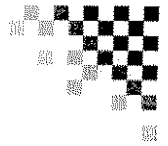




QUEENSLAND POLICE SERVICE

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Our Ref: **04/4749**

Your Ref:

20 October 2004

Ms Lisa Finn
Australian Senate
Select Committee on Lindeberg Grievance
Parliament House
CANBERRA ACT 2600



Dear Ms Finn

Select Committee on the Lindeberg Grievance

I am grateful for the opportunity to respond to evidence given to the Select Committee on the Lindeberg Grievance and conveyed to the Queensland Police Service by letter dated 2 July 2004.

The Queensland Police Service (the Service) accepts the invitation to provide a written submission to the Select Committee in respect of matters raised by Mr Lindeberg and others in submission and evidence before the Inquiry.

The Service does not accept that it or its members acted inappropriately, incompetently or with malice, spite or bias, during the course of investigations into allegations raised by Mr Lindeberg nor does it accept that it or its members failed to undertake the functions given to the organisation pursuant to the *Police Service Administration Act 1990* (Queensland) (PSAA).

The Queensland Police Service has committed itself to the achievement of high ethical standards for all its members. This commitment is reflected in the Oath of Officer to keep and preserve the peace; to serve according to law without favour or affection, malice or ill will; to prevent to the best of their power all offences against the peace; and to the best of their skill and knowledge discharge all the duties imposed upon them faithfully and according to law. This commitment has been reinforced by the development and introduction of the Service's Code of Conduct and Statement of Ethics. These compliment the *Whistleblower Protection Act 1994*, the *Crime and Misconduct Act 2001*, and the *Public Sector Ethics Act 1994*.

All members of the Service are public officials as defined in the *Public Sector Ethics Act 1994* and are employed at public expense for the benefit of the community. In the delivery of policing services to the community, the Service and its members strive to achieve the highest standards of conduct and accountability. In the provision of policing services, the public are entitled to expect that all members will:

- Conduct themselves and discharge their responsibilities with professionalism and integrity;
- Observe fairness and equity in their official dealings with the public and other public sector staff;
- Comply with, and be seen to act within the spirit and letter of the law; and
- Act in the public interest and give priority to official duties and obligations.

For ease of response, Mr Lindeberg's remarks have been categorised under different headings that appear below. The Service's response to that evidence follow those headings:

INADEQUATE INVESTIGATION OF INTIMIDATION COMPLAINT

Interrogation of major fraud investigation group holdings and Service complaint records do not show a formal complaint received by the Service from Mr Lindeberg regarding perceived acts of intimidation by Mr Rutherford in instituting defamation proceedings against Mr Lindeberg following Mr Lindeberg's allegations of misappropriation by superannuation funds and comments.

INADEQUATE INVESTIGATION OF MISAPPROPRIATION OF SUPERANNUATION MONIES AND MISSING DOCUMENTS

The Service conducted a detailed investigation into the allegations of misappropriation of monies by staff from a superannuation fund held by the Queensland Professional Officers Association in 1994. That investigation included interviews with nominated suspects, interview with the complainant, interviews with fund directors and enquiries with the Insurance and Superannuation Commission and other relevant persons and bodies.

The outcome of that investigation was ultimately that there was insufficient evidence to proceed with criminal charges against any person for obtaining superannuation funds. Proof of the necessary "dishonesty" or "falsity" elements of the nominated offences could not be established beyond reasonable doubt.

A supplementary investigation was also conducted by Queensland Police Service officers regarding missing documentation, being four superannuation documents known as "benefit request forms" that were tendered at the Cook Inquiry but which subsequently went missing.

Efforts were made by the Service to locate the forms on the basis of allegations by Mr Lindeberg that fraud could be detected from a certain box "ticked" on those forms indicating how the members were to leave the fund. Efforts to locate the forms met with negative results. National Mutual Insurance Company was contacted, who advised it could not find the original forms or copies of them, and stated their belief that the forms were given to the Cook Inquiry. Statements were obtained from the office of the Crown Solicitor who assisted the Inquiry, advising of the belief that the forms had been returned to the insurance company at the completion of the Inquiry.

Investigations were undertaken with the Queensland State Archives to locate the forms and with the Professional Officers Association of Queensland. These avenues also failed to locate the forms.

Ultimately, investigators determined that, in relation to the investigation, the location of the forms was immaterial to establishing the necessary elements to prove the offence. This was as those interviewed indicated that there was no box on the benefit request form to mark the provision to leave the fund in the manner in which the suspects did, contrary to the allegations of Mr Lindeberg.

The Service's investigation into allegations of misappropriation of monies and the location of missing benefit request form documents was detailed and appropriate.

FAILURE TO INVESTIGATE HEINER INQUIRY DOCUMENT SHREDDING ALLEGATIONS

Mr Lindeberg's allegations were dealt with in two distinct ways by the Queensland Police Service. The Service conducted investigations into claims of false pretences and misappropriation of superannuation funds (including the missing benefit request forms). The second aspect of the complaint relating to allegations of shredding of documents from the Heiner Inquiry by government agencies was referred to another agency for investigation.

Senior police overviewed the allegations by Mr Lindeberg regarding shredding of documents at the Heiner Inquiry and determined that these allegations did not give rise to a criminal complaint appropriate for investigation by the Queensland Police Service. The allegations raised by Mr Lindeberg were thought more appropriately to raise civil or governmental misconduct issues.

The Queensland Police Service had no jurisdiction to investigate allegations of misconduct against government bodies and agencies. The appropriate body under the *Criminal Justice Act 1989* to do so was the Criminal Justice Commission (CJC). Following case evaluation, committee resolution and legal advice, that aspect of the allegations was referred to the CJC for investigation.

Pursuant to the *Criminal Justice Act 1989*, complaints of misconduct against the CJC or its members were referred to the Parliamentary Criminal Justice Committee in its monitoring role over the Commission. The course of any CJC investigation and its outcome is a separate matter for response by the former CJC.

If, during the course of investigation into the allegations of misconduct, criminal activity was suspected, that information could have been referred back to the Queensland Police Service for investigation. The Service has no record of any such referral.

APPROPRIATE CLOSURE OF OPS INVESTIGATIONS

As has been previously advised, the Service distinguished between two aspects of allegations made by Mr Lindeberg. The investigation regarding misappropriation of monies was dealt with by OPS investigating officers and it was determined that there was insufficient evidence to proceed with criminal charges on the basis that the element of "intent to defraud" could not be proven. Equally it was felt that the element of "dishonesty applies" in respect of the misappropriation allegation could not be proven.

SUMMARY

The Service strongly denies that it acted incompetently, inappropriately or corruptly in its dealing with Mr Lindeberg's complaints. They were dealt with appropriately and reasonably at the time based on operational, evidentiary and legal reasoning.

The Service is able to provide documentation outlining its investigations into Mr Lindeberg's grievance if it is thought of assistance by the Select Committee. I would invite you to contact my staff officer, Inspector Tom Gockel on 07-3364 6364.

Yours sincerely



R P CONDER
DEPUTY COMMISSIONER
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