

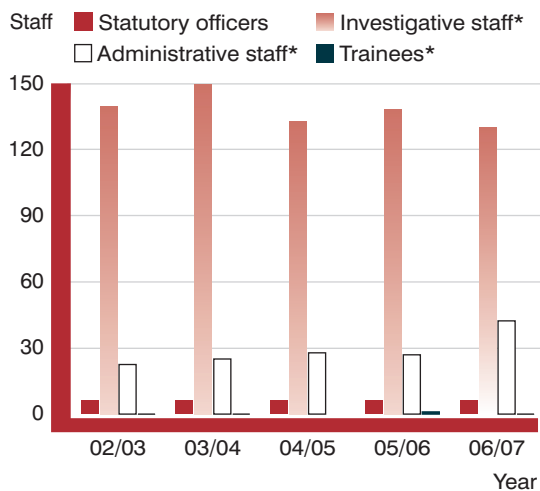
We have 196 people working for our office on either a full or part-time basis. This equates to just over 178 full-time equivalent (see figure 13). They bring a diverse mix of experience and skills from a range of backgrounds — including investigative, law enforcement, community and social work, legal, planning, child protection and teaching. Our collective experience gives us insight into the agencies we keep accountable and helps us to be a persuasive advocate for change.

Staff levels

fig 13

	02/03	03/04	04/05	05/06	06/07
Statutory officers	6	6	6	6	6
Investigative staff*	139.5	149.5	132.8	138.4	130
Administrative staff*	22.5	25.0	27.8	26.9	42.3
Trainees*	0	0	0	1	0
Total*	168	180.5	166.6	172.3	178.3

* full time equivalent



Human resources

Any exceptional movement in wages, salaries or allowances

A 4% salary increase was paid to staff covered by the Crown Employees (Public Sector Conditions of Employment) Award 2002 from 14 July 2006.

Personnel policies and practices

Our staff are employed under the provisions of the *Public Sector Management and Employment Act 2002*. This Act, associated regulations and the Crown Employees (Public Service Conditions of Employment) Award 2002 set the working conditions of public servants. We therefore have little scope to set working conditions and entitlements for our staff. The Public Employment Office (PEO), a division of the Premier's Department, is the employer for this purpose and negotiates conditions and entitlements with the relevant unions.

A key priority in 2006–07 was to continue a systematic review of all our personnel-related policies and systems to ensure that they help us to achieve purpose 4 of our Statement of Corporate Purpose — to be an effective organisation. As part of this review, we finalised our OH&S policy — which includes a first aid plan, a return to work program and an employee assistance program. We have referred draft policies on recruitment, induction and performance management for consultation and will finalise these in 2007–08.



Team Managers: Michael Gleeson, Julianna Demetrius, Gary Dawson, Natasha Mewing, Anne Radford.

Industrial relations policies and practices

We have a Joint Consultative Committee (JCC) made up of representatives from management and staff. They meet regularly to discuss how we might adopt and implement policies negotiated by the PEO and the relevant union and, if necessary, develop local policies.

This year the JCC consulted on policy development and review, including the review of our OH&S policy. They also discussed a range of issues relating to working conditions and entitlements.

Equal employment opportunity

We are committed to the principles of EEO and have a program that includes policies on performance management, grievance-handling, ensuring a harassment-free workplace and reasonable adjustment. Our staff come from a variety of backgrounds and experience. Figures 14 and 15 show the gender and EEO target groups of staff by salary level and employment basis — permanent, temporary, full-time or part-time.

The NSW Government has established targets for the employment of people from various EEO groups. Measurement against these targets is a good indication of the effectiveness of our EEO program.

We had a 99% response rate to our EEO survey. We achieved our targets for 2006–07, which included:

- increasing our representation of people with a disability
- offering flexible working conditions
- providing student placements and work experience opportunities
- providing developmental opportunities to EEO groups.

It was a busy year for us in terms of human resource activities. We increased our commitment to training, reviewed a range of policies, conducted a staff climate survey and began a comprehensive review of our position descriptions. In undertaking this work we were mindful of our commitment to EEO and achieving EEO outcomes.

We also continued our relationship with the Adult Multicultural Education Services, organising for a number of staff whose second language is English to attend ongoing training in English language skills.

We conducted a second staff climate survey in June 2007 and are currently analysing the results. Overall, the office performed above the public sector benchmarks. Closer analysis of the results is required before strategies for improvement can be developed.

We have begun a comprehensive review of our position descriptions to ensure that jobs are appropriately described and EEO responsibilities are included, where appropriate.

Performance indicator

Trends in the representation of EEO groups

EEO Group	Govt target (%)	Ombudsman representation (%)			
		03/04	04/05	05/06	06/07
Women	50	73	72	72	71
Aboriginal & Torres Strait Islander people	2	1.5	2.1	2	2
People whose language first spoken as a child was not English	20	17	18	18	17
People with a disability	12	8	6	7	7
People with a disability requiring work-related adjustment	7	2.5	2.1	1.5	2

Performance indicator

Trends in the representation of EEO groups

EEO Group	Benchmark or target	Ombudsman				
		02/03	03/04	04/05	05/06	06/07
Women	100	86	89	88	89	90
Aboriginal & Torres Strait Islander people	100	n/a	n/a	n/a	n/a	n/a
People whose language first spoken as a child was not English	100	83	84	83	88	89
People with a disability	100	n/a	n/a	n/a	n/a	n/a
People with a disability requiring work-related adjustment	100	n/a	n/a	n/a	n/a	n/a

Interpretation: A distribution index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases the index may be more than 100, indicating that the EEO group is less concentrated at the lower levels. Where n/a appears, the sample was not sufficient to draw a conclusion. The Distribution Index is automatically calculated by the software provided by the Premier's Department.

Percentage of total staff by level fig 14

Level	Total staff (no.)	Subgroup as an estimated percent (%) of total staff at each level						
		Men	Women	Aboriginal & Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
< \$33,910	1	0	100	0	0	0	0	0
\$33,910 – \$44,537	7	0	100	0	71.4	57.1	14.3	14.3
\$44,538 – \$49,971	8	12	88	0	50	25	0	0
\$49,792 – \$63,006	42	24	76	2.4	26	19	10	2.4
\$63,007 – \$81,478	97	27	73	1.0	27	18	5	2.1
\$81,479 – \$101,849	33	42	58	6.1	9	9	3	0
> \$101,849 (non SES)	3	33	67	0	0	0	50	0
> \$101,849 (SES)	5	80	20	0	0	0	20	0
Total	196	29	71	2	25	17	7	2

Percentage of total staff by employment basis fig 15

Employment basis	Total staff (no.)	Subgroup as an estimated percent (%) of total staff in each employment category						
		Men	Women	Aboriginal & Torres Strait Islander people	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
Permanent Full-time	123	31	69	2.5	32	21	5	0.8
Permanent Part-time	37	11	89	0	16	16	8	5.4
Temporary Full-time	26	35	65	3.8	12	8	8	3.8
Temporary Part-time	4	0	100	0	25	0	0	0
Contract – SES	5	80	20	0	0	0	20	0
Contract – Non SES	1	100	0	0	0	0	100	0
Training Positions	0	0	0	0	0	0	0	0
Retained Staff	0	0	0	0	0	0	0	0
Casual	0	0	0	0	0	0	0	0
Total	196	29	71	2.1	25	17	7	2.0

Occupational health and safety

In 2005, the NSW Government released *Working Together — the Public Sector OHS and Injury Management Strategy* to secure improvements in the public sector’s health and safety performance with a specific focus on injury management. This strategy commits public sector agencies to the following improvement targets:

- 40% reduction in workplace injuries by June 2012, with at least half of that improvement achieved by June 2007
- 10% reduction by June 2008 in the proportion of injured employees still off work at 8, 12 and 26 weeks from the date of injury
- 15% reduction in the average cost of claims by June 2008
- 10% improvement in the percentage of injured workers who are placed in suitable duties within one week of the date that they become fit for suitable duties as specified on the medical certificate — by June 2008
- 90% of managers within each agency provided with appropriate information, instruction and training in their roles and responsibilities under their agency’s OH&S and injury management system by December 2006.

This year we aligned our OH&S program with the government strategy. We focused on updating and expanding our policies and procedures, and adopting a risk management approach to our OH&S activities. We invited all our business units to participate in a formal OH&S risk assessment — to identify and rate risks within the workplace — and discussed strategies that could be implemented to minimise, treat or eliminate identified risks. We are currently documenting the results of the assessments and developing action plans for improvement. The Ombudsman is scheduled to formally endorse our updated policy in August 2007.

We participate in the NSW Treasury Managed Fund, a self-insurance scheme for the NSW public sector. One of the goals of *Working Together — the Public Sector OHS and Injury Management Strategy* is to

improve our workers compensation performance. This year five workers compensation claims were reported. This means we more than halved the number of claims reported, compared to 2005–06.

We also exceeded:

- the reduction in workplace injuries targets in the strategy — see figure 16
- the 90% target for managers attending occupational health and safety risk management training, with 98% of our supervisors attending the training in 2006–07.

We also developed a number of supporting programs that provide guidance to both managers and staff.

These included:

- occupational health and safety strategies and procedures
- a return to work program
- workplace inspections
- a first aid plan.

To ensure that our OH&S policies and programs are implemented, we have developed an action plan that brings together in one document our activities for the year — including responsibilities, timeframes and performance indicators.

We engaged HealthQuest — the government medical officer — to train all supervisors on how to conduct workplace inspections. Following this training, supervisors inspected the work areas of their staff and identified any improvements that were required. In future, we plan to conduct formal inspections at least twice a year.

During the year, we reviewed our first aid procedures and recommended that funding be provided to build a first aid room. The room was built in June 2007, after consultations with St John Ambulance about the equipment and supplies needed.

We reviewed the role of first aid officer and established the position of Senior First Aid Officer, who will have responsibility for the first aid room. Our first aid officers are staff members who receive a yearly allowance to perform first aid as required. We

Workers compensation

fig 16

Claims entered in the year	01/02	02/03	03/04	04/05	05/06	06/07	Target
Actual % reduction in incidence rate		-16.67%	-22.16%	-105.88%	-56.41%	31.71%	
Target % reduction in incidence rate						20%	40%
Number of injuries	5	8	9	14	11	5	
Number of employees – actual as at 30 June	122.5	168	180.5	166.6	172.3	179.38	
Actual incidence rate	4.08%	4.76%	4.99%	8.40%	6.38%	2.79%	
Target incidence rate						3%	2.20%

cover the costs of their initial and ongoing first aid training. We also trained our wardens to respond to a number of emergency situations and participated in the building emergency evacuation drills.

There are a number of other strategies that help us to meet our health and safety obligations. These include:

- employee assistance program (EAP) — a free 24-hour counselling service for staff and their families
- hepatitis vaccinations — staff who visit correctional centres are vaccinated against Hepatitis A and B
- eye examinations — our staff spend a lot of time using computers and this can lead to eyestrain, so we organise an eye examination for all staff every two years so that any potential problems can be detected
- flu shots — we organise flu shots for staff to prevent high levels of absenteeism during the flu season.

Learning and development

One of the goals of our statement of corporate purpose is to attract, develop and encourage skilled and committed staff. One way of achieving this is to provide learning and development opportunities that enable staff to effectively perform their current role and gain skills to help them progress their careers.

In 2006–07, we introduced an across office multifaceted training schedule that included coordinated induction sessions, job specific training and in-house workshops held by external training providers.

Spotlight on supervisors

Our major focus this year was on supervisor training, as it is essential that staff in supervisory roles have appropriate skills and knowledge to effectively carry out their responsibilities. In-house training sessions — run by external providers — covered EEO and grievance-handling, recognising and assisting staff with depression, fundamental supervisory skills and performance management.

Better equipping new staff

We implemented a formal induction program to make sure that all new staff receive consistent information about the work of the Ombudsman and our policies, processes and obligations. Within the first three months of joining us, staff members attend training on our electronic document management and case management systems, security awareness and an information session where representatives from across the office provide a brief overview of the role and structure of their area. We also hold 'Ombudsman in Context' training sessions — the first module from our investigation training program

— to inform all new staff about our functions, our jurisdiction and our responsibilities.

Developing professional skills

As part of our commitment to professional development, it was agreed that all complaint-handling staff would attend the NSW Ombudsman investigation training program. This is an in-house developed course that is module based and covers various aspects of investigation work — including report writing, planning, managing parties and evidence collection. One module is scheduled each month and this year an average of 29 staff attended each of the first six modules.

To support the introduction of our youth complaint guidelines, our youth liaison officer ran training sessions for all staff. This was an effective way of ensuring that staff understood this new policy and provided a forum to discuss general issues about our relationship with young people.

Staff also attended workshops on presentation skills, public policy process, workplace effectiveness and introduction to project management. To fulfil the requirement of our recruitment policy, a number of staff attended training on merit selection in the public sector, with refresher courses planned for next year.

We also arranged for external presenters to hold training sessions about interviewing children and young people, and assessing children's disclosure of abuse.

A number of complaint-handling staff also attended our public focused training sessions run by our own training staff, including the art of negotiation and dealing with difficult complainants.

Improving our computer skills

Computer based training was also a focus this year, with refresher training in our TRIM electronic document management system as well as training every month for new staff. Information sessions were held about the upgrade to Resolve, our case management system. A number of staff also attended external training in Excel and Word.

Supporting other programs

Staff development also means encouraging staff to undertake further study to enhance their skills. During 2006–07 one staff member began the public sector executive development program sponsored by the Premier's Department, and another member of staff completed Certificate IV in training and assessment. Thirteen of our staff used study leave provisions to do tertiary education courses.

The year ahead

In 2007–08 we will continue our focus on improving the skills of supervisors, with all supervisors completing core training in fundamentals of supervision, EEO and grievance, OH&S and performance management.

A professional development program for senior staff is being developed to address the ongoing needs of this group. We are exploring a range of options, including job rotation and project work, as well as formal training courses.

We have also identified training as an effective tool in improving how we deal with the public. We are currently developing disability, Aboriginal and cultural awareness training sessions to improve our understanding of the needs and issues affecting different client groups as well as improving how our staff interact with them.

With the planned upgrade of our computer systems and key information tools in 2007–08, we will also be conducting training on Microsoft office products and the TRIM document management system.

Working with other oversight agencies

At home

We continue to maintain productive working relationships with other oversight agencies throughout Australia. The Ombudsman, Deputy Ombudsman and Assistant Ombudsman regularly meet with and speak to their interstate and federal counterparts to exchange information and advice. In February this year, the Assistant Ombudsman (Police) took part in the Police Accountability round table conference hosted by the Office of Police Integrity in Victoria.

In March 2007 the Disability and Community Services Commissioner (Deputy Ombudsman) visited Western Australia for a Ministerial community round table on child protection. He also provided the office of the WA Ombudsman with information and advice on a broad range of topics, particularly our role in relation to reviewable deaths.

In November 2006, we co-hosted the National Investigation Symposium with the Independent Commission Against Corruption (ICAC). In his opening remarks, the Ombudsman noted that the symposium provided an important forum for investigative practitioners. Practical meetings such as this can only help to improve the service offered by all involved agencies.

We are part of the Joint Issues Group (JIG), a network of complaint-handling and alternative dispute resolution agencies that meets to share information, resources and opportunities for joint activities. Other JIG members include the Energy and Water Ombudsman NSW, the Health Care Complaints Commission, the Office of the Legal Services Commissioner, the Independent Commission Against Corruption, the Commonwealth Ombudsman, the Anti-Discrimination Board, the Commission for Children and Young People and the Office of the Privacy Commissioner. This year we presented a JIG seminar about our legislative review function.

Along with other Australian Ombudsman, we are actively involved in a project on unreasonable complainant conduct. Complaint-handling agencies have noted an increase in difficult and unreasonable complainants in the last few years. The project aims

to achieve effective resource management, minimise staff and complainant stress, and make sure matters are handled in an equitable and consistent manner. In February 2007, we produced a practice manual that sets out management strategies for effectively dealing with unreasonable complainant conduct. The involved offices are currently taking part in a 12 month trial of these new procedures, and we hope that each agency will be able to adapt the strategies to meet their own needs.

This year the Deputy Ombudsman has conducted four external training sessions on protected disclosures as part of the ICAC outreach program. We also continue to contribute to the large scale research project *Whistling While They Work* which is discussed in detail in Chapter 13: Protected disclosures.

Abroad

We are always on the lookout for opportunities to foster friendly and productive contacts with Ombudsman offices in other countries. Contact with international oversight agencies helps ensure we remain a dynamic, progressive organisation at the forefront of our field. For instance, our Complaint Handler's Toolkit guidelines were used in the development of the 2006 United Nations Development Program (UNDP) publication *Guide for Ombudsman Institutions: How to conduct investigations* produced by the Democratic Governance group at the UNDP Regional Centre for Europe and Commonwealth of Independent States. This publication is being used as a key training tool for developing countries that are establishing Ombudsman or like organisations to promote good governance.

International Ombudsman Institute

The International Ombudsman Institute (IOI) is the only truly international Ombudsman association, with members from every continent. Our membership of the IOI allows us to share information and ideas with Ombudsman throughout the world.

Much of the practical work of the IOI takes place within its regional sub-groups. We are part of the Australasian and Pacific Ombudsman Region (APOR) of which the Ombudsman is Vice-President. Our participation in the APOR allows us to provide valuable assistance and advice to newer, less experienced Ombudsman offices.



The Ombudsman and other Task Force Members of the International Ombudsman Institute met at the IOI Head Office, Edmonton, Alberta from 27 March to 4 April 2007.

In March this year, the Ombudsman was involved in a meeting of the IOI Extended Task Force in Edmonton, Canada. The Ombudsman presented a paper on the IOI's various publications. He stressed that, if the publication program is to work effectively, members need to be provided with resources that are both timely and practical. With this in mind, he suggested that e-publications would be the most effective method of distributing information. The task force also discussed the IOI's relationship with other international organisations, as well as its future direction. Many of the issues raised will be expanded upon during the next IOI Board Meeting in November 2007, which we will be hosting in Sydney.



Pacific Island Ombudsman Network, Sydney, May 2007

BACK ROW: Greg Andrews, Assistant Ombudsman NSW; Dr Stephen Ranck, Director International Programs Commonwealth Ombudsman; John Belgrave, Chief Ombudsman New Zealand; Maiava Iulia Toma, Ombudsman Samoa; Piliimisola Tamov, Senior Investigator, Public Relations Commission Tonga; Ila Geno, Chief Ombudsman Papua New Guinea
FRONT ROW: Ron Brent, Deputy Commonwealth Ombudsman; Joe Poraiwai, Chief Investigator, Ombudsman Solomon Islands; Janet Maki, Ombudsman Cook Islands; Peter Taurakoto, Ombudsman Vanuatu.

South West Pacific Ombudsman institutional strengthening project

In addition to our participation in our regional grouping of the IOI, we also work closely with the Commonwealth Ombudsman to provide practical assistance and guidance to Ombudsman offices throughout our region. Many of these offices face opposition from their respective governments and this can lead to reduced independence, funding and support. With the financial assistance of AusAID, several of these nations were able to establish the Pacific Island Ombudsman network.

As part of our ongoing involvement in this project, we hosted a meeting of some of the network members in May 2007. The Ombudsman who attended provided updates on the work of their offices, as well as the challenges they faced. They also discussed possible methods of involving smaller Pacific nations in the network.

Indonesian and Australian Ombudsman Linkages and Strengthening Program

This year we have also provided advice and guidance to the National Ombudsman Commission of Indonesia (NOC), as part of the Indonesian and Australian Ombudsman Linkages and Strengthening Program. This program is funded by the Australian Government Partnership Fund and also involves the Commonwealth and Western Australian Ombudsman. It aims to build links between Australian and Indonesian Ombudsman staff, strengthen the institutional capacity of both the national and regional Ombudsman in Indonesia, and help the NOC to increase the Indonesian public's understanding of their right to good governance. We have taken an active part in several events designed to help achieve these outcomes:

- In November 2006 the Assistant Ombudsman and several of our staff travelled to Jakarta to participate in talks and a workshop with the NOC and regional Ombudsman offices. He delivered a presentation on the effectiveness of Ombudsman institutions and reported on the needs analysis of regional Ombudsman offices. This work was commenced by one of our Team Managers during an earlier visit in July 2006.
- In May 2007, two NOC staff members spent four days at our office. They took part in presentation skills training and met with staff from different areas of the office. We hope the visit provided the NOC staff with some useful insights into the day-to-day operation of our office.
- In 2007–08, several staff from the NOC will undertake two-week placements with our office.

International network for the independent oversight of police

Throughout 2006–07, the Assistant Ombudsman and members of other police oversight organisations have been involved in forming a steering committee to help create an international network for the independent oversight of police. It is hoped the network will help promote effective, independent oversight of policing and the exchange of ideas and strategies.

Parliamentary groups

In the past 12 months, the Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission (PJC) have conducted several reviews of particular importance to our office.

In last year's annual report, we noted our submissions to the PJC's ten year review of the police oversight system in NSW. The committee's report was tabled in November 2006 and recommended keeping the current police complaints and oversight system — please see Chapter 4: Police.

We also made submissions to the PJC's inquiry into the scrutiny of police counter-terrorism and other powers. In our submission we argued that where different agencies exercise similar powers, they should be held to account to an equal standard, and that where law enforcement powers are increased, accountability mechanisms should be raised to a level commensurate with those new powers. We drew attention to gaps in the current accountability arrangements and stressed the importance of proper scrutiny where intrusive powers are exercised outside the public eye.

The committee's report was tabled in November.

In October 2006, the PJC tabled a report on a stakeholder review of the 2002 merger of the Community Services Commission with our office. The review was completed in preparation for an upcoming review of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*. Five stakeholder submissions were received and we were given an opportunity to respond to the concerns they raised. As a result, we have:

- strengthened our Community Services Division's complaints work by creating additional management positions in the complaints area
- expanded our community profile, particularly through education strategies targeted at rural areas
- continued to improve our relationship with peak agencies to help us to better deliver our services.

We await the outcome of the review of the Act and hope we can further develop the service we provide to stakeholders and the community as a result of its findings.

Liaison with agencies and stakeholders

It is important that we maintain professional and cooperative relations with the organisations we scrutinise. Good working relationships mean that people are likely to be more forthcoming with information and receptive to our recommendations. They also facilitate the prompt resolution of complaints.

We hold both formal and informal liaison meetings with a number of agencies. In addition, our staff participate in a number of advisory groups — including the Child Death Advisory Committee, Disability Death Advisory Committee, NSW Police Internal Witness Advisory Committee, Police Aboriginal Strategic Advisory Council and the Child Protection and Sex Crimes Squad Advisory Council.

Maintaining good relationships with stakeholders such as peak bodies and interest groups is also important to us. We regularly meet with, give presentations to and convene discussions with a range of organisations that advocate on behalf of members of the public and advise government on policy issues.

In 2006–07 we met with the Tenants' Union, Redfern Legal Centre, Disability Round table, Child and Family Round table, People with Disabilities, Bankstown Handicapped Children's Services, Foster Parents' Support Network, Association of Children's Welfare Agencies, Foster Care Association, Aboriginal Child Family and Community Care State Secretariat, Combined Pensioners and Superannuates Association and the NSW Council of Social Service. While conducting audits of the NSW Police Force's *Aboriginal Strategic Direction*, we met with over 130 Aboriginal community organisations and 500 Aboriginal community members.

Presentations and training

This year our staff made 117 speeches and presentations and delivered 134 training sessions to more than 7,600 people — including targeted training to 55 different organisations. This represents a significant increase compared to last year. It reflects the growing demand for both information about our work and training to help agencies improve their standards of customer service and public administration.

Our training sessions cover a range of subjects including the role of the Ombudsman, protected disclosures, interviewing children, managing conflicts of interest, access to information laws, the role of official community visitors, complaint-handling, negotiation skills and alternative dispute resolution. The feedback we receive from participants is generally very positive. They particularly appreciate the practical emphasis of our training and the experience our trainers bring to their role.

Working with community groups

Aboriginal people

Our police audits

Several years ago, the NSW Police Force (NSWPF) developed a detailed plan called the *Aboriginal Strategic Direction* (ASD) to help them work more effectively with Aboriginal people. The ASD aims to improve criminal justice outcomes for Aboriginal communities as well as make positive changes in the relationship between police and those communities.

Four years ago we started an audit program to assess the implementation and effectiveness of the ASD in individual commands. During this time, we conducted 36 audits — 14 of these have been repeat audits. We completed our program in June this year with an audit of Redfern command.

Our work includes:

- reviewing existing projects or initiatives aimed at assisting police to work more effectively with local Aboriginal communities
- meeting with local service providers, key community people, local area commanders and other police officers to discuss practical issues affecting the relationship between police and Aboriginal people
- giving each command a report card and rating against the six key objectives of the ASD, with recommendations for how they could perform better
- monitoring each command's compliance with our recommendations and the implementation of the ASD objectives.

Our consultations have involved more than 3,500 Aboriginal people from over 90 communities and representatives from over 400 agencies and services — as well as local area commanders, senior police and specialist liaison officers from the commands we audited.

In 2005, we tabled a report in Parliament outlining our findings from phase one of our audit program. It included some of the challenges facing both police and Aboriginal communities in implementing the ASD, and highlighted positive work that we observed during our audits. The report recommended that police consolidate and extend successful initiatives, and highlighted models of good practice that might be adopted elsewhere.

Checking on progress

An essential part of our audit program was to return to areas previously visited to talk with police, service

providers and community people about any changes that police had made since our earlier review.

We found marked improvements in almost all of the areas we returned to and a significant change in attitude by many police — they now see this work as core business rather than just an 'add on' to other policing work. This change is reflected in the diversity of programs and strategies they are providing to support victims of domestic violence and divert young people from crime. Police also now integrate relationship-building into their policing strategies.

The New England case study in Chapter 4: Police highlights the changes made following our earlier audit and the importance of returning to communities to check on progress. This command went from being one of the weakest performers in 2004 to one of the most impressive in 2006. Our 2004 audit team proposed a series of immediate measures for the command to consider, including establishing effective community consultation, filling their vacant Aboriginal community liaison officer (ACLO) position, improving initiatives to target repeat young offenders and designating an officer to act full-time as a domestic violence liaison officer. Our follow-up review found that almost all of these issues had been addressed in one way or another by the new commander and, in some cases, the commander had gone much further than the action we proposed.

Better support and guidance is also being provided to local commands across a range of areas, including the delivery of cultural awareness training, recruiting Aboriginal staff and tasking and deploying ACLOs. Through the Police Aboriginal Strategic Advisory Committee (PASAC) and ASD steering committee processes, there is now much greater scrutiny of the performance of local area commanders against the ASD requirements.

Police Aboriginal Strategic Advisory Committee

The main role of PASAC is to oversee the implementation of the ASD and identify solutions for Aboriginal issues that have statewide implications. A Deputy Ombudsman and other senior Ombudsman staff have been members of PASAC for several years. Other members include representatives from the Department of Aboriginal Affairs, the Aboriginal Justice Advisory Council, the Attorney General's Department, the NSW Aboriginal Land Council and — more recently — the Department of Community Services. PASAC meets every three months and gives us the chance to regularly engage with key Aboriginal stakeholders and lead agencies.

The Police Commissioner reviewed the committee's terms of reference in 2004 and accepted our

proposal to require commanders to present to the committee on their implementation of the ASD. We committed to auditing between two and three commands every three months and, in turn, each command has to present to PASAC on their efforts to implement the ASD and how they propose to respond to our audit findings.

Twenty-four commanders presented to PASAC over a two-year period. Other commanders were also invited to attend and observe the process. These presentations gave commanders the opportunity to showcase innovative work and PASAC members the chance to ask questions and discuss specific challenges. This program of rolling audits and presentations has not only been an effective way to make commanders accountable, but has encouraged them to identify and share good practice initiatives.

One of the main aims of our report to Parliament was to highlight the type of issues that could not be properly addressed by commanders at the local level or without sustained corporate support — such as recruiting Aboriginal people and more comprehensive cultural awareness training. Through the PASAC forum, we advocated to have the recruitment and retention of Aboriginal people as a standing item on the agenda. Our continued focus on this issue contributed to the NSWPF developing a comprehensive Aboriginal recruitment strategy (yet to be released) and adding strategies to improve Aboriginal recruitment and retention to the revised ASD (2007–2011). Aboriginal employment increased by 29% over the duration of the ASD.

Significant changes in police work

Since the release of our report to Parliament, there has been a significant shift in the way police seek to:

- build stronger relationships with Aboriginal communities
- improve cultural awareness
- focus on young people and family violence in fighting crime.

Building better relationships

Local Area Command Aboriginal Consultative Committees (LACACCs) have been established in most commands. Although these committees are still just getting off the ground in some areas, there are now more of them and they are far more effective than they were in the past. A corporate training package has recently been developed to help police and communities establish committees and local action plans. Senior police also see the benefit in regularly attending the growing number of Aboriginal men's and women's groups and various community working parties. They are starting to use these groups as a sounding board — to hear about the police that are building good relationships and those who might be

damaging them — and to involve community people in cultural awareness training and youth cautioning.

Commanders are also ensuring that other senior staff play an important role in working with the community by, for example, designating an Inspector as the 'Aboriginal Portfolio Holder' for the command. These officers are supported by region sponsors, who are responsible for managing issues that either cannot be resolved at a local level or have implications across their region.

Improving cultural awareness

Initially, there were only a few commands that took the initiative to develop their own local cultural awareness training. However, we continued to encourage police to develop courses in partnership with their local community and provide better community inductions for new recruits.

During the second phase of our audits, there was strong evidence that commands had adopted a noticeably more sophisticated approach to cultural awareness training and more comprehensive community inductions. Commanders are now encouraging officers to get out and meet the local community because they know that officers are more likely to get off to a good start if they take this step. This is particularly important in some of the more challenging commands where the workload and likelihood of conflict is high. It is also pleasing to see that commanders are more closely assessing the suitability of officers transferring into Aboriginal communities or taking up promotions positions. For more details about some of the initiatives developed by police, please see Chapter 4: Police.

Diverting young people from crime

Until recently, police did not have a specific approach to working with Aboriginal young people, apart from using diversionary measures such as youth cautioning and conferencing. Most initiatives were ad hoc. Some were good, but very few were sustainable over extended periods. Almost all of them were short-term and often not linked closely enough to reducing young people's involvement in crime.

Police are recognising that although one-off camps and rewards for good behaviour have some benefits in terms of building relationships, young people with complex needs require a sustained intervention. These are often the most disadvantaged and frequent offenders. Police are now working more effectively with PCYCs which, in turn, have also become more strategic in their approach to managing repeat offenders and young people at greatest risk.

In some locations throughout the state, police are now coming together regularly with other agencies to identify and develop individual case management plans for young people at risk and their families.

When we started our audits these meetings were 'interagency' in name only and lacked the strategic and long-term approach needed to develop solutions to longstanding problems. While there is still a lot more to be done, there has been significant work carried out by a number of commands.

Domestic and family violence

When we started our audits, a significant number of domestic violence liaison officers (DVLOs) were not employed full-time. There were a large number of vacant positions in rural and remote communities, where domestic violence levels are among the highest in the state. Through our audits, we had access to hundreds of police including commanders, DVLOs and crime managers. These consultations provided valuable insights into the quality of domestic violence policing. We not only identified gaps in victim support and the investigation of domestic violence offences, but also a range of effective policing strategies that were not being implemented consistently. We also focused on the specific needs of Aboriginal women. Our findings from these audits caused us to initiate our investigation into the policing of domestic violence.

In December 2006, we tabled a report in Parliament called, *Domestic violence: improving police practice*. Our report made 44 recommendations, including a number aimed at improving policing outcomes for Aboriginal women. For example, we recommended that funding be provided for the NSWPF to employ additional female-designated ACLO positions and family violence workers in areas with significant Aboriginal populations. We also recommended that cultural awareness training content be included in all police domestic violence training and endorsed by Aboriginal community representatives — particularly women.

In some areas, the changes have been significant. Often, this is where specific interagency initiatives are operating, such as the Domestic Violence Intervention Court Model in Wagga Wagga and Campbelltown and the Manning Great Lakes Police and Women's Refuge Partnership Against Domestic Violence Project. Generally, DVLOs are now working more closely with ACLOs to provide better support for victims and help offenders gain access to treatment programs. In some areas, female ACLOs have a dedicated focus on domestic violence. Overall, commanders are taking a more strategic approach and police are now regularly conducting welfare checks on victims and targeted checks on offenders.

For more details about our investigation and report to Parliament, please see Chapter 4: Police.

Where to from here?

The NSWPF released its *Aboriginal Strategic Direction* (2007 to 2011) in August 2007. The revised

ASD includes new objectives focusing on substance abuse and a stronger response to policing sexual assault. Our audit program will start again in late 2007, and will have a strong focus on how effectively these new objectives are being implemented at a corporate and local level. We also plan to table a follow-up report to Parliament about our compliance audits in early 2008.

Reviewing child deaths

Each year we review the deaths of certain children, the majority of whom are known to the Department of Community Services (DoCS) at the time of their death. Indigenous children and young people continue to feature disproportionately in reviewable deaths — they represent close to 20% of the deaths we review.

Our early review work found that some of the children had received no, or only a limited, response to reports that they were at risk of harm. When a risk assessment did occur, it often did not comply with standards required by DoCS. We have asked DoCS to provide advice on the progress of their major commitments to improve outcomes for Aboriginal clients, and the Human Services CEOs to provide us with an update of initiatives to strengthen joint responses to Aboriginal families and children.

Supporting foster carers

This year we began a review of the support provided to Aboriginal and non-Aboriginal foster carers of Aboriginal children to better understand their support needs. We aim to interview 100 carers throughout the state to hear first-hand their views about the support they receive from DoCS and funded out-of-home care services. We are particularly interested in the application of Aboriginal placement principles and the provision of relevant cultural support. Throughout the project we are actively consulting with the Aboriginal Child, Family and Community Care State Secretariat (NSW), the peak Aboriginal child and family agency in NSW.



Ombudsman staff (third from left) Paddy Coombes and Terry Donnelly (right) with foster carers from Wagga Wagga, June 2007.

Complaint-handling reviews

In January 2007 we started a complaint-handling review of the family support services sector. Three of the services we selected had a high proportion of Aboriginal clients. Members of our Aboriginal Unit take part in these reviews, which include giving feedback to the services about what they are doing well and making recommendations about improving their procedures and practices. Having our Aboriginal staff attend these reviews provides appropriate cultural support and encourages Aboriginal staff from the services to be forthcoming about problems or sensitive issues they might be facing. For more details, please see Chapter 8: Community Services.

Disability services

In 2005, the Department of Ageing, Disability and Home Care (DADHC) released an *Aboriginal Policy Framework* that outlined strategies to increase consultation with Aboriginal communities and develop culturally appropriate services that are more accessible to Aboriginal people.

This year, we received feedback from Aboriginal communities that raised questions about whether the framework had been implemented across all regions and how consultation with local Aboriginal communities is informing the planning and delivery of community services. We have asked DADHC for advice about their implementation of the framework, their consultation with Aboriginal communities and how they are ensuring the framework is implemented consistently across all regions of the state.

In June 2007, our Aboriginal Unit met with the Board of the Aboriginal Disability Network. This meeting was arranged in the context of our Aboriginal Unit holding discussions with members of the Aboriginal community about their awareness of DADHC's plans to improve Aboriginal people's access to disability services across the state. The Disability and Community Services Commissioner has arranged to meet with the Board again to report on DADHC's response to our questions about the implementation of the *Aboriginal Policy Framework*.

Please see Chapter 8 for more details.

Juvenile justice and correctional centres

Our work with communities also includes examining the strategies used to keep Aboriginal people out of the criminal justice system. This includes coordinated programs for diverting offenders into drug and alcohol treatment, circle sentencing programs and community justice panels. We meet with community leaders, women's and men's cultural groups, and with other groups and individuals who play a significant role in keeping Aboriginal people out of gaol.

Our Aboriginal Unit actively participates in the Ombudsman's outreach program to prisons and juvenile justice centres across the state, focusing on those facilities with high numbers of Aboriginal detainees.

Please see chapters 10: Corrections and 11: Juvenile Justice for more information about this work.

Good Service forums

Our Aboriginal Unit staff regularly participate in Good Service forums around the state to make sure Aboriginal people are aware of their rights as consumers. This year they attended forums in Bankstown, Condobolin, Nowra and Dubbo.

The Good Service forum committee is a collaboration between the Banking and Financial Services Ombudsman, Commonwealth Ombudsman, Energy and Water Ombudsman, Telecommunications Ombudsman, Legal Aid, Anti-Discrimination Board, Office of Fair Trading and our office.



Scott Campbell (front row middle) from our Aboriginal Unit at the Good Service Forum in Bankstown.

Young people

In June this year, the NSW government recognised the importance of encouraging young people to participate in the development of and access to information about government services when the Premier issued a memorandum to all Ministers and Chief Executives requiring them to implement best practice principles for youth participation.

We have a strong commitment to young people and their right to be heard and acknowledged by government services. Our youth liaison officer (YLO) position was created to improve our own relationship with young people and to help other agencies to do the same.

Complaints systems are often designed by and for adults and can be intimidating and confusing for young people. It is important for us to be accessible to young people and have a consistent approach to our interactions with them. This year we developed guidelines for dealing with youth complaints and a training package for our staff to improve our service delivery to young complainants. In developing these guidelines we held interviews with young people, youth workers and our staff to seek their views about good practices.

The guidelines are aimed at ensuring we communicate clearly, effectively and consistently with young complainants. Some of the advice in the guidelines includes:

- being aware of the barriers young people often have to overcome before they contact us and try to understand what it is like for them to experience the complaints system
- being patient and give the young person time to explain themselves, even if it does take them a while, as this makes them feel they are being listened to and taken seriously
- adopting flexible work procedures by accepting complaints over the telephone from young people rather than asking them to put their complaint in writing.

Our YLO is also available to provide our staff with specialist advice about youth complaints. Youth workers have told us that it is 'great the Ombudsman is addressing some of the barriers young people face when attempting to access the complaints system.'

When young people make complaints about police, we often sit in on the police interviews to make sure the young person is given a proper opportunity to explain what happened and to make them feel more comfortable with the process. In 2006–07, our YLO reviewed 68 complaints about police from young people and selected 19 interviews for our complaint-handling staff to attend.

Young people who are unfairly treated by a government agency or community service often go to a youth worker, school counsellor or teacher for advice. We work with these professionals to help them feel confident about providing young people with appropriate advice. For example, this year we gave 15 presentations to over 300 school counsellors about our role and how they can assist young people to make complaints.

Our YLO also gave presentations to over 250 youth workers and teachers and 200 young people across NSW. Many workers told us that, after these presentations, they felt more comfortable making inquiries or complaints on behalf of young people and more confident about referring young people to us. During National Youth Week in April, we attracted over 600 young people to our stalls in Campbelltown, Redfern and Canterbury by holding a 'speak up for your rights' competition which gave them the opportunity to learn more about our role.

We also help the organisations we scrutinise to deliver better services to young people. This year we consulted with the Department of Community Services and CREATE — a support service for young people in out-of-home care — about the charter of rights for children in care. Our involvement improved the charter's design and content. We also helped to improve the communication between Redfern police and a local youth service (see case study 1).

Case study 1

Our YLO and Aboriginal Unit staff regularly visited a major youth service in Redfern to meet with young people and youth workers and explained what we do and how we could help them. As a result of these visits, the youth workers became more confident about supporting young people to make complaints to us about their interactions with police. These complaints were dealt with directly by local police and the youth service.

The local area commander met with the youth workers to explain police procedures and their response to individual complaints. The commander also agreed to make sure that the police Aboriginal community liaison officer would use the service to interact more closely with young people — by, for example, becoming involved with the 'Street Beat Bus' and running a workshop for young people about police powers. Through our liaison, the relationship between local police and a major youth service and their clients has improved.

THANK YOU SO MUCH FOR TAKING THE INITIATIVE IN COMING TO SPEAK TO US. YOUR TALK WAS MOST INTERESTING AND HAS GIVEN US ALL A LOT TO THINK ABOUT. WE APPRECIATED YOUR ACCESSIBILITY AND AVAILABILITY AND NOW KNOW THAT WE, AND OUR STUDENTS AND THEIR FAMILIES, CAN CALL ON YOU FOR HELP. — SCHOOL COUNSELLOR



Our YLO Mandy Loundar with a young person from Canterbury during our Youth Week competition in April 2007.

People with a disability

We work cooperatively with the Department of Ageing, Disability and Home Care (DADHC), peak disability agencies and individual service providers to improve services for people with a disability. For example, we convene biannual ‘round table’ discussions with peak bodies and advocacy groups to share information about service issues and trends, the progress of our work, and initiatives and developments in the disability sector. Our staff and official community visitors also attend training courses about a range of service delivery issues concerning people with a disability.

Information about our services

Our general information brochure is available in a number of accessible formats including large print, Braille, discs with Braille labels and audiotapes. These formats are made available to organisations that service people with print disability.

We widely distributed a poster specifically designed for people with intellectual disability using the Compic symbols.

Complaints

We gave special consideration to complaints by vulnerable members of the community, including people with a disability. Our round table discussions provide information that helps us to monitor DADHC’s implementation of *Stronger Together* — the NSW Government’s 10 year plan for changing and improving the provision of disability services.

There are concerns about DADHC’s plans to develop large disability accommodation services and the effect this may have on residents’ ability to participate in the community. We have asked DADHC for detailed information about their plans and have also discussed concerns raised with us about the current arrangements for providing disability respite. Please see Chapter 8: Community Services for more detailed information about our work in this area, and our disability strategic plan at Appendix K.

Regional and remote communities

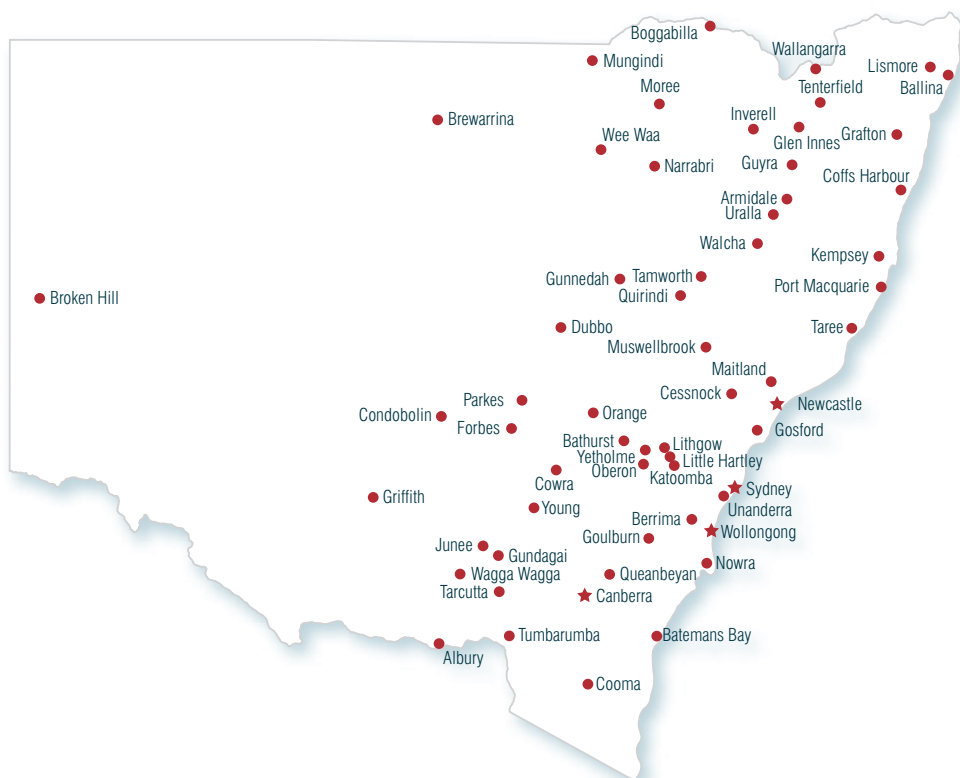
Providing services to smaller and more geographically dispersed communities is often very resource intensive. We do not have enough funding to establish regional or remote offices, so we have developed other strategies to appropriately service these communities.

We conduct much of our work over the telephone. We have a toll free number for people in remote and regional communities to contact us free of charge from most phones outside the Sydney metropolitan area.

This year we visited over 57 regional and remote NSW communities to:

- provide training for agency staff
- meet and consult with community groups, senior managers of key agencies and local police
- inspect correction and juvenile justice centres
- audit the systems of various agencies within our jurisdiction
- attend community festivals and events.

The map below shows the towns and regional areas we visited.



Culturally and linguistically diverse (CALD) communities

Our special report to Parliament about the policing of domestic violence recognised that CALD communities face specific issues when coming into contact with police. We met with the Immigrant Women's Speakout Association — the peak advocacy, information/referral and research body representing immigrant and refugee women in NSW — to ensure CALD views were appropriately reflected in our report.

In 2005, young people and youth workers expressed concerns about police and transit officers targeting young refugees. We were not receiving formal complaints about the issue, indicating a need for greater community awareness about our role. In response, our YLO has been actively liaising with refugee services and communities.

One of the strategies in our ethnic affairs priority statement action plan is to provide training to community workers about our role, our complaint process and alternative avenues for making a complaint. This year we targeted multicultural disability services and advocacy workers in Sydney metropolitan and regional areas, and provided training about making and resolving complaints about community services.

We also provided information sessions to members of CALD communities directly — advising them of our role and function and their rights to make a complaint about public administration. The people we reached this year included Korean, Japanese, Chinese and Serbian parents, Chinese speaking senior citizens and CALD consumers of community services.

This year we distributed an information package in 16 community languages to over 800 government and community organisations across the state — including libraries, community legal services, migrant resource centres and information services and other ethnic organisations.

We have a number of strategies in place to help CALD people who contact us. We actively promote the Community Language Allowance Scheme program within the office and have a register of staff who are proficient in a community language and willing to use their skills to assist our CALD clients. We always use translation and telephone interpreter services when appropriate. For further information about this area, please see our Ethnic Affairs Priority Statement initiatives and outcomes at Appendix K.

Women

Domestic and family violence is a crime — and reducing it is a priority area in the NSW State Plan. In December 2006 we tabled a special report to Parliament about the policing of domestic violence, called *Domestic violence: improving police practice*.

We made 44 recommendations focusing on three critical areas. These were:

- enhanced support for victims of domestic violence
- better cooperation between police and other agencies with key responsibilities, especially the Department of Community Services and local courts
- more effective front-line policing responses.

For more details, please see Chapter 4: Police.

This year we joined the International Women's Day (IWD) celebrations by running an information stall at Sydney's largest IWD event, the rally at Hyde Park. We also distributed our women's fact sheet and other information brochures to women in regional NSW during IWD festivities, and provided information about the Ombudsman to hundreds of young women who attended the Blacktown and Mt Druitt Young Women's Festival. For further information about this area, please see our Women's action plan at Appendix K.



Shelagh Doyle, Justine Simpkins, Mandy Loundar and Rebecca Curran, International Women's Day, January 2007.

People in residential care

There are more than 6,500 adults and children living in residential care in NSW. Many of these people are highly vulnerable — they rely heavily on their service provider for all aspects of their needs and often have limited family, social and community contacts. They may also have limited opportunities to access or contact our office.

The work of official community visitors (OCVs) and community education officers is critical to improving access to our services for this group of people. This year our OCVs made more than 3,164 visits to 1,230 residential services and had contact with 6,582 residents. They resolved 1,643 service provision issues in consultation with people living in care, their families, advocates and other representatives.

This year we monitored DADHC's response to our 2006 special report to Parliament, *DADHC: Monitoring standards in boarding houses*. DADHC told us they have conducted a clinical review of the health of residents in licensed boarding housing in one region, recruited and trained additional monitoring and casework officers and are updating their policy manual for monitoring boarding houses.

We continue to work with the boarding house community — residents, proprietors and intermediaries — to explain their right to make complaints and positive ways to resolve them. In 2006–07 we presented our *Solving Problems — Right at Home* training program to over 90 people working and/or living in boarding houses and disability residential services.

People in correctional and juvenile justice centres

Although inmates of correctional centres and detainees in juvenile justice centres can always contact us by telephone or mail to make a complaint, our visits to these facilities are an important part of our work. We visit for two main reasons — to witness first hand the conditions in which people live and the implementation of policies and procedures governing the operations of the centres, and to give inmates and detainees an opportunity to raise concerns directly with our staff.

We increased our visits slightly this year, visiting 28 correctional centres over 175 person days. We spent a total of 44 person days visiting each juvenile justice centre twice. Our youth liaison officer and staff from our Aboriginal Unit participated in some of these visits.

Older people

We are committed to improving access to and awareness of our office among older people. For many years we have promoted our services in the NSW Seniors Card Discount Directory, which is distributed to 900,000 NSW Seniors Card holders. This year we participated in the Seniors Days event at the 2007 Sydney Royal Easter Show. This enabled us to distribute key information about our work to thousands of senior citizens and gave them the opportunity to discuss their concerns with us face-to-face.

We also provided speakers for many seniors groups, including community-based organisations for retired people such as rotary clubs and ethnic community organisations.

Our work with complainants

Handling complaints informally

Most people we come into contact with are complainants. This year we received 22,698 complaints informally and 9,692 formally. 'Informal'

complaints are generally those made to our inquiry staff by telephone, at our office or on visits. We may respond to these by providing information, an explanation or a referral. Sometimes, if the matter is within our jurisdiction and straightforward, we may be able to contact the agency involved to resolve the complainant's concerns on the spot. If the matter is more serious or complex, we invite the complainant to write to us so that we can conduct a detailed assessment.

Requests for reviews of our decisions

At times, we discontinue our involvement in a complaint that we have been dealing with directly. When this occurs, we write to the complainant and give reasons for our decision. If they are not happy with the decision and ask us to reconsider, we explain our decision-making process in more detail — including the evidence and factors we took into account in making the decision. If they request a further review of our decision, a senior officer who was not involved with the original decision will review it and provide advice to the Ombudsman. The Ombudsman will then consider the matter and write to the complainant explaining the outcome.

Figure 17 (over page) shows that compared with the number of formal complaints we finalised during the year, the percentage of cases where we were asked to review our decision was very low.

Figure 18 shows that in 91% of cases the Ombudsman considered that the original decision made by the delegated officer was correct.

Performance indicator

Requests for a review of our decision as a percentage of formal complaints finalised

Team	Target	05/06	06/07
Child protection team	< 6.0%	5 (6.3%)	2 (2.5)%
Community services division	< 6.0%	11 (1.9%)	8 (1.4%)
General team	< 6.0%	180 (5.1%)	197 (5.9%)
Police team	< 1.8%	62 (1.6%)	61 (1.7%)

Requests for a review of our decision as a percentage of formal complaints finalised **fig 17**

Subject	No. of requests	No. of formal complaints finalised	% 05/06	% 06/07
Child protection*	2	81	6.3%	2.5%
Community services	8	569	1.9%	1.4%
Corrections / juvenile justice / justice health	21	709	1.0%	3.0%
Freedom of information	7	205	7.6%	3.4%
Local government	85	837	9.6%	10.2%
Other public sector agencies	82	1,167	6.5%	7.0%
Police**	61	3,555	1.6%	1.7%
Outside our jurisdiction	4	392	0.5%	1.0%
Total	270	7,515	3.2%	3.6%

The number of formal complaints finalised in relation to covert operations or witness protection appeals was not included in this figure because none of these matters involved a complainant who could ask us to review our decision.

* The majority of our work in the child protection area is overseeing how certain agencies handle allegations of conduct by employees that could be abusive to children. Only a small part of our work is handling complaints made directly to our office about how those allegations have been handled. We deal with those complaints in much the same way as with complaints about NSW public sector agencies — we may decide to decline the complaint, make preliminary inquiries or investigate. This table shows that, of the 81 complaints made directly to our office, two complainants asked us to review the decision we made on how to handle the complaint.

** Although the system of handling complaints about police requires the NSW Police Force to directly investigate each complaint, and our office plays an oversight role, the police team considers all requests to review the way a complaint about a police officer was handled as request to review our decision in relation to the NSW Police Force outcome. This table shows that, of the 3,555 complaints about police officers that we oversaw this year, 61 complainants asked for the outcome to be reviewed.

Outcome Outcomes of reviews conducted **fig 18**

Area	Original outcome affirmed		Resolved	Reopened	Total
	after reviewing the file only	after further telephone inquiries			
Child protection	1	0	0	1	2
Community services	8	0	0	0	8
Corrections	13	2	0	3	18
Freedom of information	5	1	0	1	7
Local government	48	31	2	7	88
Other public sector agencies	57	19	1	3	80
Outside our jurisdiction	3	1	0	0	4
Police	49	0	6	0	55
Total 2006–2007	184	54	9	15	262
% of total (06/07)	70%	21%	3%	6%	100%
% of total (05/06)	70%	25%	2%	3%	100%
% of total (04/05)	72%	24%	1%	3%	100%

As each review may take days or weeks to complete, some reviews may not be finalised the same year the request is received. This makes the total review finalised figure different from the total review request figure.

Educating the community about making a complaint

Our consumer education program — *The Rights Stuff: Tips for solving problems and making complaints* — helps community service users to understand complaint processes and how to effectively communicate their concerns to service providers. This year we ran eight Rights Stuff workshops for over 120 participants. Most people who attended the workshops were people with a disability or had family members with a disability.

We offered 15 training sessions on complaint-handling and best practice to service providers in metropolitan Sydney and regional NSW.

During the year, our youth liaison officer presented training to over 700 young people and their advocates about our role, how to make a complaint or assist a young person to do so and how to alert us to systemic issues.

We ran stalls at over 25 community events where we were able to provide advice to thousands of people about how to make a complaint or refer them to another organisation that could help them.

Our website includes comprehensive information about how to make a complaint. If necessary, our inquiry staff also explain the various complaint-handling systems used by different organisations within our jurisdiction to members of the public who contact us.

Feedback about our work

Feedback is important to us because it provides us with an opportunity to improve our service. We receive feedback from complainants, the organisations we scrutinise and the broader community.

Our inquiries service

In 2006–07, we commissioned a survey to measure customer satisfaction with our inquiries service. Of 489 callers to the service over a two week period, 114 (23%) volunteered to take part in the survey. Overall satisfaction was high with 92% of callers indicating they were satisfied with how their inquiry was handled.

- 96% of respondents reported that they experienced no difficulty or delay getting through to an inquiry officer.
- 93% said they had received relevant and useful information from talking to an inquiry officer.
- 98% reported that the information the inquiry officer gave them was easy to understand.
- 96% reported the advice provided by the inquiry officer was reasonable and fair.
- 96% were confident in the knowledge and experience of the inquiry officer who helped them.
- 100% reported that the inquiry officer they spoke with was polite.

Community services

This year we also surveyed 22 peak bodies in the community services sector about the work we do. All agreed that we were accessible and impartial when dealing with complainants and 94% said we dealt with complaints consistently. Twenty-one of the peak bodies agreed or tended to agree that we are adequately engaged with and contribute to service delivery improvements across the sector. We also surveyed 46 complainants in our community services jurisdiction. Almost all (98%) said we were courteous in our dealings with them, and most (87%) reported that we listened to their concerns.

Compliments and complaints

Compliments and complaints help us to identify the aspects of our work that we do well, the areas of our service that need improvement, and expectations that exceed what we can reasonably deliver. We have an internal compliments and complaints policy, and we inform people who use our services about how to make a complaint about us. This year we received 121 compliments by letter, fax, email or phone about the quality of our advice, the assistance we gave to customers, and the information provided to agencies within our jurisdiction.

Against the 32,267 formal and informal matters we finalised this year, we received 44 complaints about our work (see figure 19 over page).

If a complaint is justified, we will generally take some form of action to resolve it. During 2006–07, our responses to 13 complaints included apologising, providing explanations, and giving greater priority to identified files (see figure 20 over page).

‘WE WOULD LIKE TO CONVEY TO YOU OUR VERY WARM PERSONAL THANKS FOR THE PROMPT, EFFICIENT AND EFFECTIVE MANNER IN WHICH YOUR DEPARTMENT HAS HANDLED THIS COMPLAINT....YOUR DEPARTMENT’S PROMPTNESS AND POLITENESS WAS REFRESHING TO SAY THE LEAST. WE THANK YOU ONCE AGAIN FOR YOUR EFFORTS ON OUR BEHALF.’

Complaints about our office **fig 19**

Issue	Total
Bias / unfair treatment / tone	6
Confidentiality / privacy related	2
Delays	6
Denial of natural justice	1
Failure to deal appropriately with complaint	13
Lack of feedback / response	4
Limits to jurisdiction	0
Faulty procedures	4
Inaccurate information / wrong decision	8
Poor customer service	17
Corruption / conflict of interest	2
Other	6
Total issues	69
Total complaints	44
% of all matters finalised (formal and informal)	0.1%

Outcomes of complaints about our office **fig 20**

Outcome	Total
Unjustified	26
Justified or partly justified	5
Some substance and resolved by remedial action	13
Total	44

‘I THANK YOU FOR YOUR EFFORTS AND THAT OF YOUR STAFF IN RESOLVING THIS MATTER TO MY SATISFACTION. YOUR OFFICE HAS FULFILLED ITS AIM AND RESTORED MY TRUST IN FAIR PLAY IN NSW PUBLIC ADMINISTRATION.’



Yashar Kammoun, Tahani Adas, Snr Cst Luke Tskalas
— youth liaison officer, Campsie LAC and Abbas Saffar

Highlights

- ✓ We reviewed the handling of 2,303 complaints investigated by the police and found that over 90% were handled satisfactorily. The deficiencies we identified were remedied in 84% of cases.
- ✓ Complaint classification and notification requirements have been simplified after legislative changes, and this means less paperwork for police.
- ✓ Our investigation and special report to Parliament about the policing of domestic violence highlighted the need for enhanced support for victims of domestic violence, better cooperation between police and other agencies and more effective front-line policing responses to domestic violence. The police accepted most of our recommendations and have established a steering committee to implement them.
- ✓ We completed a comprehensive review of police compliance with the safe driving policy that regulates the conduct of police pursuits. Of the 184 pursuits reviewed, we identified 32 (17%) where there appeared to be non-compliance with the policy.
- ✓ A number of police commands have significantly improved their work with local Aboriginal residents.
- ✓ An additional special report and four legislative review reports were tabled in Parliament. We also released three issues papers seeking submissions to current legislative reviews. (This work is outlined in the section Our legislative review role on page 19.)

The police complaints system

Part 8A of the *Police Act 1990* provides the statutory framework for the investigation of complaints about police conduct. It allows the NSW Police Force (NSWPF) to deal with the majority of complaints about their officers. We review the way police conduct investigations to make sure they are handled in an appropriate, timely and fair manner for both complainants and the officers involved.

We have an agreement with the Police Integrity Commission (PIC) that specifies which complaints must be oversights and which can be handled directly by police commanders without advice to the Ombudsman. This agreement was recently updated to account for legislative changes that simplify complaint classification and notification requirements. Figure 21 shows how the agreement works.

The police complaints system

fig 21

Category of complaint	Description	How the complaint is handled
NOTIFIABLE COMPLAINTS <i>Police must notify the Ombudsman about these matters</i>	More serious complaints, such as complaints involving allegations of criminal, corrupt or unreasonable conduct. This includes conduct that may result in serious management action — eg reduction in rank/salary or dismissal — or conduct indicating a lack of integrity. Some examples of serious complaints include allegations of perjury, involvement in the manufacture or supply of illegal drugs, or police action or inaction resulting in death, injury or significant financial loss.	Police investigate the majority of these complaints and the Ombudsman oversees the investigation. PIC may investigate or oversee any complaint. In practice, the PIC only does this in a small number of cases.
NON-NOTIFIABLE COMPLAINTS <i>Police must record these matters on their complaints information system but need not notify the Ombudsman</i>	Less serious complaints, such as complaints about poor customer service, rudeness or minor workplace conduct issues.	Dealt with by local commanders without any direct Ombudsman oversight. We use methods such as audits to examine the way these complaints are handled.

The police complaints system reviewed

During 2006, the Parliamentary Joint Committee on the Office of the Ombudsman and Police Integrity Commission (PJC) conducted a ten-year review of police oversight in NSW and thoroughly examined the police complaints system. The review took evidence and submissions from our office as well as from former Police Royal Commissioner James Wood, the PIC, the NSWPF, the Police Association, the Law Society, the NSW Council for Civil Liberties and others.

The committee's report strongly endorsed the current police complaints system and our role as the primary complaints oversight agency for police. It made recommendations to reinforce and strengthen existing legislative arrangements, including a clearer definition of the Ombudsman's role in overseeing police complaints.

A significant consideration for the review was whether allegations about police officers not raising criminal or serious disciplinary issues should be removed from the complaints system. Senior police officers and the Police Association gave evidence that such matters are subject to excessive oversight. The committee did not accept this evidence and found that the real problem lay not with oversight but with the processes used by police themselves.

For a number of years we have encouraged police commanders to put in place arrangements for handling less serious complaints that allow senior officers to manage them quickly and informally. The PJC report also recommended the informal resolution of management issues and less serious complaints outside of police complaint management teams (CMTs). Recently, this approach has been further endorsed by an external review commissioned by the Minister for Police.

With our support, the NSWPF are now trialling a process for handling less serious complaints that involves referring them directly to senior officers for immediate and informal management.

Legislative changes on 1 June 2007 have further simplified the police complaints system. Previously, notifiable complaints were categorised as either 'category 1' — requiring notification to the PIC and Ombudsman — or 'category 2', requiring notification to the Ombudsman only. The changes remove these separate classifications and require notifiable complaints to be notified to the Ombudsman only. This means simpler decision-making and less paperwork for police, the PIC and our office.

The impact of ongoing reviews

There is no question that there is value in the regular review of the arrangements in place to deal with police complaints — to assess their effectiveness for the community and the NSWPF.

In 2006 — along with the PJC review and the external review commissioned by the Minister for Police — the Ministry for Police completed a four-year review of the Police Act, including Part 8A which deals with the police complaints system. This review involved significant consultation with stakeholders and made extensive recommendations subsequently adopted by Cabinet — including the removal of complaint categories that has now been legislated.

Reviews require the commitment of significant resources from agencies such as ours if they are to be properly informed. This includes preparing submissions and providing evidence, information and other assistance in response to requests.

Given the three reviews completed in 2006, there is a question as to the need for further or ongoing external reviews of the police complaints system at this time. There is a risk that, with so many reviews, the agendas of particular groups will achieve some legitimacy — even if they are not supported by evidence or in the interests of the community.

For example, changes sought by the NSWPF and the Police Association in reviews conducted in 2006 — most notably, to reduce those matters subject to our oversight or remove the Ombudsman altogether from the police complaints system — would not have strengthened the integrity of the process. On the contrary, they would have compromised it and done nothing to address the pressing problem of inefficient police complaint processes. Fortunately, these submissions have been unsuccessful.

Maintaining an effective relationship

Despite the negative submissions from police to the PJC review, we have continued to maintain an effective working relationship with the NSWPF. The Ombudsman and Commissioner of Police have met on a number of occasions, as have the Assistant Ombudsman and the Assistant Commissioner Professional Standards.

In addition, our senior staff meet regularly with Professional Standards managers and commanders to discuss complaints, observe meetings and provide information about how we do our work. We also attend local commands to address senior managers and front-line staff about our role. The aim of these presentations is to deal with common misunderstandings about the complaints system and provide police officers with an opportunity to raise their concerns with us directly. Figure 22 outlines some of the common issues raised by police officers.

Common issues raised by police officers fig 22

Issue	Facts
The Ombudsman overlooks every complaint about police	In 2005-06, we overlooked 58% of the 5,551 complaints about police. Police handled more than 2,300 non-notifiable complaints without any direct involvement by our office. This total includes more than 500 complaints we referred back to commanders to be dealt with locally.
Every complaint about police is investigated	This year, about 21% of all notifiable police complaints were not investigated because the complainant had an alternate means of redress such as court proceedings, or the alleged conduct occurred too long ago, or because the complaint was frivolous, vexatious or not made in good faith. See figure 26.
There are too many complaint agencies — the PIC and the Ombudsman do the same thing	The PIC has a corruption-fighting role and the Ombudsman has a complaint-handling role. The PIC aims to expose and deter corruption by conducting a small number of major investigations each year. For example, in 2005-06, the PIC had 51 ongoing investigations and finalised 14. On the other hand, the Ombudsman overlooks the majority (95%) of serious complaints investigated by police — such as alleged drug dealing, cover-ups, perjury, assaults and other criminal matters.
Police are doing a good job of investigating complaints	This year, we found that 91% of all police complaints that we overlooked were investigated properly the first time. When asked, 73% of complainants said they were satisfied with how police handled their complaint.
Only a few complaints result in action	This year, 57% of complaints overlooked by our office resulted in some type of management action such as counselling, training, increased supervision or performance agreements (see figure 27 on page 57). Some complaints resulted in serious action. Sixty officers were charged with 184 criminal offences (see figures 29 and 30 on page 58) and 29 officers were removed from the force.
Nothing happens to people who make false complaints about police	It is an offence punishable by a fine or \$5,500 and/or 12 months imprisonment for a person to make a complaint knowing that it is false, or to provide false or misleading information during a complaint investigation. See case study 3 (on page 58).
Repeat offenders are most likely to complain about police	Many offenders say they will complain about police but don't follow through with it. We have previously conducted an audit that found less than 2% of complaints were from offenders that police had targeted.
Police waste a lot of time dealing with anonymous complaints	We undertook research this year that showed about 5% of all complaints are made anonymously. This means that, on average, local commands would only see one or two anonymous complaints a year. Almost half of the anonymous complaints raised serious allegations such as drug offences, fraud and cover-up. The research demonstrated the value in taking anonymous complaints seriously.
The complaints system is sometimes unfair to police	No system is ever perfect. The system for handling complaints about police is mostly fair and mostly gets it right. One of the roles of the Ombudsman is to make sure complaints are dealt with in a way that is fair to both complainants and police. When police officers think they have not been treated well, or we think they haven't, we can step in and ask that the situation be remedied.

Police complaints this year

This year we received 3,466 formal or written complaints about police, including complaints made to us directly as well as those referred by the NSWPF or the PIC. We finalised 3,555 complaints. Figure 23 (over page) shows the number of complaints we have received and finalised over the past five years.

Of the 3,466 formal complaints we received, we reviewed 2,303 that were either investigated or conciliated by police and closed. Of these 2,303 complaints, 2,101 — or 91% — were satisfactory. However, in 202 matters we found that the investigation itself — or the action taken in response to the findings of the investigation — was unsatisfactory. Police remedied these deficiencies in 84% of cases. Overall, 73% of complainants reported

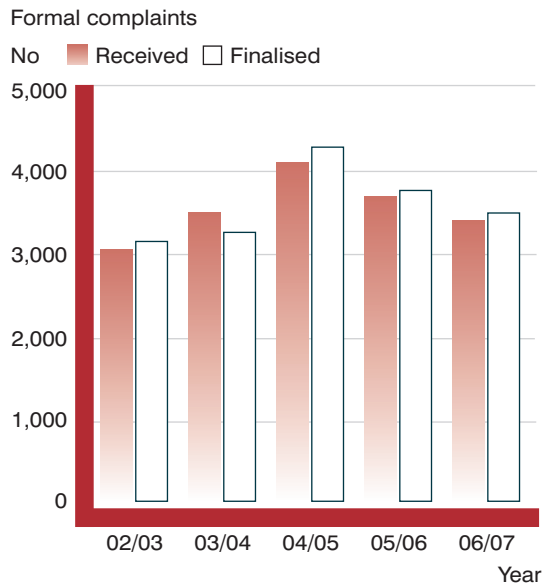
that they were satisfied with the action taken by the police in relation to their complaint.

Figure 24 (see over) shows the type of issues complained about this year. Appendix A breaks down each issue further. The number of allegations is larger than the number of complaints received because a complaint may contain more than one allegation about a single incident or may involve a series of separate incidents.

This year police and members of the public made 1,268 and 2,198 complaints respectively. Compared to last year, the number of police complaints has increased slightly, while the number of complaints by members of the public has slightly decreased (see figure 25 over page).

Formal complaints about police received and finalised **fig 23**

	02/03	03/04	04/05	05/06	06/07
Received	3,099	3,565	4,179	3,753	3,466
Finalised	3,204	3,316	4,367	3,833	3,555



The Ombudsman entered into a new 'class or kind' agreement with the PIC on 1 October 2004 to exclude certain types of less serious allegations from being notified to the Ombudsman. The agreement allows police to locally manage less serious complaints without our direct involvement. Further changes to the agreement — which incorporate legislative changes to streamline the classification and notification process — came into effect on 1 June 2007.

What people complained about **fig 24**

Type of allegation	No of allegations
Arrest	242
Complaints	298
Corruption / misuse of office	426
Custody	324
Direct investigation	21
Driving	174
Drugs	278
Excessive use of force	1,252
Information	1,099
Investigation	1,309
Misconduct	1,631
Other criminal	553
Property / exhibits / theft	523
Prosecution	465
Public justice offences	350
Public servants	9
Search / entry	233
Service delivery	1,876
Total	11,063

Note: Please see Appendix A for more details about the action that the NSW Police Force took in relation to each allegation.

Who complained about the police? **fig 25**

	02/03	03/04	04/05	05/06	06/07
Police	783	952	1,215	1,151	1,268
Public	2,316	2,613	2,964	2,602	2,198
Total	3,099	3,565	4,179	3,753	3,466

This figure shows the proportion of formal complaints about police officers made this year by fellow police officers and from members of the general public, compared to the previous four years.

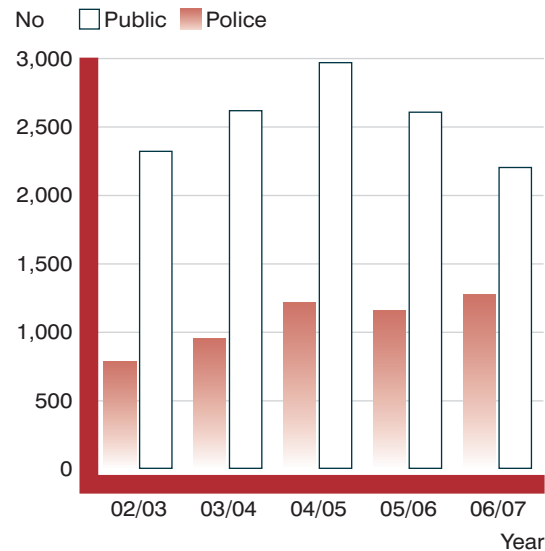


Figure 26 shows the type of action we took for complaints that were finalised this year. There were 2,157 complaints that were investigated by police and reviewed by us. We also reviewed the conciliation of 146 matters. We decided that 498 matters were 'local management issues' that could be handled by local police without our oversight.

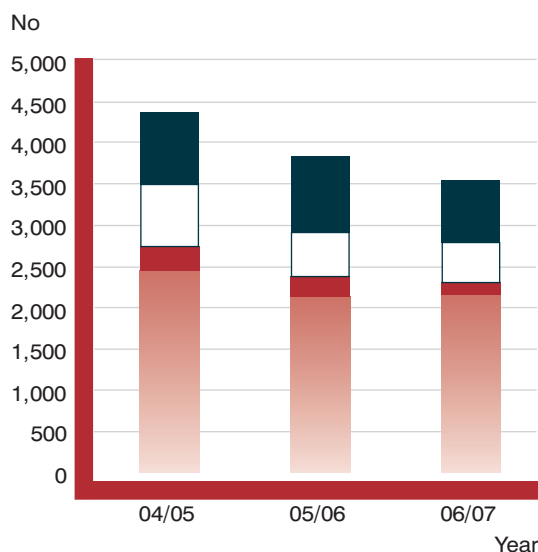
We decided that 754 complaints did not require any action. There are many reasons why a complaint might not require action. For example, there may be other ways to resolve the matter or the incident may have happened too long ago.

Outcome

Action taken in response to formal complaints about police that have been finalised fig 26

Action taken	04/05	05/06	06/07
Investigated by police and oversighted by us	2,440	2,131	2157
Resolved by police through conciliation and oversighted by us	291	248	146
Assessed by us as local management issues and referred to local commands for direct action	768	524	498
Assessed by us as requiring no action (eg alternate redress available or too remote in time)	868	930	754
Total complaints finalised	4,367	3,833	3,555

- Assessed by us as requiring no action (eg alternate redress available or too remote in time)
- Assessed by us as local management issues and commands for direct action
- Resolved by police through conciliation and oversighted by us
- Investigated by police and oversighted by us



This year, more than half of the 2,157 police investigations we reviewed resulted in some form of management response — such as management counselling (36%), training (9%) or a change in policy or procedure (5%). See figure 27 and figure 28.

Action taken by the NSW Police Force following complaint investigation fig 27

Enhancements to our Complaints Handling Information System in 2005 now permit reporting against every issue of a complaint, and not only the primary issue. Any issue in a complaint which has resulted in a management action is now able to be reported on.

	01/02	02/03	03/04	04/05	05/06	06/07
No management action taken	1,341	926	1,072	1,480	895	936
Management action taken	787	486	606	960	1,236	1,221
Total investigations completed	2,128	1,412	1,678	2,440	2,131	2,157

Common NSW Police Force management outcomes from complaints about police fig 28

Previously we have reported on the more common management outcomes for primary complaint issues (as a proportion of all management outcomes). Enhancements to our Complaints Handling Information System in 2005, have permitted reporting on all management outcomes of investigated complaints — not only primary issues.

Outcome	02/03	03/04	04/05	05/06	06/07
Management counselling	36%	44%	42%	38%	36%
Training – command	10%	6%	6%	4%	4%
Training – officer(s)	7%	8%	7%	4%	5%
Change in policy or procedure	10%	6%	4%	7%	5%
Supervision increased	9%	7%	7%	4%	3%
Performance agreement	0	9%	10%	8%	10%

In some cases, a police officer is charged during or at the end of an investigation. This year, 60 officers were charged with a total of 184 offences. While there was a significant increase in the number of charges laid against police officers in comparison to last year, this was because two officers were charged with multiple offences — one with 37 and another with 14. Of the 60 police officers charged, 48 were as a result of complaints by other police. This represents 80% of all officers charged and provides substantial evidence that police have confidence in the complaints system. See figure 29 (over page). Charges laid against police officers included domestic violence related offences, assault — including sexual assault — driving while intoxicated and other driving related-offences (see figure 30 over page).

Police officers criminally charged **fig 29**

	02/03	03/04	04/05	05/06	06/07
No. of complaints leading to charges	61	54	78	65	63
No. of officers charged	62	52	81	64	60
Total charges laid	123	95	155	101	184
Officers charged following complaints by other officers (% of no. of officers charged)	43 (69%)	40 (77%)	63 (78%)	51 (79%)	48 (80%)

Types of charges **fig 30**

Type of charge	Number of charges
PCA and other driving-related offences	12
Assault	17
Criminal conduct - other	66
Sexual assault	32
Fraud	2
Public justice offences	19
Drug offences	1
Domestic violence related	29
Danger / culpable driving	6
Total	184

Case study 2 is an example of a matter in which a police officer was charged as a result of an investigation arising from a complaint by another officer.

Case study 2

An employee of a Police Citizens Youth Club (PCYC) reported to police that monies were missing from the club and alleged that a police officer who worked there had taken the money. Police investigated and laid four criminal charges against the police officer — two of larceny, one of embezzlement and one of misappropriation of funds. The officer subsequently pleaded guilty to all charges and the Commissioner of Police ordered his dismissal.

The investigation also identified broader supervisory problems that have the potential to occur when officers work from unsupervised locations. In this case, there was little or no direct supervision of the officer in his day-to-day duties, insufficient processes in place for

remote supervision and insufficient checking mechanisms to ensure compliance with rostering, use of departmental motor vehicles and financial management.

The local complaint management team (CMT) arranged for additional supervisory checks to take place within the command management framework, an internal audit process and implemented a new roster policy. We were satisfied that these measures will reduce opportunities for misconduct and misuse of resources in the future.

The quality of complaint investigations

Police are responsible for investigating the majority of complaints about their officers. Our role is to review or oversight how police investigate these complaints. We consider whether appropriate inquiries were conducted, the reasonableness of findings made and the adequacy of any management action proposed or taken as a result of the investigation.

This year we found that police satisfactorily investigated more than 90% of the 2,303 complaints investigated or resolved. We also found 202 matters where police had not satisfactorily investigated the complaint or taken appropriate management action. Police remedied almost 85% of the concerns we raised. See case study 3 below.

Case study 3

A police officer complained to us that a commander had failed to properly consider criminal proceedings against a person who the officer claimed had made a false complaint against him. The officer had been subject to an investigation as a result of the complaint and — although no action had been taken against him — the officer was not satisfied that the matter had been properly dealt with.

The commander's assessment was that the mental health of the person who made the complaint posed a significant barrier to a successful prosecution for making a false complaint.

After reviewing the officer's complaint, we strongly agreed with his contrary view that there was a reasonable prospect of achieving a successful prosecution. We also felt that the person's mental health condition was not a relevant consideration in the circumstances. We wrote to the region commander asking for a

review of the original decision. In particular, we asked that police obtain a legal opinion about the possibility of criminal proceedings in this matter.

This was done and the commander advised us that the legal advice indicated there was a reasonable prospect of success for a prosecution of the person — for the offence of making a false complaint. The matter was investigated and we have been advised that charges have now been laid against the person.

Sometimes, we conduct preliminary inquiries to determine what action should be taken on a complaint. This provides an early opportunity to assess information and, where appropriate, conciliate the complaint. See case study 4 below.

Case study 4

A former police officer complained to us that police released incorrect information about his complaint history to another government agency. We conducted preliminary inquiries and established that police had released wrong information that the former officer had a sustained finding of conspiracy. This was because the finding was incorrectly recorded on the complaints system, and included in a 'service summary' provided to the agency.

We met with police to review the broader problem of the quality of information released by their probity unit. As a result, steps have been taken to improve procedures, including better consent processes and ensuring any future release of adverse findings about any current or former police officer will only occur after verifying the electronic record with original files.

We conducted a conciliation meeting at which full information was provided to the former officer about how the error occurred. Police have since written to the former officer expressing regret, and advising that the response to any future probity request would indicate no adverse findings on his record.

Performance indicator

Percentage of our reports that made recommendations relating to law, policy or procedure

Target	2006-07
70%	75%

Performance indicator

Percentage of our recommendations implemented by the NSW Police Force

Target	2006-07
80%	89%

Our direct investigations

There are a number of options open to us if we find that police have not adequately investigated the issues raised in a complaint. For instance, we can request that police provide us with more information or conduct further investigations.

Alternatively, we may decide to directly investigate the matter ourselves, or investigate how police dealt with it. We consider many factors when deciding to conduct a direct investigation, including whether it is in the public interest and if our involvement will result in a significantly better outcome.

When directly investigating a matter, we use a variety of methods to gather information, such as asking for documents from police and other public sector agencies, requesting statements of information about the issue under investigation and requiring people to give evidence under oath at private hearings.

Examples of our work this year include investigations into the way police conducted a strip search on a dance party patron (see case study 5 below) and the circumstances that led to a social housing tenant receiving serious injuries after police forcibly entered his premises at the request of a Department of Housing officer (see case study 13 in Chapter 7: Departments and authorities).

Case study 5

A drug detection dog indicated that a patron queuing for a dance party might be in possession of illegal drugs. Police took the patron aside and searched their outer clothing. Nothing illegal was found. Police then took the patron to a portable cabin and conducted a strip search.

The patron complained to police about the humiliation they felt as a result of the strip search and that police did not explain the reason for it. Police accepted the patron had been strip-searched, but declined to investigate the complaint.

We decided to directly investigate the matter, as we had serious concerns about the lawfulness and reasons offered by police for the strip

search. We conducted a private hearing in which the patron gave a clear account of the strip search. We also examined the police records of the search and found they did not detail the reasons for the strip search.

We accepted the patron's clear version of the strip search over the police reconstruction of events from inadequate records, and concluded that there was no lawful basis for the strip search.

As a result of our investigation, police have agreed to counsel the officer about the need to keep adequate records and to offer an apology to the patron. They have also agreed to ensure briefings conducted before drug detection dog operations provide officers with information about when it might be appropriate to conduct strip searches.

Monitoring investigations

We generally assess the police handling of a complaint when we receive the investigation report from police. In some cases, we monitor investigations by attending interviews with complainants, witnesses and/or police as independent observers.

Our decision to monitor an investigation is usually based on what we believe to be in the public interest. For example, we may monitor an investigation if the complainant is from a vulnerable group, has communication difficulties or is fearful of police. This year we monitored 34 investigations of complaints handled by police. See case study 6.

Case study 6

Police stopped and searched four Aboriginal young people in the early hours of the morning after receiving information about some suspicious activity in the area. One of the young people was arrested for breaching bail conditions.

A cousin approached the young person to check if everything was okay. A police officer requested that the cousin stay back. When he advanced, the officer pushed him in the chest. A short time later, a more senior police officer arrived and made racially offensive remarks about the young people.

The mother of one of the young people and the cousin complained about the police treatment of the young people. In particular, they were concerned about the use of force

and the senior officer's remarks. We decided to monitor the police investigation of the complaint because of the vulnerability of the young people involved.

The police investigator determined that the use of force by the police officer was appropriate in the circumstances and we agreed. A decision was made to attempt to informally resolve the issue about the senior officer's offensive remarks.

Along with the police investigator, the local police Aboriginal community liaison officer and a staff member from our Aboriginal Unit, the senior officer, two of the young people and their mothers attended an alternative dispute resolution meeting at which the senior officer admitted making racially offensive remarks.

The young people and their mothers were given an opportunity to express how they feel when racially offensive comments are directed at them. The senior officer apologised for the remarks and his unprofessional behaviour. The investigator invited the young people and their mothers to attend cross cultural awareness training for local police.

In 2006, we reviewed the 19 investigations we monitored in 2005-06. The review showed that monitoring investigations 'adds value' by:

- providing an opportunity for discussion between our staff and police investigators about the range of issues to be canvassed during the investigation
- facilitating the participation of people in interviews who might not otherwise have come forward
- enabling the participation of Ombudsman staff in alternative dispute resolution of issues arising from complaints.

An outcome of the review was the negotiation of a new agreement with police about the way investigations are monitored.

In 2007, we completed a project that involved monitoring 19 youth-related complaints. The aim of the project was to provide staff with further experience in monitoring interviews with vulnerable complainants and to determine whether our monitoring led to improved outcomes for complainants and police. We are currently analysing the results of this project.

Auditing deficient investigations

This year we conducted a small audit of police investigations that we had identified as being deficient. The purpose of the audit was to identify common features and find out if the outcome changed as a result of us raising the matter with police.

Over a six-week period, we reviewed 24 matters in which some form of deficiency was identified. The three most common deficiencies identified were:

- failure to identify key issues
- failure to pursue a relevant line of inquiry
- failure to identify policy/procedural issues.

The outcome changed in nine matters as a result of further inquiries or investigation by police. In the coming year, we plan to review a larger number of matters to provide meaningful feedback to police about specific deficiencies and work with them to develop better complaint investigation practices.

Misconduct at the Police College

In July 2006 there was considerable media discussion about historical allegations of misconduct by staff and students at the Police College. In August 2006 we tabled a special report in Parliament in which we outlined a number of complaints raising serious allegations of inappropriate sexual relationships between instructors and students. The report noted that, in many cases, the action taken against officers involved in misconduct amounted to 'too little, too late'.

Since the report was tabled, we have been closely monitoring our recommendation that police revise the college's code of conduct (known as the 'standing direction') to make sure that any ambiguity about personal relationships is removed. We have met with senior police and provided written comments on two drafts of the standing direction. We have since received a third draft. While pleased that some effort has now been made to address the shortcomings of the current standing direction, we are disappointed that the revised version has still not been finalised.

We have also been monitoring the progress of police in reviewing the complaint histories of instructors at the college. All new staff are now probity checked by the NSWPF's professional standards command (PSC) before working at the college.

In addition, the Commissioner of Police has required that all matters be referred to him whenever management action is proposed anywhere within the NSWPF for sexual misconduct or sexual harassment or for a breach of the standing direction.

Review of sexual harassment and sex discrimination in the police force

Shortly after the tabling of our special report in Parliament — and following further allegations of misconduct at the Police College — the Commissioner of Police established an inquiry into sexual harassment and discrimination in the NSWPF to be convened by Ms Chris Ronalds SC. We met with Ms Ronalds during her inquiry and provided access to relevant information.

Ms Ronalds found that inappropriate workplace conduct is occurring in pockets of the NSWPF. Her recommendations included establishing a specialist unit for dealing with such conduct and a tougher management approach in response to it. A number of the recommendations reflect those we have made previously to the Commissioner of Police. Since the release of Ms Ronalds's report, we have participated in a police working party considering ways to improve the management of inappropriate workplace conduct complaints. In June 2007, the Commissioner announced the establishment of a specialist workplace equity unit. We will continue to monitor NSWPF's implementation of Ms Ronalds's recommendations.

Improving the police complaint-handling system

Each year, we report on outcomes we have taken to improve the police complaint-handling system. In 2005–06, we reported on initiatives such as: our complaint management team visit program, which identified and shared good complaint-handling practice in local commands; our actions to improve referral of alleged police misconduct in court proceedings; and our efforts to increase the use of telephone intercept material in police misconduct investigations. Below, we outline some of our work in the past year.

New class or kind agreement

In consultation with the NSWPF, we developed a new 'class or kind' agreement with the PIC to complement legislative changes aimed at streamlining police complaint classification and notification requirements.

The new agreement started on 1 June 2007. It means that allegations of serious police misconduct are notified to us and subjected to rigorous oversight, but police commanders are able to manage less serious matters without our direct oversight.

Where should a complaint be investigated?

Over the past few years, we have been working with police and the PIC to develop procedures to assist CMTs to determine whether complaints can be effectively managed locally or need to be allocated to another command.

Complaints are normally managed by the command of the police officer concerned. However, there are sometimes risks associated with this practice. CARA — the Complaint Allocation Risk Appraisal — was developed to address these risks.

It is based on a risk identification and management process that involves two steps:

1. The identification of actual or perceived risks, or conflicts of interest, that may impact on the command's ability to conduct a fair and effective investigation.
2. The disclosure of conflicts of interest or other risks by the investigator that may affect their ability to conduct a fair and effective investigation.

Police began using CARA on 1 March 2007, and an evaluation is scheduled to take place after six months of operation. The PIC will randomly select 100 notifiable matters and these will be jointly assessed by the PIC, police and our office to determine whether using CARA led to complaint investigations being appropriately allocated.

Civil claims raising police misconduct

In last year's annual report we discussed our investigation into the NSWPF's handling of allegations and findings of police misconduct in civil proceedings — for example, where a court awarded a member of the public compensation for an alleged assault by police.

Our investigation found that the NSWPF needs a reliable system for identifying allegations of police misconduct to ensure they are properly investigated and suitable action is taken.

We are pleased to report that they have now introduced a system that addresses our concerns. The Crown Solicitor's office — and solicitors who act on behalf of the NSWPF in civil proceedings — have been instructed to bring to the attention of the police legal services division any allegations of police misconduct raised in civil proceedings that are not already the subject of a formal complaint. These allegations will be referred to the appropriate police command for assessment and investigation in the same way as written complaints about police. In introducing this system, the NSWPF has specifically acknowledged that complaints should not be handled differently simply because they arise in civil proceedings.

Anonymous complaints project

In response to the suggestion by some police that anonymous complaints consume resources and lead to minimal results, we decided this year to examine their impact. All anonymous complaints finalised during a six month period were examined to consider how they were made, the issues they raised, how well they were investigated and the types of outcomes that resulted from their investigation.

We found that anonymous complaints represented 5% of all complaints finalised during the period. This means that most local commands would receive, on average, one or two anonymous complaints a year.

Almost half of the anonymous complaints raised allegations of criminal conduct such as involvement in drug-related activities. Non-criminal allegations about untruthfulness or abuse of power were also raised — as were allegations related to inappropriate access to, or disclosure of, police information.

Police declined to investigate 41% of the anonymous complaints because there was not enough detail to identify the subject officers, they were too vague or did not contain sufficient information, or because they contained allegations that were frivolous, vexatious or not made in good faith. We generally agreed with the police decision, and the matters were finalised immediately.

Our review showed that police generally investigated the remaining 59% of anonymous complaints well and the amount of time and resources used did not appear to be excessive or unwarranted. A third of investigated anonymous complaints resulted in some form of management action such as counselling or increased supervision. Two anonymous complaints led to consideration of whether the subject officer's conduct warranted removal from the NSWPF. See case study 7 below.

The review demonstrated that anonymous complaints are an important source for identifying allegations of police misconduct. Any suggestion that anonymous complaints should be ignored or removed from the police complaints system may allow serious police misconduct to go unaddressed.

NSWPF has advised commanders and other senior police of the findings of the project, emphasising the value and importance of anonymous complaints. A separate issue of whether it is ever appropriate to identify an anonymous complainant is presently being considered by a working party with representatives from police, the PIC and our office.

Case study 7

We received an anonymous complaint raising concerns about a senior officer's on and off-duty conduct while under the influence of alcohol. The anonymous complainant alleged the officer became physically or verbally abusive while under the influence of alcohol and had started duty while intoxicated. The complainant also alleged the officer bribed a local licensee to continue to serve alcohol after closing. The fact the officer worked in highway patrol substantially increased the potential risk this officer posed to the public.

Several other complaints about the officer's conduct were made shortly after the anonymous complaint. The investigations of

the complaints revealed the officer had an alcohol problem that contributed to the inappropriate conduct. Police initially suspended the officer without pay and referred them to counselling for the alcohol problem. After considering the potential risks the officer posed, the Commissioner of Police eventually dismissed them.

As a result of the investigation, the expectations of police officers while on and off-duty were reinforced across the command — with particular attention drawn to the fact that alcohol can impair judgement. Officers were also reminded about their obligation to report criminal or inappropriate behaviour by fellow officers whether on or off-duty. Random drug and alcohol testing was recommended for highway patrol and other high-risk officers in the command.

Trial of electronic notification of new complaints from police

In previous annual reports we have outlined the failings of the police complaints computer system — known as c@tsi — and its negative impact on the performance of our functions. This resulted in our decision to scale back our use of c@tsi to primarily intelligence and auditing functions. Because of changes made by police to c@tsi, we could not receive new complaints electronically. This meant they had to be sent to us in hard copy on a daily basis which was neither efficient nor always timely.

For some time we have looked for a solution to allow the electronic transfer of new complaints and associated documentation. After significant discussion and changes to computer systems by both the police and our office, we began a trial of the electronic transfer of new complaints. The trial has proved successful, and we have now agreed to full implementation. This enables us to receive new notifications and associated documentation more quickly and reliably across a secure network connection.

Maintaining the integrity of the police complaints system

In addition to reviewing the handling of police complaints, we are also required to keep under scrutiny the systems used by police for dealing with complaints. This includes inspecting police records at least once every 12 months.

Audit of local management issues

The Police Act requires us to regularly inspect police records to ensure the legal requirements for recording and handling complaints are being

met. Our audit in 2006 examined more than 1600 police records in five local area commands and found a generally high level of compliance with legal recording and notification requirements. These results can be attributed, in part, to the much simpler class or kind agreement for classifying complaints that started in October 2004.

We also considered each command's overall handling of local management issues, attended their CMT meetings and provided advice to commanders about ways to minimise the resources applied to handling less serious matters.

Timeliness and reviewable action audits

A central strategy for holding police to account for timely investigations is our regular auditing of all open complaints to identify — and then raise with police — untimely matters. In September 2006, we raised 128 matters that appeared delayed for more than six months with no satisfactory explanation. By December 2006, 96 of these matters were finalised. Proper reasons for delay were given in another 12 complaints and the remaining 20 matters were the subject of individual follow-up. In February 2007 a further audit identified another 118 matters for which delayed police investigations were not explained. By June 2007, only 20 of these matters were outstanding.

Our meetings with the PSC to discuss these delayed matters have resulted in a number of positive outcomes. These include the regular exchange of data about complaint trends and the provision of detailed information to police about how we review and determine the adequacy of police investigations.

This year we also started systemic audits into delays by police in finalising serious management sanctions such as removals and reductions in rank or seniority. These matters are managed within the Employee Management Branch (EMB) of the PSC.

Our first audit in September 2006 found that 38 of the 143 current matters appeared to be delayed, including 35 matters that had been in progress for more than 12 months. In response to our finding, police acknowledged that the management of some matters had been protracted and advised us of a number of new initiatives aimed at reducing delays. In February 2007, we completed a second audit and found 83 of the 163 current matters were delayed — including 30 matters that had been in progress for more than 12 months. Police advised us that their initiatives to reduce delays are taking some time to achieve full effect. The PSC has also commenced a review of the EMB's processes to identify opportunities to improve timeliness.

In June 2007 we completed our third audit which identified 76 of the 124 current matters that appear to be delayed, including 33 matters that have been in

progress for more than 12 months. We are waiting for a response to our third audit.

We are closely monitoring the management of the most serious delayed complaints and the measures put in place to finalise them.

Research and projects

While conducting our core complaint-handling and auditing work, we sometimes come across recurring or widespread issues that affect police and the community. If we decide that it is in the public interest to do so, we conduct research — usually by using our 'own motion' investigation powers — to gain a better understanding of the issue and to work with police to develop an effective response.

This year we finalised two projects about the policing of domestic violence and police pursuits. They illustrate our cooperative work with police to identify good practice and to help develop and implement policies, guidelines and procedures aimed at improving policing.

Policing domestic violence

In December 2006, we tabled a special report in Parliament detailing the findings and recommendations of our investigation into the effectiveness of policing strategies to address domestic violence.

We found that some police commands are meeting the challenges associated with responding to domestic violence better than others and there is inconsistent application of good practices across the state. It is clear that adequately resourced systems and strategies are required for police and other front-line staff to respond effectively to domestic violence, as is strong interagency cooperation at the local level.

Our 44 recommendations were informed by comprehensive research — including extensive consultation with senior, specialist and front-line police, specialists from other government and non-government agencies, and others for whom securing safety and justice for victims of domestic violence is a priority. They include:

- development of a 'good practice' framework for responding to domestic violence to be implemented in all police commands
- introduction of a risk assessment model to guide the decision-making of police when responding to domestic violence incidents
- full-time domestic violence liaison officers (DVLOs) for all high-risk police commands
- funding for domestic violence investigation kits in all commands to facilitate the collection of evidence for court proceedings
- funding for Aboriginal family violence workers to work alongside police

- development and implementation of a comprehensive training framework for police and prosecutors
- publication of a code of practice outlining what response the community can expect from police to domestic violence
- consideration of legislative changes to streamline the apprehended violence order (AVO) process and make it easier for victims of domestic violence and police to present evidence at court
- wider implementation of integrated case management and co-location of police, child protection and domestic violence support workers.

The NSWPF accepted the majority of our recommendations and have established a steering committee to implement them. We are involved in ongoing discussions with the steering committee and are closely monitoring their progress.

In March 2007 the Premier made a number of announcements about domestic violence, committing the government to:

- funding to equip all front-line police cars and stations with domestic violence evidence kits
- the establishment of a new family and domestic violence unit within the NSWPF, with 35 officers working in high-risk areas and an additional five officers targeting repeat offenders
- more training for police officers, judges and magistrates in dealing with domestic violence cases
- reform of the AVO system to better protect children affected by domestic violence
- funding for the expansion of the women's domestic violence court assistance program.

Police pursuits

In December 2006, we completed a comprehensive review of police compliance with the safe driving policy that regulates the conduct of police pursuits. Our investigation examined compliance at the local, region and state level — including eight local area commands, region traffic officers, police radio (VKG) and the NSWPF's traffic services branch.

Of the 184 pursuits reviewed, we identified 32 (17%) where there appeared to be non-compliance with the policy. Common breaches included:

- police vehicles engaging in dangerous manoeuvres without VKG approval
- the involvement of more than two cars in a pursuit without VKG approval
- police continuing to follow an offending vehicle even after ending a pursuit — a known high-risk factor.

See case study 8 for an example of a non-complying pursuit.

Case study 8

In car video (ICV) footage from a lengthy pursuit that occurred in April 2005 showed three significant breaches of the safe driving policy by police officers:

- Up to six police vehicles took part in the pursuit, despite repeated directions from supervisors to limit the pursuit to two vehicles.
- There were a number of instances of police vehicles overtaking in convoy across double lines, forcing oncoming traffic to brake to avoid a collision.
- The lead vehicle failed to advise VKG of a number of instances of dangerous driving by the offending vehicle.

The pursuit ended when the driver of the offending vehicle drove through a red light, swerved to avoid colliding with another vehicle, lost control and collided with a wall. The driver was arrested and found to have been a disqualified driver and under the influence of alcohol.

The pursuit was reviewed by the relevant police command, and they took action in relation to the driver of the third police vehicle that took part in the pursuit. No action was taken in relation to the driver of any other police vehicle.

We could not understand why the actions of other police drivers involved in the pursuit were not addressed — both as a matter of fairness to the first officer and because their actions appeared to be dangerous. As a result of our feedback, management action was taken in relation to all other officers involved.

We also found that police commands were often failing to review pursuits or — when they did — failing to identify and act on breaches. While we identified 32 possible breaches, police found only 19. We recommended that police conduct regular audits of pursuit management at a local level to ensure active monitoring of compliance with the safe driving policy and effective responses to breaches. We also recommended that commanders and duty officers have more ready access to ICV footage to improve their overall monitoring of pursuits.

Our review raised concerns about whether NSWPF's state pursuit management committee (SPMC) was adequately carrying out its leadership role in pursuit management and policy development. We found very poor records of meetings and decisions, and limited activity in areas of key responsibility such

as the review of pursuit collisions. Improvements, including the commitment of substantial additional resources, were made to the SPMC during our investigation. We have recommended these improvements be closely reviewed to ensure they are working.

Our investigation strongly supported the need for police to be trained in pursuit driving as well as pursuit risk management. We recommended that training be reviewed to ensure police drivers, duty officers and radio supervisors are provided with the skills to continually assess and manage the risk posed by pursuits. We also recommended that regular driver retraining be considered.

Our investigation also identified a need for improved recording of information about pursuits. This is important to enable the effectiveness of police pursuits in apprehending criminals to be assessed. It is also essential to the proper management of police officers who regularly engage in pursuits.

We recommended that the safe driving policy be reviewed to provide greater guidance about the responsibilities of police drivers, duty officers and VKG supervisors in relation to pursuits — as well as when pursuits should take place.

Overall we made 29 recommendations for improvement. Of these, NSWPF accepted 23. However, we remain concerned about an apparent lack of progress in implementing the recommendations. For this reason, we continue to closely monitor the police response to our investigation.

Working with Aboriginal communities

Our work with police and Aboriginal people continues to focus on the quality of local police strategies to improve outcomes, tackle crime and reduce victimisation in Aboriginal communities across NSW.

This year, we finalised a four-year program of detailed audits to check local police compliance with the NSWPF's *Aboriginal Strategic Direction* (ASD) and review their initiatives in their day-to-day work with Aboriginal communities throughout NSW.

An essential part of our audit program was to return to areas that we had previously visited to talk with police, other agencies and communities themselves about any changes that police had made since our earlier reviews, and to suggest further improvements. We found marked improvements in almost all of the areas we returned to. Case study 9 (see over) demonstrates the significant improvements made at one command.

This year we also visited some commands for the first time and found evidence that the good work in other areas had been extended to these commands.

We provided feedback — both positive and critical — to local commanders about the factors affecting police relationships with local Aboriginal communities, the policing of young people, domestic violence and sexual assault prevention, and the implementation of other ASD strategies. Where possible, we included advice on good practice noted in other commands.

Over the past year, some commands with high numbers of Aboriginal residents have tried different approaches to cultural awareness training for their officers. For instance, Barwon local area command is trialling informal 'two-way' learning initiatives such as:

- the proper introduction of new officers to key groups and community leaders upon arrival as part of their induction
- officer performance reviews, where individual front-line officers are regularly invited to state what they are doing to implement the ASD objectives through their work
- Aboriginal guest speakers addressing quarterly supervisors/sergeants' meetings
- senior officers regularly attending meetings of men's groups, women's groups and various other community forums, providing management with direct feedback about police work, letting the community and officers know that any inappropriate conduct will be identified quickly and taken seriously, and creating opportunities to deal with misinformation and nip emerging problems in the bud.

This advice was summarised and sent to other commands to assist them to develop their officers' skills in working effectively with local Aboriginal residents.

For further details about our audits, please see Chapter 3: Our relationships.

Case study 9

In 2004 we visited the New England police command in Armidale to review their work with local Aboriginal communities. As a result of this audit, we suggested the command take a number of steps to implement the ASD — such as establishing formal community consultation, meeting regularly with community elders and other leaders, employing an Aboriginal community liaison officer (ACLO) and a full-time domestic violence liaison officer (DVLO), improving initiatives to target repeat young offenders, providing training to deal with domestic violence, and developing cultural awareness and induction courses for officers in the command.

When we visited again this year, we found significant improvements throughout the command. Almost all of the issues we had raised were being addressed, plus some additional steps were being taken to improve police work with local Aboriginal residents. These measures included:

- the ACLO's active and effective work with young people and in improving police-community ties
- a strong commitment to local cultural awareness training to challenge resistance among some police officers towards working with Aboriginal people, and promoting stronger police-community ties
- improved avenues for formal police-community communication throughout the command and the establishment of local meetings in centres such as Glen Innes, Inverell, Tenterfield and Armidale
- improved informal police-community communication. There was particular praise for officers in one town where all sources acknowledged the challenges of policing in such a complex cultural environment and praised the police skill in successfully managing that task on most occasions
- the commitment shown by senior officers to develop and apply ASD measures in their daily work with local residents, especially through police support for key justice and diversion initiatives. For example, members of Armidale's Aboriginal community justice group — the community leaders with overall responsibility for circle sentencing in that area — noted the high profile support of senior officers in the command as an important factor in the program's early successes.

Our feedback noted the remarkable contrast between the need for police-community initiatives in 2004 and the very active police commitment to implementing ASD initiatives that was evident during our follow-up audit. As one police source commented, 'We were starting from a very low base. There is now a very good foundation for us to build on'.

Our follow-up report also noted ongoing challenges, including an urgent need for further improvements to the command's strategies to target domestic violence and sexual assault. Although there have been some improvements, we believe more could be done to address the issues that impact on police work in this area — such as staffing shortages and the dispersed geography of the command.

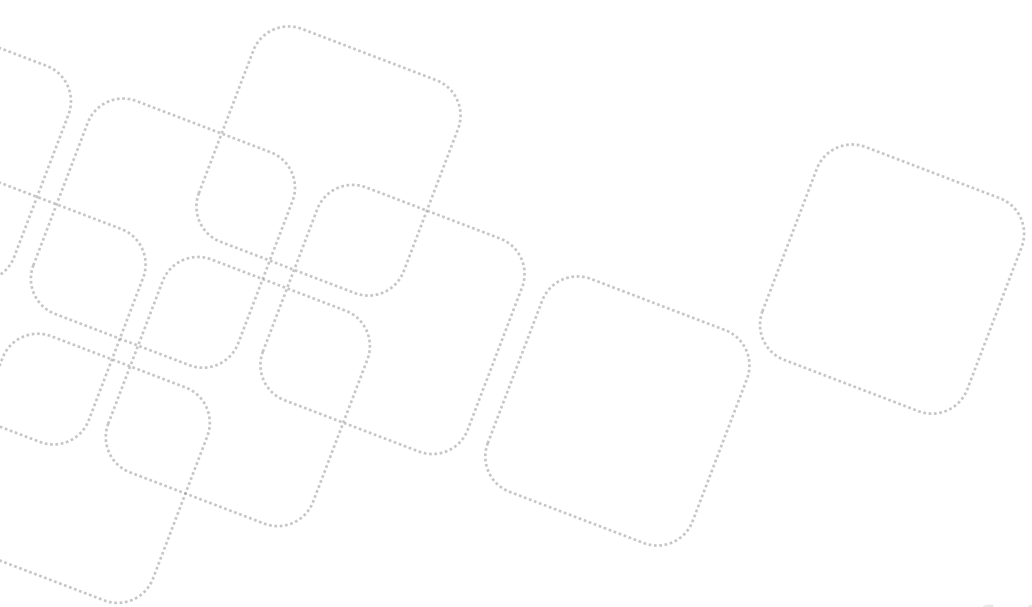
Recent discussions with police and community leaders in the area indicate the command is acting on our audit recommendations and has implemented a number of practical measures to improve the policing of domestic violence and sexual assault.

During our audits we sometimes become aware of specific problems affecting local residents who have dealings with police. Where possible and appropriate, we try to help resolve such problems by acting as a 'go between'. For example, the mother of an Aboriginal man who suffers from mental health issues and is developmentally delayed approached our staff during our audit of a Western region police command. The local publican had taken out an AVO against the man that prevented him from entering the pub. However, his medical condition and inability to understand the contents of the AVO meant the man continued to enter the premises, resulting in police charging him with multiple breaches of the AVO. The man was taken by police to the next town on several occasions and was once released approximately 127 kilometres from his home without means of getting home.

Our staff raised the issue with the local commander. Police then met with the man's family to discuss their concerns. As a result, police agreed to recommend to the publican that he contact the man's parents or another family member whenever he turned up at the pub. Police also contacted the local mental health service to find out what support they were providing the man.

During the same audit, an Aboriginal man whose son was killed in a motor vehicle accident approached a member of our staff. He had received conflicting versions of events from police and other sources about the accident. Following our intervention, police met with the man to give him information about his son's death and have since initiated an investigation into the police handling of the matter.

During another audit, family and community members from a small town expressed concern about the lack of information communicated by police about the unsolved murder of a local Aboriginal woman. Following the audit, the sister of the woman contacted us to further discuss the matter. We asked police to meet with family members. Police have since met with the family, who are now receiving regular updates on the progress of the investigation into the woman's death.



we want to see **fair accountable** and **responsive** administrative practice and service delivery in NSW in our own organisation and those we oversight we work to **promote good conduct fair**

5. COVERT OPERATIONS



The NSW Police Force, the Crime Commission, the Independent Commission Against Corruption and the Police Integrity Commission have the power to do a range of things as part of a covert operation that would otherwise be illegal.

Under the *Listening Devices Act 1984*, the *Telecommunications (Interception) (NSW) Act 1987* and the *Law Enforcement (Controlled Operations) Act 1997*, they can intercept telephone conversations and plant devices to listen to and video conversations and track positions of objects. They can also carry out controlled or ‘undercover’ operations that may involve committing breaches of the law, such as being in possession of illicit drugs.

Because these kinds of operations involve significant intrusions into people’s private lives, the agencies may only use these powers if they follow the approval procedures and accountability provisions set out in the relevant legislation. An important function of the Ombudsman is to review the compliance of agencies with these requirements.

The Acts were developed separately during different time periods and, as a result, have different accountability processes. There are two significant differences. The first is that to install a listening device or intercept telephone conversations, the law enforcement agency must apply to a judicial officer or — in the case of telephone intercepts — to a member of the Commonwealth Administrative Appeals Tribunal (AAT) for a warrant. To conduct a controlled operation, a law enforcement officer need only apply to the chief executive officer of their agency.

The second difference is that the Ombudsman currently monitors compliance with the accountability processes set up for telephone intercepts and controlled operations, but not listening devices. Most Australian states are in the process of introducing model legislation to regulate the use of surveillance devices. This legislation includes a monitoring and

inspection function. During the year, we provided advice to the Attorney General on a draft surveillance devices bill, which the NSW Parliament is likely to consider in 2007–08.

The secure monitoring unit is a specialist group within our general team. Staff from the unit inspect the telecommunication interception and controlled operations records of the relevant law enforcement agencies to make sure they are complying with the legislation. For controlled operations, this monitoring role extends to three Commonwealth law enforcement agencies that are eligible to conduct operations under the NSW Act. These are the Australian Federal Police, the Australian Customs Service and the Australian Crime Commission. To date, only the Australian Crime Commission has conducted controlled operations using their powers under the NSW Act.

Controlled operations

Controlled operations are an important investigation tool. They allow law enforcement agencies to infiltrate criminal groups — particularly those engaged in drug trafficking and organised crime — to obtain evidence to prosecute perpetrators of criminal offences or expose corrupt conduct.

The chief executive officer of the law enforcement agency gives approval for controlled operations without reference to any external authority. To ensure accountability for these undercover operations, the Ombudsman has a significant role in monitoring the actual approval process.

Agencies must notify us within 21 days if an authority to conduct an operation has been granted or varied, or if a report has been received by the agency’s chief executive officer on the completion of the operation.

We are required to inspect the records of each agency at least once every 12 months to ensure they are complying with the requirements of the Act. We also have the power to inspect agencies’ records at any time — and make a special report to Parliament if we have concerns that should be brought to the attention of the public.

During 2006–07, we inspected the records of 305 controlled operations.

We report in detail on our monitoring work under the *Law Enforcement (Controlled Operations) Act* in a separate annual report that is available on our website

or from our office. As well as reporting on compliance with the Act, the report includes details about the type of criminal conduct targeted in the operations and the number of people who were authorised to undertake controlled activities. It also provides some basic information about the results of those operations.

Telecommunication interceptions

A judicial officer or member of the AAT grants a warrant for a telephone interception, so — unlike controlled operations — our role does not include scrutinising compliance with the actual approval process.

We make sure that the agency carrying out the telecommunication interception complies with all the necessary record-keeping requirements. These records must document the issue of warrants and how the information gathered was used. Some records have to be given to the Attorney General and all intercepted material must be destroyed once the specified conditions no longer apply. All telephone intercept records have to be kept under secure conditions by the agency.

We are required to inspect each agency's records at least twice a year, and also have discretionary power to inspect their records for compliance at any time. We report the results of our inspections to the Attorney General. The Telecommunications (Interception) (NSW) Act prevents us from providing any information about what we do under that Act in our annual report — or in any other public report we prepare.

Amendments made in 2006 to the Commonwealth *Telecommunications (Interception and Access) Act 1979* included provision for the interception of communications of an innocent third party known to communicate with a person of interest. They also provided for stored communications warrants. These warrants are obtained by law enforcement agencies to lawfully access, through covert means, emails, SMS and voicemail messages that are stored on telecommunications service providers' equipment. NSW law enforcement agencies can already use these additional powers. However, the failure over recent years to amend the Telecommunications (Interception) (NSW) Act to keep it up-to-date and compatible with the Commonwealth legislation means that we do not monitor how agencies use these powers.

In May 2007, staff from our secure monitoring unit hosted a meeting of telecommunications interception inspectors from other states and territories to discuss recent developments and monitoring methodologies.

6. WITNESS PROTECTION

The witness protection program was established under the *Witness Protection Act 1995*. It aims to protect the safety and welfare of Crown witnesses and others who have given information to police about criminal activities. The Ombudsman is responsible for hearing appeals about the exercise of certain powers and handling complaints from people participating in the program.

Appeals

The Act gives the NSW Commissioner of Police the power to refuse someone entry to the witness protection program or remove them from the program. A person directly affected by such a decision can appeal to the Ombudsman. The Ombudsman must determine an appeal within seven days of receiving it and our decision overrides the Commissioner's decision. This year we received no appeals under the Act.

Complaints

Every person taken onto the witness protection program has to sign a memorandum of understanding with the Commissioner of Police. This memorandum sets out the basic obligations of the participant and includes provisions such as:

- prohibitions from engaging in specified activities
- arrangements for family maintenance, taxation, welfare or other social and domestic obligations or relationships
- matters relating to their identity
- the consequences of failing to comply with the provisions of the memorandum.

The Witness Protection Act states that witnesses must be informed that they have a right to complain to the Ombudsman about the conduct of police in relation to any matters covered in the memorandum.

Historically, we have received only a few complaints from participants in the witness protection program. When complaints have raised systemic issues, the police have responded positively and resolved those issues. This has contributed to the noticeable improvement in the management of the program and a related decrease in the number of complaints we receive.

This year we received no complaints from participants. We received one complaint from a former participant about the administration of the program.