



20 April 2018

Mr Alan MacSporran
Chairperson
Taskforce Flaxton
Crime and Conduct Commission
GPO Box 3123
BRISBANE QLD 4001

**Office of the Chief Inspector – Submission
Taskforce Flaxton**

Dear Mr MacSporran

Please find enclosed a submission on behalf of my office as part of the Taskforce Flaxton examination into corruption and corruption risks in Queensland corrective services facilities.

Thank you for affording myself and Queensland Corrective Services Commissioner Peter Martin APM an extension of time in which to provide this submission.

Yours sincerely

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Chief Inspector
Queensland Corrective Services
enc.

OFFICE OF THE **CHIEF INSPECTOR**

Submission - Crime and Conduct Commission (CCC) Taskforce Flaxton

April 2018



Introduction

This paper represents the views of the Office of the Chief Inspector (OCI). As a statutory position created under the *Corrective Services Act 2006*, the OCI brings impartial scrutiny to the standards and operational practices relating to the Queensland corrective services system. This involves inspections of correctional centres, investigations of critical incidents (including deaths in custody) and coordination of the Official Visitor Scheme, an independent mechanism for prisoner complaint resolution within correctional centres. In addition to this and as a result of recent Machinery of Government changes, the OCI has also taken on responsibility for establishing an Ethical Standards Unit for Queensland Corrective Services (QCS), with a specific focus on anti-corruption practices.

The inherent complexities of the correctional centre environment regrettably provide a unique environment in which corruption and/or corruptive practices can occur. This situation is not unique to Queensland, given the levels and extent of corruption experienced by administrators of correctional facilities nationally and internationally. It is therefore a daily challenge for all providers of corrective services to focus on identifying and addressing these issues with a clear commitment to continuous practice development and staff awareness and training.

Fundamental to dealing with corruption is a focus on openness and transparency. In order to address the issues effectively and develop new and innovative ways of battling corruptive practices, agencies such as QCS and the function of the OCI, must continually seek to be open, agile and innovative, while also placing a strong emphasis on professionalism and values such as integrity and humane treatment of prisoners

The CCC Taskforce Flaxton and the resulting submission and public hearing process provide an opportunity to examine QCS processes, and to aid understanding as to how and why corruption occurs.

It is hoped that the insights provided in this submission by the OCI will assist in this process.



Response to key questions

1. In relation to complaints made to the CCC, what may account for the increase in the number of corrupt conduct allegations received, over the last three years, about:
 - a. Assaults/excessive use of force
 - b. The misuse of information?

QCS has experienced an exponential growth in prisoner numbers over the last three years. As a result the demand on people, processes, resources and infrastructure within correctional centres has resulted in new and additional pressures that have never before been experienced in QCS.

Further to this, the profile of prisoners coming into custody in Queensland has changed, which is not dissimilar to the experience of other national and international jurisdictions. In conducting inspections and investigations, the OCI have noted the increasing incidence of cognitive impairment, acquired brain injury, mental illness and other disabilities, within the prisoner cohort. Further the prominence and growing diversity of gangs, outlaw motorcycle groups and organised crime syndicates is evident and impacting on the number and types of incidents occurring and the general dynamics within correctional centres throughout the state.

Staff in correctional centres are not trained to be specialists in managing and responding to the complex needs of individuals with brain injuries, disabilities and serious psychological and psychiatric conditions, nor should they be. This further adds to the pressures and can impact on decision making and professional boundaries. The OCI have made numerous recommendations in relation to service delivery and provision of specialist treatment and intervention for this prisoner cohort and QCS have responded and made progress in enhancing and expanding partnerships with relevant stakeholders within government and the community. However, ultimately this is reliant on the resourcing and co-operation of these stakeholder groups, not just on the efforts of QCS alone.

It is significant to note that within the last three years a change of practice within the Official Visitor Scheme (OVS) has resulted in an independent complaints mechanism being readily available to prisoners. Following an initial trial at Brisbane Women's Correctional Centre (BWCC), prisoners in all Queensland correctional centres now have access to a confidential and free telephone service to lodge complaints to Official Visitors (OVs). By removing bureaucratic obstacles such as making requests of staff (who they potentially wish to make a complaint about), complicated forms, written referrals/complaints and waiting periods, prisoners now have an extremely accessible process for reporting allegations of corrupt conduct.

It is of further importance to note that during the last three years the ESU team, under the Department of Justice and Attorney-General, delivered a training program in ethics to support and re-educate staff members about their obligations to report wrongdoing. This was rolled out state-wide across custodial centres and probation and parole, and may have had a consequential impact on reporting habits of staff with increased awareness and knowledge of the complaints process. Additionally, during this period the scope and nature of matters reportable to the CCC as Level 1 corrupt conduct has expanded, with particular emphasis on the misuse of information.

2. What are the most significant corruption risks in Queensland Correctional facilities?

Fraud and corruption risks would be an inherent risk for all correctional systems given the closed nature of the system as well as the level of power made available to the State. QCS has a number of governance and assurance frameworks and practices that aim to identify, respond to and mitigate against fraud and corruption related risks.

The CCC's review is welcomed as it will help in better identifying significant corruption risks in Queensland correctional facilities. As a part of the CCC's important work, there could be consideration given to examining (based on recent awareness of ethical standards matters and issues, as well as consideration of chief inspectorate issues), better identifying and responding (as well as prevention strategies) to the following:

- Excessive use of force;
- Misuse of power/position/authority (with prisoners and amongst staff);
- Inappropriate accessing and misuse of confidential information; and
- Introduction of contraband by staff, contractors.

Additionally, there is an opportunity to consider corruption risks related to contract management in regards to the two private correctional facilities in the context of determining whether additional safeguards such as rotating contract management and general staff in QCS (particularly staff with operational expertise), as well as consideration of whether there would be opportunities for introducing integrity related performance outcomes/key performance indicators.

a. What are the consequences of this type of corruption for prisoners and how the correctional facility operates?

The implications of the types of corruption described above, along with the general degradation of professional boundaries and non-compliance with the Code of Conduct result in safety and security consequences, as well as de-legitimisation of staff authority.

In a broader sense there may also be an impact on the general workplace and organisational culture which has flow on effects in regards to staff motivation and willingness to uphold the highest standards of professionalism and integrity at all times.

b. What are the consequences of this type of corruption for the community?

This type of corruption and the consequences which result have potential to have major adverse impacts on staff and prisoner wellbeing; recidivism rates; and financial and reputational consequences for government.

Further, prisoners who are victimised and/or re-victimised and re-traumatised as a result of their treatment in a correctional centre, are unlikely to have good prospects for rehabilitation, resulting in further social and economic burdens for the community.

The incidence of corruption brings unwanted negative media attention and public perception, eroding public and political confidence in the correctional system and contributing to an ongoing public narrative.

3. What factors create a corruption risk or facilitate corruption in Queensland correctional facilities?

a. How do these factors create a corruption risk or facilitate corruption?

A number of factors may increase and/or create corruption risk – be it in Queensland or most other jurisdictions. Importantly, a ‘closed institution’ approach and philosophy perpetuates systemic corruption and therefore it is important to note that increasing involvement of OVs, External Inspectors, research advisors and other external stakeholders and oversight bodies assists in opening up the closed system environment by offering new, alternative and more external/independent viewpoints and ideas. At the same time, it is important to highlight that correctional administrators must to some extent control key decisions so as to avoid unintended consequences.

Likewise, the following is noted in regard to generic risk factors for most correctional institutions including Queensland prisons:

- The risk of recruitment/ employment vetting decisions that could otherwise lead to the employment of unfit candidates could be approached through more effective decision making processes such as proactive intelligence functions;
- The risk of discipline and conduct decisions that could otherwise lead to the continued employment of unfit individuals could be approached through a strong, timely and accountable process that includes a proactive ethical standards functions;
- The risk of training effectiveness that could otherwise be limited in its impact could be approached through not only training about corruption prevention, but also regular, meaningful follow up training, guidance, support, advice and professional development;
- The risk that operational assurance processes that might otherwise not identify errors (be it inaccurate or misleading) in reporting could focus on accurate incident reporting and categorisation.
- The risk that key unethical events that could not otherwise be substantiated through a lack of evidence could be approached through the utilisation of additional cameras, including body worn cameras.
- The risk that ethics awareness could otherwise be limited in its reach could be approached through a strong and ongoing communication and education campaign which includes clear and unobstructed methods of reporting corruption and unethical conduct.
- The risk that staff could revert to old behavioural and decision habits could be mitigated through the utilisation of innovative and evidence based techniques derived from expert external advice such as from the CCC or academic institutions, or through the adoption of behavioural economics techniques or the utilisation of technological tools.
- The risk of unsatisfactory reporting to important oversight bodies could be approached through the provision of direct access to QCS’s databases/sites, as

well as through the provision of assurance via independent Crown Law or other entity assurance of matters not referred to such oversight bodies.

- The risk that fraud and corruption prevention that is not otherwise at the forefront of governance and assurance (including that system issues are not identified) could be approached through the establishment of a working group or committee that supports QCS' continued review and implementation of fraud and corruption prevention initiatives and policies, including a continued focus on information sharing, data-integrity and reporting.

b. Are these factors systemic (present across all correctional facilities) or symptomatic of local conditions (that is, factors specific to an individual prison or work camp)?

In addition to the above, the findings and recommendations outlined in the finalised reports that the OCI produce for incident investigations and individual case reviews reflect both systemic and local factors that potentially contribute to corruption risks.

Some systemic issues apply not only to QCS but other government agencies that have shared service delivery arrangements such as Queensland Health and the types of medications and drugs available to prisoners; or apply to QCS as part of the broader criminal justice system, for example sentencing practices that impact on return to custody rates imprisonment rates.

There are often risks that are localised at a regional/geographical level as a result of the particular circumstances relevant to that location. For example, higher over-representation of Aboriginal and Torres Strait Islander prisoners, in particular in northern correctional facilities can have cultural safety implications and can impact on prisoner management issues which can in turn impact on incidents, use of force, professional boundaries etc.

Other risks may be evident at an individual level relevant to staff or prisoners. With regard to staff, transparency and integrity of recruitment, professional development and succession planning processes can present corruption risks. Relevant to prisoners, a particular individual in custody may have specific circumstances that increase risks of corruption for example mental health issues, connections with organised crime groups, motivation to engage in trafficking of illicit substances etc.

Often, by nature of the referrals received, Ethical Standard Unit (ESU) investigations tend to focus on individual issues/risks related to corrupt conduct or alleged corrupt conduct. However at times in conducting their investigations and reviews systemic issues are identified. In these instances the State-wide Operations Directorate, through the Deputy Commissioner, are provided with a comprehensive report outlining the identified systemic issues and remedial recommendations so as to minimise future corruption risk.

4. What legislative, policy or procedural changes could be made to address corruption risks in correctional facilities?

In conducting investigations and inspections, OCI, including more recently the Ethical Standards function, identifies that the key legislative areas that have a potential impact on corruption risks relate to:

- Use of Force;
- Removal of Clothing;
- Safety Orders; and
- Searching of staff.

Legislation, and the related procedure/practice, in relation to the identification and management of Public Interest Disclosures (PIDs) are also significant – that is, the capacity to protect the anonymity of disclosers if allegations are substantiated and become discipline matters where identifying documentation is provided to the subject officer/s as part of procedural fairness.

In relation to policy and procedure, findings and recommendations from inspectorate and ethical standards investigations and reviews could collectively reflect risks and areas for improvement in relation to:

- Use of force oversight mechanisms;
- CCTV upgrades – quality and quantity (location), making sure it is used for safety and security purposes, not just tracking movement through doorways and gates;
- Compulsory use of body worn cameras for high risk activities; – movement/transfer/escort of high risk prisoners or in high risk situations; incident responses;
- Biometric drug testing and new technologies and practices/processes for responding to increase in misuse of prescription medications; and
- Introduction of technology that reduces bureaucratic red-tape, decreases the closed nature of institutions and reduces the risk of human intervention/misuse of information/power/position. For example the introduction of electronic kiosks and other similar automated processes where prisoners can order buy-ups, manage their trust accounts, make complaints, seek assistance whereby everything is coded, receipted, tracked and allows for oversight.

Since the transition of the ESU from DJAG into QCS it has been recognised that policy and practice enhancements in relation to areas such as complaints management processes; electronic file management; vetting, probity and integrity checking in relation to workforce planning and development activities; staff and stakeholder engagement and education; and risk intelligence functions, will further assist in the agency's efforts to move in line with the CCC's Fraud and Corruption Control Best Practice Guide.

5. Are there any other issues that are relevant to understanding corruption risks in Queensland correctional facilities or how to address these risks?

The establishment of QCS as a standalone department can be used as strategic leverage in redefining, restructuring and reforming organisational philosophy as well as business and operational policy and practices to ensure that the agency has a strong foundation based on corruption prevention.

It is anticipated that this will enhance the professionalization of the workforce and foster organisational maturity.

Does not represent Government policy



Conclusion

It is clear from the above that there is no one simple strategy to address corruption within correctional centres. Tackling the issue requires planned and integrated approaches and initiatives.

It is the responsibility of multiple arms of the agency to ensure that Queensland correctional centres are operated in a way that maintains a focus on humane and ethical practices, whilst acknowledging the complexities and inherent imbalances within a system designed to securely limit the freedom of individuals with the aim of rehabilitation.

This will require a detailed examination of current practices – including by the CCC examination – and the resulting considered development of evidence based anti-corruption strategies to deal with identified issues. It will further require an investment by the agency to develop a workforce and operational system that focuses on best practice and safe standards for all Queensland centres.

Lastly, the current transformational context and planning process at QCS is advancing QCS in a positive direction in terms of corruption prevention, and taken with the learnings of Taskforce Flaxton, is a mechanism that can help to shape and deliver upon a strong corruption prevention strategy.

