

## Ombudsman report

### Did police provide their name and place of duty?

Acting NSW Ombudsman, Professor John McMillan has completed a review into whether police gave their name and place of duty as they are required to do when using certain powers, including powers to search, stop and arrest people. The Ombudsman's report was tabled in Parliament by the Attorney General on 13 June 2017.

**'A police officer's obligation to provide their name and place of duty to a person who is subject to coercive police action is an important legal and civil liberties safeguard'**, the Ombudsman said. Before November 2014, an officer's failure to provide this information could invalidate the police action. The law was changed in 2014, after Police raised concerns that some prosecutions had been dismissed because the officer had not complied with the requirement. Police are still required by law to provide their name and place of duty, but a failure to comply will not invalidate the police action. The obligation was unchanged, but the legal consequence of non-compliance was altered.

When Parliament passed the amended law, it also required the Ombudsman to review whether police continued to comply with their obligation to provide their name and place of duty. **'The purpose of my office's review was to find out if the legislative change had unintentionally undermined an important safeguard on the use of policing powers'**, the Ombudsman said.

**'This important review was underscored by the fact that police used powers that required them to give their name and place of duty on 400,000 separate occasions, affecting 266,000 people, in a 12 month period'**, said the Ombudsman.

**'Unfortunately our review of police practice was more limited than we expected because of the absence of reliable data. Police do not keep records to show if officers actually provided their name and place of duty when exercising a relevant power'**, said the Ombudsman. **'We attempted other methods to measure police compliance – such as reviewing complaints data, conducting a telephone survey, and reviewing records of court proceedings. We were not confident that these gave us an accurate picture.'**

**'Nor was any comparative data available to establish if police compliance with this important information disclosure safeguard was higher or lower than in previous years'**, said the Ombudsman. **'Ultimately, we were unable to assess the impact of the legislative change.'**

**'Our community consultation with a wide range of people and organisations delivered two strong messages'**, the Ombudsman said. **'The first message is one of broad community support for laws requiring police to provide their name and place of duty. The second is a community perception that this does not always happen.'**

**'If the Government and the NSW Police Force are committed to ensuring compliance with this important safeguard, consideration should be given to introducing a process that can monitor compliance.'**

Read the report on the NSW Ombudsman's website.

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