

Complaint Investigation Report

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Letter of Transmittal

To The Honourable the President of the Legislative Council (Vic)

And

The Honourable the Speaker of the Legislative Assembly (Vic)

This report is presented to Parliament pursuant to section 28(2) of the *Police Integrity Act 2008*.

It sets out the findings of an investigation conducted in response to a complaint I received about Victoria's Chief Commissioner of Police, Mr Simon Overland.

A handwritten signature in black ink, reading "Michael Strong". The signature is stylized, with the first name "Michael" written in a cursive script and the last name "Strong" in a more formal, slightly cursive font.

Michael Strong

DIRECTOR, POLICE INTEGRITY

Report

Background

At Canberra Airport on 18 March 2010, the Chief Commissioner, Simon Overland APM was found to be in possession of prohibited articles, namely a loaded magazine clip from a Victoria Police issued Glock .40 calibre semi-automatic handgun. The magazine clip was located in Mr Overland's carry-on luggage during a routine boarding scan.

Australian Federal Police (AFP) members attended the scene, took possession of the magazine clip and spoke to the Chief Commissioner.

Mr Overland's conduct constituted, *prima facie*, a breach of s 46 of the *Aviation Security Act 2004* (Cth). The relevant federal agency, the Department of Infrastructure, Transport, Regional Development and Local Government (the Department) was notified of the incident. On 22 March 2010, the Department released a public statement advising that Mr Overland would receive a letter of caution.

On 23 March 2010, Mr Mrdak, Secretary of the Department, wrote to Mr Overland. Mr Mrdak said in the letter that, based on his understanding of the circumstances of the incident, he did not intend to initiate '*formal investigation or compliance action*'. As part of the circumstances considered during his assessment, Mr Mrdak noted:

- *that the ammunition had not been detected at Melbourne earlier in the day but had been detected at Canberra during his return travel;*
- *the failure to detect the ammunition in Melbourne was a failure on part of the screening authority;*
- *the carriage by the Chief Commissioner of the ammunition was inadvertent; and*
- *the Chief Commissioner had co-operated fully and surrendered the items.*

The letter concluded:

I trust that you will exercise greater care when travelling in future in order to avoid any repetition of this event.

Complaint to Office of Police Integrity

On 29 March 2010, I received a written complaint about Mr Overland's conduct. The complainant alleged that Mr Overland's conduct brought

Victoria Police into disrepute and diminished public confidence in the Office of Chief Commissioner.

An investigation has been conducted in accordance with section 40(4)(a) of the *Police Integrity Act 2008*.

The investigation

OPI investigators spoke to relevant AFP members and officers of the Department and obtained written reports from both agencies.

The investigation did not reveal any evidence to suggest that Mr Overland's conduct was other than inadvertent.

Witnesses told OPI investigators that Mr Overland was candid, courteous, apologetic and professional throughout. Mr Overland emphasised that he did not seek preferential treatment and wished to be treated in the same way as other citizens. AFP members spoken to by OPI investigators also emphasised that the investigation was approached in the same way as past instances in which a law enforcement officer or defence force member had forgotten to clear ammunition from carry-on luggage.

Mr Overland provided OPI investigators with a written explanation of the incident, which is corroborated by relevant parties. In his explanation Mr Overland said:

I must have inadvertently failed to remove the spare magazine from my brief case at the time I secured the firearm. The only explanation I can offer is that I simply forgot and it was an oversight and mistake on my part...I deeply regret this incident. It has caused concern in the community and I am embarrassed by the mistake I have made.

The Secretary of the Department is legislatively entitled to employ flexibility in the enforcement of the *Aviation Transport Security Act 2004*. The Secretary's decision to issue a letter of caution to Mr Overland is consistent with decisions made in similar cases involving law enforcement or defence personnel over the past two years. OPI investigators were informed of a similar recent incident where a defence force member had ammunition detected in his carry-on luggage at a security screening checkpoint and received a caution.

Conclusion

The incident has provoked intense media interest and has caused Mr Overland considerable personal embarrassment. He has publicly acknowledged his wrongdoing. Public exposure and opprobrium are relevant matters to be taken into account in determining an appropriate sanction.

In my opinion, neither the integrity of Mr Overland nor the broader reputation of Victoria Police has been diminished by this event. It follows that I am not satisfied that Mr Overland's conduct brought Victoria Police into disrepute or diminished public confidence in the Office of Chief Commissioner. I am satisfied, on the other hand, that Mr Overland was careless in failing to remove the magazine clip from his carry-on luggage, but in my view the letter of caution issued by the Department adequately addresses the concerns raised and no further action is warranted.

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