand and a recognition on the other that they are inevitable and can, in most circumstances, be managed;

3. improve compliance with the *Conflicts of Interest (Improper Associations) Policy and Guidelines* by ensuring supervisors (including commanders) are aware of their obligations in managing this risk for the NSW Police Force;

4. discourage the use of the complaints process as the sole means for dealing with and managing improper associations;

5. consider amending the title of the *Conflicts of Interest (Improper Associations) Policy and Guidelines* and the 'improper associations' declarations to remove the negative connotations;

6. consider providing additional guidance to officers about the information to be included in improper association declarations;

7. modify the *Conflicts of Interest (Improper Associations) Policy and Guidelines* to ensure it is clear that any declarations of improper associations that are held at local area commands are transferred with the relevant police officer if the police officer transfers to another command; and

8. record information regarding improper associations at a corporate level rather than only at individual commands.

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