

Police and Drugs: A follow-up report

JUNE 1999



To promote integrity in the Queensland Public Sector and an effective, fair and accessible criminal justice system

Abbreviations

CJC	Criminal Justice Commission
DPP	Director of Public Prosecutions
CPO	Covert Police Officer/Operative
IPP	Information Privacy Principles
NCA	National Crime Authority
PCJC	Parliamentary Criminal Justice Committee
PEAC	Police Education and Advisory Council
QCC	Queensland Crime Commission
OPM	Operational and Procedures Manual (QPS)
QPS	Queensland Police Service
QPUE	Queensland Police Union of Employees

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Dear Sirs

In accordance with section 26 of the *Criminal Justice Act 1989*, the Commission hereby furnishes to each of you its publication *Police and Drugs: A follow-up report*. This report examines how the responsible agencies have responded to the recommendations which resulted from the Inquiry into Police and Drugs conducted by The Honourable W J Carter QC on behalf of the Commission in 1997.

Yours sincerely

BRENDAN BUTLER SC
Chairperson

Foreword

In October 1997, *Police and Drugs: A Report of an Investigation of Cases Involving Queensland Police Officers*, prepared by The Honourable W J Carter QC, was presented to the Queensland Parliament by the Criminal Justice Commission (CJC). This report emphasised that a mix of investigative and preventive strategies was required to deal effectively with the problem of police involvement in the drug trade.

On the investigative side, it was important for the CJC to continue with the proactive strategies used in the Police and Drugs Inquiry, both to facilitate the detection of corrupt activities and to deter those officers who might be tempted to become corrupt. On the preventive side, the Queensland Police Service (QPS) needed to develop better systems and procedures in order to reduce the opportunities for police to act corruptly.

It is pleasing to report, some 20 months after the tabling of Mr Carter's report, that significant progress has been made on both fronts.

As a result of increased funding from Government, the CJC has been able to set up and resource a permanent proactive investigative unit broadly along the lines proposed by Mr Carter. This unit has followed through on prosecutions arising from the Police and Drugs Inquiry, has initiated a large number of new operations and appears to be having a valuable deterrent effect.

The QPS, for its part, has either adopted or is committed to implementing the majority of the recommendations for system improvement made by Mr Carter, and has shown a real commitment to improving ethical standards within the Service.

There are some matters on which the CJC and QPS disagree. In particular, the CJC considers that there should be tighter controls over police access to computer databases and the use of email, and is concerned by the lack of progress made by the Service in developing an automatic rotation policy for officers working in high-risk areas and work units. However, overall, the CJC has been encouraged by the response of the QPS and its willingness to address the problems identified in the report.

The Fitzgerald Inquiry highlighted the damage that can be done to public confidence in police and the morale of the vast majority of honest officers when some police become involved in corrupt activity. Ensuring that corrupt police are identified and removed from the QPS and that effective control and monitoring systems are in place are, therefore, matters of the highest priority for the CJC.

We will continue to work cooperatively with the QPS to advance these objectives.

BRENDAN BUTLER SC
Chairperson

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Ms Linda Waugh of the CJC's Research and Prevention Division was principally responsible for the preparation of this report, with the assistance of Mr Forbes Smith of the CJC's Official Misconduct Division.

Executive summary

This report provides an update on the implementation of the recommendations of *Police and Drugs: A Report of an Investigation of Cases Involving Queensland Police Officers* (1997), prepared by The Honourable W J Carter QC pursuant to section 33 of the *Criminal Justice Act 1989*.

Police and Drugs arose from investigations conducted under the general banner of 'Project Shield'. These investigations focused on allegations that corrupt police were engaged in drug dealing, including the protection of organised criminal activity within the drug trade, and stealing legally confiscated drugs and drug-related money.

This follow-up report sets out the rationale for each recommendation made in *Police and Drugs*, indicates the action taken so far and, where appropriate, records the comments of the Criminal Justice Commission (CJC).

Establishment of a proactive investigation unit

Recommendation 1 of *Police and Drugs* identified a need for a permanent, adequately staffed and resourced investigation unit, which would employ a proactive, intelligence-driven approach rather than just react to complaints. Project Shield, and the proactive investigations that led to its establishment, demonstrated that such a unit would be more effective than merely reacting to complaints of misconduct and would also be more cost-effective in the long run.

One million dollars was added to the CJC base budget allocation for 1998–99 to facilitate implementation of this recommendation. This was less than the amount requested by the CJC, but indicated a firm commitment by Government to this area of investigation. The funding has enabled the establishment of a permanent multidisciplinary team (based on the model specified in *Police and Drugs* but approximately two-thirds the size) and a small target development team under the supervision of a Principal Intelligence Analyst.

The following outcomes have been achieved to date through Project Shield:

- Six police officers who were investigated during the Police and Drugs Inquiry have been convicted and imprisoned, two have been dismissed and another who was the subject of disciplinary action has resigned. Thirty-one civilians have been convicted of offences arising from operations conducted during the Inquiry and, of these, seven have received terms of imprisonment. Eleven of those charged have yet to be dealt with. The prosecution of these often complex matters has required a substantial commitment from Shield investigators.
- Forty-four operations have been conducted, of which 17 are still in progress. In addition, Shield has undertaken scores of investigations throughout the State into complaints made to the CJC of police misconduct.
- CJC surveys of First Year Constables show that police consider there is a very high probability that activities such as 'skimming from drug exhibits' will be detected. This is indicative evidence that the Police and Drugs Inquiry and the activities of Project Shield are contributing to the deterrence of corrupt conduct.
- Considerable intelligence has been generated for use by the CJC's Intelligence Division to build up profiles of possible targets and to develop indicators for identifying areas of potential risk. In addition, issues identified by Shield investigations have been referred to the Research and Prevention Division for the purpose of developing appropriate corruption prevention strategies.

Legislative amendments

Police and Drugs recommended legislative change in three areas:

- amendment of the *Criminal Justice Act* and passage of appropriate complementary State legislation to allow telecommunications interception by the CJC
- amendment of the *Criminal Justice Act* to prohibit any person who is served with a notice to produce under section 69 of the Act from informing any other person of the fact of such service
- provision of statutory protection to covert police officers/operatives (CPOs).

None of these recommendations has yet been implemented, although the CJC understands that all are currently being considered by Government. Interested agencies have also made submissions to Government in support of the need for telecommunications interception powers and legislation for covert police officers.

Handling of high-risk property

Police and Drugs identified numerous instances where procedures relating to the seizure, handling and storage of high-risk property, including drugs and money, were inadequate. The report made several recommendations to remedy these deficiencies.

In 1997, the QPS commenced a comprehensive examination of its existing property systems (Project Alchemy). The final report, containing 67 recommendations, was endorsed at the QPS Senior Executive Conference in April 1999. The CJC is satisfied that the recommendations of this review, once implemented, will effectively address the concerns raised in *Police and Drugs*.

Personnel management issues

Automatic rotation and Commissioner's discretion to transfer

Recommendation 6 of *Police and Drugs* proposed that:

- appointments to any area or location in the QPS be for a maximum of seven years' service
- the Commissioner of Police have the unfettered discretion to transfer any officer from a location or area if, in the Commissioner's opinion, it is in the best interests of the QPS that such a transfer occur.

This recommendation was underpinned by a concern that it was easier for suspect police officers to form and maintain improper associations if they remained in the same place for an extended period. It was argued in the report that regular rotation would reduce the opportunities for developing such associations. Giving the Commissioner an unfettered power to transfer would assist in disrupting inappropriate relations where there was insufficient evidence to warrant criminal or disciplinary proceedings against the officer concerned.

The QPS has indicated that a blanket policy of automatic rotation after seven years would place an excessive cost and administrative burden on the Service, would be unnecessarily rigid and would have a damaging effect on officer morale. The CJC acknowledges that there would be difficulties with implementing such a policy in full, but considers that it would be practical to enforce a maximum tenure policy in those areas and work units that are identified as high-risk areas for corruption and official misconduct. The CJC will continue to hold discussions with the QPS on this matter.

Implementation of the second part of recommendation 6 requires amendment of the *Police Service Administration Act 1990*. It is not clear at this stage whether the QPS intends to seek the necessary amendments. The CJC's view is that the Commissioner should be given the power to quickly transfer officers who are integrity risks, subject to there being appropriate safeguards to minimise the risk of this authority being misused. The CJC considers that there would also be merit in giving the Commissioner of Police a power to dismiss, as well as transfer, officers who are deemed to be a significant integrity risk (as is now the case in New South Wales and Victoria).

Integrated drug and alcohol policy

Police and Drugs observed that recreational use of prohibited drugs by Queensland police was probably widespread, particularly among younger officers. The report also noted that the use of alcohol and prescription drugs is of concern for policing organisations in general. To address these problems the report proposed that the QPS adopt an integrated drug and alcohol policy, the elements of which would include:

- an initial extensive drug and alcohol education program
- the introduction of random and targeted alcohol and drug testing
- provision for counselling and the imposition of sanctions under appropriate circumstances.

By the time this recommendation was made, the QPS had already commenced work on these and related issues. In May 1998, a working party (with CJC representation) was created to develop a comprehensive drug and alcohol policy for police officers and staff members. The working party has produced a set of discussion papers, including one on drug and alcohol testing, and conducted statewide consultations. Allowing for the phased introduction of the policy and the necessity for legislative amendments, the working party expects complete introduction of the policy within three years.

Given the complexity and sensitivity of the issues involved, the CJC considers that implementation of this recommendation is progressing satisfactorily.

Training and education of CPOs

Recommendation 13 of *Police and Drugs* was that the QPS review its procedures for training CPOs and evaluate whether sufficient emphasis was being given to the need for adoption of proper ethical standards upon the reintegration of CPOs to mainstream policing. This recommendation was prompted by evidence uncovered through Project Shield that there was widespread use and abuse of illicit drugs by police officers who were former CPOs, and ongoing — and improper — associations between former CPOs and criminals in the drug trade.

In December 1997, QPS senior management formed a committee to address the issue of the reintegration of CPOs. The CJC has seen the draft report prepared by this committee and is satisfied that a comprehensive review of CPO recruitment, selection, training and education has been completed. An informal reintegration program, established last year by the QPS, also appears to be operating successfully. Overall, the CJC considers that satisfactory progress is being made by the QPS in tackling issues relating to the management and reintegration of CPOs.

Other risk management initiatives

Establishment of an Informant Management Plan

The CJC's investigations during the Police and Drugs Inquiry disclosed that some officers occasionally used contact with informants to mask inappropriate and corrupt associations. In response to these findings, *Police and Drugs* recommended that the QPS, as a matter of urgency, establish an Informant Management Plan of the kind recently implemented in the New South Wales Police Service. Such a plan would ensure that there would be better documentation — and greater scrutiny — of contacts between informants and police officers.

This recommendation has not yet been implemented, but the QPS has advised that: (i) a committee has been formed to review the current policy and (ii) a senior police officer has been appointed to overview the process. A final report on this review is expected by February 2000.

The CJC considers the development and implementation of an Informant Management Plan to be an important priority for the QPS and will continue to monitor progress in this area.

Use of computer facilities

The Police and Drugs Inquiry gave examples of police officers accessing computer databases and using email facilities for improper reasons. *Police and Drugs* recommended that these areas of risk be combated by:

- inserting a screen that requires the person accessing data to state his/her purpose for making the check and, if the check is made on behalf of another person, the identity of that person, including user ID
- establishing a full audit trail for email.

The QPS has indicated that it does not propose to implement either recommendation at this stage because it feels such procedures would be expensive, place a substantial strain on the computer system and would be of little effect in deterring and detecting misuse of the system.

The CJC considers that these arguments are not persuasive as far as the proposal to introduce a security screen for recording reasons for transactions is concerned. Project Shield investigations and CJC complaints data indicate that improper and illegal accessing of databases is a common occurrence. No system can guarantee that abuses of this kind will not occur; however, imposing a requirement to record reasons for access would be an improvement on having no deterrent at all and would help ensure that officers requesting another person to conduct an inquiry on their behalf are identified and questioned as to their reason for access. The cost of compliance could be kept to acceptable levels by such design features as pull-down menus and/or standard identification codes.

The CJC accepts that at present there are substantial practical obstacles for the QPS adopting a full audit trail for email, but it is important that this facility be incorporated into the design of any new system. Until this system has been developed, the QPS should use random rotational audits (which the QPS does have the capacity to do) so the prevalence and type of misuse can be determined to inform future discussions and decisions.

Developing risk management practices

Three recommendations of *Police and Drugs* were directed at improving risk management within the QPS. These arose from the recognition that many of the problems identified in the report could have been avoided with proper management and effective supervision.

Since the release of *Police and Drugs*, the QPS has taken steps to ensure that greater emphasis is given to risk management, including the creation of a full-time position within the QPS responsible for this area. The CJC fully supports the initiatives taken and will continue to work with the QPS to improve risk management practices.

Future directions

The CJC will monitor progress in relation to those recommendations that have been formally adopted by the QPS and will provide what assistance it can to facilitate their implementation. We will also continue to advocate those recommendations that have not been accepted by the QPS or where, in our view, there has been inadequate progress. Implementation of those recommendations that require legislative change is a matter for Government and Parliament.

Introduction

The purpose of this report is to document the status of the 14 recommendations made in *Police and Drugs: A Report of an Investigation of Cases Involving Queensland Police Officers* (1997),¹ which was prepared by The Honourable W J Carter QC pursuant to section 33 of the *Criminal Justice Act 1989*. These recommendations, designed to improve risk management practices in the Queensland Police Service (QPS) and the process by which police corruption is investigated, were developed in response to the problems encountered during the CJC's investigation of alleged police involvement in the drug trade. The recommendations were directed to the QPS, the Criminal Justice Commission (CJC) and the State Government.

Under section 21(1)(a) of the *Criminal Justice Act*, the CJC has a general responsibility to:

continually monitor, review and, if the Commission considers it necessary, initiate reform of the administration of criminal justice.

Section 23 of the Act provides that:

The responsibilities of the commission include —

...

(e) researching, generating and reporting on proposals for reform of the criminal law and the law and practice relating to enforcement of, or administration of, criminal justice, including assessment of relevant initiatives and systems outside the State;

...

(i) overseeing reform of the police service;

...

(l) taking such action as the commission considers to be necessary or desirable in respect of such matters as, in the commission's opinion, are pertinent to the administration of criminal justice.

In accordance with these responsibilities the CJC has prepared this follow-up report to inform Parliament on the responses made so far by the CJC, the QPS and the Government to the recommendations of the *Police and Drugs* report.

Background to *Police and Drugs*

Since its establishment, the CJC has persistently received complaints regarding the unlawful involvement of police officers in drug-related misconduct. By 1995, a review of complaints information found that the names of particular QPS employees allegedly involved in corrupt drug activity regularly reappeared. The senior management of the QPS was also concerned with the variety and number of complaints relating to police involvement with drugs and the 'drug trade'.

It soon became apparent from the CJC review that reacting to individual complaints was not an effective way of dealing with what appeared to be a growing problem within the QPS. Suspected corrupt activity within the QPS required a proactive approach to ensure a comprehensive response.

In July 1995, the Director of the Official Misconduct Division (OMD), which is the investigative arm of the CJC, proposed that the CJC and the QPS undertake a joint covert operation.

¹ Referred to throughout this report as *Police and Drugs*.

Major covert operations were commenced by the CJC in August and September 1995 and February 1996. All of these operations concerned a suspicion that police officers were protecting drug traffickers. Other investigations were to follow, including an investigation into an allegation that two senior QPS officers were protecting a Gold Coast drug dealer from prosecution.²

In September 1996, the CJC commenced Project Shield with the support of staff and capital provided by the QPS. All investigations then current concerning the unlawful involvement of police in drug-related activity were brought together under this one, proactive, intensive and largely covert operation.

On 26 September 1996, the CJC contracted a former judge of the Supreme Court of Queensland, The Honourable W J Carter QC, to review current investigations concerning alleged police corruption and to give ongoing advice to the CJC on the future conduct of Project Shield.

By memorandum dated 21 October 1996, Mr Carter advised:

There can be no doubt that there are clear indications of corrupt police activity in drug dealing and/or in the protection of significant organised criminal activity involving the drug trade.

Mr Carter went on to endorse the investigative processes which the CJC had set in place and to flag the need for investigative hearings to aid Project Shield investigations.

On 29 October 1996, the CJC resolved to conduct an investigation into cases of alleged or suspected misconduct by members of the QPS concerning those members:

- being in possession of, supplying, producing or trafficking in dangerous drugs
- associating with and supplying official information to persons possessing, supplying, producing or trafficking in dangerous drugs to assist them in avoiding apprehension or prosecution for such activities
- engaging in acts of official corruption, perversion of justice and like offences in connection with persons mentioned above and associates of those persons.

The CJC concluded that it was necessary to engage the services of an independent qualified person to conduct the investigation, to hold public and private hearings as necessary and to report to the CJC on these matters. Mr Carter was appointed to discharge these responsibilities.

Investigations under Project Shield were conducted by a multidisciplinary team with investigative staff supported by legal officers, intelligence analysts, financial analysts, surveillance and technical staff, an exhibit officer and administrative support staff.

Shortly after Mr Carter's appointment, Operation Jetski began and, during his tenure, other operations and investigations commenced.

The Police and Drugs Inquiry (conducted by Mr Carter) opened in January 1997. Evidence was heard in private and public on 74 days, 84 witnesses were examined and 129 summonses were issued.

In October 1997, the CJC tabled the *Police and Drugs* report in Parliament. The CJC media release on 22 October 1997 reported that by that time:

- three police officers had been charged with official corruption relating to the acceptance of money to protect drug dealers from prosecution (two of these officers were also charged with perjury relating to their evidence before the CJC)

² The investigation concluded with the allegations against the two officers being unsubstantiated.

- three officers had been dismissed from the QPS
- the Director of Public Prosecutions (DPP) was considering criminal charges against three police officers
- reports recommending disciplinary action against three other officers had been sent to the Commissioner of Police
- a former officer had been charged with four counts of official corruption and two counts of perjury
- the CJC was still preparing at least six other reports recommending criminal and/or disciplinary charges against six other officers
- seven civilians had been charged with drug trafficking and three of them had also been charged with official corruption involving their association with police officers.

Police and Drugs detailed the sequence of events and the various operations leading up to its release in October 1997 before focusing on the issues that emerged from the investigations. The report made 14 recommendations designed to:

- minimise the risk of official misconduct by adopting comprehensive corruption prevention policies and workplace practices within the QPS and
- improve the investigative process through changes to relevant legislation and the establishment within the CJC of a permanent proactive investigation unit.

The recommendations were directed to the QPS, CJC and State Government.

Methodology

To prepare this follow-up report, the following sources of information were used:

- QPS updates (provided regularly to the CJC) on the progress of implementation of the relevant recommendations
- perusal of meeting minutes for groups/working parties involved in the implementation of particular recommendations
- examination of correspondence between the QPS and CJC on issues relating to particular recommendations
- CJC correspondence with relevant Government ministers.

Where necessary, meetings were conducted with QPS and CJC staff to obtain the required information. Relevant public reports were examined and, in some cases, CJC media releases, as well as transcripts from the Police and Drugs Inquiry.

The QPS was also given the opportunity to comment and to correct any inaccuracies in the final draft.

Structure of follow-up report

To improve the readability of this follow-up report, the recommendations of *Police and Drugs* have been organised thematically rather than sequentially.

Section 1 *The establishment of a proactive investigation unit (pp. 8–12)*
Recommendation 1

Section 2 *Legislative amendments (pp. 13–15)*
Recommendations 2, 3 and 14

Section 3 *Handling of high-risk property (pp. 16–18)*

Recommendations 5, 8(ii), 8(iii), 8(vi), 8(vii), 9, 10 and 11

Section 4 *Personnel management issues (pp. 19–29)*

Recommendations 6, 12 and 13

Section 5 *Other risk management initiatives (pp. 30–37)*

Recommendations 4, 7, 8(i), 8(iv) and 8(v)

Where recommendations have two or more parts, these are dealt with separately. For each recommendation (or part) the report initially sets out the rationale for the recommendation. This is followed by a discussion of its ‘status’ — that is, what action has occurred so far in response to the recommendation. Where appropriate, the comment of the CJC is also recorded.

The full sequential list of recommendations from *Police and Drugs*, including brief status summaries, is shown on the following pages (pp. 5–7).

Status of *Police and Drugs* recommendations: A summary

Recommendation 1 — Establish an anti-corruption unit [see section 1, p. 8]

That the Commission establish, as a matter of urgency, a permanent anti-corruption unit ... which will have an ongoing proactive investigative focus, which will be intelligence-rather than complaint-driven and which will, therefore, have the capacity to deal presently and effectively with any corrupt activity in the Queensland Police Service whether in relation to drugs or otherwise. This unit, if it is to be an effective counter to corruption in the Queensland Police Service, must have available to it sufficient resources to allow the designed structure to be implemented and the preferred methodology to be adopted.

Status: Unit has been established.

Recommendation 2 — Permit telecommunications interception [see section 2, p. 13]

That the *Criminal Justice Act* be amended to allow telecommunications interception and/or that appropriate complementary State legislation be enacted which complies with section 35 of the *Telecommunications (Interception) Act* (Cwlth).

Status: Government is considering a joint submission from the CJC, QPS and Queensland Crime Commission (QCC) to amend this legislation.

Recommendation 3 — Amend section 69 of the *Criminal Justice Act* (regarding notices to produce) [see section 2, p. 14]

That the *Criminal Justice Act* be amended to prohibit any person who is served with a notice under section 69 of the Act from informing any other person of the fact of such service.

Status: Government is considering a CJC submission to amend this legislation.

Recommendation 4 — Establish an Informant Management Plan [see section 5, p. 30]

That the Queensland Police Service, as a matter of urgency, establish an Informant Management Plan of the kind recently implemented in the New South Wales Police Service.

Status: The QPS has established a committee to review the current policy (to be completed by February 2000).

Recommendation 5 — Review procedures for handling of high-risk property [see section 3, p. 16]

That the Queensland Police Service, as a matter of urgency, review its current procedures in respect of the seizure of cash money. Such procedures should, as a minimum requirement, include a provision that upon the seizure of cash money the money pass immediately into the custody of a Commissioned Officer or of an independent and reputable member of the community.

Status: The QPS has committed itself to introducing practices and policies to implement this recommendation.

Recommendation 6 — (i) Enforce maximum tenure [see section 4, p. 19]

That appointments to any location or area in the Queensland Police Service carry a stated and explicit direction that any officer may expect a minimum of three (3) years' service and a maximum of seven (7) years' service at any such location or area ...

Recommendation 6 — (ii) Commissioner to have discretion to transfer officers
[see section 4, p. 22]

... but subject to the Commissioner of Police having the unfettered discretion to transfer any officer from a location or area if, in the Commissioner's sole discretion, it is in the best interests of the Queensland Police Service that such transfer occur and that such transfer be not subject to costly, cumbersome and time-consuming reviews.

Status: The QPS has not implemented this recommendation.

Recommendation 7 — (i) Install a computer access security screen and (ii) establish a full audit trail for email *[see section 5, pp. 32–34]*

That those responsible for the management of the QPS computerised information system urgently consider:

- the insertion of a screen which requires the person accessing data to state the purpose for which the check has been made and, if the check is made on behalf of another person, the identity of that person and that person's user ID
- establishing a full audit trail for electronic mail.

Status: The QPS has not implemented this recommendation.

Recommendation 8 — Handling of high-risk property and risk management strategies

That the Queensland Police Service reassess and critically appraise its supervisory and risk management practices with the assistance of the Criminal Justice Commission's Corruption Prevention Division,³ in the course of which consideration should be given to the following:

- (i) The Criminal Justice Commission and the Queensland Police Service should jointly study anti-corruption techniques, particularly those which include the value of the role of supervision in improving officer skills designed to reduce the incidence of corruption. *[see section 5, p. 36]*
- (ii) The Queensland Police Service operational procedures relating to property should be completely reviewed so as to focus on how best to preserve the property for evidentiary purposes from initial contact to final disposal. At present, the procedures seem to focus only on the role of the persons performing the storage job at the declared property point. *[see section 3, p. 16]*
- (iii) The Queensland Police Service should determine appropriate standards to ensure that property is appropriately preserved and recorded. All property points should be provided with minimum standard issues of equipment necessary to assist with property preservation and facilities for accurately weighing the quantity of drug seizures. *[see section 3, p. 16]*
- (iv) The Queensland Police Service Ethical Standards Command should be encouraged to continue to reinforce the need for better understanding of the process of risk management where it relates to investigations, with the focus placed more sharply on the processes adopted by the individual officer in the individual case. *[see section 5, p. 36]*
- (v) Processes for improved supervision and risk management should be marketed as methods which the Queensland Police Service wishes to adopt so as to assist individual members with 'integrity preservation' rather than allow them to be seen merely as cumbersome and restrictive practices. *[see section 5, p. 36]*
- (vi) The Queensland Police Service should examine the feasibility of establishing a computer-generated tracking system from seizure to destruction. *[see section 3, p. 16]*
- (vii) Current legislation and procedures should be reviewed to facilitate the early identification and destruction of drug seizures. *[see section 3, p. 16]*

³ The Corruption Prevention Division merged with the Research Division in 1998 to form the Research and Prevention Division.

Status: The QPS has commenced programs and processes to address parts (i), (iv), and (v) and has committed itself to introducing practices and policies to implement parts (ii), (iii), (vi) and (vii).

Recommendation 9 — Handling of high-risk property [see section 3, p. 16]

That the Queensland Police, in association with the Departments of Justice and of Health, urgently review the procedures for the retention, sampling and transfer of seized drug material from one agency within the criminal justice system to another and, in the course of such review, consider the feasibility of establishing a computer-generated bar code tracking system of identification from seizure to destruction.

Status: The QPS has committed itself to introducing practices and policies to implement this recommendation.

Recommendation 10 — Handling of high-risk property [see section 3, p. 16]

That the Queensland Police Service, in association with any other relevant department, examine the feasibility of establishing a system for the early identification and destruction of drugs seized. Such examination should include a review of current legislation and procedures with a view to facilitating the early identification and destruction of drugs seized and intended for use as exhibits.

Status: The QPS has committed itself to introducing practices and policies to implement this recommendation.

Recommendation 11 — Handling of high-risk property [see section 3, p. 16]

That the Queensland Police Service adopt the recommendations in the report prepared by the Commissioner's Inspectorate: *The State Drugs Assessment*.

Status: The QPS has committed itself to introducing practices and policies to implement this recommendation.

Recommendation 12 — Develop an integrated drug and alcohol policy [see section 4, p. 24]

That the Queensland Police Service develop an integrated Drug and Alcohol Policy for its members.

Status: The QPS has commenced development of a comprehensive policy.

Recommendation 13 — Train and educate covert police officers [see section 4, p. 26]

That the Queensland Police Service review the procedures for the training and education of covert police officers and evaluate the level of emphasis currently being given to the need for adoption of proper ethical standards upon the reintegration of the covert police officer to mainstream policing.

Status: The QPS has developed a comprehensive draft policy for the recruitment, selection, training, education and reintegration of covert police officers. Some of the strategies outlined in the draft policy have already been implemented.

Recommendation 14 — Protect covert police officers [see section 2, p. 14]

That covert police officers be afforded the benefit of statutory protection of the kind provided for by section 4 of the *Criminal Law (Undercover Operations) Act 1995* (SA).

Status: Government is considering a joint submission from the QCC, CJC, QPS and National Crime Authority (NCA).

Section 1: The establishment of a proactive investigation unit

Recommendation 1: Establish an anti-corruption unit

That the Commission establish, as a matter of urgency, a permanent anti-corruption unit ... which will have an ongoing proactive investigative focus, which will be intelligence- rather than complaint-driven and which will, therefore, have the capacity to deal presently and effectively with any corrupt activity in the Queensland Police Service whether in relation to drugs or otherwise. This unit, if it is to be an effective counter to corruption in the Queensland Police Service, must have available to it sufficient resources to allow the designed structure to be implemented and the preferred methodology to be adopted.

Rationale

Recommendation 1 of *Police and Drugs* identified a need for a permanent, adequately staffed and resourced investigation unit, which would employ a proactive, intelligence-driven approach rather than just react to complaints. Project Shield, and the proactive investigations that led to its establishment, demonstrated that such a unit would be more effective than merely reacting to complaints of police misconduct and that it would also be more cost-effective in the long run (p. 76).

Status

The CJC made a submission for supplementary funding in the 1997–98 mid-year budget review and for the 1998–99 budget year to enable full implementation of this recommendation. As a result of submissions made by the CJC to the Cabinet Budget Committee for the Government's 1998–99 budget, one million dollars was provided for the enhancement of proactive investigations into police corruption. This was less than the amount requested, but indicated a firm commitment by Government to the continuation of this area of investigation. The one million dollars was added to the CJC base allocation.

The CJC's commitment to sophisticated investigations in this area has been maintained, although further funding would be required to fully implement the complete model as specified in chapter 10 of *Police and Drugs*.

In terms of the structure of the unit proposed in recommendation 1, the CJC has:

- made Project Shield a permanent, multidisciplinary team (based on the model proposed in *Police and Drugs* but approximately two-thirds the size) to conduct both proactive and complaint-driven investigations into unlawful drug-related police misconduct
- established a small target-development team under the supervision of a Principal Intelligence Analyst
- formed a Management Committee consisting of the Director and Deputy Director of OMD, the Director and Chief Superintendent of Operations, the Director of the Intelligence Division, the Executive Legal Officer and the Superintendent of Operations
- broadened the responsibilities of the unit to include investigations in certain circumstances into allegations of official misconduct by public sector officers.

Since the establishment of Project Shield as a permanent investigation unit within the CJC, six police officers who were investigated during the Police and Drugs Inquiry have been convicted and imprisoned. Two other officers have been dismissed for disciplinary reasons. Another officer, who was the subject of disciplinary action, has resigned. One former police officer has been charged with six counts of official corruption and two counts of perjury. Thirty-one civilians have been convicted of offences arising from operations conducted during the course of the Inquiry, of whom seven have been sentenced to terms of imprisonment. Eleven of those charged have yet to be dealt with.

The prosecution of these often complex matters has required a substantial commitment from Shield investigators. Additional investigations, preparation of witness statements, compilation of briefs of evidence and court attendance (as well as attending to ongoing investigations and prosecutions arising from those matters) have largely been the responsibility of those who have remained in the Shield team.

Project Shield has conducted 44 operations since its inception. Of those, 17 are still in progress. In addition, Shield has conducted scores of investigations throughout the State into complaints made to the CJC concerning police misconduct.

The Shield team's primary focus is on complex, long-term investigations. The nature and complexity of the investigative response to any given allegation or suspicion depend on factors such as:

- the type of suspected misconduct
- whether the misconduct is ongoing
- the number of suspects involved
- the success of previous investigations, if any, into the suspect
- the extent to which the suspect is aware of the CJC's interest
- the prospects of success of a particular strategy.

The case studies on page 11 describe some of the investigative strategies implemented by the team and the outcomes achieved.

An objective in establishing high profile anti-corruption strategies such as Project Shield is not only to investigate past and present corrupt activities by police, but also to deter officers who may be tempted to become involved in such activities in the future. In this respect, the Police and Drugs Inquiry and the investigations of Project Shield serve as a constant reminder to police officers that they may be targeted for proactive investigations.

Deterrent effects are inherently difficult to measure, but some indicative data are available from surveys which the CJC has been conducting since 1995 of police officers' perceptions and views of misconduct and the disciplinary process.⁴ These surveys are administered annually to First Year Constables who have been 'in the field' as operational police for around six months. The surveys include a series of scenarios (see appendix A) describing different types of improper behaviour by police. Respondents are asked to rate the seriousness of the behaviour described in the scenarios as perceived by (i) themselves, (ii) a 'typical officer' and (iii) the general public. They are also asked to rate the likelihood of being caught committing acts of misconduct described in each scenario on a scale of 1 (very unlikely) to 7 (very likely).

⁴ Detailed reports of this research can be obtained by contacting the CJC directly.

Case Study A

The CJC received information that a serving QPS officer was using and dealing in the dangerous drug amphetamine. Investigations conducted by the CJC provided sufficient grounds on which to obtain the authority of the Supreme Court to install listening devices in certain places. Other covert investigative techniques were also employed. The officer was later charged with two counts of supplying dangerous drugs. He was sentenced to four years' imprisonment and ordered to pay a pecuniary penalty in the sum of \$2,850.00. The DPP has also approved a charge of supplying a dangerous drug against the person who supplied the officer with the amphetamine.

Case Study B

The CJC received information that a serving QPS officer was supplying dangerous drugs to others. As inquiries tended to corroborate the allegations, the CJC conducted an integrity test on the officer.⁵ Items of value, including cash, and items consistent with a person's involvement in drugs were left where the officer would find them. The officer stole the items, instead of dealing with them in accordance with the law and his duty as a police officer. He was subsequently charged with stealing. He resigned from the QPS and later pleaded guilty to the offence.

Case Study C

The CJC received information that a serving QPS officer was an associate of a suspected drug offender. The officer was employed in a very sensitive position and had access to highly protected material. CJC investigations revealed that there were extensive communications between the officer and the suspected offender and that the officer had conducted searches on the QPS database in respect of that person. Sufficient grounds were found to obtain the authority of the Supreme Court to install listening devices in certain places and other covert investigative techniques were also employed. The CJC passed false information to the officer about the suspected offender's criminal activity and was later able to prove that he passed that information directly to the suspected offender. Following a series of investigative hearings and disciplinary interviews, a report was provided to the Deputy Commissioner of Police on the officer's conduct. The Deputy Commissioner dismissed him from the QPS.

Case Study D

The CJC received a complaint that a civilian had reported finding some cannabis plants on a remote property belonging to a police officer. According to the complainant the officer seized the plants; however, there is no record of the plants being entered into appropriate police records nor any record of their destruction. The officer gave a number of conflicting versions of the matter to CJC investigators. A brief of evidence has been sent to private counsel for an opinion as to whether sufficient evidence exists to charge the officer with official misconduct.

During the course of the investigation, the CJC discovered that the subject officer had been told by an officer serving at another station that the subject officer had been accused by a named informant of supplying dangerous drugs. This information had never been passed onto the CJC by either officer. In addition, by supplying the subject officer with the name of a drug informant, the other officer may have offended against the provisions of the *Drugs Misuse Act 1986* which protect the identity of such informants. Private counsel has the view that there is sufficient evidence on which to charge the officer with official misconduct.

⁵ An integrity test involves creating a situation that enables the investigating authority to observe whether the subject of the test reacts appropriately.

After the Police and Drugs Inquiry had commenced, a scenario was added to the survey describing an incident of an officer ‘skimming’ (stealing) drugs from a large quantity of drugs that were seized by police. The addition of this item has enabled police views towards acts of misconduct relating to drugs to be compared with their views of other acts of misconduct.

As shown in figure 1, the police officers who responded to the survey considered that the likelihood of an officer being caught ‘skimming from drug exhibits’ is substantially higher than for other forms of serious misconduct such as stealing cigarettes from a crime scene, assaulting an offender in custody, misusing confidential information or ‘verballing’.⁶ Because the drugs scenario was not added until after the Police and Drugs Inquiry commenced, it is not possible to say with certainty that officers’ perceptions of the risk of detection have changed as a result of the Inquiry and the subsequent activities of Project Shield. However, the results of the surveys provide at least prima facie evidence that these initiatives have had a deterrent effect. The CJC’s Research and Prevention Division will continue to monitor police attitudes to ascertain if this apparent effect is sustained over time.

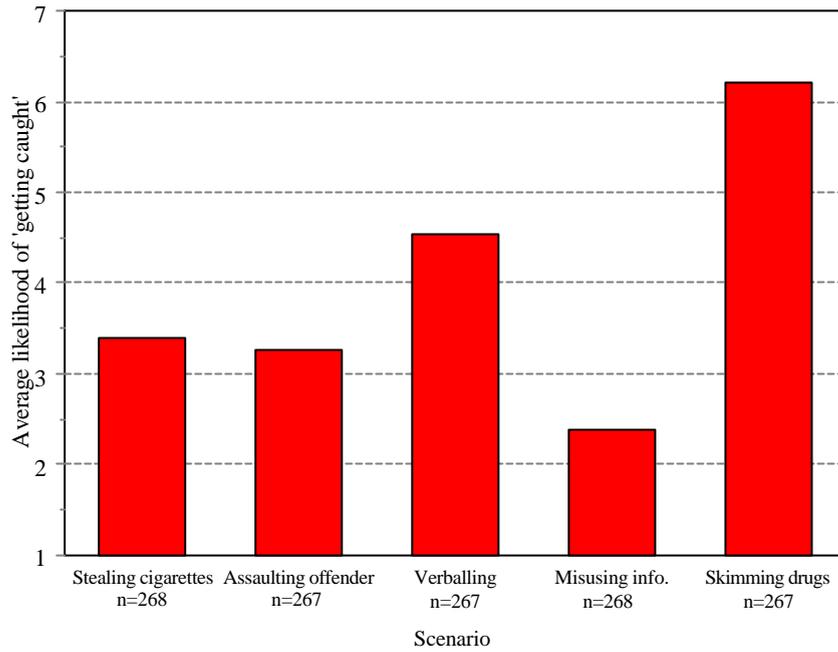
Project Shield has also made an important contribution to the work of other divisions within the CJC. For example, the project has generated considerable intelligence, which is held and analysed by the Intelligence Division. Intelligence analysis has been used to build up profiles of possible targets and to develop indicators for identifying areas of potential risk. The Intelligence Division has also used the data generated by Project Shield to examine the nexus between corrupt activity and organised crime. In addition, issues identified through Shield investigations have been referred to the CJC’s Research and Prevention Division for the purpose of developing appropriate corruption prevention strategies.

In summary, Project Shield has contributed to the objectives of the CJC by:

- conducting proactive operations and investigating complaints of serious misconduct by police officers and public sector officers
- contributing to the deterrence of corrupt conduct by police
- generating intelligence and research data which contribute to an overall understanding of corrupt police activity
- assisting in the development of indicators which identify areas of potential risk
- preparing briefs and offering ongoing support for prosecutions arising from its investigations.

⁶ ‘Verballing’ is a term used to describe a situation where a police officer fabricates a confession (or parts of) by the suspect.

Figure 1 — Average likelihood of ‘getting caught’ committing acts of misconduct



Source: CJC, unpublished data.

Notes:

1. Respondents were First Year Constables with six months operational policing experience.
2. Scenarios are contained in appendix A.
3. 1 indicates ‘very unlikely’ and 7 ‘very likely’.
4. N = number of respondents who answered the question.

Section 2: Legislative amendments

Recommendations 2, 3 and 14 of *Police and Drugs* called for legislative changes concerning (i) telecommunications interception, (ii) notices to produce and (iii) covert police officers.

Recommendation 2: Permit telecommunications interception

That the *Criminal Justice Act* be amended to allow telecommunications interception and/or that appropriate complementary State legislation be enacted which complies with section 35 of the *Telecommunications (Interception) Act* (Cwlth).

Rationale

Currently, the CJC, QPS and other Queensland law enforcement agencies may use listening devices (with the approval of the Supreme Court), but cannot intercept telecommunications, even though the latter investigative tool has a number of important advantages over the former. A telecommunications interception is, first of all, a more effective investigative tool than a listening device because it allows *both sides* of a telephone conversation to be monitored (*Police and Drugs*, p. 22).

In many instances, telecommunications interception is also less intrusive because it monitors *specific* conversations rather than *all* the activity in the subject premises and *all* the conversations between those people occupying the place at the time. Furthermore, it is not necessary for investigators to enter private premises when establishing a telecommunication interception, as is normally the case when installing a listening device.

Telephone interceptions are also more cost-effective — it has been estimated that the costs of maintaining a listening device can be up to three times greater than maintaining a telecommunications interception (Barrett Review 1994).

The proposal to extend the power of the CJC to intercept telephone conversations is not new and has previously been endorsed by the Parliamentary Criminal Justice Committee (PCJC) in its review of the CJC's report *Telecommunications Interceptions and Criminal Investigation in Queensland* (Report No. 29), dated 18 May 1995. Furthermore, all other jurisdictions, except for Tasmania, have been granted these powers.

Status

The CJC, QPS and QCC have made a joint submission to the Minister for Police and Corrective Services recommending that legislation be introduced to empower these agencies to lawfully intercept telecommunications. The submission includes a letter of support from the NCA, which already has the power to intercept telecommunications.

Recommendation 3: Amend section 69 of the *Criminal Justice Act* (regarding notices to produce)

That the *Criminal Justice Act* be amended to prohibit any person who is served with a notice under section 69 of the Act from informing any other person of the fact of such service.

Rationale

Section 69 of the *Criminal Justice Act* permits the Chairperson of the CJC, in certain circumstances, to issue a ‘notice to produce’ to a person, which requires that person to furnish material in aid of a CJC investigation. These notices necessarily contain details of the subject matter of the investigation so that the person on whom the notice is served is able to respond to the demand adequately.

At present the CJC is unable to prohibit the person on whom the notice is served from publishing the fact that it has been served or, what is more important, publishing the contents of the notice. In many CJC investigations, particularly covert operations of the kind conducted in Project Shield, publication of the notice would fatally compromise the investigation by alerting the subject of the investigation to the CJC’s interest.

The risk of compromise has often left the CJC with no choice but to delay issuing the notice. This means that essential investigations cannot be pursued simultaneously with other inquiries.

Status

The CJC understands that the Government is currently considering this proposed amendment.

Recommendation 14: Protect covert police officers

That covert police officers be afforded the benefit of statutory protection of the kind provided for by section 4 of the *Criminal Law (Undercover Operations) Act 1995* (SA).

Rationale

Undercover agents (also known as covert police operatives or CPOs) frequently make ‘controlled’ purchases of drugs from people engaged in unlawful drug-related activity. Law enforcement agencies the world over have long used such investigative techniques as a means of obtaining evidence of criminal offences. The High Court has recognised that ‘the effective investigation by police of some types of criminal activity may necessarily involve subterfuge, deceit and the intentional creation of the opportunity for the commission by a suspect of a criminal offence’.⁷

CPOs can be used to good effect not only in drug offences. For example, a CPO may pose as a purchaser of stolen goods or as a criminal seeking to avoid detection by bribing police.

Civilian informants can also be used for much the same purpose. Often, this is the only viable investigative strategy as the civilian may be trusted by the target of the operation because of past association or because the civilian has a criminal record.

⁷ *R v. Ridgeway* (1995) 184 CLR 19.

The difficulty confronting law enforcement agencies in Queensland is that CPOs and civilian informants do not have any statutory protection for criminal conduct engaged in solely for the purpose of obtaining evidence against the targets of the operation. Section 7 of the *Queensland Criminal Code* operates to render such persons principal offenders or aiders of the very criminal activity they are investigating.

Therefore, at present CPOs and informants who act as undercover agents are in a most precarious legal position in Queensland. Their only protection lies in the DPP exercising his discretion not to prosecute. Indeed, supervisors in the law enforcement agencies who purport to authorise the unlawful conduct engaged in by CPOs and informants are themselves liable to prosecution as parties to the offences committed by those CPOs and informants.

Another difficulty for law enforcement agencies is that, in certain circumstances, evidence obtained in this way may be excluded by the court in the exercise of its general discretion to exclude evidence unfairly or unlawfully obtained.

Parliaments in a number of jurisdictions have enacted legislation to protect law enforcement officers — and the civilians who assist them — who engage in unlawful conduct during an authorised undercover operation.

Status

There has been no legislative action as yet to implement this recommendation.

On 17 March 1998, the CJC wrote to the Attorney-General and Minister for Justice urging the introduction of appropriate legislation.

In its March 1998 submission to the PCJC's three-yearly review of the CJC, the CJC sought the support of the Committee in recommending that this legislation be introduced in Queensland as a matter of urgency. The Committee concurred with the CJC's submission (June 1998) and further recommended that appropriate provisions be developed in consultation with the CJC, QCC, QPS, NCA and PCJC.

By letter dated 31 March 1999, the QCC advised the CJC that a joint submission from the QCC, CJC, QPS, and NCA had been sent to the Minister for Police and Corrective Services.

Section 3: Handling of high-risk property

Recommendations 5, 8(ii), 8(iii), 8(vi), 8(vii), 9, 10 & 11: Property management

Recommendation 5 — That the Queensland Police Service, as a matter of urgency, review its current procedures in respect of the seizure of cash money. Such procedures should, as a minimum requirement, include a provision that upon the seizure of cash money the money pass immediately into the custody of a Commissioned Officer or of an independent and reputable member of the community.

Recommendation 8(ii) — That the Queensland Police Service operational procedures relating to property should be completely reviewed so as to focus on how best to preserve the property for evidentiary purposes from initial contact to final disposal. At present, the procedures seem to focus only on the role of the persons performing the storage job at the declared property point.

Recommendation 8(iii) — That the Queensland Police Service determine appropriate standards to ensure that property is appropriately preserved and recorded. All property points should be provided with minimum standard issues of equipment necessary to assist with property preservation and facilities for accurately weighing the quantity of drug seizures.

Recommendation 8(vi) — That the Queensland Police Service should examine the feasibility of establishing a computer-generated tracking system from seizure to destruction.

Recommendation 8(vii) — That current legislation and procedures should be reviewed to facilitate the early identification and destruction of drug seizures.

Recommendation 9 — That the Queensland Police, in association with the Departments of Justice and of Health, urgently review the procedures for the retention, sampling and transfer of seized drug material from one agency within the criminal justice system to another and, in the course of such review, consider the feasibility of establishing a computer-generated bar code tracking system of identification from seizure to destruction.

Recommendation 10 — That the Queensland Police Service, in association with any other relevant department, examine the feasibility of establishing a system for the early identification and destruction of drugs seized. Such examination should include a review of current legislation and procedures with a view to facilitating the early identification and destruction of drugs seized and intended for use as exhibits.

Recommendation 11 — That the Queensland Police Service adopt the recommendations in the report prepared by the Commissioner's Inspectorate: *The State Drugs Assessment*.

Rationale

Police and Drugs identified numerous instances where procedures relating to the seizure, handling and storage of high-risk property, including drugs and money, were inadequate to protect the integrity of officers responsible for property management. The report's recommendations were aimed at ensuring these deficiencies were addressed.

Status

In 1997, a comprehensive examination of existing property management systems in the QPS was commenced (Project Alchemy). This review was prompted by the concerns highlighted in the QPS internal report, *The State Drugs Assessment*, regarding the management of high-risk property. *Police and Drugs* commented on and supported the findings of this report (recommendation 11). The Commissioner of Police determined that there needed to be a comprehensive review of property management practices beyond those considered in *The State Drugs Assessment* and *Police and Drugs*.

In November 1998, the final report of this review was released in confidence.⁸ The report contains 67 recommendations for the improvement of the QPS property management system. The CJC has been advised that all of the recommendations were endorsed at the Senior Executive Conference held in March 1999. Some of the recommendations provide pragmatic solutions to operational problems, while others are aimed at introducing major corporate policy changes.

Implementation of these recommendations will make the practices of the QPS in the handling of property more transparent and will ensure greater legal defensibility of property management procedures. After the full implementation of the Project Alchemy recommendations, the QPS will have procedures that will withstand rigorous external scrutiny and which will set a new benchmark in risk management procedures for other police jurisdictions in Australia.

All of the recommendations from *Police and Drugs* have corresponding Project Alchemy recommendations, except for number 5, which requires that, upon the seizure of cash, the cash should pass immediately into the custody of a Commissioned Officer or an independent and reputable member of the community. The QPS has considered the recommendation and concluded as follows:

- There is a substantial financial cost to providing commissioned officers to attend each search for the purpose of receiving seized cash.
- Such a requirement may result in police deliberately not performing high-risk seizures because to do so would:
 - be too onerous
 - cause deprivation of liberty of persons for an unnecessarily long time
 - reduce the time available to hold a person in custody for questioning.
- The use of an independent person would have workplace health and safety consequences because it would entail a civilian entering a crime scene where his or her safety could be put at risk.
- With the range of other risk management practices being adopted, police are making appropriate risk assessments and, when time and circumstances permit, are using extra corroborative practices to ensure that the property's integrity (as well as their own) is preserved.

⁸ 'Project Alchemy: Final Report of the Comprehensive Examination of the Queensland Police Service Property Management Processes', In Confidence, Inspectorate and Evaluation Branch, Ethical Standards Command, November 1998.

The QPS has also concluded that Project Alchemy's recommended use of an audit exhibit bag contributes to minimising the risk of improper conduct — the argument being that, from the time that the item goes into the bag, the quantity is preserved.

CJC comment

The CJC has examined the recommendations of Project Alchemy and is satisfied that they effectively address the concerns raised in *Police and Drugs* and the findings of *The State Drugs Assessment*.

Although it is always safer risk management practice to have an independent person (commissioned officer or external individual) to account for money and drugs upon seizure (as suggested in recommendation 5), the CJC accepts there are difficulties in following this procedure on every occasion, because of the high number of emergency searches and the sometimes remote locations where searches are conducted. This was also acknowledged in *Police and Drugs* (p. 52):

There will be times where the seizure of money occurs at night or in circumstances of poor lighting or in adverse circumstances where it will be impracticable to immediately count money. Again, the seizure may occur at some place where a Commissioned Officer is not readily available. Furthermore, the circumstances may be such that it would be unwise to have present an unarmed lay person. All of these difficulties are recognised. On the other hand, there will be many cases — and each case cited falls into this category — where there will be no problem in ensuring the presence of a Commissioned Officer or other reputable independent person who can assume responsibility for overseeing the seizure of the money and the adoption of the required money-handling procedures.

The CJC is satisfied with the QPS response to recommendation 5 provided the recommendations of Project Alchemy are implemented and officers seek corroboration for the seizure of both money and drugs where it is possible and appropriate.

Section 4: Personnel management issues

Recommendations 6, 12 and 13 relate to the management of personnel.

Recommendation 6(i): Enforce maximum tenure

That appointments to any location or area in the Queensland Police Service carry a stated and explicit direction that any officer may expect a minimum of three (3) years' service and a maximum of seven (7) years' service at any such location or area.

Rationale

Police and Drugs (p. 53) noted that:

One striking feature of the Project Shield experience is that certain police officers who were either targets or persons of interest in the investigation have had long-standing associations with, and an attachment to, a particular locality where they have served for years.

The report provided examples of where suspect officers had served in one geographic location for up to 16 years. This was not intended to suggest a direct link between the amount of time an officer spends in an area and police corruption, but the report observed that 'an inappropriate association between a police officer and persons of ill repute needs time to develop and to be nurtured' (p. 55).

In response to these concerns, *Police and Drugs* recommended that a maximum tenure policy be introduced to minimise the risk associated with extended service in one geographical location. Regular rotation of officers would reduce the opportunities for forming and maintaining corrupt associations. Additionally, officers would receive a breadth of experience in various locations and the community would benefit by being policed by officers with differing levels of experience and personal styles.

Status

The issue of lateral transfer and tenure within the QPS has been a contentious one for some years now. The *Report on the Review of the Queensland Police Service* (July 1996) made the following recommendation (recommendation 60, p. 116) regarding lateral transfer and tenure:

The Committee recommends that the Commissioner institute a review of the way in which the QPS administers the lateral transfer process and develop and publish a policy which:

- sets out the procedures for determining the need for directed transfers;
- outlines the process by which individual officers are selected for directed transfers;
- ensures full consideration is given to compassionate grounds for exemption from or the deferment of directed transfer;
- provides greater incentives for police to work in isolated locations;
- provides a clear policy of rotation for 'high risk' units and locations; and
- emphasises the Service's obligations to honour its maximum tenure agreement with all officers.

In late 1997, the then Minister for Police established the QPS Transfer Policy Working Group to address the implementation of this recommendation and to examine perceived

deficiencies in the Service's transfer policies and procedures. This group agreed that the QPS, in consultation with the CJC and the unions, should further develop its policy on maximum tenure and related issues. Subsequently, the QPS convened a working party with representation from the QPS, CJC, the Queensland Police Union of Employees and the Queensland Police Commissioned Officers' Union. The working party met on two occasions. A draft report was prepared which recommended that a number of changes be made to the lateral transfer and tenure policies. However, these recommendations have not been implemented.

Examination of the QPS Human Resource Manual indicates there has been no change in the policy relating to tenure since 1995. Under section 16.1.3 of the manual, the tenure policy is as follows:

All appointments to positions shall have a tenure period of a minimum of three years and a maximum of five years unless otherwise indicated in the relevant Police Gazette as required by Section 4.2 (2) of the *Police Service (Administration) Regulation 1990*. When a police officer's maximum tenure in a position expires, the position may be advertised at the discretion of the Commissioner or Authorised Members in relation to positions under their control. Where incumbent officers are not successful in retaining their existing position via the selection process, arrangements shall be made to move the displaced officer surplus to another position awaiting reassignment under the lateral transfer process.

The QPS has indicated that it has not yet enforced the five-year maximum tenure period. However, it should be noted that certain areas within the QPS have shorter maximum tenure periods. These include:

- stations in Aboriginal and Torres Strait Islander communities
- isolated stations
- speciality areas where extended service places the officer at emotional and/or physical risk (e.g. Accident Investigation Unit)
- some squads in State Crime Operations Command.

Advice from the QPS is that the shorter maximum tenure terms in most of these areas are rarely enforced because the majority of officers apply for transfer prior to that time.

The QPS has raised the following concerns about adopting a blanket policy of automatic rotation after seven years:

- The social and cultural consequences of forcing officers to rotate every seven years would be overwhelmingly negative — officers could feel bitter towards the QPS for enforcing such a policy and consequently job performances might suffer and staff management become more difficult.
- The execution of the policy would place an excessive administrative and cost burden on the QPS.
- The recommended policy is unnecessarily rigid — some 'low risk' officers may be well suited for extended service in a single geographical area, especially one to which it is difficult to attract suitable staff.
- Enforcing compulsory tenure is a major industrial issue which could be met (and possibly blocked) by union and staff objections.

By letter dated 21 May 1999, the QPS provided the CJC with a draft maximum tenure proposal which is to be considered at the QPS Senior Executive Conference to be held in August 1999. The proposed policy aims to encourage officers to self-initiate relocation through:

- an early warning system (e.g. notification in the third and fourth years that maximum tenure is imminent)
- the Career Planning Management System, which aims to have officers take responsibility for their own careers by planning relocation towards the end of tenure
- more effective use of the Performance Planning and Appraisal system
- the inclusion of career planning in the early stages of the Constable Development Program and the Management Development Program.

The QPS proposal suggests that enforced maximum tenure would be strictly applied to noncommissioned officers in small centres and branches only. In these cases, extensions beyond the fifth year would be considered annually by the relevant Assistant Commissioner. In support of this approach the QPS argues that few officers working in larger centres and units reach the end of their tenure period. Officers usually choose to relocate earlier because of greater job opportunities in larger centres and units.

The QPS has also proposed that all officers in charge of stations and branches will be reviewed at the end of their tenure by the relevant District Officer and be assessed on individual performance and on the performance of the station/branch (including the conduct of their serving officers) against agreed performance standards. If examination suggested poor performance or a problem, the officer might be relocated.

The QPS has further indicated that the Director, Human Resources Division, will address the corruption prevention aspects of maximum tenure in conjunction with the Assistant Commissioner, Ethical Standards Command, and Assistant Commissioner, CJC.

CJC comment

The CJC supports any proposal by the QPS that encourages career planning and assessment of the performance of Officers in Charge. It also acknowledges that full implementation of the policy proposed in recommendation 6(i) would place a heavy administrative burden on the QPS and could prove to be a very costly risk management strategy. Nonetheless, the alternative policy proposed by the QPS does not sufficiently address the concerns and problems identified in *Police and Drugs*.

As was discovered during Project Shield, many of the suspect officers were not in middle management positions (i.e. officer-in-charge and second-in-charge). It is important to recognise that the rationale behind recommendation 6(i) is that misconduct and/or corruption can occur at any rank: length of service in one geographic location, not rank, was observed to be the common characteristic among police officers involved in corrupt activities.

The approach proposed by the QPS also assumes that managers and supervisors are principally responsible for any misconduct or corruption that occurs in their areas of responsibility. While misconduct and corruption may often go undetected because of poor management practices, there will be occasions where such behaviour could not reasonably have been detected, because the suspect officer went to considerable lengths to avoid detection by management.

The CJC's preferred approach is to enforce a maximum tenure policy in those locations/units that are assessed as high risk areas in terms of the potential for corruption and official misconduct. This assessment should be based on a range of factors, such as:

- an analysis of the opportunities available in that area for police to become involved in corrupt conduct
- intelligence data

- the area's complaints profile
- the number of previously identified cases of corruption and serious misconduct.

The QPS had already identified areas which are high risk for emotional and physical stress and 'burnout'. High-risk areas for official misconduct and corruption could be identified by a committee comprising representatives from the QPS (in particular, the Ethical Standards Command) and the CJC. Once an area or work unit has been identified, it would be a matter of gradually implementing the policy in a clear and unambiguous way. Suggestions for managing lateral transfers resulting from a policy enforcing maximum tenure are included in appendix B of this report.

The proposed approach is consistent with the Fitzgerald Inquiry proposal that 'as a general rule, officers should be rotated through sensitive or "high risk" areas on a three or five years basis' (1989, p. 255). Such a policy would take account of the cost concerns identified by the QPS, while enabling the issues and problems discussed in *Police and Drugs* to be addressed. The CJC will continue to hold discussions with the QPS on this matter.

Recommendation 6(ii): Commissioner to have discretion to transfer officers

That the Commissioner of Police has unfettered discretion to transfer any officer from a location or area if, in the Commissioner's sole discretion, it is in the best interests of the Queensland Police Service that such transfer occur and that such transfer be not subject to costly, cumbersome, time-consuming reviews.

Rationale

Police and Drugs (p. 56) noted that:

It appears to be incongruous that the Commissioner of Police, in whom is vested the responsibility for the efficient and proper administration and functioning of the Police Service [section 4.8(I) of the *Police Service Administration Act 1990*], should be so heavily constrained by the existing law and procedures that his capacity to transfer any officer from a particular locality is limited to the point where it has become an extremely time-consuming, costly and cumbersome process.

Project Shield identified several officers who exhibited signs of being high corruption risks (e.g. they had a number of inappropriate associations, had worked in the area for an undue length of time and had a record of poor conduct and work performance), but against whom there was insufficient evidence to warrant criminal or disciplinary proceedings. *Police and Drugs* considered that in such cases it was desirable to be able to quickly move a suspect officer, preferably to a location where there were fewer opportunities for involvement in corrupt activities. Lateral transfer would disrupt any improper associations that the officer might have formed and would assist in breaking up groups of suspect officers who were working in the same area.

At present, the 'right' of the Commissioner of Police to transfer officers under the *Police Service Administration Act* is constrained by other legislative provisions regarding procedural fairness, equity and fair treatment, and the officer's right to objection and review. *Police and Drugs* argued that, while it is necessary to protect the employees of the QPS from arbitrary decisions, there are certain occasions where an officer presents such risk for the QPS and the general community that immediate action is required.

Status

This recommendation was referred to the CJC–QPS Discipline Working Group, but no action has been taken as yet. In late 1999, the QPS will submit a number of legislative amendments to the *Police Service Administration Act* to Parliament. It is not clear at this stage whether the Service intends to propose amendments that will address this recommendation.

CJC comment

The CJC considers that the Commissioner of Police should have the authority to act quickly to transfer any officer whose integrity has been compromised but against whom there is not sufficient proof for disciplinary or criminal charges. However, there need to be safeguards in place to minimise the risk of this authority being misused to remove rivals or whistleblowers, or otherwise punish staff who have fallen out of favour. In this context, it is fitting to recall some of the evidence given to the Fitzgerald Inquiry (p. 255):

A number of concerns have been raised about the transfer system. It has been alleged that officers not complying with existing police conventions or the demands of certain superiors are transferred as punishment to undesirable areas of the State.

Submissions to this Inquiry claimed that there have been cases where officers were selectively posted to the country for the sole purpose of creating a vacancy in Brisbane, so that it could be filled by a person favoured by a senior officer.

These concerns could be addressed by adopting the following procedure, based loosely on the Commissioner's Confidence provisions, which have been adopted in the New South Wales Police Service in respect to dismissal:

- A submission outlining the concerns about an officer's integrity would be prepared for examination by the Director, Human Resources Division, and the Assistant Commissioner, Ethical Standards Command.
- These two officers would then jointly consult and advise the Commissioner as to whether there is sufficient information to indicate that a transfer is necessary to preserve ethical standards within the Service. At this time, the views of the CJC would also be sought.
- If the Commissioner decides that Commissioner's Confidence issues have been identified, then the officer would be told of the transfer and the reason for the transfer (i.e. concerns about his or her integrity). The officer should be given the opportunity to make submissions to the Commissioner at this point.
- The decision to transfer should not be subject to review, in order to avoid officers delaying these transfers and to prevent disclosure of confidential material that may have formed the rationale for the transfer.

To implement this process, the *Police Service Administration Act* would need to be amended to expressly exclude any right of review of a 'Commissioner's Confidence Transfer' by a Commissioner for Police Service Review. A limited right of review would still exist under the *Judicial Review Act 1991*, but Schedule 2 of that Act currently exempts the QPS from providing a statement of reasons for decisions relating to the transfer of a police officer.

An obvious limitation to using the transfer mechanism to deal with suspect officers is that the officer in question would still remain in the Service, albeit at a different location where there may be fewer opportunities for involvement in corrupt activities. In some instances, the preferable course of action would be to dismiss the officer, rather than simply moving him or her.

The NSW Police Commissioner can remove a police officer if he or she ‘does not have confidence in [that officer’s] suitability to continue as a police officer, having regard to the police officer’s competence, integrity, performance or conduct’ (*Police Service Act 1990* [NSW], s. 181D[1]). In the Wood report (p. 353), it was argued that:

At the end of the day it is the Commissioner who must take responsibility for inappropriate performance of the Service. It follows that it is he who should be able to maintain a team in whom he has confidence. This principle flows down through the ranks. A sergeant should not be required to lead those who are not worthy of the Commissioner’s confidence, nor should an officer have to work with a colleague if that colleague is not deserving of the Commissioner’s confidence. This Commission, accordingly, remains strongly supportive of the retention of this discretion, and of its exercise in a way that accords with the objective for which it was created.

A very similar provision has been proposed for the Commissioner of the Victoria Police Service,⁹ which will enable the Commissioner to dismiss police whose integrity has become questionable or whose behaviour has brought the police service into disrepute, causing a loss of public confidence in police.

The CJC considers that there would also be merit in giving the Commissioner of Police a power to dismiss, as well as transfer, officers who are deemed to be significant integrity risks. Such a policy should be developed in consultation with the CJC and by examining the NSW and Victorian models. As part of this process, it will be necessary to ensure that sufficient checks and balances are put into place to make the process transparent and accountable and to remove any avenue for misuse.

The establishment of a ‘Commissioner’s right to transfer and dismiss’, in conjunction with a policy of automatic lateral transfer for ‘high risk’ positions, would be the ideal approach for dealing with the problems and issues discussed in *Police and Drugs* and the Fitzgerald Report. The CJC will continue to monitor progress in this area.

Recommendation 12: Develop an integrated drug and alcohol policy

That the Queensland Police Service develop an integrated Drug and Alcohol Policy for its members.

Rationale

This recommendation resulted from one of the most important conclusions of *Police and Drugs* — that recreational use of prohibited drugs by Queensland police is probably widespread, particularly among younger police. The report also noted that the abuse of alcohol and prescription drugs is of concern for policing organisations in general. The drug and alcohol policy of the NSW Police Service was a suggested model for the QPS. As specified in *Police and Drugs* (p. 72), the essential elements in an integrated drug and alcohol policy should be:

- an initial extensive drug and alcohol education program
- the introduction of random and targeted alcohol and drug testing
- the availability of counselling services for those who take advantage of amnesty provisions for the purpose of rehabilitation
- the applications of appropriate sanctions for those who offend after receiving counselling and for those who, having failed to take advantage of amnesty provisions, test positive.

⁹ The proposed amendments were presented to Parliament on 22 April 1999. The provision for Commissioner’s Confidence is scheduled to come into operation on 1 June 2000.

Status

It has been recognised by all policing jurisdictions that drug use, particularly alcohol use by officers, needs to be confronted. Currently, most jurisdictions have policies on alcohol use within the workplace. In 1994, the QPS commenced a national research project with the Queensland University of Technology, which resulted in the report *National Guidelines for Police Workplace Alcohol Policy* (1997). The guidelines were endorsed by all Commissioners of Police in Australia. Another initiative of the QPS was the *Australian and New Zealand Guidelines for Police Workplace Substance Use Policy* (1998).

At about the same time, the Police Education Advisory Council (PEAC) was also reviewing the recruitment and selection process of police recruits for the QPS. Its report *Police for the Future: Review of the Recruitment and Selection for the Queensland Police Service* (1998) recommended the use of drug screening in the selection process. The PEAC report also stressed that drug testing should not be viewed in isolation but considered on a Service-wide basis (p. 79).

As part of a continuing process of addressing the issues and problems associated with drug and alcohol use, the QPS in May 1998 created a working party to develop a comprehensive drug and alcohol policy for police officers and staff members. According to the working party's terms of reference, its aim is to develop a comprehensive drug and alcohol policy for the QPS that will:

- ensure the welfare, health and safety of members of the QPS
- provide safe and supportive work environments
- provide fair and equitable responses to drug- and alcohol-related issues
- act as an anti-corruption strategy in the police workplace.

The working party is jointly chaired by the Assistant Commissioner, Operations Support Command, and the Assistant Commissioner, Ethical Standards Command, with external representation from the Queensland Police Commissioned Officers' Union, State Public Sector Federation, Queensland Police Union of Employees and the CJC. Internal representation for the QPS is from the Industrial Relations Branch, Human Resource Division, Legal Service Branch and Operations Support Command. At the time of writing this report, the working party had met on nine occasions.

The approach adopted by the working party to develop the drug and alcohol policy has been similar to that used by the NSW Police Service. Four subcommittees were created in June–July 1998 to address the major components and issues in developing an integrated drug and alcohol policy:

- education, training and marketing
- rehabilitation and counselling
- drug and alcohol testing
- legislation and policy implications.

The objective of each subcommittee was to produce a discussion paper on critical issues and make suggestions on how the QPS should proceed in each of these areas. Collectively, the subcommittees have suggested:

- a comprehensive marketing strategy
- a drug and alcohol training/information kit with an emphasis on training and education for both prevention and awareness of the new policy and its implications

- a drug and alcohol drug-testing program, which incorporates random, targeted and mandatory testing along with an appropriate amnesty period
- amendments to the *Police Service Administration Act* to provide a legislative basis for the policy
- all QPS policies and documents to be altered where appropriate
- provision of counselling and rehabilitation services to all police officers and staff.

The working party is currently considering the suggestions of the subcommittees. Allowing for the phased introduction of the policy and the necessity for legislative amendments, the working party expects complete introduction of the policy within three years.

CJC comment

The CJC fully supports the introduction of an integrated drug and alcohol policy for the QPS. The consultative and phased approach being employed by the Service is appropriate given the substantial implications of the policy for all staff. It is essential that each of the four elements of education, testing, counselling and sanctions is acted upon if there is to be successful implementation of the proposed policy.

Recommendation 13: Train and educate covert police officers

That the Queensland Police Service review the procedures for the training and education of covert police officers and evaluate the level of emphasis currently being given to the need for adoption of proper ethical standards upon the reintegration of the covert police officer to mainstream policing.

Rationale

Recommendation 13 was prompted by the following alarming observations made during Project Shield:

- There was widespread use and abuse of illicit drugs by police officers who were former covert police officers (CPO).
- Personal relationships had developed between police officers and individuals as a result of the police officer–informant relationship.
- A network of police officers had developed who had formerly been CPOs and who frequented the premises of a major criminal involved in the drug trade.
- CPOs had developed a benign attitude towards the commission of certain criminal acts.

It became obvious during Project Shield that the experiences of being a CPO can have a profound impact on the attitude and behaviour of the officers even after their return to ‘normal’ police duties.

The major concern here is in respect of the potentially criminal behaviour of the CPO or former CPO, which seems to have resulted from the lifestyle and developed attitudes of some CPOs and which tends to occur both inside and outside of police work. Habitual drug offending is only part of this. The special need for inculcating ethical standards and integrity in the training and preparation of the CPO requires emphasis ... The available experience in Operation Shield demonstrates that a serving police officer — a former CPO — may upon reintegration very easily tend to engage in police work at a suboptimal level and to exhibit an attitude or mind set which has been diluted by the

criminal milieu from which he/she has come. An equally important aspect is the risk that the former CPO may have come to accept an attitude towards criminal behaviour which is well below the standard to be expected of any law enforcement officer of integrity. This is a vital aspect in any program for the reintegration of CPOs. (*Police and Drugs*, p. 74)

In 1997, the CPO training course was three weeks long and there was no systematic program for reintegration of CPOs. These concerns resulted in recommendation 13.

Status

The QPS is currently reviewing practices relating to CPOs and has drafted a policy on the selection, training, supervision and reintegration of CPOs. The development of this new policy is in response to the acknowledged problems that occur with CPOs, particularly when integrating back into 'normal' duties. These issues and problems are not unique to Queensland and have been reported by many jurisdictions internationally.

In December 1997, QPS senior management formed a committee to address the issue of the reintegration of CPOs. Three subcommittees were formed to look at (i) recruitment and training, (ii) supervision and welfare and (iii) reintegration. The goal of the committee is to make recommendations for the development of a comprehensive policy aimed at minimising the potential for the development of problems with CPOs and former CPOs. Its report, currently in confidential draft form, recommends the introduction of:

- more rigorous and sophisticated selection processes, particularly for emotional and psychological suitability
- a minimum number of years experience as a general duties police officer before an officer can apply to become a CPO (only under exceptional circumstances can this requirement be waived)
- a policy that ensures trainees enter covert duties as soon as possible after covert training is complete
- a more comprehensive debrief at the end of each covert operation
- a continuous monitoring program of psychological and physical health for two years after completion of covert duties
- a long-term reintegration program which has a number of phases
- a Covert Reintegration Panel to oversee the implementation of a suitable program.

The QPS has advised that the Covert Reintegration Panel has been convened and the draft policy will soon be disseminated for comment prior to submission for approval from the Board of Management.

The current three-week training program to prepare officers for covert work includes areas such as law, procedural issues and role-playing and also includes:

- discussions with current and former CPOs on the difficult situations that may confront a CPO, particularly those that are more a question of ethics than law
- a comprehensive training syllabus, which includes a chapter called 'Ethics and Covert Operations'.

During operations, coverts are supervised by their controller and are required to attend regular meetings to discuss operational matters, including any problems the CPO may be having. In addition, the Officer in Charge of Covert and Surveillance Operations (State Crime Operations Command) has advised that all current CPOs have voluntarily

agreed to an illicit-drug-testing program. This requires all CPOs to be tested prior to the commencement of an operation as well as within two days of completion of an operation. The officers are subject to a random testing program during operations. Where there is suspicion of drug use, a test can be requested. The CPOs may also request a drug test.

The QPS has advised that an informal reintegration program has been operating for one year. Currently, the Inspector, Education Research Unit, State Crime Operations Command, is responsible for the reintegration of officers. An interim policy has been drafted and will form the basis of the reintegration program for CPOs until the formal implementation of the recommendations of the report discussed above.

This interim policy requires the Inspector, Education Research Unit, to formulate a reintegration package that provides officers with necessary support and retraining to return to general duties policing at the conclusion of their reintegration. Key elements of this informal program are as follows:

- The CPO completes duty and is assessed. An individual training and reintegration program is developed based on this assessment. The training component includes the Operational Reorientation Course (designed for officers who have not performed general duties policing for an extended period) and other training where necessary (e.g. part of the Constable Development Program and/or certain Competency Acquisition Program booklets). Ethics principles are incorporated into all training courses provided by the Academy. The Operational Reorientation Course has ethics integrated in the modules and also has stand-alone presentations on ethics from an officer from the Ethical Standards Command.
- The officer completes a placement of two months at a metropolitan station in the area he or she worked in before embarking on covert duties.
- Prior to transfer, the officer must have successfully completed the nominated training and attainment of desired competency levels and been evaluated as having satisfactory work performance.
- After reintegration, the officer may be requested to undergo health and psychometric testing for the following two years.

The QPS is of the view that the informal program is operating successfully.

CJC comment

The CJC has been given the opportunity to examine the draft report on the reintegration of CPOs within the QPS and is satisfied that a comprehensive review of CPO training and education has been completed. The extensive literature review and the strategy to identify best practice by examining international jurisdictions have formed the basis of an extensive and effective review. In completing this exercise, the QPS has gone beyond the issues described in *Police and Drugs*. The draft report also addresses problems through the review of the recruitment and selection process. Clearly, an important strategy for avoiding future problems is to select applicants in the first place who appear well able to perform risky and stressful duties. The proposal for the monitoring of former CPOs for a further two years after reintegration is also an effective mechanism for responding to some of the concerns detailed in *Police and Drugs*.

It would appear that the QPS has not formally evaluated the level of emphasis given to the adoption of proper ethical standards, but ethics training is incorporated into the Academy-based education programs as a matter of routine, including those attended by former CPOs.

The approach taken by the QPS — to address all aspects from recruitment to monitoring of former CPOs — shows that the QPS is taking a particular interest in those police officers who are most at risk of developing problems, both as CPOs and later when they return to general duties. It is essential that the QPS ensures that the program is successful on some objective criteria and, if not, make the necessary modifications. It is recommended that the program be subject to a formal longitudinal evaluation to assess the effectiveness of the course and to provide information for continuous improvement.

The CJC commends the QPS on the actions taken so far in response to this recommendation and will continue to monitor the progress of the implementation.

Section 5: Other risk management initiatives

The majority of recommendations from *Police and Drugs* relate to the adoption of new practices for risk management, or the introduction of new policies to minimise risk in areas identified as problematic during Project Shield.

Recommendation 4: Establish an Informant Management Plan

That the Queensland Police Service, as a matter of urgency, establish an Informant Management Plan of the kind recently implemented in the New South Wales Police Service.

Rationale

The CJC's investigations during the Police and Drugs Inquiry disclosed that some officers occasionally used contact with informants as an excuse to mask inappropriate and corrupt associations. This was also the experience of the Wood Royal Commission and the Independent Commission Against Corruption (1994).

The QPS Operational and Procedures Manual (OPM) Issue 4, October 1996, required officers to:

- register informants (note: a person giving 'one-off' information concerning the criminal activities of another person should not be categorised and registered as a police informant; the registration of informants under the OPM guidelines is essential only for the management of informants used in covert operations)
- record all meetings with informants (to be tape-recorded wherever possible and in all cases suitable details to be recorded in the officer's official police diary, or in the officer's official police notebook).

Several problems with this policy were identified in *Police and Drugs* (p. 35):

- The registration requirements suggest that the necessity to register informants is applicable only to those informants who are likely to be persistent providers of information.
- The built-in secrecy of the process allows police officers to avoid the requirement to make all necessary disclosures.
- There is no systematic procedure, such as regular audits, to ensure that the policy and rules are complied with.
- There is no clarification of the elements required to exist in the police officer–informant relationship before it can be formally recognised by the QPS administration — instead, the policy permits a police officer merely to assert the existence of such a relationship.

Recommendation 4 was made in response to the above concerns.

Police and Drugs (pp. 35–36) also outlined some suggestions to address the problems with the police officer–informant relationship identified in Project Shield:

... any police officer who claims to be a party to a police officer–informant relationship, whether it be a one-off relationship or whether it is an ongoing one with some degree of permanence, must disclose the existence of the relationship before it will be recognised for *any* purpose.

The police officer should be required to:

- record the time, date and place of each meeting with the person who it is claimed is the informant
- record the details of each conversation and information allegedly provided by the informant as a separate record in a form that can be readily examined and scrutinised
- provide such information forthwith to the officer's supervisor.

Failure to comply with the policy should disqualify the police officer from asserting the existence of a police officer–informant relationship and noncompliance should be addressed through the use of appropriate disciplinary sanctions.

In addition, there should be frequent and regular examination by the supervisor of the officer's written records, and guidelines should be developed for writing entries to prevent meaningless entries such as 'confidential drug matters' (p. 36).

Mr Carter concluded with (p. 37):

I strongly recommend that the Queensland Police Service review its present procedures for informant management, which are inadequate and clearly ineffective ... there appears to be no reason, in principle, that the New South Wales [informant management] model cannot be adopted with such modifications as may be necessary on account of any different management structures that apply in the Queensland Police Service.

Status

There have been no changes or amendments as yet to the OPM to address the concerns raised in *Police and Drugs*. However, the QPS has advised that State Crime Operations Command and regional crime coordinators have formed a committee to review the current policy. The QPS has appointed a senior officer to overview the process, which will include research and consultation. It is expected that the final report on the revision of the policy will be completed by February 2000.

CJC comment

The CJC considers the development and implementation of an Informant Management Plan to be an important priority for the QPS. There are many benefits to such a policy, but clearly one of the most important is the protection it will give police officers through appropriate work practices, documentation and supervision. Such a policy will also serve as an effective risk management tool in what is clearly one of the highest risk areas for the formation of inappropriate relationships. In addition, a well-designed policy helps prevent the police officer–informant relationship from being used to protect or mask what are really inappropriate associations. The CJC will continue to monitor progress in this area.

Recommendation 7(i): Install a computer access security screen

That those responsible for the management of the QPS computerised information system urgently consider the insertion of a screen which requires the person accessing data to state the purpose for which the check has been made and, if the check is made on behalf of another person, the identity of that person and that person's user ID.

Rationale

Police and Drugs gives many examples of police officers and civilians accessing computer databases for purposes unrelated to police work.¹⁰ When investigators attempted to determine the reasons for checks being conducted, 'those persons who made the checks were, not surprisingly, unable or unwilling to say on whose behalf the checks were made or for what purpose' (*Police and Drugs*, p. 60). Because of these investigative problems and the ease with which inappropriate inquiries could be made anonymously and without explanation, the report recommended that a computer security screen ('reason for access') be introduced.

Status

The suggestion for an additional field in the computer system that would require the user to identify his or her 'reason for transaction' has been debated for some years now. In 1994, the Chairperson of the CJC wrote to the Commissioner of Police stating that the continuing high number of allegations of misuse of confidential information indicated that preventive action was required. The Commissioner responded that the QPS would seek to gather information on whether the use of a 'reason for transaction' field was a viable security measure.

There has been ongoing correspondence between the CJC and QPS on this matter. In the most recent correspondence (23 April 1999) from the Deputy Commissioner of Police, the Deputy Commissioner said that the QPS would not be adopting this recommendation because 'it is not considered the additional field is of sufficient value to justify its inclusion'. This letter stated that the QPS maintained the same arguments for not having the screen that were outlined in a letter of 18 September 1997 to the Chairperson of the CJC from the Commissioner of Police. The concerns expressed by the QPS in the Commissioner's letter were as follows:

- The facility would introduce another level of bureaucracy in the use of the system, which would have the potential to harm the usability and acceptance of Polaris (the computer system used by the QPS).
- It was expected that, in a short space of time, users would enter a routine and legitimate 'reason for transaction' that would mask the real reason for access.
- The onus would still rest with investigators to disprove the accuracy of the entry in the 'reason for transaction' field during any investigation.
- A very extensive security system had been developed for Polaris that enabled investigators to replay transactions.

The QPS acknowledged that the 'reason for transaction' would serve to remind users continuously of the security issues associated with accessing the system. However, it was felt that this benefit did not compensate for the negative effects associated with the

¹⁰ It should be noted that civilians often perform checks on behalf of a police officer.

facility. The Commissioner of Police said that the issue would continue to be reviewed in conjunction with future releases of Polaris.

CJC comment

It is the view of the CJC that the QPS should continually endeavour to improve and implement risk management tools. It is fair to say that the adoption of any ‘security’ practices will always incur financial costs and present some inconvenience to the workers affected; in this case, staff will be required to perform an additional action when conducting checks on databases. However, the decision as to whether this particular risk management tool should be adopted needs to be based on a broader array of factors, such as:

Potential for misuse of databases — As Project Shield revealed, the accessing of databases for inappropriate and unlawful purposes was extremely common. Not only can police officers access a database directly, they are easily able to direct or request another person to do so on their behalf. In either case there is no requirement to record the identity of the inquirer (only the individual logged onto the system when the inquiry is made) or the reason the inquiry is being made.

Given the lack of quantitative evidence from which to generalise, it is impossible to estimate the full extent of the inappropriate and unlawful accessing of databases, but based on what is known through complaints and the Police and Drugs Inquiry, there is evidence that misuse of confidential information continues to be a problem. Each year, the CJC’s complaints database records a number of cases that raise suspicion of improper access by police officers to confidential information. In the last financial year (1997–98), the CJC received 117 allegations of police disclosing or passing on confidential information (involving approximately 77 police officers).¹¹ The motivation for improper access may range from misplaced helpfulness/loyalty to financial gain or other improper purposes. Whatever the motive, the disclosure has the potential to compromise an investigation and the safety of officers, especially undercover operatives and cooperating witnesses.

Effectiveness of current accountability mechanism — As was found during Project Shield, it was often impossible to verify the reasons for many of the enquiries made.

Financial cost of proposed accountability mechanism — The cost of compliance can be minimised by design features such as pull-down menus and/or standard identification codes (e.g. codes for different types of reasons). However, it is accepted that the integration of a field would present some cost to the QPS. It is understood through correspondence with the QPS that earlier versions of Polaris had a ‘reason for transaction’ field built-in, but that this facility was not further developed in later versions.

Cost benefits of proposed accountability mechanism — Wherever the potential for misuse is reduced there are cost benefits through savings on investigations etc. Some additional hidden saving will result as police officers and staff cease performing unnecessary enquiries.

It has been argued that police who are intent on making unauthorised releases of information would manufacture a plausible reason to accommodate the requirements of the system. Clearly, no system can guarantee that abuses of this kind will not occur;

¹¹ The outcomes of these allegations are: 3 substantiated, 44 investigated but not substantiated, 40 referred to the QPS, 2 referred to another agency, 23 not investigated, 1 withdrawn and 4 unfinished. A finding of ‘unsubstantiated’ indicates insufficient evidence to commence disciplinary or criminal proceedings — it should not be taken to mean that misconduct has not occurred.

however, imposing a requirement to record reasons for access would be an improvement on having no deterrent at all and would help ensure that officers requesting another person to conduct an inquiry on their behalf (e.g. officer or civilian) are identified and questioned as to their reason for access.

A final relevant consideration is the possible future obligations that may be required by the introduction of State privacy laws. In April 1998, the Legal, Constitutional and Administrative Review Committee (LCARC) of the Queensland Parliament published the report *Privacy in Queensland*. That report made 32 recommendations, including the following:

- Queensland should introduce privacy legislation
- the legislation should contain information privacy principles (IPPs) relating to personal information collected and held by Queensland government departments and agencies
- the IPPs should be modelled on those contained in section 14 of the Commonwealth *Privacy Act 1988*
- the legislation should provide for a Privacy Commissioner or Committee.

The introduction of privacy legislation would require many organisations, including the QPS, to change and modify work practices and policies to avoid infringing the legislation.

Some State agencies have voluntarily agreed to abide by the IPPs in the Commonwealth privacy legislation, which ensures the processes and policies are operating when the legislation is introduced.¹² It also demonstrates a commitment to ‘best practice’ and to the protection of major stakeholders (e.g. the members of the general community). The IPPs require a higher standard of protection of personal information. The ability to show why an individual’s personal information/record was accessed becomes the responsibility of the record-keeper. A security or ‘reason for access’ screen would fulfil this requirement.

Given the factors stated above, it is the view of the CJC that the benefits associated with the introduction of the security screen exceed the costs. The CJC will continue to urge the QPS to adopt a computer security screen. The absence of this risk management tool represents an unacceptable risk for misconduct, official misconduct and corruption.

Recommendation 7(ii): Establish a full audit trail for email

That those responsible for the management of the QPS computerised information system urgently consider establishing a full audit trail for electronic mail.

Rationale

Project Shield revealed that electronic mail (email) was often used for improper reasons. However, the ephemeral nature of email (i.e. the fact that it is unlikely to be stored) often thwarted investigators when attempting to find out the content of email correspondence between police officers who were under investigation.

¹² The CJC has adopted 8 of the 11 of the IPPs of the Commonwealth privacy legislation.

Status

In a letter dated 25 February 1998, the Commissioner of Police advised the Chairperson of the CJC that the QPS Executive had decided to cease maintaining an audit trail facility for email. The reasons for this decision were as follows:

The email system is being regarded as an informal means of communication similar to the telephone (albeit with specific instructions on use and content). Normal record keeping policy is to apply to official information if transmitted in this way. This decision was taken in view of the revised assessment of the email system and the large resources impact of recording and subsequently interrogating the audit facility ... in compliance with that decision, our Manager, Information Security Section has ceased recording all email traffic on an ongoing basis.

The Chairperson of the CJC responded in a letter dated 8 May 1998 requesting that the decision be reconsidered in light of the discussion on pages 64 and 65 of *Police and Drugs*. The Commissioner again wrote to the Chairperson stating that the Senior Executive of the QPS had given serious consideration to the implementation of a full audit trail on email but had decided it was not a viable option because:

- the expenditure to implement this facility could not be justified;
- the benefit that an audit facility provides for a small number of serious (criminal) investigations does not justify continual surveillance of all email use; and
- the QPS does not require a similar degree of imposition on other administrative operations.

Advice from the Director, Information Management Division (17 May 1999), was that the QPS should consider an audit trail facility only when the current system is replaced. Consideration of an audit trail could then form part of the scoping and assessment process for any new system.

CJC comment

The QPS has presented some valid arguments and points on the difficulty of adopting a full audit trail for email. This is a costly risk management tool which may place considerable strain on the QPS computer system causing it to become more congested and slower, particularly in country areas. However, the argument that there would be insufficient benefit (in consideration of real need and cost) has assumed that misuse of email is minimal. The problem with this assumption is that it is not based on any evidence. Furthermore, assessment of the cost benefit of an audit facility should not be based only on the findings of Project Shield; this inquiry investigated only a small percentage of police officers and so does not provide a measure of the prevalence of email misuse within the QPS more broadly.

The increasing reliance and use of information technology, particularly by law enforcement agencies, makes risk management in the area of information technology a growing priority for organisations. Email is a cost-efficient and effective communication tool, but can be easily misused. The CJC accepts the difficulties and delays with implementing a full audit trail for email, but it is essential that this risk management strategy be reconsidered regularly (say, every two years). In the interim, the QPS should conduct a comprehensive risk assessment on the use of email. As the QPS has the ability to conduct audits in designated areas, a random rotational audit should be implemented so the prevalence and type of misuse can be determined to inform future discussions and decisions. The notification to users that random rotational audits will be conducted regularly will also deter officers and staff from improper use of email.

Recommendations 8(i), 8(iv) & 8(v): Develop risk management practices

Recommendation 8(i) — The Criminal Justice Commission and the Queensland Police Service should jointly study anti-corruption techniques, particularly those which include the value of the role of supervision in improving officer skills designed to reduce the incidence of corruption.

Recommendation 8(iv) — That the Queensland Police Service Ethical Standards Command should be encouraged to continue to reinforce the need for better understanding of the process of risk management where it relates to investigations, with the focus placed more sharply on the processes adopted by the individual officer in the individual case.

Recommendation 8(v) — That the processes for improved supervision and risk management should be marketed as methods which the Queensland Police Service wishes to adopt so as to assist individual members with ‘integrity preservation’ rather than allow them to be seen merely as cumbersome and restrictive practices.

Rationale

These recommendations resulted from the recognition that many of the problems identified in *Police and Drugs* might have been avoided with ‘proper management and effective supervision’, including an effective system of risk management. Although staff at any level, in any role, can use risk management processes to identify, assess and treat risks in their work environment, the report clearly indicates that the effective understanding and operation of this process is a management and supervisory responsibility.

A risk management strategy was introduced within the QPS in 1993, but it was observed in *Police and Drugs* that ‘tick and flick type processes are hardly sufficient and possibly reflect only a superficial compliance with supervisory obligations’ (p. 67).

When risk management was introduced within the QPS, it was perceived as an alternative to inspections. The description of the application of risk management was included in chapter 15 of the OPM entitled ‘Inspections’. QPS staff have tended to see the use of risk management as cumbersome, time consuming, involving too much paperwork and ‘red tape’. Section 12.2.3 (pp. 262–267) of the QPS Review highlighted this concern, noting that risk management is a good and practical strategy, but ‘the implementation has not matched the needs of the organisation’.

Status

As recommendations 8(i), (iv) and (v) had some commonality with recommendation 185 of the QPS Review, these recommendations were referred to the Joint QPS–CJC Working Committee overseeing the implementation of these recommendations.

In February 1998, the Working Committee resolved that the anti-corruption study be put on hold until the staffing structure of the proposed Ethical Practices Branch had been determined and that an Inspector within the Evaluation and Audit Branch liaise with the Research and Prevention Division at the CJC about risk management.

Subsequently that officer:

- developed option papers for training and marketing risk management
- prepared submissions for the Regional Training Priorities Committee
- redrafted the Competency Acquisition Program (CAP) module on risk management
- conducted numerous presentation and awareness sessions
- commenced work on a discussion paper addressing structures, trends and reporting relationships in the public sector and policing jurisdictions.

In early 1999, a full-time position within the QPS responsible for risk management was approved, with the appointee taking up duty in April 1999.

Current QPS initiatives or proposals to further address these recommendations include:

- a Risk Management Committee meeting, chaired by the Assistant Commissioner, Ethical Standards Command
- consideration given to engaging a consultant to conduct a Strategic Risk Identification Forum and a Strategic Risk Assessment Workshop for the Risk Management Committee
- revision of a version of the CAP module CM 406 (Risk Management) — currently being edited by the CAP Unit
- decision to develop a training package for District Education and Training Officers (to incorporate management and supervisory responsibilities)
- submission of a draft discussion paper on the roles of the Risk Management Committee and the Risk Management Coordinator
- collation of survey data that have been collected through risk management workshops and a report submitted
- preparation of a Senior Executive Conference discussion paper on structures, trends and reporting relationships in the public sector and policing jurisdictions on implementing risk management
- consultation with Workplace Health and Safety regarding civil litigation, including occupational health and safety, and rehabilitation in risk management
- development and trialling of worksheets for a number of systems in a format consistent with the Guidelines for Cost Effective Internal Controls developed by Treasury
- presentations on risk management including accountabilities such as legal compliance, loss prevention, loss minimisation, risk transfer, risk retention, disaster recovery/business continuity planning and education and training.

CJC comment

The CJC fully supports the QPS response to these recommendations. It is important to emphasise preventive strategies when dealing with official misconduct and corruption. The use of multiple strategies, with shared responsibilities by all staff and the commitment of senior management, is essential for effective prevention and risk minimisation. The CJC will continue to work with the QPS on these issues.

Conclusion

Since *Police and Drugs* was released some 20 months ago, substantial progress has been made in relation to several of the report's recommendations. In particular:

- following the provision of funding by Government, the CJC has established a permanent anti-corruption unit, which is applying a proactive, intelligence-driven approach to the investigation of police corruption
- the QPS has completed a comprehensive review of procedures for handling high-risk property and is committed to implementing the recommendations arising from this review
- the QPS has commenced development of a comprehensive Drug and Alcohol Policy which includes provision for random and targeted drug and alcohol testing
- action has been initiated by the QPS to enhance the recruitment, selection, training, education and reintegration of CPOs
- the QPS has established a working group to develop a comprehensive Informant Management Plan.

The CJC will continue to monitor progress in relation to these recommendations and will provide what assistance it can to the QPS to facilitate their implementation.

Recommendations which have not been accepted by the QPS, or where, in the view of the CJC, there has been inadequate progress, are those relating to:

- enforced maximum tenure of officers
- the Commissioner's discretion to transfer officers
- installation of a computer access security screen
- establishment of a full audit trail for electronic mail.

The CJC will continue to advocate for these changes with the QPS.

Implementation of the recommendations in the report that require legislative change is a matter for the Government and Parliament.

Appendix A — Scenarios used in the CJC ethics surveys

The scenarios to which the officers were asked to respond were:

Scenario 1 — Officer steals cigarettes from a crime scene

The local bottle shop has been broken into for the third time in so many weeks. The responding patrol enters the premises to wait for the owner to arrive and sort out the mess of cigarettes and liquor lying all over the floor. One of the officers bends down, picks up a torn pack of cigarettes from the shattered window display, and puts the pack in his pocket.

Scenario 2 — Officer assaults youth who is in custody

In a pub brawl a young female First Year Constable, responding with her partner to a 'disturbance' call, receives a nasty black eye from a tattooed youth wielding a billiard cue. As the arrested youth is led into the cells, the male team member gives him a savage kidney punch saying, 'hurts, doesn't it'.

Scenario 3 — Words added to suspected rapist's statement (verballing)

An offender is picked up for a particularly nasty rape/assault in a local park. There's no doubt he's the culprit. There's an excellent ID, but the offender who is 'streetwise' says nothing. To make matters certain, the arresting officer attributes the words, 'OK I *was* in the park but I didn't touch the bitch' to the offender in his notebook.

Scenario 4 — Registration check to get details of attractive woman (misuse of confidential information)

The young lady in the Mazda sports car is very attractive and smiles at the young officer in the patrol car alongside at the traffic lights. The officer, following a couple of lengths behind, radios for a vehicle registration check to find out her address.

Scenario 5 — Skimming from drug exhibits

An officer decides to make a little extra cash by taking small proportions of confiscated drugs from the property room and selling it on the streets. Given the expense of a mortgage and a family, the officer feels justified; besides, the users would get the drugs from some other source anyway.

Appendix B — Suggestions for enforcing maximum tenure in high-risk areas

- Those positions classified as ‘high risk’ for corruption should have a shorter maximum tenure period of 2–5 years (depending on the area and position). Officers being rotated from these areas should be transferred into substantially different locations and/or duties.
- Positions classified as ‘high-risk’ units and locations should be clearly advertised in the Gazette for the specified term and it should be emphasised that the maximum tenure requirement will be strictly enforced.
- The classification of ‘high-risk’ units and locations should initially be undertaken by a ‘transfer committee’ comprising members of the QPS (including from the Ethical Standards Command) and the CJC. Thereafter, the committee should seek the input and comments of the QPUE and the Commissioned Officers’ Union on any draft proposal. The committee would probably need to meet on an annual basis to review the classification of positions.
- The QPS should consider adopting a system of administering lateral transfers similar to that proposed in the report of the Wood Royal Commission (p. 502). That report envisages a system whereby lateral transfers of all noncommissioned officers are the responsibility of a person designated as the State Transfers Coordinator and are processed by a central unit under the Coordinator’s control.
- The State Transfers Coordinator should receive and determine all applications for extension of tenure. For high-risk positions, extensions should only be granted in very specific circumstances; for example, when a current investigation would be jeopardised (Report of Wood Royal Commission, p. 503). In addition, extensions should only be granted for limited periods of time, with the reason for the extension being monitored on an ongoing basis.
- The final draft of the policy on rotation should be clear, precise and unambiguous.
- The policy should be widely circulated and its terms and benefits marketed to officers throughout the State, both as a corruption prevention measure and as a means of encouraging professional development and maximising career prospects. This process should also emphasise that lateral transfer decisions are part of a Service-wide program.
- The lateral transfer procedures following the expiration of the maximum tenure period should be fully documented and visible to all applicants in each position description.
- The lateral transfer procedures following expiration of the maximum tenure period should again be carefully explained to all potential appointees before they accept a position.
- The policy of rotation should ensure that officers are not disadvantaged financially by lateral transfer.
- The policy of rotation should remain flexible enough to allow for staggered expiration of tenure so that no particular work unit is left devoid of experience and expertise as a result of bulk lateral transfers.
- The policy should be phased-in gradually to allow officers currently serving in the positions designated as ‘high risk’ a period of at least 12 months to adjust their personal affairs in the knowledge that lateral transfer is unavoidable.

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