

# **STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

## **INQUIRY INTO WORKSAFE**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 1 NOVEMBER 2017**

### **SESSION ONE**

#### **Members**

**Hon Adele Farina (Chair)  
Hon Jacqui Boydell (Deputy Chair)  
Hon Ken Baston  
Hon Kyle McGinn  
Hon Darren West**

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**Hearing commenced at 10.18 am**

**Mr GEORGE TILBURY**

**President, Western Australian Police Union, sworn and examined:**

**Mr DAVID LAMPARD**

**Field Officer, Western Australian Police Union, sworn and examined:**

**Mr MATTHEW PAYNE**

**Research Officer, Western Australian Police Union, sworn and examined:**

**The CHAIR:** Members, we are commencing our hearing on air at the moment and we have before us the WA Police Union to give evidence to the committee's inquiry into WorkSafe. On behalf of the committee, I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or the affirmation.

[Witnesses took the oath.]

**The CHAIR:** You will have signed a document titled "Information for Witnesses". Have you read and signed the document?

**The WITNESSES:** Yes.

**The CHAIR:** These proceedings are being recorded by Hansard and broadcast on the internet. A transcript of your evidence will be provided to you. To assist the committee and Hansard, will you please quote the full title of any report that you refer to, and be aware of the microphones and please speak into them and do not cover them with paper. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of an uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

George, would you like to start by making an opening statement to the committee, a brief one please? Thank you.

**Mr TILBURY:** Yes. Firstly, I would like to thank the committee for the opportunity to appear before you today. Police work by its very nature is often difficult and dangerous. Although other professions run away from hazardous incidents, our members run towards them. This is not only a legislative requirement under section 4A of the Occupational Safety and Health Act 1984, but also due to a member's oath of office, which requires them to obey any lawful direction given to them. Therefore, due to the increased risk that we expect police officers to take, independent oversight is absolutely necessary when it comes to safety. Unfortunately, it appears that WorkSafe is a toothless tiger when it comes to safety breaches in WA Police. Our members are three times more likely to be injured at work than the average WA employee. WA Police has one of the highest ratios of employees trained as safety representatives with approximately 1 700 since 2004. However, this high proportion of representatives does not have a direct link to improving safety outcomes due to the hierarchal structure of WA Police. Members have informed us of intimidation tactics that have been used when

safety representatives have expressed concerns over unsafe work practices. Members have also told us that they have experienced backlash and unfair treatment if provisional improvement notices are issued. Many members often do not issue PINs because of a fear of repercussion. Therefore, it is imperative that all incidents are investigated by WorkSafe. However, when members have successfully progressed breaches to WorkSafe, this so-called watchdog has failed spectacularly in its responsibility to promote and secure the safety and health of persons at work, protect persons at work against hazards, assist in securing safe and hygienic work environments, and to reduce, eliminate and control the hazards to which persons are exposed at work.

As listed on page 7 of our submission, some examples of potential prosecutions are as follows: WorkSafe allowed major construction and renovation work to occur whilst our members remained in the facility, exposing them to serious hazards; it allowed members to remain in facilities in Karratha and South Hedland that were subject to an outbreak of serious mould spores caused by totally ineffective air conditioning systems and poor workmanship; WorkSafe did not investigate an incident which resulted in serious burns to our member at the Maylands police complex, even after demands were made by WAPU; and WorkSafe allowed a serious lack of PPE clothing for quad bike training at the WA Police Academy. The safety of our members is WAPU's highest priority, so WorkSafe and the WA police force must be held to account as to why a number of incidents that should have been thoroughly investigated were not. As mentioned in these previous examples, police officers are often dealing with serious incidents which, when it comes to safety, could mean the difference between life and death. Therefore, it is imperative that standard operating procedures are in place and thoroughly enforced, and breaches are prosecuted in order to keep our members safe. Thank you.

**The CHAIR:** Thanks, George. Turning to page 5 of the submission, you refer to the WA Police Occupational Safety and Health Advisory Committee. Is this advisory committee established under the OSH act or is it an advisory committee to WA Police?

**Mr LAMPARD:** That committee was formed this year. It replaces the OSH steering committee and is in a slightly different format. The OSH steering committee that existed from 2004 to the early part of 2017 was made up of executive members of WA Police, which included the executive director, who generally chaired the meeting, and a select group of assistant commissioners who generally changed every couple of years. It was changed earlier this year and it now includes business managers from different districts and divisions in the metropolitan area and is chaired by the assistant director of the WA Police health and safety branch. It is quite a considerable change in the structure of that committee.

**The CHAIR:** Is WorkSafe represented on the committee?

**Mr LAMPARD:** No.

**The CHAIR:** And it does not report to WorkSafe; it is just a WA Police service?

**Mr LAMPARD:** No, it does not report to WorkSafe.

**The CHAIR:** And how frequently does the advisory committee meet?

**Mr LAMPARD:** Generally every quarter, sometimes sooner, sometimes later, depending on the availability of the people who are on the committee.

**The CHAIR:** Are HSRs represented on the advisory committee?

**Mr LAMPARD:** Yes, there are two safety and health reps; one from the sworn membership, who represents the WA Police Union, and one from the unsworn employee representative organisation, which is the CPSU-CSA.

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**The CHAIR:** Does WA Police have an HSR at every police station across the state?

**Mr LAMPARD:** Generally speaking, yes. Occasionally, when transfers occur, there may be a vacancy for some time, but that is generally covered by a scheme and somebody from another station will cover that off.

**The CHAIR:** On page 5 of the submission, it states that you have two full-time field officers who are focused on occupational safety and health issues. Do these officers engage with WorkSafe staff about members' safety concerns; and, if so, what sort of interaction are you getting from WorkSafe?

**Mr LAMPARD:** In the initial stages, yes. The WA Police Union had a very good rapport with the inspectors delegated for police and operations. That waned from perhaps 2008 onwards. I do not know the specific reasons, but one of the main reasons was the fact that when we were representing members in letters to WorkSafe, we were told by WorkSafe that representation had to come from the membership themselves because it was specific to a particular member. Basically, that dropped away and it was left up to the union to prepare evidence for those members to submit to WorkSafe if they were not happy with a WA Police OSH investigation.

**The CHAIR:** The police officers who are told that they have to lodge the request to attend themselves; the union is not in a position to do this. Is this the advice from WorkSafe?

**Mr LAMPARD:** The advice from WorkSafe, when we wrote letters to them, they were not prepared to give us any information with regards to an ongoing investigation or review, and that had to be done by the person who was actually the complainant in the matter.

**The CHAIR:** And the union could be the complainant?

**Mr LAMPARD:** It had to be the individual member of the police who was the person who lodged the complaint in the first place.

**Hon KYLE McGINN:** Has someone from the union ever lodged a complaint on behalf of a member?

**Mr LAMPARD:** Yes, we do, but it is more of a generic nature with regards to a lack of policy or understanding about the police union challenging a policy where we think there should be other regulatory bodies involved in making a determination.

**Hon KYLE McGINN:** Have you then received feedback from WorkSafe when requested?

**Mr LAMPARD:** Yes, we have. Generally, it is in denial of what we are actually asking for, but yes, we have received feedback.

**The CHAIR:** Does WorkSafe have regular proactive investigations of police stations and police officers?

**Mr LAMPARD:** We do not advise on them. Any activities that are conducted by WorkSafe with WA Police, and that is through their safety branch, are in accordance with the memorandum of understanding that WorkSafe has with WA Police. I have copies here if they want them.

**The CHAIR:** Yes, I was going to ask you for that later, so that would be great. Margaret will collect them from you in due time. Does the MOU specifically prohibit proactive investigations of police stations?

**Mr LAMPARD:** No, not really. The memorandum of understanding is basically set up to ensure that particular sections of the act are conducive to the police work and that is in regard to section 4A, dangerous and covert operations, and section 3 and also section 26 of the act with regard to refusing to work.

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**Hon KYLE McGINN:** Just to reframe that question, are you aware of any proactive investigations at police stations in respect of the actual police station with an OHS issue, and not so much procedures?

**Mr LAMPARD:** No, there is not. In the only two that I am aware of the investigations are continuations of an improvement notice into a particular police policy that has not been upgraded, but other than that no, I do not think there have been any specific investigations of faults at police buildings or anything like that.

[10.30 am]

**The CHAIR:** On page 7 of the submission, you talk about WorkSafe support, which was excellent from 2003 to 2009, and you have said that WorkSafe support has declined since 2008 and that there was a distinct change with WorkSafe senior management becoming more bureaucratic and less inclusive. Can you describe the union's experience in dealing with WorkSafe since 2008?

**Mr LAMPARD:** The Police Union, like the president said, has 1 700 trained safety reps. Their training is police-specific, so one of the main things that used to occur before 2009 was WorkSafe doing Safe Work Week in October. It used to run very good safety rep conferences at the Convention Centre, where quite often there would be two or 300 safety reps from general industry attending, and the Police Union always used to encourage our safety reps to attend and we also encouraged our safety reps to be members of police branches, so that there is an interaction between the branch and the safety reps. Since that has dropped off there has been very little general training for our members about what goes on in the general workforce.

**The CHAIR:** Why do you think the change occurred?

**Mr LAMPARD:** I would say it was probably a budgetary thing, but that is unusual because I think it was self-funded; the conferences were self-funded. People had to pay a fee to attend the conference for two days, but there may have been other implications for not being able to conduct their conventions like they used to do, but it certainly has been noticed. It has been missed.

**The CHAIR:** Pages 7 and 8 of the submission list a number of incidents where the union considers WorkSafe fell well short of its statutory obligations regarding breaches of legislation. I want to get some additional information in relation to each of these incidents, and I am happy for you to take this question on notice because it may be a bit too detailed for you to answer. In relation to each of those incidents, can you provide the committee with the date of the incident; the date the WA police officer or union lodged a request to attend with WorkSafe in relation to the incident, and the complaint number that was lodged; whether WorkSafe completed an investigation in response to that RTA; what action if any was taken by WorkSafe in relation to that particular incident; and why the union believes WorkSafe fell short of its statutory obligations in each particular incident? I am happy to take that as question on notice 1, because there is a lot of detail.

**Mr TILBURY:** We are happy to take that on notice and we will provide that information. The only concern I have is identifying individual members for fear of repercussions. Obviously, depending on their particular case, it may be before a court in some instances. Is there any way of protecting their identity, or can we just —

**The CHAIR:** All you need to do is advise the committee that you want that particular piece of evidence to be kept private and the committee will consider your request. Obviously, I cannot predetermine what the committee will decide, but we are very aware of the fact that we need to protect individuals through this process, and to date, where requests have been made for information to be kept private, we have respected that request.

**Mr TILBURY:** Okay; thank you. The other alternative —

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**The CHAIR:** The only other thing I can say is that if at the time the committee comes to writing its report, if we feel that some information that we have given private status to would be very helpful in the report, we will talk to the party who provided that information to the committee first to see whether there is some format in which it can be provided while still protecting those people who need to be protected.

**Mr TILBURY:** Okay. The other alternative is we could provide information to, say, a senior constable from Perth on such and such a time and date, if that would be more appropriate.

**The CHAIR:** That would be fine.

**Mr TILBURY:** Okay, great. Thank you.

**The CHAIR:** Also at page 8 of the submission there is a list of a number of instances where the union believes WorkSafe should have issued a prohibition notice or an improvement notice. Again, this is a question you might like to take on notice. In relation to each of those, can you provide the date of the incidents; the date the police officer or union lodged a request to attend with WorkSafe, and the complaint number; whether WorkSafe completed an investigation; what action, if any, was taken by WorkSafe; why the union believes a prohibition notice or an improvement notice should have been issued; and the reasons provided by WorkSafe, if any, as to why they did not issue a prohibition notice or an improvement notice? I am happy to take that as question on notice 2.

**Mr TILBURY:** Again, we are more than happy to do that.

**Hon KYLE McGINN:** Also on page 8 there is a statement that says that other WorkSafe inactivity can be attributed to the lack of spot inspection of police fatalities —

**Mr TILBURY:** Facilities.

**Hon KYLE McGINN:** Sorry, I misread it. Police facilities, especially where contractors, customers and visitors frequent the premises. Do you have anything further to add to that?

**Mr LAMPARD:** What generally happens is that the police union has liaison with the police lands and buildings area. We try to keep informed of any alterations that may be occurring at older police stations, or even newer police stations, especially with regard to air conditioning, so that we can ensure that our members are protected and not working on a construction site. We generally do not get told about this. What has happened in the past is that we are informed by one of our members, “Do you realise they’re ripping up the carpet at such and such a place” or “They’re putting in an air conditioner at such and such a place” or “They’re doing some other kind of modification works, and we’re still working in this environment, even though it’s a construction site.” We are always a bit late on the scene with regard to reacting to that, and it is quite often very difficult, once we do attend, to arrange alternative accommodation for police officers because of the security issues of the kind of work that police do, so it can be pretty messy with regard to how we get over the situation. Recently there has been an improvement by the police; they do actually tell us when they are going to conduct renovations, but having said that, they do not always arrange for alternative accommodation for our members, who are still left working in a confined area with reduced space in a particular working environment.

**The CHAIR:** In relation to the Roe 8 works, did the union lodge a request to attend with WorkSafe?

**Mr LAMPARD:** This is an interesting one. We actually got information from local members of Parliament about the safety of our members on site. Contained in that information that we got from these local members was an indication that they had already approached WorkSafe about particular issues down there and they were concerned for our members’ welfare. But there was no direct

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contact between the Police Union and WorkSafe; it was more to the fact that members of the public were contacting the Police Union because they could not get through to WorkSafe.

**The CHAIR:** Okay. Is the union aware of the action that WorkSafe took in relation to the Roe 8 asbestos concerns?

**Mr LAMPARD:** The only thing I know and can confirm by information we received is that WorkSafe was provided with examples of material that were alleged to be asbestos, and it conducted tests on those pieces of material; that is all.

**The CHAIR:** Would it surprise you if I were to tell you that the committee has heard evidence that police officers were provided with those dust masks by protesters who were concerned about their exposure on site, and that it has been indicated to the committee that police management may have told the police officers to stop wearing those masks? Is the union aware of that?

[10.40 am]

**Mr LAMPARD:** We were not aware that the protestors actually cared so much about our officers to provide them with PPE, but as a result of an intervention by the union, we ensured that proper masks were available at the static headquarters for Roe 8 activities. I think the two main items were proper face masks and gaiters to prevent snakebites. But the information in regard to what the protestors provided is sketchy. I had not heard that one before. They may well have done. There is other unsubstantiated information that there were not clear enough instructions from the police in regard to the provision of PPE in regard to: "It's there. Wear it if you so choose; however, it's a bad look"—those kinds of comments. It was certainly provided by the police after union intervention.

**The CHAIR:** Did the union go on site to encourage its members to don the PPE?

**Mr LAMPARD:** Yes, we did in the early stages just to review the early stages of the earthworks to see whether there was any asbestos present. We could not see any; however, at those early stages members were being provided with PPE. The particular police officers who were there were used to that kind of work, so they carried that anyway. Later on in the proceedings when we received numerous complaints from members of the public direct to the police union, we revisited the area and we had a couple of our members informing us if they had come across any asbestos in that particular area.

**The CHAIR:** So, police officers told you that they had actually seen asbestos.

**Mr LAMPARD:** Yes, they had seen asbestos in the area, generally near fences, behind fences. I think it is a common tradition in Australia that if you want to get rid of some asbestos in another place, you just chuck it in the bush, and that is what had occurred, obviously many years ago. In some of the photographs we obtained, you actually could see broken asbestos with vegetation growing up through it.

**The CHAIR:** On page 8, the union has indicated that it is concerned about the lack of spot inspections of police facilities, which I think Kyle took up earlier. Are you able to provide the committee with any information about the number of spot inspections that have been conducted of police facilities in the last five years? Would you have that information?

**Mr LAMPARD:** I do not think there have been any. I certainly have not got any records of a WorkSafe inspector just attending a police facility to do an inspection. I am aware of a WorkSafe inspector, on complaint, attending the water police in regard to having a look at their marine facilities, especially the boats, but other than just spot inspections of police stations, I have got no record of that and I have not been told of any.

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**Mr TILBURY:** Just to add to that, I am not aware of any real proactive action on WorkSafe's behalf at all in relation to WA Police, which is a source of frustration for us. They appear to be very reactive to a lot of situations when they are brought to their notice, quite often by the police union, and the action they take, if any, has been disappointing in most cases. We would actually like to see them being a lot more proactive and involved, because that would create a safer working environment for our members.

**The CHAIR:** My next question relates to something that was raised earlier and that was when the union makes a complaint to WorkSafe with a request to attend and whether WorkSafe responds to that. But from the evidence that we have heard so far today, those complaints by the union tend to be on procedural matters, so there is not a need to attend and conduct an inspection. Would that be a fair statement to make? Feel free to say no, it is not.

**Mr LAMPARD:** That is generally correct. Initially, pre-2009 when the police union complained to WorkSafe about lack of proactivity in regard to buildings, we had a meeting with the commissioner of WorkSafe at the time and she prepared an article for the *WA Police News* actually after we had been quiet scathing of their inactivity. Since then, and especially in regards to the incidents of the mould at Karratha and South Hedland, we have basically been told it is up to the WA Police OSH issue resolution process to be completely exhausted before WorkSafe will become involved in reviewing or investigating the matter further. That has been the dilemma for the police union and our members because they are bound by the police manual of policies and they cannot go direct to WorkSafe; they have got to exhaust the police manual policies first, which cover a wide range of activities.

**The CHAIR:** Do you have that instruction in writing from WorkSafe?

**Mr LAMPARD:** Yes.

**The CHAIR:** Would you be able to provide that to the committee?

**Mr LAMPARD:** Yes.

**The CHAIR:** We will take that as question on notice 3.

**Mr TILBURY:** It also seems that WorkSafe are too readily willing to accept outcomes that WA Police inform them of in relation to investigations of particular incidents. We would like them to be more actively involved, and also ourselves, to have the ability to make those complaints on behalf of members and advocate on their behalf.

**The CHAIR:** I am not actually aware of any provision in the act that stops the union from doing that, so that is something we will explore further. Does the union have any concerns regarding WorkSafe's triaging of complaints via the reporting line?

**Mr LAMPARD:** I was not aware of that.

**The CHAIR:** So, the evidence that the committee has heard from WorkSafe is that when they receive a complaint and a request to attend, they have a triaging system that determines the urgency of the complaint, and that is rated against the availability of their inspectors as well. Obviously, if serious injury is likely to be imminent if that complaint is not addressed quickly, they will send someone out straightaway, resources permitting, but if it is of a minor nature, it might take two or three days before they send someone out to inspect or they may make a decision not to inspect it all. But you have got nothing that you want to —

**Mr LAMPARD:** No, I was not aware of the triaging procedures that WorkSafe conduct. The only thing I can say in regard to that is when we have had individual members who have lodged complaints about WorkSafe behaviour and they have not been satisfied with the outcome, they have then



written to WorkSafe, assisted by the union—I must say that we prepare their statements to make sure that all the technical requirements of the legislation are complied with—and they do not hear back, quite often, for 12 months, and they have to keep pestering WorkSafe to even get a response and it is generally that they have not got around to it or there is just no response at all. I think we have instances of members never getting a final response about the review.

**The CHAIR:** About an investigation that has been conducted?

**Mr LAMPARD:** No, a review of a police investigation. So, if the police have investigated something and the complainant is not satisfied with the outcome, then the complainant is generally initially advised by the police that they are able to take this matter to WorkSafe if they so wish, and then they have actually written to WorkSafe for a review of the investigation.

**The CHAIR:** Can you just clarify what sort of an investigation we are talking about? Is this just a standard —

**Mr LAMPARD:** Bullying complaints.

**The CHAIR:** Bullying complaints.

**Mr LAMPARD:** They are not actually called bullying complaints in the police; they are actually called adverse workplace behaviour, but the particular procedure that the police have developed—and, by the way, that was developed in assistance with the union as well—is basically a procedure. It is not a police department policy; it is a procedure that appears to me to be basically a copy of the WorkSafe code of practice and guidance notes for employees and employers.

**The CHAIR:** Your evidence to the committee is that when you have sought to assist the police officers in following up getting a response to a complaint against bullying, no response has been forthcoming.

**Mr LAMPARD:** WorkSafe do not reply to us; they actually respond to the people involved, and when we check up to see if they have got an outcome from WorkSafe, the general answer is that they have not heard anything, and quite often the members just give up; they do not want to pursue it any further.

**Mr TILBURY:** I guess it is important to note the difference, too, with police and WorkSafe's involvement in relation to the onus or expectation on WA Police that they do the investigation to its fullest prior to them having any active involvement, if they choose to do so.

[10.50 am]

**The CHAIR:** Where there has been a serious injury or fatality of a police officer, does WorkSafe investigate the matter?

**Mr LAMPARD:** Yes, I can only recall one workplace fatality that occurred during this time. It was not motor vehicle versus motor vehicle accident, and WorkSafe did do a thorough investigation of it.

**The CHAIR:** Section 45 of the OSH act provides that on entering the workplace, the WorkSafe inspector is to notify the employer of his presence, and the employers are required to notify any relevant HSR of the inspector's presence. Based on the information provided to you by your HSRs, does this actually happen?

**Mr LAMPARD:** Well, because of the memorandum of understanding, it has got to be pre-notification, and generally that will be done through the safety branch, that WorkSafe inspectors want to go and visit a particular work area. I said in earlier evidence that I cannot recall any times when we have even considered doing that.

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**The CHAIR:** That sort of takes away the next lot of questions that we have. When a police officer becomes a HSR, is there a process in place to notify WorkSafe that that person has become a HSR?

**Mr LAMPARD:** That is correct. There is an election process under the scheme, so that a safety rep can be a safety rep for more than one work area. Policing as it is, he might be a safety rep for a particular police subdistrict, which includes the areas that that he works, wherever they are, and he may also be requested to be the safety rep for a neighbouring station, especially in regional WA, and that is done under a scheme, which we are satisfied with—and then when there is available training, those people, after election, will be qualified when they conduct the training.

**Hon KYLE McGINN:** Who controls the scheme?

**Mr LAMPARD:** The safety branch controls the scheme. So from time to time—policing operations are very fluid. For instance, in 2014, all the districts changed. We lost two districts, so they had to revise the scheme to make sure that the safety reps were covering that particular area under the new police metro model.

**Hon KYLE McGINN:** So the scheme notifies WorkSafe of the election of a HSR?

**Mr LAMPARD:** That is correct, and then once the training is conducted, obviously WorkSafe is notified of the people who have been trained, or qualified anyway—elected and qualified.

**Hon KYLE McGINN:** So they then have a record of HSRs for each area?

**Mr LAMPARD:** That is correct—safety branch, yes.

**The CHAIR:** You mentioned earlier that the police are required to undertake their own investigations of safety issues. Is that undertaken by the HSRs?

**Mr LAMPARD:** This is the subject of a lot of the debate in regards to the level of investigation a safety and health rep is capable of conducting. So, what is happening at the moment is that the safety branch is actually revising the policy in regard to this comment so that safety reps and qualified safety officers—by the way, there are not any, except in the safety branch—conduct particular investigations because, as you can imagine, if there is a complaint of adverse workplace behaviour, and that is delegated to a junior safety rep to investigate, and it might be about management, it is a very onerous task. Safety reps are generally confined to investigating minor issues, but not major issues.

**The CHAIR:** Have your HSRs expressed concern that raising safety concerns is career limiting?

**Mr LAMPARD:** Generally speaking, with any safety issues, there is a requirement under the police manual of policies to submit, firstly, what is called an OSH form 1, in which they electronically record the hazard or the near miss. If it needs imminent attention, then they are advised to issue a provisional improvement notice. As far as I know, very few provisional improvement notices are issued by safety reps. They are discouraged from that. The procedure is more based on submitting an OSH form 1, and if there is not a resolution on that by the OIC or the district management, then that progresses to the OSH advisory committee for determination.

**Mr TILBURY:** It would be very interesting to actually ascertain how many PINs have been issued within WA Police, because we do not believe there are many.

**The CHAIR:** Have HSRs reported being bullied or pressured not to raise safety concerns?

**Mr LAMPARD:** Yes, producing particulars of evidence in regard to those things are pretty obscure, and I am sure that our members would be quite adverse to having their names brought up in that. I can point out one particular issue where the WA Police Union were running a campaign about safety in courthouses, and we had a qualified safety rep representing a particular area provide the

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union with information in regards to a survey that we were conducting about safety in courts, and that particular safety rep was actually subjected to managerial intervention because of his actions, which we were not very happy about at all, because they were affecting his ability to perform his duties as a safety and health rep.

**The CHAIR:** Section 45(3) of the OSH act provides that on completing an investigation, the inspector shall notify the relevant HSR of any action taken and any further action required to be taken. Based on what HSRs tell you, does this happen in the workplace, although I note that you have indicated there have not been any proactive investigations for some time?

**Mr LAMPARD:** In the first instance, WorkSafe would report back to the executive manager of the safety branch. Whether he passes that information on to the affected safety reps, I cannot say. We do not know; we do not get copies of it. I am not sure about that, no.

**The CHAIR:** The committee has heard evidence from WorkSafe that when a prohibition notice or an improvement notice is issued, the employer is required to display the notice in a prominent location so that employees can read it, and that this fulfils the requirements of section 45(3) of the OSH act to notify the HSR. Do you agree that posting a notice adequately satisfies the requirement of section 45(3) to notify the relevant HSR?

**Mr LAMPARD:** Once again, I can only refer to one instance where a notice was issued on the police communications site in regards to a complaint by one of their safety and health representatives, where an inspector did attend and inspected the entire premises. A very big improvement notice was displayed at the workplace until, I think, all 22 points were cleared up. We were involved in the discussions to ensure that the proper control measures were put in place in regard to that. I do not think there been any other instances other than that.

**The CHAIR:** Under section 35 of the OSH act, employers are required to notify the relevant HSR when an accident or dangerous occurrence takes place. Are you aware of whether this occurs?

**Mr LAMPARD:** That does occur.

**The CHAIR:** So the relevant HSR is notified?

**Mr LAMPARD:** The relevant safety rep for that area is informed. Now, that is done electronically, I understand, for all cases except complaints of adverse workplace behaviour, which are confidential.

**The CHAIR:** Who provides the introductory training course for HSRs.

**Mr LAMPARD:** I just recently trained. I do not know the name of the company, but Kaye Felgate is the trainer now. I think she is an accredited trainer, and she attends the police academy, I would say, at least four times a year and trains anywhere between 20 and 30 elected safety reps at the Police Academy. That is a week-long course, and the police union provides input into that. We have two sessions in regards to that.

[11.00 am]

**The CHAIR:** Do you think that training is adequate?

**Mr LAMPARD:** It is brilliant.

**The CHAIR:** Does WorkSafe ever check to make sure that the HSRs have had adequate training?

**Mr LAMPARD:** That is an interesting one. I think I might go back to the time of exploiting the fact that they are not exposed to any further training other than the training that they received during their qualification to be a safety rep. Other than that, I do not think there is any other training available. The only time additional training has been made available, and I think it has been stopped,

was with regard to a concern that was raised by the union with regard to identification of asbestos in old buildings. For a short period, the police, not WorkSafe, ran accredited training with regard to identification and management of asbestos.

**The CHAIR:** Are you saying that if a person is a HSR for more than five years, there is no refresher course provided?

**Mr LAMPARD:** No, there is not, but we have to bear in mind that everybody anticipated that the work health and safety legislation would be in force by now. There has been a lot of planning with regard to the change in training that will be required for safety reps with regard to that change in legislation, and everyone has been working through it for a long time. The training still takes place under the current WA OSH legislation.

**The CHAIR:** The committee has heard evidence that the regs require that the training of an elected HSR take place within the first 12 months of the election and that sometimes that is not actually provided until month 11, so the person is operating as an elected HSR without any training for up to 12 months. Is that an experience that your HSRs have had?

**Mr LAMPARD:** It was, but it is not at the present. Training takes place pretty quickly after they have been elected and, I would say, within at least the first three months. I cannot recall anybody telling me that they have been elected as the safety rep and having to wait much longer than that.

**The CHAIR:** If the union or the HSR has safety concerns, are they able to contact WorkSafe and have a discussion about those concerns and obtain advice from WorkSafe as to how best to handle those concerns?

**Mr LAMPARD:** No; they are discouraged by the police manual policy, which dictates that it must be done by an OSH form 1 and through the safety branch, rather than going directly to WorkSafe. I do know of instances where safety reps have gone directly to WorkSafe over issues. It was frowned upon by the police because, once again, they are breaching police manual policy with regard to the OSH issue resolution process. The best way of dealing with that is to inform the union and we get onto it straightaway. We will intervene straightaway on their behalf.

**Hon KYLE McGINN:** So even if they wanted to ask a question just to see if they are correct in it being a safety issue, just to seek some advice, not to make a complaint, are they still able to call WorkSafe just to ask if this is a real safety issue before they pursue the form 1?

**Mr LAMPARD:** I know during training, the trainers specify to the safety reps that they have to be technically correct when they issue an OSH form 1 or a PIN to make sure that they use the correct section of the act, the correct regulation, the correct item of the code of practice or the correct guidance note, because in the past, safety reps have had OSH form 1s not that, because they have not been technically correct or they use the wrong section. That is very specific. Both the trainer and the union point out during training that they must be specific. Generally speaking, they will contact the union; the safety reps will contact the union, and I have a number of examples of what technical specifications they need to use.

**Hon KYLE McGINN:** For a different industry—for example, the construction industry—a worker has the ability to call WorkSafe and seek advice prior to making a complaint to their employer. Do you believe that a police officer has that same right?

**Mr LAMPARD:** It would probably be frowned upon because he has not gone through the proper proceeding with regard to the police manual policy. So it would probably be frowned upon later on when his bosses find out that he has gone behind their back.

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**Hon KYLE McGINN:** To follow that, does the police manual policy give him any advice on whether it is a real safety issue prior to making the complaint?

**Mr LAMPARD:** No, but it is pretty good in directing him to the particular technical specifications of the particular hazard that he is confronted with.

**Mr TILBURY:** Our preference would be that our members have access to all available resources, so we would support that.

**The CHAIR:** The committee has heard evidence that there are occasions when police officers are investigating a workplace fatality in their capacity as coronial investigators and WorkSafe are also on-site investigating that workplace fatality. Have police officers provided you with any feedback about the interaction between WorkSafe and police officers during that investigation process?

**Mr TILBURY:** We have had no complaints from our members in relation to those particular scenarios.

**Mr LAMPARD:** Going back a few years when there was a real anomaly with the legislation with regard to a dual investigation, especially for mining accidents, it was a case where the police investigation and the WorkSafe investigation, or mining investigation, would run parallel. But although the coroner would be provided with the full police investigation, it was not necessarily the case that the mining inspector's report was available to the coroner. It was really unusual. I do not know if it still exists, but there have been instances when there have been those complications. Generally speaking, when our members investigate any kind of fatality that requires WorkSafe to be involved, they generally get on and share information.

**The CHAIR:** That leads to my next question. Where a WorkSafe inspector has used their powers under the OSH act to compel a witness to provide a statement in relation to a workplace fatality, are police officers permitted to participate in that interview or able to obtain a copy of the interview from WorkSafe for the purposes of the coronial investigation?

**Mr LAMPARD:** Once again, this is an unusual situation where a WorkSafe inspector is interviewing a police officer basically as a civilian.

**The CHAIR:** Sorry; not where they are interviewing the police officer, but where the police officers are conducting a coronial investigation into a workplace incident that could be on a construction site. I am just trying to understand. There are instances when WorkSafe inspectors can use their powers under the act to compel a witness to that fatality to provide a statement. I am just trying to understand whether you have had any feedback from police officers about their ability to either participate in those interviews where a witness is being compelled to give evidence or obtain a copy of that compelled witness statement from WorkSafe for the purposes of the coronial investigation.

**Mr TILBURY:** We have had no information come to us from members that there were any concerns or complaints. Our understanding is that WorkSafe would have access to statements that police had already taken from the civilians. So there have been no issues with sharing that information.

**The CHAIR:** When a police officer dies in a road traffic accident, whether or not the police officer is engaged in a high-speed chase, is the fatality treated as a workplace fatality, with WorkSafe attending and investigating, or is it treated as a traffic accident with no involvement by WorkSafe?

**Mr LAMPARD:** No. It is a workplace accident if there is a fatality. Even extending to the fact that if a police officer is on his way home, commuting, he is still technically on duty and covered by the OSH legislation, so WorkSafe could become involved there because of issues of commute fatigue. I know of only one incident when a police officer was killed in a fatal crash and WorkSafe did do a separate investigation of that incident.

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**The CHAIR:** Do you think there is scope for greater involvement by WorkSafe in those sorts of situations?

**Mr TILBURY:** Thankfully, they are very rare occurrences in Western Australia, but we would have no objection to that occurring.

[11.10 am]

**The CHAIR:** Does the union have a view about the three-year limitation for WorkSafe to complete an investigation? Does it consider that to be too long?

**Mr LAMPARD:** It sounds similar to a police internal investigation taking that line, but certainly, no, it is far too long.

**Mr TILBURY:** It is—that is our position. The sooner an investigation can be conducted and finalised, the better for all parties. That is extreme.

**The CHAIR:** On pages 10 and 11 of the submission, you had given examples of where WorkSafe intervened and there were good outcomes from this intervention by WorkSafe. Are you able to advise the committee whether those examples are recent examples?

**Mr LAMPARD:** It is pretty well common knowledge now that the WA Police has a very high ratio of qualified safety and health representatives. That is not because the police have gone about intensely doing that to get a good ratio. The fact is that our members move around in deployment probably on average every three years, so we will have a qualified safety rep perhaps in Kununurra who is transferred to Eucla, and there is already one safety rep there, so we need to train somebody up from Kununurra. Because of that constant moving in policing, we have been able to achieve by very high level of safety rep ratio to police officers. That is probably the reason for that occurring. You have asked us to talk about some of the good proactive work that WorkSafe have done, especially in regard to the conventions and, also, earlier on in the piece, really involving the WA Police Union in the development of the WorkSafe working hours code of practice. A lot of work was involved in that from 2005 until it was introduced in 2006 and also with regards to guidance to things like working alone—things like that.

**The CHAIR:** On page 11, the union has submitted that the union should be permitted to commence prosecutions where its members have been subjected to clearly avoidable hazards. Why does the union think this is a good idea?

**Mr LAMPARD:** We first approached, I should say, the government inquiry during the Hooker review in 2006 in regards to the police union having the powers of prosecution, where our members and the union were not satisfied as insufficient work had been done to mount a prosecution in regards to serious breaches. This comes about because of our counterparts in New South Wales who have that power. Where New South Wales's WorkSafe failed to prosecute somebody, they were able to, based on evidence, mount a prosecution against the New South Wales Police Force, and they have done on numerous occasions and been successful.

**The CHAIR:** So that would be mounting prosecutions against the WA government and WA police service? It would not be third parties.

**Mr LAMPARD:** It would generally be the Commissioner of Police but it could be other people. It would generally be the employer.

**Mr TILBURY:** That is a concern that we have already expressed and also in our opening statement that there is a reluctance from our members to take action for fear of repercussion. That would provide another option where we certainly would not have those concerns because our primary issue is looking after our members and their safety.

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**The CHAIR:** What does the union think is the most effective deterrent: penalties or negative public exposure—naming and shaming?

**Mr LAMPARD:** I think the best effective deterrent is education, especially on available specific courses for safety reps, and definitely doing it with Safe Work Australia with the conventions and people meeting up with each other, which is by far the most appropriate way of getting fresh information through to safety and health reps.

**The CHAIR:** I am just noting that we are running out of time. We have another hearing at 11.15 am, so we might need to provide the rest of the questions in writing to the union for answering. But I just want to go to one further point that you raised in your submission that I think is really important.

At page 4, you raised concerns about section 4A of the OSH act that significantly impacts a police officer's right to refuse to work if the refusal could adversely impact a covert operation or dangerous operation, and at page 12 the union states its strong opposition to the inclusion of a similar provision in any new OSH legislation. I want to explore with you the possibility whether the removal of section 4A could actually impact on the role of police in protecting the community and potentially put other police officers at risk, and what are your comments on that?

**Mr TILBURY:** It has not caused any issues to our knowledge in any of the other police jurisdictions in Australia. It comes down to time, place and circumstance with every instance. However, our primary concern is that our members can be ordered to undertake whatever a particular role may be at a particular time, and that may be extremely unsafe for them, but if they were to refuse, they can then face disciplinary action. We want them to have the same ability as other workers to be able to assess the situation and say, "This is extremely unsafe. I could die or one of my colleagues could die. Therefore, on those grounds, we are not going to take that action."

**The CHAIR:** Is there any other jurisdiction in Australia that has similar provision?

**Mr LAMPARD:** No. We are unique. The commonwealth police have a loosely legislated addition to their regulations in regards to that, but that is basically more concerned with terrorist activities. No, we are the only one. When it was introduced, that was one of the stumbling blocks with the police union, whether we should agree with the insertion of section 4A. I think there were a couple of lines in the insertion, but it has never been used. There has never been a circumstance where the police have actually had to direct somebody to perform a dangerous operation, but there are occasions when the standard operating procedures are not in place to conduct a dangerous operation and our members have been injured because of lack of policies in regard to that.

**Hon KEN BASTON:** On page 8 with regard to the incidents including the dot points there, the second one down allows the pooling of police motorcycles. Can you explain what that means?

**Mr LAMPARD:** What occurred is that police officers in traffic patrol were issued with a motorcycle and they were the only ones who rode it. The new commissioner at the time said, "No, we have to cut down on the motorcycle fleet and we can pool those vehicles." We were not very happy about that because the personal set-up of a vehicle, and members exchanging vehicles when they did not know what had happened to it on the previous shift et cetera. We thought it was highly dangerous. We wrote to WorkSafe about it and they considered that it was a safe practice. Since then, it has been stopped and all the motorcycles have now reverted back to personal issue.

**The CHAIR:** I think they also removed the motorcycles from regional areas as well, if I recall correctly.

**Mr LAMPARD:** Yes, there are very few in regional areas.

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**Hon KYLE McGINN:** You mentioned the water police. I am just curious, is there another regulator that may have the jurisdiction over safety in the water police section? Do you have issues with jurisdictions or is it WorkSafe that just covers it?

**Mr LAMPARD:** I think in general WorkSafe cover the water police, although marine and harbours may have some involvement, but they generally work together with water police.

**Hon KYLE McGINN:** So would AMSA or anything like that be involved?

**Mr LAMPARD:** I am not sure on that. I know that for the one incident that occurred, WorkSafe was involved in it.

**Hon KYLE McGINN:** Was that alongside a wharf or was that in the pens or was it out —

**Mr LAMPARD:** No, it was in regard to a particular vessel.

**Hon KYLE McGINN:** There has been evidence that there has been a reduction in WorkSafe inspectors in regional WA, in particular Broome and Karratha. Some of the concerns were that when an incident took place, there was no inspector on the site within a reasonable time. Evidence we have heard is that police work with WorkSafe to make a space safe and to protect that space until the inspector arrives. Are you aware of how that is operating particularly in Karratha and Broome and if your members are working in conjunction with WorkSafe on that?

**Mr LAMPARD:** I have only ascertained recently that the WorkSafe inspector or inspectors from Karratha were removed and they actually fly up there to do work. The previous one who was based in Karratha was an ex-police officer, so he obviously worked out of the area and was available. It was a surprise to me when I found out that the north west was not protected by having inspectors quickly available to attend, especially in the Pilbara.

**Hon KYLE McGINN:** So you are not aware of any HSRs raising with you any new working collaborations between the police and WorkSafe on investigations?

**Mr TILBURY:** Not to our knowledge.

**Mr LAMPARD:** Not to our knowledge. I can check if there have been any miner fatalities in the area and we have had to take particular action. But not to my knowledge, no.

**The CHAIR:** Do you want that as question on notice 4?

**Hon KYLE McGINN:** Yes, I would probably have to go back and have a look at the transcript to be a bit more specific. I might send out that question.

**The CHAIR:** I apologise that we have had to cut the hearing a little short. I certainly had more questions but we will provide those to you in writing. Before I conclude, George, do you want to make any completing comments to the committee?

**Mr TILBURY:** No, we appreciate the opportunity to present evidence before you and any improvements that can be made to improve the safety for our members, we would appreciate your support in terms of recommendations to make that happen.

**The CHAIR:** Thank you for attending today. A transcript of the hearing will be forwarded to you for correction. If you believe that any corrections need to be made because of typographical or transcription errors, please mark them off on the transcript and return them to the staff. The committee requests that you provide answers to your questions taken on notice within two weeks of receiving the transcript and those questions. If at any time you want to provide any additional information to the committee or to elaborate on particular points, please feel free to do so. The committee would welcome any further submission that the union would like to make. On that note, I thank you very much for your time this morning.

**Hearing concluded at 11.22 am**

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