



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: CrimJFErg1047622

31 August 2015

Professor John McMillan  
Acting Ombudsman  
Level 24  
580 George Street  
Sydney NSW 2000

Dear Professor McMillan,

**Are police officers providing their name and place of duty when required?**

I write to you on behalf of the Criminal Law Committee and Juvenile Justice Committee of the Law Society of NSW ("the Committees"). The Committees include experts drawn from the ranks of the Law Society's membership.

The Committees make the following brief comments to the review of the amendments to Part 15 of the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA) regarding the obligation of police officers to state their name and place of duty when using certain powers.

The Committees consider the requirement that police officers provide their name and place of duty when exercising powers, such as search and arrest, as a very important safeguard. The obligation to provide this information promotes police accountability and assists the public if they want to complain about a police officer.

In 2014 Part 15 of LEPRA was amended so that while police officers are still required to provide their name and place of duty as soon as reasonably practicable, if they fail to do so their actions will still be lawful in most circumstances (section 204A(1)). The circumstances in which the failure of a police officer to provide their name and place of duty may still result in a court finding that the exercise of a power was unlawful are (section 204A(1) and (2)):


- where a person who is subject to the power asks a police officer for this information, and
- where the power exercised consists of a direction, requirement or request to a single person.

The experience of Committee members is that police officers are not always complying with the requirement to provide their name and place of duty. The Committees suggest that police officers carry a docket pad with their name and place of duty printed on each page, or conventional business cards, to provide to members of the public when required. This would serve as a reminder of the requirements to police officers and should therefore increase police compliance. It would also assist members of the public to have the information written down, as they may not otherwise recall the details provided to them, especially in volatile situations.

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I trust these comments are of assistance. The Law Society looks forward to reviewing the Report once finalised.

Yours sincerely,

  
John F. Eades  
President