

NSW Government Legal Services Panel

Stronger Communities Cluster

Office of the General Counsel

Thursday 16 September 2021



OGC Structure

OGC's mission statement is to deliver ethical, professional and practical civil legal support to the NSW Police Force.

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A/Insp Matthew Price

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Crime Disruption & Special
Inquiries Law
Claudia Pendlebury

Director
Tort & Compensation Law
Chris Condon

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Andrew Reid

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Crime Disruption & Special Inquiries Law –

Key Panel Work

- The Crime Disruption & Special Inquiries Law (**CDSIL**) team provides specialised legal advice and representation on civil law matters connected with operational policing in the NSW Police Force
- CDSIL's clients consist of officers from all ranks and a large variety of Commands
- Relevant Sub Panels: Sub-panel 5(a), 5(b), 5(c), 6(a), 6(b), 6(c), 7(a), 7(b)
- Some of the work that CDSIL undertakes is:
 - Representation of the Commissioner and officers in coronial inquests, Royal Commissions and Special Commissions of Inquiry
 - Advice and representation relating to claims of public interest immunity and suppression/non-publication orders to protect, for example, police witnesses or police methodology
 - Advice and representation on objections to the production of material in response to subpoenas, for example, internal complaint documents, sexual assault communications privilege, privileged information etc.
 - Statutory applications to the Supreme Court including to prohibit public assemblies, serious crime prevention orders, and high risk offender applications
 - Responding to Parliamentary Standing Order 52's
 - Judicial reviews
 - Representing the NSWPF in forensic procedure appeals
 - Assisting various Commands with drafting proposals for law reform
 - Providing ongoing support to the NSWPF on COVID-19 public health orders
 - Providing general legal advice to officers and Commands including with regard to police powers
 - Providing support to Police Education & Training by delivering training to officers on subject matter expertise



Crime Disruption & Special Inquiries Law – Challenges and Opportunities

Challenges

- Complex and high risk civil litigation that can be the subject of intense public and agency scrutiny
- Often short time frames to provide advice and representation, and limited instructions in urgent matters
- High volume of matters
- Matters which deal with sensitive issues, including dealing with material that often captures confidential intelligence, police methodology and personal privacy
- Need to use positive dispute resolution strategies to minimise expenditure and maximise outcomes of any dispute, action or liability
- Requires understanding of operational policing strategies

Opportunities

- Firms are able to build/enhance partnerships with the NSWPF
- Exposure to a variety of complex legal issues, with opportunities to broaden knowledge and skills in relation to law enforcement and operational policing functions
- Training/knowledge sharing opportunities for CDSIL with panel firms
- Panel firms to assist with the volume of our work



Employment and Safety Law – Key Panel Work

- The Employment & Safety Law (**ESL**) team specialises in employment law, discrimination law, injury management and work health & safety law:
 - Disciplinary matters (involving both sworn and administrative officers)
 - Work, health & safety
 - Industrial disputes, award and contract interpretation
 - Discrimination
 - Death & disability entitlements, superannuation, worker's insurance
 - Complex Injury Management
 - Restitution and major debt recovery
- ESL appears for the NSWPF in litigation in a variety of courts and tribunals, including:
 - Industrial Relations Commission
 - Australian Human Rights Commission
 - Anti-Discrimination NSW
 - NSW Civil & Administrative Tribunal
 - Federal Court
 - High Court of Australia



Employment and Safety Law – Challenges and Opportunities

Challenges

- Safety of workforce
- Workers' insurance
- Ensuring governance (i.e. regulators and oversight) in context of increased regulation and workplace change

Opportunities

- Safe workplace in pandemic context and more generally (e.g. discrimination)
- Providing legal solutions and training in a user friendly manner
- Timely and cost effective advice



Commercial & Administrative Law – Key Panel Work

Commercial Law (sub panels 2(a), 2(c), 2(d), 3(a) and 3(b))

- Procurement (ICT and non-ICT)
- General commercial (including confidentiality agreements, sponsorship agreements and research agreements)
- Property (including leases and licences where the NSWPF is the lessee/licensee)
- Intellectual property (including trademark registration and IP licensing)
- Media (including productions agreements, pre-publication review and defamation)
- Front and back end legal support (primarily an advisory and transactional practice)

Administrative Law (sub panel 5(a))

- Merits review litigation in NCAT and the AAT (primarily licensing matters under the *Firearms Act 1996* and *Security Industry Act 1997* and information access matters under the *Government Information (Public Access) Act 2009*)
- Judicial review litigation
- Administrative law advice and drafting services (including complex statutory interpretation)
- Front and back end legal support (primarily a litigation practice)



Commercial & Administrative Law – Challenges and Opportunities

Challenges

- In-house lawyers handling a mix of advisory, litigation and transactional matters across broad subject matter areas
- Increasing matter volume (particularly merits review litigation)

Opportunities

- Streamline approach to recurring matters (including precedent creation)
- Build capability in in-house lawyers
- Distil and communicate lessons learned beyond the legal team to agency staff



Thank You and Questions

