

Police and Drugs: A Report of an Investigation of Cases Involving Queensland Police Officers

October 1997

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ABBREVIATIONS

CI Branch	Criminal Investigation Branch (Queensland Police Service)
CJC	Criminal Justice Commission
CPO	Covert Police Operative
OMD	Official Misconduct Division (Criminal Justice Commission)
OPM	Queensland Police Service Operational Procedures Manual
QPS	Queensland Police Service
(ui)	Unintelligible

EXECUTIVE SUMMARY

This report does not descend into the detail of each operation conducted as part of Operation Shield but focuses more on the issues which emerge from the investigation into possible corrupt police activity in relation to drugs.

Operation Shield was commenced in an atmosphere of political controversy which was spawned by the public debate about the proposed budget allocation for the Criminal Justice Commission in September 1996.

Operation Shield, however, was always planned to happen. It has its origins in a decision taken in 1995 by the Director of the Official Misconduct Division of the Criminal Justice Commission to adopt an altered strategy for the investigation of corrupt police conduct involving the drug trade. With the conclusion of the Fitzgerald Inquiry and the establishment of the Criminal Justice Commission, complaints of police misconduct in whatever form were thereupon to be dealt with by the Commission. In the ensuing years, the complaint material was seen to be heavily infested with the persistent allegation that police were involved with drugs — as users, as suppliers of drugs, as involved in the production of drugs and as protecting those who were engaged in drug dealing. Whereas before the Fitzgerald Inquiry the allegations of corrupt conduct by police were based on police involvement in the policing of prostitution and off-course betting, it was now the drug trade which was perceived as a developing and even more lucrative source for official misconduct.

In the beginning, the Commission's investigative strategies had been largely reactive and complaint-driven. By 1995, the complaint material alleging police misconduct was persistent and the names of police and of particular locations were reappearing. The Official Misconduct Division saw the need for a more proactive and intelligence-driven investigative process rather than one which involved its reacting to individual allegations of wrongdoing. Initially, in association with the Queensland Police Service, it had recruited undercover operatives to investigate with a view to ensuring that systemic corruption did not regain a hold in the Queensland Police Service. The concern was that, as the trauma of the Fitzgerald years commenced to fade and a new generation of police officers was being inducted into an enlarged Police Service, an element of complacency and self-satisfaction could re-emerge. It was, therefore, necessary for the Queensland Police Service and the Commission to strengthen their efforts to counter the possibility of a new corrupt culture developing, particularly with the increasing use and production of drugs. It would have been naive in the post-Fitzgerald period not to recognise the potential for the cashed-up drug trade to provide the fertile ground for police corruption, just as illegal prostitution and off-course betting had previously been the focus for an entrenched and systemic corruption which had seen the prosecution of high-ranking police.

Accordingly, in August 1995 the Commission had commenced an operation which targeted a major drug dealer who it was alleged was paying protection to city-based detectives. By early September 1995, Operation Monument had commenced with the apprehension of this drug dealer in Jupiters Casino with a quantity of cocaine and a large quantity of cash. The suspect offender had sought to elude police by asserting his status as a police informant and named a well-known Gold Coast detective as the

person with whom he was working. The investigation, with the assistance of covert surveillance, revealed a possible corrupt relationship between the two persons and between the police officer and others involved in the Gold Coast drug trade.

In February 1996, Operation Caesar II was commenced in association with the New South Wales Royal Commission. It used a covert source to expose an apparently corrupt protection scheme, which involved serving and former Gold Coast-based police officers.

These and other like operations were in September/October 1996 incorporated into the one operation, which was codenamed Operation Shield. Most of the then current operations had been supported by various forms of covert surveillance.

At least since 1995, the Criminal Justice Commission had perceived the use of its investigative hearing power as an integral component in its newly devised proactive strategy to deal with police corrupt conduct involving the drug trade.

It was against this background that the Commission was confronted by the prospect of a reduced budget allocation. In his evidence to the Parliamentary Estimates Committee B on 18 September 1996, the Chairperson of the Commission, with apparent restraint and a concern to maintain security, revealed that the proposed reduction in the Commission budget was likely to have a damaging impact on the proactive investigative strategies that the Commission by then had had in place for at least twelve months.

A copy of the transcript of the proceedings reveals that it was alleged that the Chairperson's reference to his concerns was mischievous and designed only to avoid a reduced budget allocation. That became the main theme of the subsequent political controversy into which Operation Shield was born.

Having been engaged to review the then current operations, the Commission resolved on 29 October 1996 that I conduct the investigation into alleged or suspected misconduct and official corruption by members of the Queensland Police Service in relation to drugs and the drug trade. Henceforth, all existing operations involving this issue were brought together as Operation Shield, the abiding philosophy of which was that it should act as a multidisciplinary, proactive investigative unit focusing on police misconduct and corruption in the policing of the drug trade. In the course of its operations, it was resourced by quality investigators, several of whom were selected by the Commissioner of Police from the Queensland Police Service and made available to the Commission. It had access to the disciplines of intelligence and financial analysis and relied heavily on surveillance and technical support. Two legal officers and other support staff completed the team.

Investigative hearings both in private and in public were conducted to assist the various investigations.

The workload of Operation Shield was never static as additional information demanded investigation and several operations had to be incorporated into it.

The somewhat crushing workload which had developed for Operation Shield placed considerable strain on the resources available to it. Shortly before Christmas 1996, the Commission's reduced budget allocation was to severely put at risk the future of the Operation. As a result, the Chairperson of the Commission advised the Shield team that the Commission could not guarantee funding for Operation Shield beyond 14 February 1997. Operational decisions thereupon had to be made on that basis. The concern then was that several of the operations were substantially incomplete and the required investigative hearings in relation to several operations had not even commenced.

On 27 January 1997, in an attempt to relieve the position, the Chairperson and I met senior members of the Government, as a result of which a cabinet meeting later on that day restored funding for the continuance of the Operation. If funding had not been restored, Operation Shield, in the form in which it was proposed, would certainly have foundered.

The experience of Operation Shield demonstrates the very substantial difficulties involved in the investigation of police corruption, particularly in relation to the drug trade. The widespread use of prohibited drugs in the community and the substantial illegal market which services the demand for drugs necessarily bring more police into closer contact with those who are involved in a variety of ways in the drug market. This market generates a cash economy of massive proportions. Police involved in criminal investigation involving drugs habitually make contact with users, producers, manufacturers, dealers and suppliers of the prohibited substances. It is not surprising, therefore, that during Operation Shield the corrupt or improper conduct by police which was identified included:

- drug use
- drug dealing
- the protection of drug dealers
- the theft of drugs
- the theft of drug money
- the presentation of false material to the court.

The investigation of corruption and misconduct by police in relation to drugs is extraordinarily difficult work and is extremely resource-intensive. The factors responsible for this include the following:

Targeted police have access to and misuse for their own corrupt purposes the same computer-generated database of information as do the investigators.

The code of silence and the principles of solidarity which are part of the police culture inhibit particularly 'rank and file' police from reporting suspect conduct to superiors and invariably produce a response to investigators which is generally unhelpful.

Corrupt activities by police are of necessity secretive and clandestine. The very nature of the prohibited drug and of the market which deals with it aggravates the difficulty of detecting corrupt police activity.

Offenders are unlikely to complain if police steal drug money in respect of which no charge is laid or if police, having seized a particular quantity of a drug, charge the

offender with a lesser quantity. The practice is referred to by police as ‘taxing’ or ‘skimming’. Nor is an offender likely to complain if his/her prior criminal drug convictions are not given to the court.

The retained money is rarely banked and the relevant drugs are used for personal use or sold or used to buy information or are ‘planted’. In any case, the illegal activity occurs under cover and the accurate details are never recorded in police records or indices.

Investigative work of this kind, therefore, has to make use of covert surveillance processes and needs to draw heavily on the range of coercive powers available under the *Criminal Justice Act 1989*.

It is strongly recommended, for the reasons dealt with in the report, that the power of telephone interception be available to the Commission, subject to approval by the Federal Court. The Parliamentary Criminal Justice Committee in its report [May 1995 – Report No. 29] recommended that the Criminal Justice Commission be granted this power. The Criminal Justice Commission has, since 1993, been designated an ‘eligible authority’ by the Commonwealth pursuant to the *Telecommunications (Interception) Amendment Act 1993*. This enables the CJC to be provided with telecommunications material obtained by an agency authorised to conduct intercepts, for example, the National Crime Authority. However, the prerequisite for the exercise of the power is that the relevant State Government must introduce complementary State legislation which complies with the requirements of section 35 of the Commonwealth Act and the Premier of the State must request the Commonwealth Attorney-General to declare the organisation of an ‘agency’ for the purposes of the Commonwealth Act.

Police invariably explain their corrupt or improper associations with drug offenders by resorting to what the New South Wales Independent Commission Against Corruption’s second report calls ‘the standard excuse’ — that is, that the improper association is part of a police officer–informant relationship. Corrupt police identified in the course of Operation Shield habitually sought to explain what can be shown to be a wholly improper relationship on the basis that the other person was his/her informant who was assisting criminal investigations by the supply of valuable information. This, of course, was false.

This tactic is habitually resorted to for the purpose of hiding what are in fact improper associations.

The current system for the registration of informants as part of Queensland Police Service procedures is not effective. Corrupt police have not only asserted the existence of a police officer–informant relationship falsely but also have used the registration provisions to facilitate the false allegation. In one case, a serving police officer met two other persons at night and entered into an apparently corrupt relationship with them to provide information from the police computer as a means of protection to one of them, an alleged drug dealer, but who in fact was a Commission covert source. The third person, a former police officer, had arranged the corrupt meeting. On the next morning, the police officer not only made entries in his official police diary nominating both persons as informants and referring to the meeting, but also he registered both as informants with the Regional Crime Co-ordinator. Neither

had provided information on criminal activities at the meeting; rather the recorded surveillance suggests that the meeting was arranged to confirm a corrupt arrangement.

Other operations reveal the misuse of the so-called police officer–informant relationship and of the provisions for registration.

The current procedures in the Queensland Police Service to regulate the proper relationship of police officer–informant are inadequate and ineffective and are being abused for corrupt purposes. It is recommended that the procedures be urgently reviewed with a view to the adoption of a proper Informant Management Plan. The model for such a plan may well be the one adopted recently by the New South Wales Police Service as a result of the matter being dealt with by the New South Wales Royal Commission.

Policing the illegal drug market will surely bring police into contact with large sums of cash money which is seized pursuant to search warrants obtained for that purpose. The theft of seized money or of some of it by police in such circumstances is a major concern for law enforcement agencies both here and abroad. Mr Justice Wood encountered the problem in the New South Wales Royal Commission, which revealed that in the jargon of the New South Wales Police Service a theft of money seized as a result of the execution of a warrant and its division among police is known as a ‘whippy’. The FBI has identified it as a major temptation for police to be ‘enticed by opportunities to steal large sums of illicit cash’.

The Queensland Police Service has the same problem. In Operation Shield, investigations dealt with four such cases, three of which were assisted by investigative hearings. In one of these three cases, the sum seized was of the order of \$100,000.00. The investigation was able to demonstrate that a large part of that money, at least \$10,000.00, was stolen while in police custody — that is, within the short time that elapsed from when the money was removed from the scene where it had been buried in the ground to the time when it was photographed shortly after its arrival at the particular Criminal Investigation Branch office.

In a second case, police were concerned to recover a sum of \$30,000.00/\$32,000.00 known to be in the possession of two persons who were well known to police. The sum said to have been recovered was \$18,300.00. This amount was the sum total of individual amounts seized from different locations but, except in respect of one sum of \$3,400.00, no amount of it was counted at the time of its seizure. The seized individual sums were carried by police in their respective pockets uncounted and finally it was mixed so that the individual seizures of the particular sums lost their identity. In this case, there was a strong inference of theft although those in possession of the money before seizure were unable to confirm some relevant details. It is equally possible that the negligent manner in which police dealt with the seizures was such as to leave police open to a serious charge of theft.

Finally, in another case, which revealed the superb investigative talents of certain investigators, \$5,500.00 or thereabouts was taken by police in the course of the offender’s apprehension for drug dealing offences. It was never referred to again in the course of the investigation of the offender by police — it is not referred to in a recorded interview nor was its possession by the offender (it was clearly the proceeds

of drug deals) revealed to the Magistrates Court. The offender was dealt with by the imposition of a relatively modest fine.

The theft by police of drug money is a fairly simple procedure. It appears likely that acts of theft are readily condoned by other police who participate in the proceeds and who must be aware of the circumstances in which the money 'has gone missing'.

The current procedures for money handling are generally stated with some formality in section 4.11 of the *Queensland Police Service Operational Procedures Manual* and are totally inadequate to guard against the incidence of theft.

The procedures are in need of urgent review. It is essential that in any cases where cash money is seized that the money be taken into the custody of a Commissioned Officer or of an independent and reputable member of the community and dealt with in such a way that the possibility of its theft is minimised and the prospect for the making of a false allegation of theft is reduced. Minimum requirements should be that, if possible, the money be counted when seized in the presence of the person from whom it is seized and a receipt for the amount given by police.

Operation Shield exposed a number of concerns within the Queensland Police Service and its established processes which facilitate the development of corrupt conduct by police. One of these is the current appointment and transfer process, the effect of which seems to be that whether a police officer transfers from one place to another is largely a matter of individual choice.

One can easily identify a range of social factors which are relevant in this context. It is desirable that the police officer and his/her family have some expectation of stability — for children at school, perhaps on account of a spouse's employment, and like considerations.

On the other hand, the Queensland Police Service is a disciplined Service and the Commissioner of Police has the responsibility for ensuring the provision of police services over a wide geographical area. Again, a police officer upon assuming a career in the Police Service cannot expect to remain immobile in terms of location and must have a reasonable expectation that his/her transfer may be necessary in the best interest of the Service.

The competing interests of the individual and of the Police Service generally require the establishment of a delicate balance, but in any event the issue will never be free of controversy.

One issue of major concern, which is relevant in this context, became apparent in Operation Shield. Those suspect police officers who were targeted and others concerning whom there are considerable doubts can be shown to have been ensconced in the one police location for an inordinately long time. The coincidence between being the incidence of corrupt or improper conduct and a long period of service at the one place is unmistakable.

It is for the good of the career of the individual officer and of the community which he/she is required to police that a particular officer not serve for an inordinate length

of time in the one location. If, as appears to be so, there is a substantial risk of improper conduct on the part of the officer who serves for a long period at the one place, the good name and reputation of the Service requires that the Commissioner of Police have the unfettered discretion to require the transfer of that officer if that is in the best interests of the Police Service.

Improper and corrupt associations take time to develop. They have to be fed and nurtured. The longer the time available for the process to mature, if it is potentially improper, the more likely it is that a corrupt or improper relationship will result.

The Commissioner of Police, pursuant to the *Police Service Administration Act*, has the statutory responsibility for the proper administration and functioning of the Police Service. It is incongruous that, in spite of such a statutory provision, the Commissioner of Police is effectively powerless to implement urgently a transfer which is necessary for the preservation of the good name of the Service because his actions will necessarily become the subject of costly, cumbersome and time-consuming review procedures. Accordingly, the problem can be met by a generally stated and explicit direction that any officer appointed to a particular location will come to expect some measure of permanence at that location such as a minimum of three years' service and a maximum of seven years' service, subject to the unfettered discretion of the Commissioner of Police to transfer any officer at any time if, in his opinion, it is in the best interests of the Queensland Police Service that that transfer occur.

The corrupt activities of police are generally supportable by their misuse of police facilities, such as computerised data, and their permissible use of the police computer. These and related matters demonstrate a lack of effective supervision and the implementation of inefficient risk-management practices.

Operation Caesar II revealed a scheme whereby police promised to access the police computer to determine whether there was any apparent police interest in a person who presented as an habitual drug offender. It is doubtful how effective such a suggested scheme of protection might be. That, however, did not prevent the alleged offender (in fact a covert source working on behalf of the Criminal Justice Commission) from being the subject of persistent checks on the computer over several months in circumstances where there could have been no objective basis for believing that he was a person of interest to police. Indeed, the covert source himself, by contact with the appropriate personnel in the Queensland Police Service, can be shown to have initiated a series of computer checks made by or on his behalf by police to satisfy his requests for information.

Again, Operation Shield in one of its operations was able to demonstrate that at critical times police who were the subject of investigation habitually checked registration details of vehicles which were being used by Commission investigators.

The quality of drug record keeping in police stations was revealed by the Operation as a matter of major concern. This evidence prompted consultation between the Commission and the Commissioner's Inspectorate. As a result of this consultation, the Commissioner's Inspectorate undertook the investigation of records at selected locations to assess the correlation between the recorded quantity of drugs kept and the

quantity recorded as having been destroyed. Although this research has a somewhat narrow focus, it nonetheless was sufficient to reveal a depth of concern which would justify a wholesale review and a re-evaluation of current procedures. This initiative is strongly endorsed, as is the recommendation by the Inspectorate for the establishment of a project group within the Queensland Police Service to consider the findings of the Inspectorate and to decide upon appropriate action.

It also became apparent that the use of e-mail on the police computer provides regular means of communication between police for apparently improper purposes. However, the unavailability of an effective audit trail for the Queensland Police Service e-mail system hampered some investigations. The establishment of an effective audit trail is recommended.

There is an audit trail available in respect of checks made and access gained to Queensland Police Service computerised data. However, the Operation Shield investigators were frequently hampered by the fact that in many instances the person making the check gave no reason for doing so or if, as frequently happened, the check was made on behalf of another, the user ID of the person on whose behalf the check was made was not provided. In the case of one station, it was found that the computer was kept open for long periods during which numerous other checks were made, the source of which cannot now be identified. It is recommended that an additional screen be provided which requires the statement by the user of the reason for a particular check and, if made on behalf of another person, the identity of that user.

Apart from the above, the investigation revealed a series of events which could have been avoided or the risk of their occurring minimised by better supervision and the adoption of effective risk-management strategies. These are identified in the report.

There is included in the recommendations, which call for more effective supervision and the development of more effective risk management, some desirable strategies for the handling of drugs and drug exhibits.

From the evidence of the investigative hearings, it can be assumed that there is significant use by police of a variety of prohibited drugs including anabolic steroids. Furthermore, the evidence revealed that in some cases the use of drugs by police was so persistent as to amount to habitual offending.

It is inconsistent with the values and standards of the Queensland Police Service that the unlawful possession and use of drugs by police be tolerated. If a police officer uses unlawful drugs with another, or unlawfully acquires drugs from another, not only does the police officer commit an offence, the officer fails to take action in respect of the unlawful conduct of that other. More importantly, the officer's capacity for effective law enforcement is compromised.

Alcohol and drug abuse can be assumed to exist among officers of the Queensland Police Service. However, the Service does not have a developed drug and alcohol policy. This should be developed as soon as possible.

The New South Wales Police Service has recently developed its Drug and Alcohol Policy, which could be seriously considered as a suitable model for the Queensland Police Service. The essential elements in such a 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; and
- the application of appropriate sanctions for those who offend after receiving counselling and for those who, having failed to take advantage of the amnesty provisions, test positive.

In respect of covert police officers, who present as a special problem, it is a matter of concern that such officers in the course of their involvement with the criminal milieu are likely to have their values and standards corroded by the influences of the criminal element with whom they had to associate. Their reintegration into mainstream policing has to take account of this, and any program for reintegration has to heavily emphasise the ethical standards to be expected by the Service and of its officers.

There should be no doubt that the major outcome of Operation Shield so far has been the convincing demonstration of the need for investigations into police corruption, to be proactive and intelligence driven rather than be merely reactive and complaint-driven.

The CJC recognised the need for such proactive investigations quite early and its efforts in this regard have ultimately borne fruit. Those investigations, however, have necessarily been conducted in circumstances where much of the resources of the CJC have been absorbed in complaints investigations and in carrying out its other essential functions. Proactive investigations against corruption involve the use of undercover operatives and surveillance and other resource-intensive measures, all of which are extraordinarily expensive. Therefore, it is not surprising that the CJC has been forced to restrict its activities in this area.

Nevertheless, as mentioned above, the CJC has conducted quite a number of proactive investigations into police corruption through its multidisciplinary teams. These teams, while separate to the Complaints Section, have not constituted a separate unit within the CJC dedicated to the issue of police corruption but have also investigated general complaints matters.

This situation changed with the creation of a dedicated unit for Operation Shield focusing solely on police involvement with drugs. This proactive and more focused approach has proved to be remarkably effective but it is also very expensive. Operation Shield was only able to continue because of a special funding allocation by Treasury.

The impetus must not be lost. What is needed is the immediate institution within the Commission of an anti-corruption unit, separate from the Complaints Section, which is multidisciplinary in concept and designed in accordance with the proposal set out in detail in chapter 10 of this report. Such a unit will need to be staffed by elite

investigators of integrity supported by legal expertise, intelligence and financial analysis and surveillance and technical support and administrative support. Reasonable resources will be required to ensure its effectiveness.

It would be a pointless exercise if, having demonstrated the effectiveness of an ongoing proactive, intelligence-driven strategy, the establishment of an effective anti-corruption unit was to be frustrated by the lack of adequate resources. Either the establishment of an effective anti-corruption methodology is a worthwhile investment of public money or it is not. If it is, then the appropriate resources to enable its establishment is a community imperative. It would be a wholly superficial response to this proposal for Government to refer only to the total sum of money allocated for the CJC budget. Such a statement begs the question as to whether the stated sum is sufficient to permit the establishment of the proposed unit and at the same time allow the Commission to be able to reasonably resource the proper performance of its other statutory functions.

Operation Shield was a cost-effective strategy executed in the knowledge that the proper proactive investigation of corruption in the Police Service is likely to be very resource-intensive. The proposal detailed in chapter 10 of the report is the result of many, many hours of discussion between, and insightful contribution by, every member of the Operation Shield team.

The future development of Operation Shield should be seen to be the most critical issue resulting from it.

Finally, the Fitzgerald Commission of Inquiry in Queensland and the Wood Royal Commission in New South Wales were high-profile investigations into past entrenched corruption in the Queensland and New South Wales Police Services respectively. Enormous resources were committed to each. Both were successful but each nonetheless had to suffer the unfair criticism that more could have been achieved, which prompts one to ask: What is the most cost-effective use of resources for anti-corruption purposes? Is it sufficient to commit massive resources to it every ten years or so to determine what has happened in the past or should reasonable resources be available for the ongoing investigation of corrupt activity which is happening now?

Surely it is more sensible for the anti-corruption effort to be permanent and ongoing rather than cyclical. It should not be restricted to past corruption but rather it should be directed towards the corrupt conduct of the present. That can only be done by adopting the proactive strategy initiated by the Official Misconduct Division of the Criminal Justice Commission and developed during Operation Shield — provided, of course, that it is properly and reasonably resourced.

RECOMMENDATIONS

1. That the Commission establish, as a matter of urgency, a permanent anti-corruption unit, as designed in chapter 10 of this report, 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. [Chapter 10]
2. 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* (Commonwealth). [Chapter 3: page 22]
3. 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. [Chapter 3: pages 23–24]
4. 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. [Chapter 4: pages 36–37]
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. [Chapter 6: pages 51–52]
6. 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, 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. [Chapter 7: page 57]
7. 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.

[Chapter 8: pages 62, 63, 65]
8. That the Queensland Police Service re-assess and critically appraise its supervisory and risk-management practices with the assistance of the Criminal Justice Commission's Corruption Prevention Division, in the course of which consideration should be given to the following:

- 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.
- 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.
- 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.
- 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.
- 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.
- The Queensland Police Service should examine the feasibility of establishing a computer-generated tracking system from seizure to destruction.
- Current legislation and procedures should be reviewed to facilitate the early identification and destruction of drug seizures.

[Chapter 8: pages 67, 68, 69]

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. [Chapter 8: pages 68, 69]
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. [Chapter 8: pages 68, 69]
11. That the Queensland Police Service adopt the recommendations in the report prepared by the Commissioner's Inspectorate: *The State Drugs Assessment*. [Chapter 8: pages 63, 64]
12. That the Queensland Police Service develop an integrated Drug and Alcohol Policy for its members. [Chapter 9: pages 71, 72]

13. 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. [Chapter 9: pages 73, 74]
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* [South Australia]. [Chapter 9: page 73]

CHAPTER 1

THE BACKGROUND OF OPERATION SHIELD

In his report at the conclusion of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (The Fitzgerald Report) delivered on 3 July 1989, G E Fitzgerald QC [now the Honourable Mr Justice Fitzgerald] gave his reasons for concluding the Commission of Inquiry at the time when he did. He wrote with reference to the Commission over which he had presided for at least two years: [Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct 1989, Report of a Commission of Inquiry Pursuant to Orders in Council, (Fitzgerald Report), (Mr G E Fitzgerald), Brisbane, p. 14.]

It is obvious that the Commission has not fulfilled its task in that it has not inquired into all the matters which fall within its terms of reference. By now it should be clear that it could never have hoped to do so.

Those who for one reason or another persist in finding faults will continue to complain that some matters have not been dealt with, or some individuals not brought under scrutiny or exposed as wrong-doers. All these criticisms are true.

Those who are disappointed may be comforted by the thought that the Inquiry staff are continuing their investigations, and that this report recommends means by which further misconduct will be brought to light.

But since the problems were so overwhelming, and the solutions so urgently needed, it was decided that the most pressing task for this Commission was to formulate recommendations to found the process of reform.

One of the major reforms that he recommended was the institution of the Criminal Justice Commission (CJC), which was established by the *Criminal Justice Act 1989* and proclaimed on 4 November 1989.

Henceforth, the responsibility for the investigation of the corrupt activities of members of the Queensland Police Service (QPS) rested with the CJC. This responsibility was given statutory expression in section 23(f)(iii) of the *Criminal Justice Act*. That part of the statute charges the CJC with the responsibility for ‘undertaking ... investigation of official misconduct in units of public administration’.

The Official Misconduct Division (OMD) of the CJC became its ‘investigative unit’ (section 29(1)). Section 29(2) of the *Criminal Justice Act* provides with reference to the OMD:

It will operate of its own initiative as well as in response to complaint or information received concerning misconduct.

This is not the place to dwell on the massive task that confronted the newly established Commission and its senior management in giving practical expression to

the statutory scheme defined in the Act. The Complaints Section (Division 5 of Part 2 of the *Criminal Justice Act*) was established and soon became the focal point for numerous complaints across the several units of public administration within the State. Not surprisingly, many such complaints related to the conduct of police officers in a huge variety of circumstances.

From the beginning, the work of the CJC in relation to possible corrupt activity by police officers was largely reactive and consisted chiefly in its investigative response to the many complaints which alleged such activity. The reform of the QPS was, of course, another major undertaking for the CJC and the QPS. An enormous amount of time and resources had to be committed to the execution of this statutory imperative. At the same time, the OMD commenced to undertake the process of investigation with which it had been charged by the *Criminal Justice Act*.

In the years prior to the institution of the Fitzgerald Commission of Inquiry, prostitution and off-course betting had become established vices within the community. That Inquiry effectively exposed the associated corrupt activities of certain police officers who had been involved in the investigation of these forms of vice. But Fitzgerald readily recognised that the Commission of Inquiry over which he had presided for at least two years had not 'brought under scrutiny or exposed as wrong-doers' all of those police officers who had been, and were, acting corruptly. The possible coincidence between illegal drug activities, in particular, and police corruption was noted by him as follows: [Fitzgerald Report, p. 63.]

In the last decade vice in Brisbane became more organised; organised syndicates plainly became involved, some with members with serious criminal record and activities were expanded into other areas of criminality, including drugs, violence, extortion and arson. Various ethnic communities became involved through the misconduct of some of their members. Police corruption grew with the additional funds available for bribery.

Fitzgerald had identified the illegal drug trade as fertile ground for the corrupt activities of those police who, in the course of their work, were to become familiar with its participants, its trade cycle and culture and who were prepared to protect its adherents from effective law enforcement for a financial reward. There were some police who recognised the available opportunity for personal gain which this form of vice offered. It could be expected, therefore, that the process would be no different from that which Fitzgerald had exposed in relation to such matters as prostitution and off-course betting. There could be no reason to suspect that the response of some of those police who were associated with policing the drug trade was, or was likely to be, any different.

Fitzgerald did not for good reason explore to the same degree alleged police corruption in relation to drugs, as he had with the other stated vices. That is not to say that he had not recognised the problem. He clearly had. His expectation was that the soon-to-be-established CJC would assume responsibility for the investigation of police involvement in drug/criminal-related matters.

Upon accepting this engagement, I set out to review the extent to which alleged corrupt police activity relating to drugs had come to the notice of the CJC. Some years

had elapsed since the conclusion of the Fitzgerald Inquiry. My initial expectation was that the complaint material under this heading would be relatively extensive, and so it was. The full details are set out in chapter 2 'Policing and Drugs' on page 13.

This picture of concern presented by the complaint material — namely, that some police were alleged, in one way or another, to have been corruptly involved with drugs or drug criminals — had been addressed by the OMD. I will leave aside for the moment consideration of the policing strategies necessary to confront this form of police activity effectively. Suffice to say that the OMD had set about the investigation of the numerous complaints that alleged this concern. The complaints emanated from members of the public as well as from police.

The earlier process meant that individual complaints against individual police had become the subject matter of individual investigations within the Complaints Section. But often times the complaint material was given anonymously and in many other instances was such that the information could not be corroborated or supported so as to ensure an effective investigation. The policy of the CJC from the outset was that if the overt investigation of any complaint did not produce evidence sufficient to satisfy the standard of proof applicable to prosecution or to disciplinary action, the complaint was to be treated as 'unsubstantiated'. Statistical information indicates that approximately 30 per cent of complaints fall into this category. That is not to say that the complaint lacked substance — only that it could not be substantiated.

In July 1995, the Director of OMD raised for the consideration and approval of the CJC a proposal that the CJC and the QPS undertake a joint covert operation with a view to ensuring that systemic corruption did not regain a hold within the QPS.

A review of the complaints information disclosed that the names of persons allegedly involved in corrupt drug activity reappear from time to time from different sources and are said to be allegedly involved, either alone or in combination with others whose names also tend to reappear. Again, it is easy enough to identify particular areas of the State from which the complaint is sourced and within which the suspect police officers are employed.

The logic of the OMD proposal was obvious. An increasing amount of source material tended to support the view that the allegedly corrupt activity within the QPS, whether merely opportunistic or of a more systemic kind, demanded a more proactive response than that which had hitherto been developed. The investigative response based on a need to react to individual complaints and assertions of individual wrongdoing was seen to be too fragmented and, while this approach provided one with an overall view of the problem, there was an obvious need for a different investigative technique and approach — one that was more proactive and supported by more covert forms of investigation.

The apparent concern within the OMD and the CJC was that there was a risk that, in the ongoing cycle of reform, the QPS may have been reaching a danger point, a not uncommon phenomenon several years into the reform process. The impact of the traumatic lesson for the police service which was learned from the Fitzgerald Inquiry has tended to fade with the passage of time, particularly with the introduction into an enlarged police service of a new generation of police officers. The risk is that the

reform process may breed complacency and an attitude of self-satisfaction within which there can still develop renewed elements of corruption of the very kind exposed by Fitzgerald, although in a different form and determined by different social conditions.

As I stated on 28 January 1997 at the commencement of an investigative hearing into Operation Jetski, the basic problem remains, no doubt to a lesser extent; only the nature of the vice which breeds the corrupt conduct in certain police has changed.

It was in compliance with its statutory obligations that the OMD in 1995 decided on a different investigative approach — one which was more proactive and covertly based, rather than one which was immediately responsive or reactive to specific complaints and usually conducted by means of the traditional overt methods of police investigation. It should be said, in addition, that this different approach enjoyed the wholehearted support of the Commissioner of Police. That support has been generously continued by the provision of skilled investigators to Operation Shield, which was the culmination of the alternative approach developed by the Director of OMD during 1995.

The suggested approach had the dual benefit of testing whether there was institutional corruption within the Queensland Police Service relating to the drug trade and at the same time it was designed to assist in providing substantial protection for the Queensland Police Service if some form of corruption was detected. The thrust of the investigative approach involved the use of operatives working undercover who it was thought would be unknown to law enforcement personnel in Queensland. In the ensuing months, several covert operations designed to identify members of the Queensland Police Service in corrupt activity associated with drugs had been undertaken.

By September 1996, the CJC's new strategy to tackle police corruption in the drug trade more proactively, which by then had been in place for some time, had unfortunately become a matter of public controversy. The catalyst for this controversy was the expressed concern of the Chairperson of the CJC to the Government proposal that the budget of the CJC should be significantly reduced. The already well-developed proposal for a more proactive strategic approach to the investigation of police corruption in drugs suffered a severe setback by the proposal for a reduced budget. It had always been the intention that the powers of the CJC, including the investigative hearing power, should be fully utilised as part of the CJC proposal for a more effective and proactive investigative strategy. That, however, was put at risk by the prospect of a reduced budget.

The resultant public controversy reached its high-water mark in the public hearings of the Parliamentary Estimates Committee.

On 18 September 1996, the Chairperson of the Commission in evidence before the Parliamentary Estimates Committee said this in response to a question designed to identify the effects of a reduced budget:

Can I mention one more effect within the Official Misconduct Division, and it is a significant one. On the way that we have now had to draw our budget,

even though we are almost \$1m short of the mark, we have no capacity within that budget to conduct public hearings. That is a matter which, as Chairperson, concerns me greatly because, from time to time, matters arise which require the Commission to conduct public hearings. It is no secret that the conduct of public hearings is an expensive matter and we simply have not been able to make any capacity within our budget for that. One thing that concerns me is that evidence of corruption within the Police Service is such that there may well need to be a public hearing at some stage into that. At this stage, we have no capacity in our budget for it and there is a real likelihood of that investigation going stale if the Commission has to defer further action on it.

Later in his evidence, the Chairperson developed the nature and extent of his concern in response to a question from a member of the Committee. This exchange took place:

Mr Foley: Is it not a disturbing state of affairs if the Commission's ability to combat corruption is being severely compromised by the availability of resources at a time when the royal commission into police corruption in New South Wales has revealed endemic corruption in that Police Service?

Mr Clair: It is certainly a matter of great concern to me what we are seeing at the moment through our investigations both into organised crime and into official misconduct. We are seeing very definite signposts into corruption at relatively high levels with the Police Service. That is a matter which will need to be addressed. When I say 'relatively high levels', I mean not just at the very fringes. That is a matter that will need to be addressed, and it may need to be addressed in ways that will necessarily be expensive. If that kind of activity has to be delayed because of lack of resources, then the ability of the Commission to fight corruption is severely compromised.

The Chairperson addressed his concern again when asked:

Are you able to indicate to the Committee the area in which the proposed public inquiry into significant corruption of police by criminal elements might be conducted?

This was his response:

Mr Clair: I described that earlier in my evidence as being corruption at what I said were relatively high levels and I qualified that by saying that that is not just matters out at the fringes. By that I meant not just constables on the counter taking money to issue licences or something like that; I am talking about significant examples of corruption. How widespread that might be is something that can only be determined over time. What I have said in evidence today is that during the Commission's investigations of organised crime and investigations of official misconduct, we continue to see signposts back into police involvement by way of corrupt involvement. Evidence is now available and continues to become available of the specific instances of that. I am talking about examples of significant corruption, that is, as I say, not just constables on the front counter taking money for drivers' licences.

Mr Foley: What sort of things?

Mr Clair: In respect of involvement in drug activities, that is, protection of drug activities—that kind of matter. The picture which is developing and has been now for some time indicates that there may well be a need for this to be dealt with by way of a public inquiry rather than simple covert or closed hearings. The picture is developing and developing with some speed. The commission would anticipate, and has anticipated now for some time, that if there is to be a public hearing it would be during this current year. Initially, we did intend to have money set aside to cover such a public hearing. The effect of the budget cuts is that we simply can now make no provision for public hearings in that respect.

Finally, in the course of a later exchange, the following occurred:

Mr Foley: ... Mr Clair, a number of propositions were put to the Minister by the member for Mansfield which included an implication that the CJC was not doing its job and a further implication that the reference to the threat to the public inquiry into police corruption amounted to scare tactics. I want to give you the opportunity to respond to those two propositions.

Mr Clair: I think the implication that the CJC has not been doing its job was said to arise because, after all, the CJC has some kind of oversight role in respect of the QPS. The reality is that it is through the exercise of that oversight role and through the investigation of organised crime and official misconduct that the CJC has discerned initially the signposts towards official corruption within the Police Service and, as time went on, developed more concrete evidence of it. I have described that official corruption as being at relatively high levels earlier in my evidence. I have qualified that, and I have explained the qualification that I am not just talking about people paying police officers money for driving licences, and I have indicated that the official corruption is significant. It is significant in that it is associated with the activities of drug dealers, and it is, as I say, a picture which has emerged over a period of time. I did not say that there has been more rapid acceleration recently. I said that things have moved in recent times with greater speed.

The Commission has now—over some 18 months, two years—been involved in the investigations which have initially produced the signposts and later some concrete evidence. The Commission, as I say, envisaged that at some time during this year there may need to be a public inquiry in respect of this. The Commission's obligation in that regard—first of all, I say that there can be no suggestion that the Commission is not doing its job in oversight of the QPS because in fact it is through doing that job partly that we discover these things, and it is not something that can be acted on until the proper picture emerges. In fact, it would be wrong to act precipitately. But at the right time the Commission did envisage that we may reach a stage during this current financial year where we would need to have a public inquiry. At that time, the Commission reported in the proper way. I cannot here speak about details of what might be reported in the parliamentary committee, but I can say that, in

respect of these operational matters, the Commission is responsible to the parliamentary committee and not responsible to the Minister.

In giving this evidence, it seems clear that the Chairperson was expressing with some restraint his deep-seated concern that the developing proposal for a more concerted approach to the issue of police corruption, including the use of the investigative hearing power, might be frustrated by the constraints to be imposed on the CJC by a reduced annual budget. It had been the considered view of the Director of OMD that the newly developed proposal could be accommodated budget-wise within that part of his total budget which allowed for the discretionary allocation of resources as the occasion demanded. The reduction in the total budget effectively stripped the CJC of the capacity to give full effect to its planning initiative for a more effective investigative approach to identifiable police corruption.

It has been necessary for the sake of the record to refer in some detail to the actual statements made by the Chairperson of the CJC to the Parliamentary Committee. This is so because, during the course of later operations, the CJC and its investigative efforts undertaken as part of Operation Shield were to be publicly criticised by political leaders by reference to the Chairperson's remarks, which seem to have been misinterpreted and apparently misused.

It should be pointed out that at the time the Chairperson was giving evidence to the Parliamentary Estimates Committee certain operations had been in place for sometime. In particular, Operation Monument had commenced immediately after the apprehension by police of a major drug offender at Jupiters Casino on 3 September 1995. His relationship with a Gold Coast police officer had become a matter of concern. Operation Caesar II had commenced in February 1996 and by 18 September 1996, the day on which the Chairperson was before the Committee, Operation Caesar II had developed to the point where it was demonstrable that a relatively high-ranking police officer at the Gold Coast had entered into an apparently corrupt arrangement which involved the purported protection of an alleged drug dealer. The Chairperson was not to know that exactly one week later, on 25 September 1996, the CJC was to receive a substantial complaint that two very high-ranking police officers in the Queensland Police Service were alleged to be protecting a major drug dealer at the Gold Coast. This allegation was investigated as part of Operation Shield and it was not until January/February 1997 that it was established that that latter complaint was probably without substance. On the other hand, it was by then apparent from the ongoing Operation Caesar II that at least one additional police officer had been recruited into that corrupt arrangement.

It needs to be said that the Fitzgerald Inquiry had effectively exposed corrupt police activities at the highest level and it is now a matter of history that the then Commissioner of Police and other senior officers were convicted of criminal offences and sentenced to long terms of imprisonment.

By September 1996, seven years had elapsed since the publication of the Fitzgerald Report and approximately five years since the conviction of the former Commissioner, who remains in custody. In the meantime, the Queensland Police Service had been substantially reformed and its leadership was by now in the safe hands of the present Commissioner whose widespread reputation for integrity and

honesty is so well known. That fact, however, did not prevent the arousal of an unreal expectation in some, based on the misinterpreted comments of the Chairperson to the Estimates Committee, that the community was about to witness a repeat of the disclosures which had become a familiar theme at the Fitzgerald Inquiry.

It was in that contentious political environment and against that background that Operation Shield was established.

Operation Shield, as a proactive, properly resourced and intensive investigation of police corruption in relation to drugs, was always going to happen. It had been conceived in 1995 and had immediately been executed, at least in part. By mid-1996, the need for such an operation had become even clearer and the intelligence and other information available to the Commission by then was such that the proposed strategy had become a statutory imperative. Its obligation to 'operate of its own initiative' (section 29(2)) and not to simply react to complaint material had become urgent and the urgency had become even clearer.

On 26 September 1996, when the issue had become immersed in controversy, I was contracted by the CJC 'for the sole purpose of reviewing current operations in respect of alleged police corruption activities and to advise the CJC on an ongoing basis concerning the future conduct of the investigation to enable the CJC, the Commissioners and the officers of the CJC to discharge the functions and responsibilities imposed by the Act'.

I was immediately briefed by officers of the CJC concerning the then current operations and was given access to a large body of confidential information, which was the product of major investigations by the CJC since mid-1995 relating to possible corrupt police activity in the drug trade. I reviewed the then current operations and, by a memorandum dated 21 October 1996, advised the CJC as follows:

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. I understand that the Commission's concerns are shared by the Commissioner of Police who has assisted the Commission's operation with the provision of significant resources. In the course of reviewing the activities of apparently corrupt police it appears that there are presently identifiable police officers who have been and who continue to be available to assist unlawful criminal activity in the drug trade. There are obviously several others who are not at present clearly identifiable but whose corrupt conduct is, and the operational plans which are in place and which are being developed are designed to assist in exposing and ultimately prosecuting them. I am persuaded by the review to the conclusion that this will be a difficult task because of the clandestine nature of corrupt police action. It is not unlikely on present indications that there is a significant alliance between the criminal activities of ex-police officers and currently serving corrupt police. Extensive and sophisticated investigative techniques and strategies are in place which are designed to expose the corruption. This process needs to be ongoing.

The need for investigative hearings for the purpose of assisting the investigation is generally clear. The timing and the form of such hearings will necessarily be determined by the progress of the present investigations. The Commission should as soon as practicable take the appropriate decisions to put in place the machinery to facilitate the holding and conduct of these hearings which will necessarily form part of any ongoing investigation and review of this serious problem. I will continue to review on a daily basis the investigation and the various operations contained within it. I might add that the management committee in consultation with myself is at present determining upon an appropriate strategy in one case which may require an investigative hearing in the immediate future.

Finally I wish to report that as a result of some media publicity I was invited by the Minister for Police to confer with him and to provide him with a briefing. I met the Minister on the afternoon of Monday 30 September. On 7 October I attempted to contact the Attorney-General to advise him that I was available to meet with him if he so desired. His commitments delayed a response until last week when I was contacted by one of his staff. I again informed him that if the Attorney wished to see me I was available to meet at his convenience. To date I have heard nothing further.

On 29 October 1996 the CJC resolved in these terms:

WHEREAS:

The Criminal Justice Commission [the Commission] has received a number of complaints alleging that members of the Queensland Police Service have been:

- (a) in possession of, supplying, producing or trafficking in dangerous drugs;
- (b) 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;
- (c) engaging in acts of official corruption, perversion of justice and like offences in connection with persons mentioned in paragraph (b) and associates of those persons;

AND WHEREAS:

The Commission has operated of its own initiative in conducting investigations of the abovementioned activities which investigations have led to the gathering of evidence of such activities;

AND WHEREAS:

Such activities may constitute misconduct and official misconduct within the meaning of the *Criminal Justice Act 1989* [the Act];

AND WHEREAS:

It is the function of the Official Misconduct Division of the Commission pursuant to s.29(3)(d) of the Act to investigate alleged or suspected misconduct by members of the Queensland Police Service, and further that it is a function of the Official Misconduct Division of the Commission pursuant to s.29(3)(e) of the Act to offer and render advice or assistance by way of education or liaison to units of public administration concerning the detection and prevention of official misconduct;

THE COMMISSION HAS RESOLVED:

(1) to conduct an investigation into cases of alleged or suspected misconduct by members of the Queensland Police Service concerning those members:

- (a) being in possession of, supplying, producing or trafficking in dangerous drugs;
- (b) 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;
- (c) engaging in acts of official corruption, perversion of justice and like offences in connection with persons mentioned in paragraph (b) and associates of those persons;

(2) as part of the investigation referred to in paragraph (1) hereof, to consider generally such cases and make such recommendations as may seem appropriate in light of the Commission's responsibilities under the Act with particular reference to ss.23 and 29(3)(e); and

(3) to engage the services of an independent qualified person pursuant to ss.25(2)(c) and 66 of the Act, that person being the Honourable William Joseph Carter QC, to conduct the investigation, to hold such public or private hearings as may seem appropriate and to report thereon to the Commission to enable the Commission, the Commissioners and the officers of the Commission to discharge the functions and responsibilities imposed by the Act.

Immediately upon my engagement, the Director of OMD, Mr Le Grand, and his Deputy, Mr Bevan, together with Assistant Commissioner McDonnell and Chief Superintendent Cassidy, set about the organisation of the necessary infrastructure for Operation Shield. A secure area within the Commission's offices was established as the headquarters of the Operation under the immediate command of Executive Legal Officer Forbes Smith and Detective Superintendent Ann Lewis. The Commission amalgamated two of its multidisciplinary teams and had its investigative staff enhanced by the secondment from the Queensland Police Service of additional investigators. In this respect, the process was facilitated by the Commissioner of Police who greatly assisted the establishment of Operation Shield. Once established, the team became a multidisciplinary one with investigative staff, supported by legal

staff, intelligence analysts, financial analysts, surveillance and technical staff, an exhibit officer and administrative support staff.

By January 1997, it had become apparent that the workload committed to Operation Shield was such that additional investigative staff were required if the investigation was to be effective. A further request to the Commissioner of Police was met by his providing to Operation Shield additional investigators and vehicles for use by the team.

In its final form, the Operation Shield team was established to consist of four teams of investigators, each of which was supported by the other disciplines of intelligence and financial analysis with legal advisors.

Once the infrastructure for Operation Shield was established, the various individual operations then in place within the Commission, which focused on possible corrupt police conduct involving drugs, were brought together under the umbrella of Operation Shield. These were Operation Monument, Operation Caesar II, Operation Cave, Operation Guard, Operation Mosaic and Operation Volley. Almost contemporaneous with the establishment of Operation Shield, it became necessary to incorporate a new Operation named Jetski, which in the following months was destined to consume considerable time and resources given that it was located in North Queensland.

What follows is a brief summary of the operations incorporated into Operation Shield.

Operation Monument concerned alleged possible police corruption at the Gold Coast and was established immediately after the apprehension of an alleged drug dealer at the Gold Coast Casino on 3 September 1995 when he was found to be in possession of a quantity of cocaine and a large quantity of cash.

Operation Caesar II, which originally was undertaken jointly with the New South Wales Royal Commission, was a covert operation that was well developed by the time of the establishment of Operation Shield. It focused on an allegedly corrupt network of serving police and former police at the Gold Coast with a capacity to provide protection to those involved in the drug trade. Operation Cave, which was established in August 1995, resulted from information that heroin and methyl amphetamine was available from a contact with an outlaw motorcycle gang. This operation, whose main target was a major drug dealer in Brisbane, was a complex investigation in the course of which it was alleged that city-based police officers were paid for the protection of dealers, who allegedly paid them for information about what parts of the city the Drug Squad operations were targeting.

Operation Guard was a city/Gold Coast-based operation which developed from information that senior police provided protection to a Gold Coast drug dealer.

Operation Volley, which commenced in June 1996, arose from a concern that certain Gold Coast-based police may have been unlawfully associated with certain crime figures at the Gold Coast who were believed to be associated with drug dealing.

Operation Mosaic was established to bring together a number of individual complaints against various officers at various parts of the State, all of which related in one way or another to drugs.

From the time of the establishment of Operation Shield, investigations that were already under way in the course of the individual operations were continued and refocused. The various operations were distributed among the multidisciplinary teams and proceeded with to the point where the management team of Operation Shield could evaluate each operation within it and decide upon the most cost-effective use of the available resources.

The original perimeters for Operation Shield were clearly established by the Commission's resolution of 29 October 1996. It would investigate allegedly corrupt conduct by police involving drugs. It is probable that the publicity associated with the establishment of Operation Shield prompted the provision of a large body of additional information to the Commission so that it was not long before the resources available to Operation Shield became strained. There developed considerable interchange between Operation Shield and the Complaints Section of the Commission. The latter referred to Operation Shield those matters of complaint which seemed to satisfy the criteria established for it and Operation Shield management referred to the Complaints Section the several pieces of information which came to its knowledge, but which could not be effectively handled by the Operation Shield team. At the same time, very important pieces of information, which demanded immediate and intensive investigation, came to be part of the workload assumed by the Operation Shield team.

As mentioned above, at about the same time as Operation Shield was established, a new component of it became a necessary addition to the existing operations. Operation Jetski was required to investigate apparently corrupt conduct by at least one police officer in the Whitsunday area. It was not long before the investigation of this matter became a high priority within Operation Shield. The investigation developed quickly particularly as a result of the installation of a Supreme Court-approved listening device and video surveillance within the office of a certain business premises at Whitsunday. The tyranny of distance and the need to conduct a covert operation in North Queensland meant that investigative strategies had to be developed based on the information gleaned by way of covert processes. The resources of Operation Shield became even more strained. As mentioned earlier, a further approach to the Commissioner of Police for more investigators became necessary and his ready and generous response to this call again well evidences his ongoing commitment to the work of Operation Shield.

With the establishment of Operation Jetski and the heavy demand which it was to make on existing resources, the management team resolved to re-evaluate its capacity to undertake all of the investigative demands which the existing operations and newly developing ones were making upon the organisation.

As a consequence of this decision, which included an analysis of the cost-effectiveness of some of the existing operations, the number of investigations to be undertaken within Operation Shield was further rationalised. Operations Cave, Volley and parts of Mosaic were put on hold or returned to the Complaints Section. The main focus of Operation Guard had to be modified by changing circumstances. The

expanded team of investigators was broken into four teams with each team having access to the intelligence and financial analysts available to the Operation as well as to the expanded administrative resources required as a result of increased investigative effort. Two legal officers were kept extremely busy, not only in giving appropriate legal advice, as the occasion demanded, but also in preparing the documentation and arranging the appearances in the Supreme Court for the several applications rendered necessary by the mounting demands of the various investigations, all or most of which were supported by covert surveillance in one form or another.

Towards Christmas 1996, by which time Operation Shield had been in progress for approximately three months, and at which time it was heavily burdened with a massive investigative workload, the CJC encountered severe budgetary problems by reason of a Government decision to reduce the budget allocation of funds to the Commission. Shortly before Christmas 1996, the Chairperson advised a meeting of the Operation Shield team that the CJC could guarantee funding to Operation Shield in its then form only until 14 February 1997, but that the CJC would do its best to maintain Operation Shield in place beyond that date so that existing operations could continue.

This disconcerting piece of advice was to have an immediate impact. Operational expenses had to be kept to a minimum, but a matter of greater concern was that the investigative hearings, which were always seen as necessary given the demands of the individual operations, had not yet even commenced. Accordingly, the strategy for investigative hearings had to be revised. Immediately following the Christmas–New Year holiday, the management team met on 2 January 1997 and decided to close the covert stage of Operation Jetski on 15 January 1997 and to commence the investigative hearing component of this investigation on Tuesday, 28 January 1997. It was hoped that this process could be complete by 14 February 1997. This decision was determined solely by the fact that the future status of Operation Shield was uncertain given the Chairperson’s indication that funding could not be guaranteed beyond 14 February 1997 to Operation Shield in its then form. It would have been preferable to defer the closure of Operation Jetski, but that was not possible. The future development of the other operations was clouded by uncertainty.

It is now a matter of public record that at 11.00 a.m. on the Australia Day Public Holiday, Monday 27 January 1997, the Chairperson of the Commission and I met with the Premier, the Treasurer, the Minister for Police and the Attorney-General. On the evening of that day, at a Cabinet meeting, it was resolved that funding would be available to the Commission to enable Operation Shield to be maintained until the end of the financial year, by which time the requirements for additional funds would be re-assessed. In May 1997, the Government advised that financial support for Operation Shield would be provided on the basis of it continuing until the end of September 1997 and, if necessary, the position would be reviewed well in advance of that date.

In chapter 10 of this report, I will deal at some length with the critical work that now confronts the Commission to establish the appropriate ongoing structure for the replacement of Operation Shield, and to design its infrastructure and mode of operation.

Operation Shield has well demonstrated that the effective ongoing investigation of alleged police corruption can only be undertaken by a reformed and proactive investigative strategy, the details of which will be spelt out. From the time of its inception, Operation Shield has convincingly demonstrated the earlier wisdom which had developed within the OMD that if corrupt police activity, whether it involves the drug trade or otherwise, is to be properly investigated, that process of investigation needs to be refocused and reorganised and, of course, adequately resourced.

CHAPTER 2

POLICING AND DRUGS

The complexity and the changing mores of a society will, from time to time, provoke forms of behaviour and conduct which call for legislative prohibitions or interventions of one kind or another. A consequential adjustment in policing becomes inevitable. Illegal drug use and its social implications have certainly had a major impact upon every police service concerned with drug law enforcement.

It is interesting to examine the terms of the various *Orders in Council* which governed the operation of the Fitzgerald Inquiry. The first, dated 26 May 1987, confined the period for the Inquiry's interest to the period 1 June 1982 to 26 May 1987; the second *Order in Council*, dated 24 June 1987, expanded it to the period since 1 January 1977; the third extinguished any time limitation by requiring that the Inquiry comprehend not only any matter or thing touching the defined subject matter but any possible criminal activity, neglect or violation of duty or official misconduct or impropriety, the inquiry into which would seem proper in the public interest. The defined subject matter had focused on the conduct of named persons and originally was confined to their involvement with premises used for prostitution, unlawful gambling and 'the sale or disposal by any means of illegal drugs in connection with prostitution or illegal gambling'. Although the terms of reference were expanded, it is clear from his report, that Fitzgerald was unable for several reasons to investigate comprehensively all aspects of police activity in relation to the then expanding drug trade.

It is now ten years since the Fitzgerald Inquiry was established. The second *Order in Council* of 24 June 1987 was, as has been said, designed to expand the period of inquiry retrospectively to 1 January 1977 and finally even that date was inferentially removed by an expanded term of reference. It is trite to observe that in 1977, and even in 1987 when the Fitzgerald Inquiry began the incidence of prostitution and/or illegal gaming were seen to have provided the primary sources for allegations of corrupt conduct by police. However, the escalating drug trade by 1987 had become increasingly a matter of public concern. Indeed, Parliament itself had responded to this concern in 1986 by the enactment of the *Drugs Misuse Act*. There is no reason to believe that the burgeoning illegal drug industry was to be exempt from misconduct and the corrupt behaviour of those who were to police it, just as the earlier well-established vices of prostitution and illegal gambling had provided a corrupt culture in the police service which was systemic and ultimately reached to its very top. It was a timely decision which was taken by the Official Misconduct Division of the Criminal Justice Commission when it decided upon a changed and more proactive strategy for the investigation of police corruption involving the drug trade.

Perhaps the point can be best illustrated by reference to the relevant statistics. [Queensland Police Service 1996, Statistical Review 1995–96, p. 32.]

In 1987–88, reported drug offences were 353 per 100,000 population in Queensland. By 1995–96, that figure had escalated almost threefold to 910 per 100,000 population. It is generally accepted that the use of, together with the demand for, illegal drugs in the community is escalating to the point where it is now perceived as a serious social

disorder, provoking a variety of remedial responses. One can include in that category the recent proposals for permitting the controlled use of heroin. Increased use of drugs has resulted in an increase in the production of the product to satisfy the demand. The lawlessness of the drug trade is comprehensive and extends from the production of the raw material on the one hand to the consumption of the unlawful product by a significant proportion of the community on the other. In short, this particular social phenomenon has produced a new wave of illegality which, in turn, has had serious implications for policing. A fair proportion of the day-to-day working life of a police officer, particularly one involved in criminal investigation, now brings him/her into contact with drug users, drug dealers and those involved in the production and manufacture of a variety of drug products.

Again, it is trite to observe that this escalating illegal market generates massive amounts of cash drug money, the very possession of which is also a criminal offence.

One of the matters dealt with in Operation Shield involved Criminal Investigation (CI) Branch officers in 1995 seizing a large sum of cash, said to be \$100,000.00, which had been buried and which was allegedly the result of extensive drug dealing by one who is now serving a long term of imprisonment for drug trafficking. The available evidence conclusively establishes that from the time of its seizure to the time when it was counted at the police station and there photographed, a large sum, at least \$10,000.00, was stolen. During this period the money was only in the custody of police.

This experience illustrates only one concern that is a result of increased law enforcement activity by police in relation to drugs. The very nature and extent of the drug trade and the large sums of money which it generates require not only increased contact between police and drug offenders, but produce also the same culture of vice which in earlier times spawned high levels of corruption by those charged with the responsibility of enforcing the laws relating to prostitution and illegal gambling. It would be naive in the extreme to think that the drug trade does not have the potential to produce the same corrupt consequences in the course of this aspect of law enforcement. Perhaps even more so. Indeed, there is good reason to think that the problem is an even greater one. Compared, say, with the prostitution practices of the past, the drug trade is more pervasive and attracts a much higher proportion of the population to its illegal market. Participation in the drug trade is largely quick and easy. The product by its nature passes easily from hand to hand in exchange for large sums of cash. For instance, an ounce of cannabis, depending upon quality, may cost \$250.00 – \$400.00. The comment that cannabis is more valuable than gold may on occasions be close to the mark.

The commission of the relevant offences is difficult to detect. Because the use of drugs and the illegal activity which it produces are so prevalent, more and more police become involved in enforcing the law. This necessarily involves closer contact by an increasingly larger number of police with an extensive knowledge of those who habitually offend, particularly those who buy and sell as a means of generating large incomes. No longer is the policing of the vice largely in the hands of a specialist squad. Regionalisation has led to a much broader contact between drug offending and criminal investigation. Despite the persistent efforts of the Queensland Police Service to minimise, by a variety of strategies, the negative impact of this increasing contact,

the fact remains that the capacity of the escalating drug trade to provide the fertile ground for corruption is not less than that clearly demonstrated by Fitzgerald in relation to other vices. Indeed, as has been said, the potential for corruption has probably been increased by the widespread use of illegal drugs, the very nature of the illegal product itself, the way in which it is marketed and the fact that it generates large sums of cash.

The increase in police action in relation to drug offending is inevitable. It is also inevitable that increased police contact with those who engage in the drug trade will produce complaints to the CJC of improper and illegal conduct by police.

For the purposes of this report, statistical material has been provided to me by the Complaints Section of the Commission in relation to complaints alleging misconduct on the part of police in relation to drugs. The categories of misconduct have been identified by a particular code and related to the police region from where the police officer concerned comes. The various categories of alleged wrongdoing relating to drugs range from the personal use of drugs on the one hand to affording police protection on the other, and include such allegations as the cultivation of drugs and drug dealing. The record shows the following allegations arising from complaints:

Year	Allegations	Complaints
1991-92	160	113
1992-93	110	80
1993-94	186	128
1994-95	146	91
1995-96	185	130
1996-97	424	262

It can be seen that, over the period 1991 to 1996, there was a reasonably consistent pattern of complaints against police alleging various forms of misconduct involving drugs.

The explosive increase in 1996–1997 — 262 complaints alleging 424 instances of misconduct — can be identified as a direct result of establishing Operation Shield and the publicity generated by it. That is not to say that each complaint and each allegation has substance. What it convincingly demonstrates is that when community awareness of the subject is raised, an enhanced community response is predictable. As a result of Operation Shield, complaints to the CJC in 1996–1997 more than doubled.

Corrupt conduct by police identified in the course of Operation Shield includes:

- drug use
- drug dealing
- the protection of drug offenders
- the theft of drugs

the theft of money
the presentation of false material to the Court

It is clearly arguable that the policing of drug offences currently provides the greatest source of corrupt police activity and as such has to be considered as a matter of major concern to the Queensland Police Service and the CJC. This report will later discuss appropriate policing strategies for dealing with areas of possible corruption and related issues. It will also outline briefly the more relevant details of some of the several operations collected under the heading of Operation Shield, and will identify and illustrate the issues which emerged.

It is necessary to refer here only to a few other matters.

Recreational drug use by police officers is quite widespread especially among junior officers. Operations Jetski, Monument and Lime disclosed instances of allegations concerning drug use by police. This practice was, in fact, associated with the alleged theft of cannabis from the seized by police and held for exhibit purposes. Operation Monument in particular disclosed heavy, possibly addictive, drug use by those engaged as covert police officers.

It was a relatively commonplace allegation that those charged with drug offences frequently have had the charges particularise an amount or quantity of the drug that was less than the amount seized. The clear inference was that the amount not charged was stolen, either for personal use or for the purpose of resale or to obtain information from drug users. In short, there is good reason to believe that in some cases the drugs seized, or part thereof, were returned to the streets, to the alleged benefit of police. The practice is colloquially referred to as 'skimming' or 'taxing'.

The protection of drug offenders and the apparent readiness of police to assist or protect offenders in return for a financial benefit also emerged as a matter of major concern. Operation Caesar II used a confidential covert source which, throughout its lengthy execution, demonstrated the fact that police, in association with experienced former police officers, are prepared to accept handsome financial benefits by assisting those who might otherwise have been charged with serious drug offences, or who might well have been charged with more serious offences than those brought before the relevant court. It also demonstrated the fact that corrupt ex-police officers have not entirely severed their associations with others within the Service.

I have referred to the alleged practice of stealing drug exhibits or part thereof for personal use. Operation Jetski disclosed one clear case of a significant quantity of cannabis, which was the subject of questioning in an interview room, allegedly 'going missing' when the relevant police officer was absent from the room for a short period. The officer concerned failed to report the disappearance of the cannabis. The facts permit of the clear inference that the cannabis was stolen within the confines of the police station either by the particular police officer or by other police officers at the station.

As pointed out, the theft of drug money by investigating police is a major concern to law enforcement agencies, both in Australia and elsewhere. The incidence of the theft of drug money by officers of the Queensland Police Service can be demonstrated. In

the course of Operation Shield, four packages of evidence were collected which establish that either the money was stolen or, alternatively, was dealt with so negligently or in a manner that readily permitted the making of a false allegation.

As a result of one or other of these various forms of misconduct, it was not unusual to find that the material put to the court usually for sentencing purposes was incomplete. It is apparently a persuasive incentive for a drug offender not to complain of misconduct when he/she finds that the prosecution has failed to disclose to the court details of previous convictions.

From Operation Shield, it is clearly demonstrable that there are acute problems for the Queensland Police Service in the policing of drug offenders. The fact is that drug use in the community is extensive. Drug dealing and the production and manufacture of drugs is essential for the support of the existing market and for creating an increased demand for an expanded market. This leads inevitably to increased police action and, again, the inevitable consequence is that the scope for corrupt police conduct is considerably increased also.

One could not claim for Operation Shield that it exposed all of those serving police officers who have been or are corruptly involved in drugs. One can, however, legitimately claim that the operation has so far disclosed a variety of corrupt conduct by police, several of whom have been identified.

As this report has indicated so far, the Fitzgerald Inquiry did not for good reasons comprehensively address the problem. The CJC has since its inception become increasingly concerned with the quantum of allegations of police corruption and misconduct involving drugs. Its decision in 1995 to investigate the issue proactively was clearly right. Operation Shield should be seen as a part of that ongoing process. It should also be seen as marking the commencement point of a more proactive strategy, which will supply the ongoing investigative techniques necessary for adequately policing criminal conduct by police in an escalating drug trade.

CHAPTER 3

THE INVESTIGATION OF CORRUPTION

The difficulties and problems which are likely to be encountered in the course of an investigation of corrupt police cannot be underestimated. The lay or non-police suspect in any criminal investigation is usually in a position of disadvantage compared to a police suspect. Except in the case of the experienced criminal, it is likely that the suspect will be more readily overwhelmed by a battery of investigating police whose official presence and apparent authority will generally assist police in the investigation. That is not to say that the police action need be unduly coercive and aggressive, but rather that the mere authority and power vested in the police officer is a useful tool which can be used to advantage in the course of any police investigation. Again, the police in such a case can readily rely on assistance from the general public to whom appeal is frequently made and from whom a ready response is often predictable.

The investigation of corrupt police, however, is concerned with more elusive targets and the usual process of investigation is less likely to be so readily effective.

The CJC Research and Coordination Division had noted that, whilst there is evidence of senior officers being more ready to lodge complaints against police, there was little evidence of significant attitudinal change on the part of 'rank and file' officers since the Fitzgerald Inquiry in relation to the so-called code of silence. [Brereton, D. & Ede, A. 1996, 'The police code of silence in Queensland: assessing the impact of the Fitzgerald reforms', *Current Issues in Criminal Justice*, vol. 8, no. 2, pp. 107–109.] The more recent research generally confirms this. [Criminal Justice Commission 1997, *Integrity in the Queensland Police Service: Implementation and Impact of the Fitzgerald Inquiry Reforms*, CJC, Brisbane.] Whatever the reason for this might be, one thing is clear and that is that in the process of investigating corrupt police in relation to drugs, one cannot come to rely on the receipt of useful information from other police. In Operation Shield one cannot identify any 'rank and file' police officer who provided useful original information that was worthy of investigation. This must be a matter of concern.

During its short life, Operation Shield revealed a number of areas of major concern. It is inconceivable that other police could have remained wholly ignorant of wrongdoing by their colleagues or not have had their suspicions of wrongdoing aroused, which ought to have been reported. Rather, the tendency has been to turn a blind eye either because of a lack of desire to become involved or because the traditional culture of silence is so strong that to report any suspicion of wrongdoing would be seen as a breach of the principle of solidarity, which forms an integral part of the police culture. Even those officers whose corrupt conduct was revealed were not prepared to provide information concerning others.

The corrupt target group and, in particular, the nature of the culture in which it is embedded present a daunting challenge. The culture is so thick and difficult to penetrate that to break through it will require the employment of dedicated committed investigators of integrity with access to all of the multidisciplinary skills such as those which were available to Operation Shield. Anything less is certain to fail. Reactive

complaint-driven investigations need to be compared and contrasted with those that are proactive and intelligence-driven and supported by other disciplines that allow the investigative effort to be optimised. It is a matter of considerable significance that most offenders identified during Operation Shield had previously been the subject of complaint to the CJC — complaints that were unable to be substantiated by overt reactive policing.

The records of the CJC are replete with complaints alleging police misconduct in relation to drugs. Often these complaints have been made anonymously and for that reason cannot be effectively investigated by traditional means. In so many other cases, the complainant is deemed to be unreliable, either because of a criminal history or for other reasons, and corroborative evidence of the complaint is not available or, if available, is also likely to be regarded as intrinsically unreliable. The process is rarely, if at all, assisted by the interview or interrogation of the suspect police officer. Categorical denials, frequently assisted by the similar denials of colleagues, leave the investigation in such an inchoate state that any tentative conclusion of wrongdoing is so equivocal that a conclusion of ‘unsubstantiated’ is the only available result. Such a finding is usually interpreted, of course wrongly, as being synonymous with innocence or with being cleared. An ‘unsubstantiated result is no more reflective of the truth as is a verdict of not guilty in a criminal trial.

The point is that, because of the limitations which the reactive overt investigation of complaints imposes upon the investigative process and the standard of proof that must be met, it follows that, in cases of serious criminal misconduct, the processes will frequently be unsuccessful. On the other hand, a more proactive investigative strategy, which includes the use of other more covert investigative techniques, is more likely to succeed in effectively and conclusively establishing the wrongdoing.

This can be amply demonstrated, by way of example only, by one of the events in Operation Jetski. This investigation commenced to explore the theft of a large quantity of cannabis from the Finch Hatton watchhouse where it was in police custody. A totally inept police investigation came nowhere near identifying the offenders. In the course of Operation Jetski, investigators decided upon a strategy which included the use of a relatively benign interrogation of the main police officer suspect. Not surprisingly, the suspect, who was entirely comfortable with the interrogation, not only denied any involvement but offered assistance to the CJC in its efforts to identify the offender(s). The suspect of course was not to know that, by the time of the interview, covert technical surveillance supported the conclusion that he and his civilian colleagues were responsible for this offence and were also engaged in drug dealing. Indeed, the police suspect in the course of a conversation with his co-offender shortly after the interview, which conversation was covertly recorded, somewhat derisively dismissed the apparent effort by investigators to obtain the truth by means of the earlier interview. In the same conversation, both offenders, somewhat amusingly, referred relevantly to their involvement in the theft and to the events which had happened.

The question of how best to employ the available investigative techniques will be dealt with in detail later (see chapter 10). It suffices to say here that the nature of the difficulties involved in the investigation of corrupt police can generally best be

handled by a proactive covert process rather than by one which is reactive and traditionally overt.

There are identifiable obstacles which hinder the successful investigation of corrupt police and these need to be stated.

Unlike the lay suspect, the police suspect is well aware of the investigative techniques and strategies which the investigators are using or are likely to use. He/she, who is the target, will generally have access to the same computer-generated database of information. The target will likewise be likely to engage in counter-surveillance techniques designed to frustrate the investigative effort. It is known that certain police during Operation Shield, through the misuse of the police computer, made checks on the identity of vehicles that were, in fact, being used by CJC officers. These checks could never in the circumstances have been justified for police-related purposes. These were mere exercises in curiosity by police officers designed to enhance their capacity to uncover any investigation of them which might be under way. This question will also be discussed in more detail in chapter 8.

Perhaps the most difficult obstacle in investigations of this kind is that any corrupt police activity concerning drugs is likely to be secretive and clandestine. This problem is accentuated by the fact that the illegal product itself and the money which the trade generates is, by its very nature, able to be dealt with so secretly. Add to these the fact that some of the practices adopted by police make it an unattractive option for the offender to contest the offence in court.

These practices not only entrench the likelihood that the police officer can avoid a court-based contest but, more importantly, there is the additional benefit that the capacity of the police officer to profit from adopting one or other of the relevant corrupt practices is greatly increased. The attraction for the offender is that he/she can probably expect a lesser sentence. In these circumstances, any complaint of police wrongdoing becomes less likely.

Let me illustrate with two examples:

A large sum of money, say \$5000.00, and a quantity of drugs is seized from a drug dealer in the course of a police operation. While in the custody of police, that money is stolen. It is tainted property for the possession of which the offender might have been charged but he/she is not. The offender is charged only with the possession of a smaller quantity of the drug than that which was seized, whereas a much more serious charge might have been laid given the quantity seized and the offender's possession of the money, e.g. a charge of trafficking.

An offender is arrested while in the possession of, say, 1 kilogram of cannabis but a quantity of it is 'skimmed' or 'taxed' by the arresting police. The offender is charged with 28 grams (1 ounce). In this case, as in the previous one, it is likely that any prior drug convictions will be withheld from court.

The response of the offender in these cases can be examined. Is the offender likely:

to tell the court in the first case that he/she also had possession of tainted property acquired by drug dealing such as might justify a charge of trafficking or which might attract a more draconian sentence?

or

to tell the court that he/she was, in fact, in possession of a larger quantity of the drug than that charged?

or

to tell the court that the prosecutor had omitted to mention prior drug convictions in the recitation of the offender's criminal history?

By taking advantage of the likely silence of the offender and the predictable negative answer to each of the above questions, the police have thereby effectively excluded the possibility of complaint by the offender. Furthermore, the disposal of the matter in court by a quick plea of guilty is assured. Finally, the corrupt police are left to embrace the fruits of their corruption with the added likelihood that any prospect of their detection is remote. In the case of the retained quantity of drugs, this might be kept for recreational use or marketed on their behalf by others who can be afforded some measure of protection. It may also be used to pay informants or be 'planted' on suspects.

A number of matters referred to in Operation Shield make the point.

One negotiated plea of guilty became a matter of concern.

An offender appeared for sentence in the Supreme Court. The instructions to the Director of Public Prosecutions from the police was that the offender proposed to plead guilty to certain charges. In the material briefed to the Director was a tape-recording which had not been transcribed. To ensure that he was fully aware of all of the facts before going to court, the Crown Prosecutor played the tape which was of poor quality. However, it was sufficient to reveal that in an interview with police the offender had admitted to drug dealing on a scale far in excess of that reflected in the indictment which it was thought would be presented. The sentencing judge was made aware of the prosecutor's concern and the matter of sentence was adjourned.

Investigations by the Commission are continuing.

In the course of another operation (Operation Waldo), it is clear that while arresting a drug offender, a sum of approximating \$5,500.00 was seized and remains unaccounted for. No reference was made to the money by the prosecution when the matter was before the court. The offender informed his solicitor of it but the latter decided that any reference to it by him might prejudice the interests of his client. The offender himself, when spoken to by the Commission investigators, revealed his lack of interest in the subject and that he was happy to have the matter dealt with as if it were a minor offence. Hence his silence and his apparent acceptance of the notion that it was in his best interests not to complain of the apparent misconduct by the police concerning the money. In outlining the circumstances surrounding Operation Waldo,

this report, in chapter 6, details the manner in which Commission investigators were able to make contact with the offender who was located in another State.

The following exchange occurred between the offender [X] and the investigators [MS] in the Commission's first telephone contact with him:

MS: Okay then, now well and you — and you mentioned an amount of money.

X: Yep.

MS: Well what do you think happened to the money?

X: Oh — I — ah — I — I really don't know - it disappeared.

MS: Okay. Well look

X: I — I was — I was — mate put in my situation right there and then at that time

MS: Yeah I

X: I was glad to — to see it go type of thing — because these guys were just — really giving me a hard time.

MS: Yeah.

X: You know.

MS: Okay.

X: Um I thought if the money stuck in their pocket — ah — I was gunna see a lot less. You know — lot less trouble — lot less fine — lot less you know jail time — if you

MS: Yeah yeah

X: know what the case was.

MS: Okay then

X: As it worked — um — I don't — I have a rough idea who — who put it in their pocket.

MS: Yeah.

X: Um but as I say — I — I didn't see it happen

MS: No.

X: but it wasn't there and there was never any mention of it in the court.

MS: No well look I

X: I — swear on a stack of Bibles that it was there when I went — before they pulled me up.

MS: Yeah — well who was searching you — well where were they — where was the money?

X: The money was in my bag. In my clothes bag.

MS: And where was that?

X: In the back seat of my car.

Mr Telford was the offender's solicitor who gave evidence which confirmed that the offender had informed him about the money prior to the court appearance.

In the circumstances, the offender was 'glad to ... see it go' and asserted 'they could keep everything as long as I didn't get into that much trouble'. In the end, the offender suffered the imposition of a relatively modest fine.

In such circumstances the probability is that the offenders will not complain. Their major concern is survival and so it is not likely that they will admit possessing considerable funds, which would amount to a form of self-incrimination.

In the case of money seized in the course of policing the activity of a drug dealer and stolen while in police custody, the ease with which this can occur and the capacity of the police to secrete the stolen money, coupled with the likelihood that the victim of the theft will probably remain silent or not be believed, means that this form of corrupt behaviour is more than likely to go undetected. It will be necessary to return to this matter in a later part of this report because the theft of seized money by police is a problem that confronts law enforcement authorities not only in this country but elsewhere. It is common ground that the detection and successful prosecution of corrupt police in respect of seized property, be it drugs or money that is stolen, is exceedingly difficult.

Because of the obvious difficulty in exposing the clandestine activity of corrupt police, every legitimate and acceptable means ought to be made available to those whose responsibility it is to target official corruption. The existing statutory powers given by the *Criminal Justice Act* go some way towards assisting the investigations, but in one major respect the range of powers is deficient. I refer to the need to permit telephone interceptions, subject of course to the prior approval of the Federal Court. The advantage to the investigation of having access to such a power is considerable for obvious reasons. The objections to allowing this form of interception are equally obvious. Clearly, proper safeguards are essential and these have to be assumed or taken for granted in any consideration of the matter.

Given the current acceptance by Parliament of more intrusive covert processes, e.g. the use of listening devices pursuant to section 82 of the *Criminal Justice Act*, it is illogical not to accept, in principle, the legitimacy of covert telephone interceptions in appropriate circumstances. I need to explain.

The Supreme Court may and has, on proper material and in appropriate circumstances, permitted the use of covert listening devices which record the spoken words of those under investigation. This is often of enormous benefit to the investigation as the investigative hearings will have demonstrated. Usually, the spoken conversation that is recorded takes place in the privacy of a home or office. If the Court permits the recording of such a conversation, why should an exception be made if the conversation takes place on a telephone between two people who at the time of the conversation are not located at the same venue? The listening device is admittedly intrusive and an invasion of privacy when it records the conversation of two or more people at the one venue. Why is it more so if the interception is in respect of two people conversing by telephone from a distance?

This illogicality becomes even clearer when it is realised that the permitted covert listening device will, in the event of a telephone call being made or received at the particular venue, record one side of the conversation but not the other — that is,

unless there happens to be a permitted covert listening device in place at the other venue, in which case both sides of the conversation on the telephone will be heard. It seems illogical to permit the recording of a conversation between two or more people who are at the same venue but not one between people located at different venues who by necessity have to converse by telephone. It is also illogical to permit the recording of one side of a telephone conversation but not the other.

I strongly recommend the amendment of the *Criminal Justice Act* to permit the interception of telephone conversations, subject of course to the approval of the Federal Court. This will strengthen the capacity of the Commission to investigate official corruption even more effectively.

It is noted that there is a current Government proposal to approve telephone interceptions by the proposed Queensland Crime Commission. Any proposal to amend the *Criminal Justice Act* to allow telephone interception must be wholly independent of the Queensland Crime Commission proposal because the functions of the CJC will extend to the investigation of police for official misconduct who may be engaged in executing the functions of the Crime Commission.

This proposal for extending the power of the Commission to intercept telephone conversations is not new. In fact it was recommended by the Parliamentary Criminal Justice Committee in its review of the CJC's report on *Telecommunications Interceptions and Criminal Investigation in Queensland* (Report No. 29), dated 18 May 1995.

Furthermore, the CJC has already been designated as an 'eligible authority' by the Commonwealth pursuant to the *Telecommunications (Interception) Amendment Act* of 1993. This enables the CJC to be provided with telecommunications interception material obtained by an agency authorised to conduct intercepts, for example, the National Crime Authority. However, the prerequisite for intercepting telecommunications is that the relevant State Government must introduce complementary legislation which complies with the requirements of section 35 of the Commonwealth Act and the Premier of the State must request the Commonwealth Attorney-General to declare the organisation an 'agency' for the purposes of the Commonwealth Act.

It is generally accepted that surveillance by means of telecommunications interception is cost effective. In its report on the subject (*Telecommunications Interception and Criminal Investigation in Queensland*, January 1995) at page 31, the Commission adopted the findings of *The Barrett Review*, which was a Commonwealth initiative involving a comprehensive review of the Commonwealth legislation. The then estimated cost of maintaining a telecommunications device was \$570.00 per day. The cost of maintaining a listening device was estimated to be \$1,630.00 per day. One of the more obvious factors in these differing estimates is the considerable time and cost involved in the installation of a covert listening device.

However, in the event of the Commission having the powers of telecommunications interception, additional costs will be incurred for which budgetary provision will need to be made. *The Barrett Review* [1994, page 41] pointed out that the cost of maintaining an effective telecommunications interception capability would increase

significantly due to the introduction of new technologies. These issues will have to be considered.

Some reference should be made to the investigative hearing power which is employed from time to time. It needs to be understood that the exercise of the power is ancillary to the investigation that is being conducted by the Commission in the exercise of its functions, and it is designed to facilitate that investigation. That is not to say that it will be a necessary part of every investigation. Its use will depend on the circumstances of the case. It is a valuable tool for two main reasons. Firstly, it requires that the person being questioned answer the questions put — on oath. Secondly, the public nature of the process invariably produces additional information which can and often does further the investigation. The investigative hearing, therefore, is not to be equated with the investigation. It has to be recognised as a part of it.

In the last chapter, reference was made to the increased body of complaint material and information which came to the Commission as a result of Operation Shield. This was in addition to information received that was relevant to individual investigations, which were also assisted by the exercise of the investigative hearing power.

It follows that in any ongoing investigation by the Commission of alleged corruption, the need for investigative hearings will arise from time to time. Therefore, it has to be seen that the use of the investigative hearings is not a finite process that will necessarily cease after a given time. It will be an ongoing one which will be resorted to as the occasion demands, given the exigencies of a particular investigation.

It can be assumed, therefore, that in the course of future investigations into official misconduct the Commission will continue to use the investigative hearing power as required. Indeed, at the time of the writing of this report other investigative hearings are contemplated for the purpose of assisting other investigations that are under way.

This process can be expected to continue and will not cease with the publication of this report. This fact simply confirms the point that it is essential that the issue of police corruption, whether involving drugs or otherwise, continue to be pursued by the use of proactive policing strategies of the kind recommended in this report.

There is another aspect of the investigation of corrupt police which causes some difficulty.

The analysis of the financial affairs of a corrupt suspect is often a fruitful exercise and section 69 of the *Criminal Justice Act* is designed to facilitate the investigation. This section permits the Chairperson of the Commission, in certain circumstances, to issue a notice to a person to furnish information and/or documents. This facility is frequently used to obtain financial information and/or documents from various financial institutions. Although there is no statutory obligation imposed on the institution to refrain from informing the suspect of the fact of the issue of the notice, the Commission has over several years enjoyed the confidence of several major financial institutions which have kept secure the fact of the Commission's interest in the suspect. It should be mentioned in passing that a statutory obligation to maintain security in similar circumstances is available to the National Crime Authority.

I recommend the introduction of a similar statutory prohibition in the *Criminal Justice Act*.

The CJC is inhibited in its investigation of corrupt police by the unavailability of a power to prohibit the financial institution from disclosing the interest of the suspect. Although, as pointed out above, the major financial institutions in the State assist the Commission in maintaining the security of its investigations, it is somewhat paradoxical that the same measure of security is not afforded the Commission by the Queensland Police Credit Union, the financial institution which acts as the banker for most, if not all, serving police.

It is seemingly the stated policy of the Queensland Police Credit Union that any request by the CJC to the Credit Union for financial information which may be relevant to an investigation of a police suspect is immediately relayed to that police officer. It is the only financial institution that deals with the Commission's notices to produce in this way.

This creates very serious difficulties in the investigation of suspected corrupt police. Maintaining security for an investigation in this kind of operation is paramount. The policy of the Queensland Police Credit Union effectively compromises any such investigation. The consequence is that the effectiveness of any investigation of corruption which requires access to Police Credit Union information is significantly reduced. It seems that only a legislative prohibition upon disclosure of the Commission's interest can effectively meet this idiosyncratic policy of the Queensland Police Credit Union.

CHAPTER 4

THE POLICE OFFICER–INFORMANT RELATIONSHIP ‘THE STANDARD EXCUSE’

In the ICAC Second Report it is said: [Independent Commission Against Corruption 1994, Investigation into the Relationship Between Police and Criminals, Second Report, ICAC, Redfern, New South Wales, p. 10.]

Evidence before the Commission clearly showed that the justification put forward by Rogerson (a police officer) for his dealings with Smith (a criminal) was the standard excuse. The need to establish and maintain contact with informers was the justification offered to mask corrupt dealings and associations.

As will be seen, the problem is not confined to the NSW Police Service nor is the use of ‘the standard excuse’ confined within geographical limits.

It is not intended in this chapter to analyse the nature of the relationship between police officer and informant or to deal again with the proper regulation of it — a matter which has been dealt with in some detail in the literature. [Settle, R. 1995, Police Informers: Negotiation and Power, Federation Press, Leichhardt, New South Wales. Royal Commission into the New South Wales Police Service, Final Report, Volume II: Reform, (Commissioner: The Hon. Justice J.R.T. Wood), The Government of the State of New South Wales, pp. 431–441.] It is intended to focus only on one aspect of the police officer–informant relationship in order to demonstrate how it is misused and falsely used by some police in order to attempt to protect and cloak what is, in fact, a corrupt association.

The relationship of police officer–informant presents as something of a paradox. An apparently close relationship between a police officer and a person of alleged ill repute can only be regarded as a matter of concern if left unexplained. On the other hand, it is an axiom that the receipt of information about crime and criminals from persons who by reason of their lifestyle have the capacity to assist police with information is part of the life blood of criminal investigation. This has to raise a troublesome dichotomy for those concerned with police administration — legitimate relationships must be properly maintained and regulated, while at the same time access to valuable information must be maintained. In recent years various strategies have tackled this problem, and police administration has attempted to meet it, for example, by including a provision for the registration of informants. However, as will appear, that process has not prevented apparently corrupt police from misusing, for their own corrupt purposes, the relationship of police officer–informant, nor indeed from taking advantage of the provisions for registration in order to attempt to support what may, in fact, be a corrupt association.

The experience of Operation Shield can provide the background for this discussion.

In Operation Jetski, the investigation had focused on a police officer [KP] and his apparently corrupt relationship in drugs with a local businessman [C] and a local drug

dealer [M]. M admitted to the Commission that he was dealing in drugs in association with and on behalf of KP and C and that he was protected by KP. Covert audio and video surveillance in the local businessman's premises revealed the closeness of the corrupt working relationship between the three men. The following conversation occurred between KP and C and was recorded at a time when their relationship with M was problematic because of a belief by KP and C that M had not fully accounted to them for all of the proceeds of his drug dealings. The former two had discussed between themselves abandoning their corrupt relationship with M and making other arrangements and, as part of this conversation, they discussed the prospect of KP providing police with information which may have led to M's arrest. In what follows, KP is discussing with C what he might say to police in explanation of his past relationship with M:

KP: I have to be honest with you — M is my informant, but he's not the one who informs and tells me ...

C: At the [C's business premises], C's close, I only know him ...

KP: The best information I get is from C by overhearing what M is talking about. So C really gives me the information but indirectly M is my informant ... so basically I just said here he is on a platter.

Two days later, when discussing on the telephone the apparent break with M and its possible consequences for them, C said to KP:

My concern is getting exposed — I can talk my way out of it. You know. But if you get exposed, it's going to be hard for you. Because they're going to grab you ... (in response to something said by KP) ... Yeah. I mean, um, you know, yeah ... yeah I was milking him ... yeah you know he was the informant and we were milking him blah blah blah ...

And again, a few days later, KP and C were seeking to enlist another police officer to assist in their raid on a drug dealer's premises and their proposal to steal a large sum of money. KP and C, in the course of explaining their dealings with M, said to the other officer:

C: Do you know what he (M) is doing. You can tell KP.

KP: He's been giving me some drug info. That's been my drug informant.

C: Well

KP: C's got a lot of info out of him ...

On the day on which Operation Jetski closed, Commission officers executed warrants and interviewed the main targets including C. When C was first approached, he was told of the Commission's investigation and that he and KP seemed to have been involved in corrupt activity. The Commission's Inspector, having identified himself, was about to inform C of matters in the possession of the Commission, when C interrupted and the following exchange occurred:

C: Mmmm this ah. Can I just say something first?

IP: Yep

C: I mean because I had — I'm a friend of KP's.

IP: Yep

C: ... and I've come across drug information which I've passed onto him and I do believe that he's passed it into other police officers as well ...

IP: Alright. And you're saying that you've supplied KP with information relating to drug activities, illegal activities.

C: Yes

IP: Alright. Have you yourself ever been involved in any illegal activities?

C: No.

From these short excerpts of recorded conversation in January 1997, it is clear that KP and C had, before their apprehension, planned to resort to the police officer–informant relationship, which they alleged existed between themselves and with M, if ever they were questioned about their mutual dealings. When C was first questioned by the Commission's Inspector, he immediately, before hearing what the Inspector had to say, interrupted to insist that his relationship with KP was that of an informer. When C realised shortly thereafter the nature and extent of the Commission's investigation, the pretence had to be abandoned.

The issue also arose in Operation Monument.

On the evening of 3 September 1995, police intercepted a well-known drug dealer, GC2, at Jupiters Casino, who was found to possess a quantity of cocaine and a large quantity of cash. He was later charged with drug trafficking. In the course of his interrogation on that evening, he avoided arrest because he informed the police that he was an informant of police officer CK, a well-known Gold Coast detective. Intercepting police made contact with CK, who also alleged to the police that GC2 was his registered informant. This was false. Further investigations revealed a possibly corrupt relationship between GC2 and CK. GC2 was later arrested and the Commission commenced Operation Monument to investigate the possible corrupt relationship between GC2 and CK. A few days later, CK purported to file an intelligence report alleging certain information of criminal activity which CK asserted had been given to him by his alleged informant, GC2. GC2 is currently subject to prosecution; appropriate action has been proposed against CK.

Perhaps the best example of the apparent misuse of the alleged relationship of police officer–informant emerged in the course of Operation Caesar II. This operation was facilitated by the use of a covert source who purported to seek police protection for alleged drug activity with the assistance of an apparently corrupt ex-police officer who asserted his capacity to recruit police officers into a corrupt scheme. A meeting was arranged by the former police officer who was well known to police officer S. Present at the meeting were police officer S, the former police officer and the covert source. This meeting was covertly recorded and demonstrated an apparently corrupt agreement involving police officer S whereby the latter would, for payment, purport to inform the covert source of any police interest in him concerning his possible drug activity.

The next morning the police officer recorded the meeting in his official police diary, noting that it was a meeting with two informants. He also on that morning proceeded to register as informants with the Regional Crime Co-ordinator the other two persons present at the meeting, neither of whom had during the course of that meeting provided police officer S with any criminal intelligence or information concerning criminal activity, nor had they promised to. Rather, the covertly recorded conversation had focused on the establishment of an apparently corrupt dealing between the three men which involved police officer S agreeing to do checks on the police computer for a money payment.

Police officer S later told the Commission that the information to be given to him by the covert source related to drug and property offences. This was the only meeting between the so-called 'informants' and the police officer. Nor it seems did the 'informants' ever supply information to the police officer. According to the police officer, the meeting lasted only about eight minutes; it was, in terms of the supply of information, useless. Yet on the very next morning, both the stranger and the ex-police officer friend of police officer S were registered as his informants. The covertly recorded conversation does not appear to make any reference at all to the establishment of a so-called valid police officer-informant relationship.

In Operation Lime, a police officer [PO] was apparently dealing corruptly with a person who later became a Commission covert source [CS]. This dealing involved both drugs and firearms. The police officer received from the covert source a quantity of amphetamine and this provoked the following conversation, which relates to the apparent testing of the quantity of drug by the police officer to determine its purity:

CS: But how'd you get it tested last time without gettin' in trouble?

PO: Who?

CS: Well how did you get it tested last time without getting in trouble?

PO: No. No. No.

CS: Isn't that what you meant?

PO: Last time I went down to Brisbane to the Scientific Section, right?

CS: Yeah

PO: I said I'm doing an investigation into these dealers in speed, right, this is a sample that I managed to ... that I was given by an informant who went and bought some, right, okay. Can you test it for us and can you tell me its purity? Yeah sure. So he came back to me and he goes, where'd you get this from? Oh I got it somewhere up the Coast. I can't really say cause it's my informant, yeah.

In the course of their dealings, the covert source purported to assist the police officer in corrupt dealings with others. The following is a short excerpt from a recorded conversation between the two men:

PO: Right. And I was very enthusiastic about your potential to work with them through me. Right?

CS: That's these middle class people?

PO: These other people.

CS: Yeah

PO: These people that are more powerful than me. Okay? As I said, I'm, a little wheel.

CS: Yeah

PO: They're bigger cops. They were happy to ... when I gave them ... when I told them what I did know, I saw they were very dead ... the man was very dead pan face, right? But the point was there was just a mere ... I could see it, there was just a merest flicker, I'm dead sure of it, maybe I was just thinking it, but there was a merest flicker of recognition, when I said, there's such and such and he's ... and he's the sister's brother-in-law. He's this big drug dealer, protected.

CS: Yeah

PO: Wait a second, is he protected by yours? And he goes, I... I can't comment. But the point is that... obviously someone else is operatin' this man. Someone else is protecting him within that group I'm dealing with.

CS: So does that put me at risk though do you know?

PO: No it doesn't put you at risk cause they don't know who you are. Because they can't go to the informant's file ... remember I said, we might get you registered.

CS: Yeah

PO: It's not happening now, cause they can go to that register and they can look you up. So we don't put your details down.

CS: Okay

PO: So that's why you're not going to be registered. Which means if you want to make a complaint against me, you can and you can say, oh he did this, he did this, blah blah blah. And I ... and I can say well yeah, I should have registered him as an informant but cause some informant's are very unreliable, just as well as you know, right?

CS: Yeah

PO: Um ... and they'll go why didn't you? And I'll go well, I just didn't.

CS: His information hasn't been that good.

Then, in further discussion concerning the development of their relationship, this was said:

PO: So whatever we discuss, keep it to yourself.

CS: Yeah of course what do you...

PO: The most important thing that gets people into trouble ...

CS: Who am I gonna discuss it with?

PO: (ui)

CS: I have to get this, I'll have to go through Carlovers to clean this car up

hey.
PO: The thing that gets, the most important thing is - the thing that gets people into trouble about (ui) ...
CS: :Yeah
PO: Right?
CS: Okay
[Interference]
CS: Well I haven't spoken about anything to anybody so ...
PO: (ui)
[Interference]
PO: (ui) see we've got plenty of cover while we're, while we're (ui)
CS: Why?
PO: Well you're my informant and I'm the copper.

A good example of how the relationship of informer and police officer can be abused appears from what follows. The police officer and the Commission's covert source were, so the police officer believed, in a potentially corrupt relationship which involved the covert source dealing with others in drugs and firearms from which the police officer expected to benefit. To protect his apparently corrupt relationship with the covert source, the officer relied upon the establishment of the police officer-informant relationship and spoke of registration so as to ensure that their relationship was not interfered with by other police who may have developed an interest in the covert source. This conversation took place on 28 June 1997, after the Commission's operation had identified the criminal conduct of the police officer but before the particular officer was aware of the Commission's involvement. The officer at this time suspected that he was under investigation.

PO: No well I don't know anything. I haven't been told anything and as such I can't make any ... any assessment can I?
CS: Yeah
PO: Alright. So if you don't know anything, you can only guess.
CS: Yeah
PO: So I always guess that it is them, cause that's the worst thing that could possibly happen to me. Right?
CS: Yeah
PO: Even though nothing's happened. Nothing's gone wrong and all that.
CS: Yeah
PO: Right? The point is that they don't operate on those sorts of ... they operate on the way that ... you know. Everything's bad. You're bad. I'm bad. Everything's bad.
CS: Oh fuck
PO: So ... this is all you say right. But the point is that you're registered as an informant of mine, okay, and you gave me the information in good ... in good ah ... Good will. Right? And unfortunately what happened is you've already been ... been sort of surveilled by someone else. Whether it be a secret organisation you know but their surveillance is piss weak

And then shortly afterwards:

CS: So we don't have anything to do with him now?

PO: Well if Ronny's a mate of yours ...

CS: :Well Ronny obviously doesn't know.

PO: Well Ronny's in for it isn't he? If he's looking after ... I mean he knows what this man's got.

CS: Yeah.

PO: Right. He's going around with him. Well what ... what happens when they decide to pounce and Ronny's there.

CS: Oh fuck.

PO: He knew that ... he knew that he had all this, Ronny.

CS: Yeah

PO: What's the go? Oh ... oh ... oh we know that you were trying to help set up sales, weren't you? Oh ... it's time for you to ah ...

CS: Well what do I do? Do I say ...

PO: bend over and take it.

CS: Fuck yeah.

PO: To use a metaphor

CS: I'm sure he's gonna really be happy about that.

PO: Okay. He's going to be dragged inside. He's gonna be charged. He's gonna be in front of the magistrate.

CS: So do I let Ronny know?

PO: He's ... he's trying to organise a sale. I mean you're protected, you're my informant. You're doing this for police work, right. Okay? I'm a police officer, I'm tellin' you, set this deal up. Which you've done. You've done your job. You're safe. You're ... you're ... you have indemnity from prosecution. Right?

CS: Yeah

PO: That's why I got you registered. That's why I got myself registered so that you can't come up to me and say blah blah blah blah, right. And I'm not protected from you. And you, for doing what I've told you, trying to set this deal up are not committing a crime cause you're helping me as a police officer investigate the ...

CS: Well what if they ask me and everything that I wasn't registered at the time? Or you weren't at the time?

PO: My mistake. I registered you the next morning. No worries.

CS: Yeah.

PO: We're safe. Okay? It was ... it was an oversight. Okay, it was an oversight and ... and that was that. Right, like I've had ... I've had informants before that have just given bits and bobs of information right, but you're sort of regularly turning over and I've never had someone that's regularly turned over information that I've really had to ... and it's never been like so serious.

CS: Yeah.

PO: Like with this fellow that I've had to like sort of register them.

CS: Yeah.

PO: Cause they're ... registered informants are few and far between. Right?

CS: Yeah.

PO: So there's no problems. So ... but Ronny, yeah. Ronny's ...

CS: So what do I do, let him know or fucken what? You're to stay away from this Scott McCall then obviously.

PO: Don't say anything to him. Don't make any phone calls to him. If McCall or Ronny gives you another phone call, say the deal ... we want to do the deal blah blah blah. Right?

CS: Yeah.

PO: Um ...

CS: So do you still want to set up something then for us ...

PO: And finally, referring to the possibility that other police may wish to interview the covert source as part of the investigation of the police officer, the following exchange occurred:

CS: Even these other people?

PO: Even these other people, it's not likely to. Right. If they want to talk to you, they should come through me. They should ask me if you'd be prepared to talk to them. Right? And I've told them no. Cause I know you don't need the stress.

CS: But how ... how are you gonna stop them from coming to speak with me if they're higher up than you?

PO: Because the point is that you're my informant right?

CS: Yeah.

PO: And you're the only person that works with me. You don't work for people you don't know. With cops you don't know cause you don't trust them do you.

CS: No. And that's right.

PO: Right. And I've told them that. Now if they go and do that to you, they basically burn you, right. And they fuck up my informant and you don't do that. Because if you do that, word gets around that coppers are burning informants and you get no informants. So they're not going to do it cause it's an unwritten law that you don't burn other coppers informants.

CS: Yeah.

PO: So they will come to me first and they will question me and they will say, can we talk to your informant and I'll say, no he doesn't trust others. But if you want to give me a list, right. I'll give it to him and he can sort of go and get the information for ya. Or ... you'll be happier to do that, won't ya?

CS: Yeah.

PO: Right. And that's it. That's all the go is..

CS: Yeah right.

PO: Right? Well we can still ... we can still meet after and everything. There's no problems about that. Alright?

CS: Alright. So what are our plans from here tonight? Any or none?

PO: We'll ... we'll meet up next week okay. I'm working days now for the next eight days. Can you believe that.

The police officer–informant issue arises in Operation Waldo in a different context. The diary of a senior police officer revealed that the apprehension of the offender was facilitated by information given by one of the police officer’s informants whom the written entry in the diary identified only as ‘VJ’. When first questioned on oath about the matter, the police officer swore that he had forgotten the name of the informant. This was inherently improbable. It was important for the investigation to identify the informant because it is likely that that person had information that would have confirmed the offender’s possession of the sum of money, which was never accounted for in the prosecution of the offender. The police officer in question was one of those involved in the apprehension of the offender. The informant, ‘VJ’, appears on a number of occasions in the course of diary entries. He was never registered, although it appears that the person was a regular informant.

The abuse of the police officer–informant relationship and of the registration of informant process in order to protect corrupt wrongdoing has emerged as a matter of major concern. It is, I am satisfied, a fairly common occurrence. An attempt has to be made to maintain the integrity of a properly developed informant relationship and of the registration system while at the same time preventing it from being abused and misused for corrupt purposes. Lots of reasons have been advanced for the registration of informants. [Independent Commission Against Corruption 1993, Report on Investigation into the Use of Informers, Volume I, ICAC, Redfern, New South Wales, p. 85.] The *Queensland Police Service Operational and Procedures Manual* (OPM) *Issue 4*, October 1996, para 2.9.3 provides that:

Assessment of informants and the maintenance of an Informants Register is essential for the proper management of informants used in covert operations.

It goes on:

A person giving ‘one-off’ information concerning the criminal activities of another person should not be categorised or registered as a police informant.

This registration proposal appears to assume that registration is essential only in those cases where the informant presents as a likely persistent provider of information concerning criminal activity which can be used in the course of a covert operation.

Other reasons have been advanced for maintaining the informants register. These include the need for accountability, for audit purposes including the proper recording of financial details and operational details, the protection of the law enforcement agency and of the particular investigator dealing with the informant, and finally the protection of the informant and the security of the operation. All or some of these matters can be advanced either alone or in combination for the maintenance of an informants register. There are plainly good reasons for having such a process and for ensuring its integrity.

The concern is that some police officers are prepared to resort to the false use of the otherwise legitimate police officer–informant relationship as apparent justification for a relationship which is corrupt, at the same time taking advantage of the provisions for registration to falsely support the apparent legitimacy of the corrupt relationship. This concern requires further examination and analysis.

I will not dwell on the possible breaches of clause 2.9.3 which emerged during Operation Shield. I would prefer to discuss the broader issue which is: What can be done to prevent or minimise reliance on a dedicated system or procedure which is able to be used to advance or further a corrupt objective?

Silence and confidentiality are critical features of the police officer–informant relationship. Police officers are prone to guard the identity of their informants with a passion and to regard the need to avoid disclosure as an article of faith. Perhaps that is part of the problem. If such an arrangement is by its nature to be so clandestine and can be put beyond the range of scrutiny and supervision, then it is so much easier to resort to it, for the wrong reasons, and thereby use it to assist in the development of a corrupt relationship with apparent impunity. This situation is entrenched even more so by section 47 of the *Drugs Misuse Act* which prohibits the disclosure of the identity of an informant. That provision, however, is designed to protect informants — not corrupt police. The established protocol set out in clause 2.9.3 enforces this principle of secrecy. It includes this provision:

Officers making an application for the registration of an informant are to submit an informant profile form, completed and signed by the informant. The document is to be placed in a sealed envelope marked ‘Informant Confidential’ and hand delivered to the Regional Crime Co-ordinator. Officers are to classify all documentation relating to the identity of informants as ‘SECRET’.

One cannot seriously challenge the requirement for some measure of secrecy. It is too well entrenched and in any event there are compelling reasons for maintaining an acceptable measure of confidentiality. On the other hand, if there is a capacity to wrongly take advantage of the system and of the secrecy component within it, then it is legitimate to enquire as to how the abuse of the system might be avoided. In short, how can the inherent requirements of the system be maintained and at the same time ensure that it is accountable? There is a clearly established capacity in corrupt police to avoid being accountable by resorting, if needs be, to the informant relationship as a cloak for spurious dealing, knowing that he/she can with apparent legitimacy use it and at the same time resist close examination on the subject with the simple response — ‘Oh he/she is my informant and has frequently given me information which I am not at liberty to disclose’.

In Operation Jetski, even the non-police associate of the corrupt police officer immediately resorted to the same tactic when first questioned about corrupt activities by interrupting the investigation to assert that what, unbeknown to him, could be proven to be a corrupt relationship was in fact a legitimate police officer–informant relationship.

There are really two elements to the police officer–informant relationship — firstly, the personal and confidential dealing which occurs between the police officer and the informant and, secondly, the relationship between the police officer and the law enforcement agency to which he/she belongs. The police officer–informant relationship, while it can be supported as a confidential relationship between the main actors, cannot be allowed the consequence that the police officer can claim a proprietary interest in the informant and thereupon claim to use the information as

he/she wishes. The police officer has a wider responsibility to use and, if necessary, share it for the wider purposes of law enforcement and in the public interest. The requirement for confidentiality cannot abrogate the obligation of the officer to be accountable. Once this is recognised there has to be built into the system the capacity for those in authority to be able to properly scrutinise it so as not only to ensure that the use of the information is maximised, but also to ensure that the relationship, in fact, is a legitimate and not a corrupt one.

There is another question: Why do apparently corrupt police perceive that there is an advantage for them to allege the existence of a relationship of police officer and informant to give apparent legitimacy to corrupt dealings and how does one avoid or reduce the incidence of the practice?

Clearly, police officers see that if they assert the existence of the relationship that, prima facie, will satisfactorily explain the reason for the association; all the more if the 'informant' is registered.

In general terms, the answer to the question must insist that the built-in secrecy of the process not be allowed to permit the police officer to avoid a requirement to make all necessary disclosures, nor should it exculpate supervisors from closely supervising of the dealings between the two. The OPM requires that all meetings with informants be recorded, with an additional requirement that there be a tape-recording of each meeting between informants and officers on each occasion they meet; if there is an operational running sheet, details of all meetings are to be recorded on it. Officers are to submit information concerning meetings between officers and informants to their District Intelligence Officers. This is fine, so far as it goes. But are the rules complied with? Strict compliance with these directives may assist in minimising the problem. But are they honoured more in the breach?

Paragraph 2.9.2 – Informants – Policy – opens with the following:

The Service recognises that informants are a valuable source of information and intelligence regarding criminals and criminal activities. Informants may be used by officers in relation to covert operations and in conjunction with covert police operatives.

Paragraph 2.9.3 – Informants Register – Policy – opens with this statement:

Assessment of informants and the maintenance of an informant's register is essential for the proper management of informants used in covert operations. A person giving 'one-off' information concerning the criminal activities of another person, should not be categorised or registered as a police informant.

Covert police operations are only permitted in accordance with paragraph 2.9 of the OPM. The two statements quoted above, taken together, seem to assert, either expressly or implicitly, that the use of informants and the registration of them are restricted to covert operations. Such a construction, therefore, gives only limited approval for the use and registration of informants, that is, it applies only to those informants who are used in approved covert operations. This seems to be confirmed by the provisions in paragraph 2.9.3 – Policy – which is quoted earlier, namely that 'a

person giving ‘one-off’ information concerning the criminal activities of another person, should not be *categorised* and *registered* as a police informant’ [my emphasis]. Is it intended from that that it is only those persons who give information that is used to support a covert police operation who should be categorised as ‘informants’ for police purposes and who should be registered as such? If it is, then it only partially meets the problem because the provisions of the Order in paragraph 2.9.2 imposes obligations only on those who are formally categorised as informants and who are registered. The requirements of that Order, therefore, seemingly do not apply to a police officer–informant relationship which involves the supply of ‘one-off’ information only, nor it seems to one which is of a more persistent and lasting character but the information from which is not used to support a covert police operation. In the case of the latter, the police officer who has an ongoing relationship with an informant, is free of any of the obligations including the requirement for registration imposed by paragraph 2.9.3, so long as that informant is not used for a covert police operation. That surely is a problem. In fact, it is the very problem revealed by Operation Shield.

In none of the cases referred to above was there, nor could there be any suggestion, that the informant or the information supplied was relevant to any covert police operation. The relationship was simply asserted to exist and at least in one case the police officer purported to register as his informants the two persons with whom he was apparently involved in corrupt dealing. This then raises the important question: What are the requisite elements in the relationship of police officer–informant for its existence to be formally recognised by the Queensland Police Service administration? It seems that there must be a requirement for formal recognition rather than permit a police officer to merely assert the existence of such a relationship when that appears to be a convenient course.

The problem may be met by a requirement that 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.

Further, the police officer should be required:

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

Failure to comply with this direction or any part thereof should disqualify the police officer from being able to assert the existence of a police officer–informant relationship with that person. It should also be confirmed by the use of disciplinary sanctions.

It should be the responsibility of the supervisor to inspect the police officer’s written record regularly, say weekly, so as to assure himself/herself that the relationship in

fact exists and that the alleged information is used and disseminated for the purposes of law enforcement. Any breach should be treated as a serious breach of discipline.

I pause to mention here that it is quite common to read in a police officer's diary the entry — 'confidential drug matters'. Such a worthless entry is meaningless and is more likely to be a mere 'cover' for other activity. Nor it seems is the making of such an entry questioned by the supervisor who supposedly has to review the officer's diary and who signs it off.

Such entries ought to be prohibited and rejected as constituting an inadequate record of the police officer's activity.

The registration provisions should be extended so as to require registration, not only of those informants who are used in approved covert police operations but also those who are alleged by police officers to be persons who have indicated by word or conduct that they are prepared to supply information to the particular officer concerning criminal activity and with whom the police officer desires to establish an ongoing relationship of police officer–informant. That relationship should not be recognised *for any purpose* unless the informant is registered. Deregistration should only occur when the police officer discloses that he/she does not intend to further associate with, nor to receive from the informant, any further information alleging criminal behaviour on the part of any person(s).

It is not intended that the above be understood as a draft proposal for inclusion in the OPM. It is designed only to expose the manner in which the legitimate relationship of police officer–informant and the registration provisions are being abused and to suggest how the specific problems revealed might be tackled. It will be for the Queensland Police Service administration to write the detail, given the nature and the extent of the problem and the context within which it has emerged.

The Queensland Police Service urgently needs to establish an Informant Management Plan. Reference was made at the beginning of this chapter to the *Wood Report*. As a result of that Royal Commission, the police officer–informant relationship was clearly identified as a source of concern for the NSW Police Service. As a result the NSW Police Service has developed an Informant Management Plan which came into effect as recently as 14 April 1997.

A close study of the Plan reveals it as a comprehensive management proposal which effectively incorporates the solutions suggested above but takes the matter much further. It clearly identifies the responsibilities of all of the relevant persons who need to be involved in maintaining and managing the police officer–informant relationship.

I strongly recommend that the Queensland Police Service review its present procedures for informant management, which are inadequate and clearly ineffective. Such a review must include a studious assessment of the recently adopted New South Wales Informant Management Plan and of the potential for its adoption by the Queensland Police Service. There will, of course, be the need to make it applicable by the adjustment of matters of detail. However, there appears to be no reason, in principle, that the New South Wales 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.

CHAPTER 5

THE VARIOUS OPERATIONS

This chapter will contain a brief outline of the allegedly corrupt activity identified in some of the operations with some reference to certain aspects of each investigation. The purpose here is not to expose at any length the full details of any operation. Rather the purpose is to collect under the one heading some of the number of operations conducted, the variety of concerns which emerged and to refer to certain aspects of the investigative process involved. It is done this way so that the issues which are relevant to the proper investigation of corrupt conduct by police can be sufficiently identified and later dealt with.

Besides, it needs to be said that several persons including police have been charged with criminal offences as a result of the various operations and have yet to be dealt with. Therefore, no person will be identified by name in any particular case. Since the emphasis in this report is upon the process of investigation, the issues relevant thereto and those concerns which arise out of the various matters investigated, it is totally unnecessary to dwell upon the intimate details of each investigation. I repeat that they are referred to as providing the relevant background only against which a variety of issues could be better and more sensibly addressed.

Before dealing with each in turn, I should add that the decision of the management team to consolidate the various operations upon which Operation Shield would concentrate into a more manageable framework was only partly successful. Since January 1997, which saw the closure of Operation Jetski, the other operations — namely Caesar II, Monument and Guard (in its modified form), all of them covert operations — were continuing, but the team became heavily burdened with the investigation of a large mass of material that came to the CJC as a result of publicity relating to the closure of Jetski and because of the fact that most of the team were, for the time being, working in the Whitsunday area. The execution of several warrants in the area, including one in respect of the Whitsunday Police Station at Cannonvale, became the focus of considerable media attention.

As a result of the closure of Jetski, some 426 joblogs were written and their completion consumed many months of investigative work. This was, of course, in addition to meeting the demands of the ongoing investigations. The situation was far from static. It was not long before other operations had to be put in place, namely Operations Barge, Canoe, Eclipse, Lime, Orion, Sard, Stag and Waldo. Some of these were less significant and resource-intensive than others. However, by mid-1997 the workload for Operation Shield was extremely heavy. The closure of any major operation became the catalyst for the establishment of numerous joblogs, which could only be pursued once the particular operation had gone overt. The compilation of briefs was, of course, an additional but vital imperative, which was largely undertaken by Counsel Assisting the investigative hearings and the Operation legal officers. It became impossible to restrict Operation Shield as originally planned, and resources had to be committed to other operations as the occasion demanded. Some of these operations will be briefly dealt with.

OPERATION MONUMENT

GC2, a well-known drug dealer, was apprehended by police in the Gold Coast Casino at Broadbeach on the evening of 3 September 1995. He then had in his possession a quantity of cocaine and \$90,000.00 in cash. He asserted that the drug was for his personal use and that the money was the product of gambling. He informed the police that he wished to make contact with GC1, a police officer whom he knew and to whom he said he was in the course of providing information. With GC2, the police contacted GC1, who spoke to GC2 and to the other police. GC1 told police that GC2 was his informant and had registered him as such. This was false.

GC2 was not arrested on that night. When the occurrence sheet of the incident was read by senior police, action was taken to arrest him. A warrant was executed on his place of residence a few days later, and the police in attendance found GC1 at the premises. A strong smell of cannabis was detected on GC1 and, pursuant to the warrant, certain property including drugs was seized.

GC1 continued to maintain the story that his association with GC2 was a legitimate one of police officer–informant and that GC2 had given him information concerning the dealings of an outlaw motorcycle gang. Later, GC1 sought to confirm this fact by writing an intelligence report.

The Commission within days of the apprehension of GC2, who has since been charged with trafficking and other offences, commenced its investigation into the allegedly corrupt association of the two men. A Supreme Court listening device was placed in GC2's premises but was later discovered by him. The investigation, however, disclosed a further association between GC2 and others involved in criminal conduct in drugs, as well as an association between GC1 and one of those persons, A. It was soon discovered that A had extensive criminal connections and, in particular, had a close and corrupt association with GC2. Both GC2 and A were shown to be heavy users of cannabis. A has since been charged with trafficking and perjury as a result of the Commission's investigations. The investigation also disclosed A's criminal association with others in a major shop stealing operation — a matter which it can be shown was known to GC1 and discussed by him with his criminal associates.

Another criminal associate, who was identified as GC3, was during the course of the operation investigated by Gold Coast police for a serious assault. The file relating to the investigation was in the hands of GC1. GC1 and A then contrived a scheme whereby, for a money payment, GC1, the police officer, would 'drop' the investigation of GC3. A arranged the meeting of GC3 and GC1, and money was paid to GC1. This process was captured by the listening devices that had been installed in A's unit and vehicle. It also disclosed that A was associated with others who were also former police officers. It is not without significance that these former officers had all worked as covert police officers, as had GC1.

As a result of this operation, GC1, a police officer of many years standing with the rank of Senior Constable, has been suspended from service and other proceedings are pending. Furthermore, as has been mentioned, A has been charged with trafficking and perjury; and other charges in respect of the other persons, including GC3, are in

hand. Others who are not police officers have also been charged with drug offences as a result of this investigation. Other aspects of this operation have been continued and it is expected that more people, including two interstate police officers, will be charged with serious offences.

OPERATION CAESAR II

In February 1996, the Commission received information from sources associated with the Royal Commission into the New South Wales Police Service that protection was available from Gold Coast police for persons engaged in drug dealing. A confidential source was engaged by the CJC and a substantial covert operation was established. It ran for approximately fourteen months.

The source, identified in the investigative hearing as GC14, soon was able to establish a business relationship with a woman who was a major Gold Coast drug dealer. He was then introduced by her to another significant crime figure, another woman, of whom it was said by the first woman that she could arrange police protection. GC14, in the course of these negotiations and meetings, had held himself out as a dealer in cocaine ('white goods') who had strong connections to the New South Wales drug trade. The second woman introduced GC14 to a former Gold Coast detective who was in business, and an arrangement was made between GC14 and the former police officer whereby the latter would arrange for current serving police officers to assist in the protection of GC14's business by giving him reports concerning any police interest in GC14. The reports were to be in the form of coded 'weather reports'.

The several meetings that took place between the several targets in Operation Caesar II were covertly recorded with both covert audio and video facilities. As a result of the arrangements that developed between GC14 and the former police officer, \$25,000.00 was paid to the latter, most of which was retained by him. Part of it was disbursed in favour of police. A meeting was arranged by the former police officer whereby GC14 met a serving police officer with the rank of Detective Sergeant who occupied a senior position with the Gold Coast Criminal Investigation Branch. A later meeting was organised between GC14 and another police officer at the Southport Criminal Investigation Branch who had served several years in the CI Branch at Southport. As a result of these meetings and the alleged dealings involving GC14, the serving police officers, the former police officer and the female drug dealers, criminal charges of official corruption, perjury and trafficking have been laid after consultation with the Director of Public Prosecutions.

It was a significant feature of this Operation that the introduction of a covert source and his first contact with a known drug dealer soon led GC14 through a chain of contacts ultimately to police with whom it is alleged a corrupt dealing was possible. The key figure in this whole process was the former police officer who had been a member of the Gold Coast CI Branch. He had maintained close links, not only with currently serving police, but also with people apparently involved in corrupt activities. He had been engaged in a commercial business, including private investigation work, and the operation disclosed his capacity to access confidential computerised police data through his police associates. Departmental disciplinary action is justified by reference to this matter in respect of an associate of his who is a serving police officer and who holds a senior position at a Gold Coast-based police station.

The operation disclosed a collateral matter of major concern which appeared to involve other serving police and another former CIB member, an associate and business partner of the former police officer referred to above. The second-mentioned former police officer also continues to maintain contacts with serving police. The investigation disclosed that information was passed to one of the female drug dealers via the other one mentioned above — information that came from the former police officer to the effect that the female drug dealer was to be ‘set up’ by a cocaine user who was an informant of police at the Gold Coast. In fact a warrant had been prepared for execution upon the drug dealer’s premises. Although the premises were entered, police allege that the warrant was not ‘executed’ because no search of the premises occurred.

I will not pause to deal with this novel proposition of law. What is more important for present purposes is that, after leaving the female drug dealer’s premises, the police raiding party sojourned to nearby premises where the second-mentioned former police officer was employed as a manager. He and the senior police officer involved in the execution of the warrant, there discussed the female drug dealer and the informant whose information had led to the issue of the warrant. There can be no doubt that the proposed police action came to the knowledge of the female drug dealer via her friend, the other female drug dealer, from the first-mentioned ex-police officer who it can be established had discussed aspects of the police action with his business partner, the second-mentioned former police officer. The female drug dealer, in respect of whose premises the warrant was executed, has informed the CJC that she paid \$3,000.00 to her female colleague for the information. According to her, she was present when the money was handed by her friend to the first-mentioned former police officer. As mentioned above, both former police officers shared a business partnership. The serving police officer responsible for executing the warrant clearly discussed the police action which had been taken against the female drug dealer with a person who was no longer a serving member of the Queensland Police Service. The target ultimately paid \$3,000.00 for the ‘tip off’. At least part of that money can be shown to have been received by one of the former police officers.

One other feature of Operation Caesar II should be mentioned because of its relevance to the discussion below of the various issues. The meeting involving GC14, the former police officer and the Detective Sergeant serving police officer occurred at a Gold Coast drinking spot on the evening of 16 June 1996. There is a sound basis for alleging that at that meeting the serving police officer was involved in a corrupt dealing. He has been charged with official corruption and perjury as a result. On the morning of the next day, 17 June 1996, he recorded in his official police diary that he had had a meeting on the previous evening with two ‘informants’, each of whom he proceeded to ‘register’ as informants. It can be demonstrated that this police officer had had a long and friendly relationship with the former police officer. He had met GC14 for the first time at the meeting on the previous evening arranged by the former police officer who had introduced them. The meeting was covertly recorded. The meeting and the conversation taken in a wider factual context have led the Director of Public Prosecutions to approve the laying of a charge of official corruption against the police officer. This misuse of the police officer–informant relationship is a recurring theme.

OPERATION JETSKI

Almost contemporaneous with the establishment of Operation Shield, the Commission received information that required the formation of Operation Jetski.

On 2/3 July 1996, a large quantity of marijuana, said to have an estimated street value of \$100,000.00, was stolen from the Finch Hatton Watchhouse where it was stored in a locked area. The drug had been seized as a result of earlier police action. An investigation relating to the apparent theft was commenced. To describe the investigation as inept and of poor quality is to resort to understatement. Finch Hatton is a small rural community west of Mackay. By September/October 1996, the investigation remained incomplete and in its then state was unlikely to reveal the culprits.

The discreet but effective use of the available information led to the installation of covert audio and video facilities by Operation Shield staff in the office of certain business premises at Cannonvale. An interview with a corrupt police officer by a senior member of the CJC staff and the consequential product from the listening device, particularly of conversations between the police officer and the businessman, revealed the likelihood that the theft of the marijuana from the Finch Hatton Police Station had been committed jointly by the police officer and the local businessman. Both later admitted their complicity. The police officer had, shortly before the theft, been the relieving officer at the Finch Hatton Station. More importantly, the investigation further revealed that the police officer and his businessman friend were involved in a drug dealing operation in the Whitsunday area which was effectively protected by the police officer who was, at the time, employed in the Criminal Investigation Branch. Their dealer was a local resident who was well known as a drug dealer. The police officer, his businessman friend and the drug dealer have all been charged with a series of criminal offences, including the offence of drug trafficking.

The investigation carried out as part of Operation Jetski has been far reaching and has targeted police officers other than the one who so far has been charged. It suffices to say that as a result of the closure of Operation Jetski on 15 January 1997 and the subsequent investigative hearing, one has to accept that drug use and drug dealing in the Whitsunday area are rampant and that well-known significant drug dealers have not been previously the subject of police action. A very large body of information has been forthcoming, most of which represents the widespread and generally held belief in the area that certain police are involved in drug dealing or in the protection of drug dealers but in respect of which corroborative evidence is not available. Some curious features emerged when the result of certain past prosecutions in the Whitsunday area were examined. Apparent discrepancies between the amount of drugs seized and the amount with which the offender was charged were not uncommon. Prior criminal convictions seem to have been withheld from the Magistrate. Regular drug use by police in the area has been alleged with police resorting to drug exhibits as a means of supply. The practice of 'skimming', that is, of charging the offender with the lesser quantity to the amount seized, was commonplace. The clear inference is that police retained the balance for their own use or, alternatively, sold it. The police officer who has been charged himself alleged that a quantity of marijuana that had been seized by him from an offender was stolen while in police custody. The complete investigation of serious drug allegations involving police in the Whitsunday was frustrated by a number of factors — silence, lack of cooperation, the questionable credibility of

known offenders, the lack of corroboration, and the incomplete and inaccurate record keeping of drug registers.

Operation Jetski highlighted the need for several reforms within the Service if the problem of police and drugs is to be effectively challenged. In this context, it is relevant that certain police stationed at Whitsunday have either avoided or have not sought transfer and have for long periods remained stationed in the same area. The potential for developing corrupt relationships and nurturing those once formed is greatly increased by a system that permits police to remain in the one location for years. This and other issues arise from Operation Jetski. This particular issue will be dealt with separately (see chapter 7).

OPERATION BARGE

This operation was established on the basis of information alleging corrupt police involvement with drugs, drug users and drug dealers in a particular part of the State. It is ongoing and much work remains to be done. Because it is incomplete, it is inappropriate that there be any further discussion of it now.

OPERATIONS ECLIPSE, ORION AND WALDO

These operations focused on alleged theft of drug monies by the police involved in the apprehension of the relevant offenders. As a result of investigations, four packages of evidence were constructed, three of which were dealt with in the course of investigative hearings.

This particular subject matter, namely the alleged theft of money from the persons apprehended for drug offences, is a matter of major concern and, therefore, will be dealt with in a separate section (see chapter 6).

OPERATION LIME

This operation became necessary because of information received as a matter of urgency and in the course of which witness protection had to be provided to the informant. The events involved in the Operation developed quickly and that fact, coupled with its complexity, meant that its execution became extremely resource-intensive, requiring a high level of surveillance and technical support. It can be regarded as a successful example of targeted integrity testing.

The operation revealed that two police officers were involved in the production of cannabis and were apparently disposed towards a much more intensive involvement in drugs. They were also intent on the acquisition of prohibited firearms. The focus for this operation developed to the point where the police officers concerned demonstrated a clear intention to break and enter a motel unit which they believed had been hired by a person who owned a number of firearms of the type sought by them and who they believed had left a bag containing the firearms and drugs in the motel unit. Covertly recorded conversations revealed their stated intention to break and enter the motel unit and to steal the property, and they were covertly videoed in the process

of surveilling the motel in order to facilitate the break and enter. Their recorded conversations revealed an intention to use violence to achieve their objective. In the end, the break and enter did not occur, but only because they suspected the possible presence of CJC surveillance officers which deterred them from completing their objective. The exposure of this criminal episode involving these two police officers led to their dismissal from the Queensland Police Service and their prosecution for serious criminal charges has been recommended to the Director of Public Prosecutions.

The execution of this operation involved the successful application of targeted integrity testing techniques. Information was given to the Commission initially which alleged possible criminal conduct on the part of one only of the two police officers. The truth of the information had to be tested. Conversations between the informant and the police officer were covertly recorded. This process revealed an intention on the part of the police officer to unlawfully and, if necessary with violence, break and enter property for the purpose of achieving an illegal objective. The truth of these assertions had likewise to be tested. The use of an appropriate scenario soon demonstrated the fact that the police officer was serious in his intentions, and in the course of planning it he, in fact, made contact with another police officer of whom the CJC had until then been unaware. Intensive surveillance revealed the association of the two men and a covertly recorded conversation between them revealed the full extent of their corrupt intentions. A covert video recording revealed them in the process of executing the preliminary phase of their plan to break and enter the motel where they believed the firearms and drugs were held. The complete fulfilment of the plan was frustrated by their suspicion that surveillance personnel may have been in the vicinity. But the investigation and the technique employed were remarkably successful.

This operation well demonstrated the value of a targeted integrity testing technique. It was carefully planned and close consideration was given to the legal implications of it at every step in the process.

OTHER OPERATIONS

There are currently in place other operations being conducted by the Operation Shield team and the process for future target development has commenced. It would be wrong to disclose publicly in this report the details of current operations and of those operations that are proposed. The future development of Operation Shield and of the target development process are dealt with in detail in chapter 10.

CHAPTER 6

THEFT OF DRUG MONEY

As pointed out earlier, the drug trade is a large money generator and the policing of the illegal drug market necessarily brings police into contact with quantities of cash money ranging from relatively modest amounts to huge sums, the possession of which most people would never experience. During Operation Shield, the theft of drug money by police was a fairly common allegation. Proof of the allegation is, of course, quite difficult. The theft will invariably be denied; it is almost inevitable that the investigation will be into an event which has happened in the past for which the available evidence is usually non-existent; it is extremely unlikely that an investigation can anticipate the theft so as to ensure that there are in place covert strategies to document the criminal act as it occurs. It will always be the case that the person who alleges the theft has been engaged in unlawful drug activity and has probably a history of criminal convictions so that the credibility of that person is immediately suspect — a fact corrupt police invariably take advantage of. The usual assumption made by the corrupt police officer in these circumstances is that he/she, in any contest vis a vis the drug dealer, will be seen to be telling the truth; the criminal will be seen to be telling lies.

Experience has shown that neither of these two propositions is necessarily valid. To say that a police officer will not lie is as fatuous as it is to say that a criminal cannot tell the truth. Nonetheless, corrupt police will invariably claim propriety in their behaviour and will always deny the theft and at the same time allege fabrication on the part of the person from whom the money was stolen. That is the predictable tactic. It was resorted to in Operation Waldo.

Again, as pointed out in an earlier chapter, the ease with which a theft of drug money will occur makes its detection almost impossible. Whether the drug offender from whom the money is taken is charged with possession of a lesser amount than the amount seized or of no money at all, it is inherently unlikely that the offender will complain because to do so would necessarily incriminate him/her in a more serious offence.

The theft of drug money from a drug offender by a police officer is a crime and the perpetrator of it should not only be dismissed from the Queensland Police Service but be prosecuted. The theft of drug money by a police officer offends every basic standard and value that the community expects of its police officers. The police officer might rationalise his/her crime on the basis that the money was derived from a drug dealer and that such a theft is less culpable because of the reputation of the victim and the source of the funds. In the jargon of corrupt police, it is referred to as a form of 'taxation'. This is nonsense.

The problem is a serious one and is not confined to the Queensland Police Service; it is one with which other law enforcement agencies throughout the world have had to cope. Wood identified the problem in New South Wales and his report refers to what in the jargon of New South Wales Police Service is called a 'whippy'. In the glossary to the *Wood Report* [Royal Commission into the New South Wales Police Service,

Final Report, Volume I: Corruption , (Commissioner: The Hon. Justice J.R.T. Wood), The Government of the State of New South Wales, p. xxvi.] , a ‘whippy’ is defined as ‘money found during the execution of a warrant which is retained and divided among police’.

In the *FBI Law Enforcement Journal April 1977*, pages 20–21, the theft of drug money is identified as one of the great temptations for law enforcement officers, namely, that officers may be ‘enticed by opportunities to steal large sums of illicit cash’. I referred above to the difficulties which necessarily attend the successful investigation of this type of corrupt behaviour. In addition, it needs to be understood that there is presently no specific form of supervision by the Police Service of money seized, as the relevant investigations conducted as part of Operation Shield will disclose. To place money in one’s pocket or to otherwise secrete it is quick and easy, particularly when the police officers are acting in concert or in circumstances where the one can rely on the implied approval of the other.

The nature and extent of the problem, the degree of criminality inherent in it, and the difficulties which attend the investigation of it, support its being dealt with as a separate issue.

The Commission investigated four instances of the theft of drug money, three of which are detailed below. The fourth was one of long standing and the public exposure of it proved unnecessary. It was only abandoned after counsel and I had seriously considered the matter, because it would have necessarily subjected certain innocent persons of excellent reputation and good standing to a process that may have had serious personal consequences for them. In short, the personal cost in the circumstances was too high. The matter was, however, thoroughly investigated and found to have substance. However, in discussion of the matter with the Director of Public Prosecutions it was agreed that certain difficulties with the matter made it an unsuitable case for the presentation of an indictment.

The first of the three other operations has raised matters of grave concern.

Operation Orion was initiated after a complaint from a person who is serving a lengthy term of imprisonment for drug trafficking. The prisoner alleged to the Commission in a private hearing that he had at the time possession of \$100,000.00 in cash, which was seized during his arrest by police.

In October 1995, police received information that this person had possession of a quantity of heroin and cocaine and ‘about \$100,000.00’ which was buried in the yard of certain premises. On the basis of this information, a police officer obtained a search warrant under the *Drugs Misuse Act* in respect of the named premises. The complaint which founded the warrant reads:

Confidential and reliable information has been received from an informant that the suspect is an associate of Mr X, a known heroin dealer on the Gold Coast. The informant states that at the request of Mr X that the subject dug up a sum of money namely \$100,000.00 that was buried in Mr X’s yard along with a coffee tin that contains rock heroin and cocaine. These items are now in the

possession of the suspect and are believed to be secreted in his home, which is situated at [a Gold Coast address].

After the execution of the warrant, the entry in the operational running sheet at the particular CI Branch reads:

Further to item on the evening of Thursday 19 October, attend briefing and travel to [a Gold Coast address] and [another Gold Coast address] to locate [suspects] 25/11/58 and 28/7/68. Interview further re. Mr X. To [both addresses] locate large quantity of heroin, cocaine, and amphetamine at [an address] and then to [another address] where \$76,670.00 was located and buried in back yard. Money photographed in-situ and at office in presence of property officer Sergeant D, and SOC officer Sergeant B and exhibit officer PCC F. All exhibits lodged at Surfers Paradise Property Office. Both persons provided lengthy statements and were electronically interviewed re. possession of money and drugs and also in relation to drug trafficking and attempting to pervert the course of justice by Mr X. Both admitted that money and drugs located was the property of Mr X. Both charged:

1. Possess dangerous drug over specified amount.
2. Supply drug over specified amount.
3. Possess tainted property.

Mr X to be interviewed and charged re. these matters.

It will be noted that the original information referred to the sum of 'about \$100,000.00'. The prisoner in evidence said that the sum in question was in fact \$100,000.00 which had been counted and placed in two bundles each of \$50,000.00. Both the running sheet and the entry in one of the officer's diary refers to the seizure of \$78,670.00. That entry reads:

Conduct consent search and subsequently locate two plastic containers containing a large amount of cash. SOC M attended and photographed this occurrence. Then transport cash to Surfers Paradise where it was counted in the presence of SC B and Sgt D. Total of \$78,670.00 located.

It is common ground that the officer who made that entry and another officer took possession of the money at the scene and transported it to the police station where it was later photographed and counted.

When the money was initially seized, it had to be dug out of the ground in which it had been buried in two cylindrical plastic containers. The bundle of money in each container was removed and photographed in situ. After it was photographed, it was returned to the cylinders and transported to the police station during which time it was in the sole custody of two police officers who had been heavily involved in the investigation. At the police station it was photographed in detail and a recording made by one of the officers of the individual amounts of money. On counting it was said to total \$78,670.00.

On the face of that material, it seemed to be just another case of a seizure of drugs and of a large sum of money from one who was a well-known drug dealer and who had recently been convicted and sentenced to a long term of imprisonment. However, further close investigation revealed much more. This was a case where the convicted person complained that police had stolen part of the money.

The police photographs taken at the scene of the bundles of money from each cylinder, when compared with the alleged contents of each cylinder that was photographed at the police station, themselves demonstrate a serious discrepancy. By sight alone, while it is not possible to say exactly how much money has been taken between the time it was photographed at the scene and when it was photographed at the police station, it is clear that one large bundle of \$100.00 notes has been removed. Having regard to the size of the other bundles of \$100.00 notes, which were later counted, it is probable that the missing bundle contained \$10,000.00. It is apparent that other monies have been stolen as well, but the exact amount cannot now be determined. One can confidently state, however, that the sum of \$10,000.00 at least was stolen.

To confirm the fact that a large quantity of the cash money was stolen while in the custody of police, investigators sought the valuable assistance of officers of the Commonwealth Bank. The evidence establishes that, in respect of the cylinder from which at least \$10,000.00 was stolen, the money was jammed tightly into the cylinder when it was removed from the ground. Bank officers assembled the exact number and quantity of the denominations of notes photographed and recorded at the police station and said to represent the contents of that cylinder. By using the same cylinder and inserting the assembled exact number and denomination of notes into the cylinder, the bundle of money fell immediately to the bottom of the cylinder. This process became the subject of a series of photographs which convincingly establish the fact that a large amount of money was taken from the time when it was first photographed at the scene to when it was photographed at the police station. So compelling is the evidence of the original photographs taken by police, together with the evidence adduced in the course of the investigation, that no challenge was made in the course of the investigative hearing to the fact that the money had disappeared while in police custody. The only issue has been the identity of the person(s) responsible. The material is being collected for submission to the Director of Public Prosecutions.

Operation Eclipse presents a different set of facts but the same problem.

In April 1997, two persons (S and M), both drug users well known to certain police, obtained possession of a sum of money said to be \$30,000.00/\$32,000.00. It is not clear how all of this money was dealt with — a vehicle was purchased for \$3,800.00; \$5,000.00 was banked; M, at S's direction, placed \$10,000.00 in hundred dollar notes in a jar and buried it; and another quantity of fifty dollarnotes, the exact amount of which cannot now be ascertained, was left with M who placed it in a desk at her house. When intercepted by police, S was found with \$3,400.00 in his wallet. This amount was counted by police in his presence and he acknowledged in writing the amount seized.

On 30 April 1997, two police officers accompanied S to M's house where M retrieved the jar of money said to contain \$10,000.00. One police officer commenced to count this money but did not complete the count and handed it to the other officer who had retrieved the other sum of money from the desk, which I am satisfied was not counted either. There was evidence that it was necessary for S and the two police officers to leave the house as quickly as possible, although a tape-recording of the visit did not indicate the measure of haste contended for.

When the two police officers did leave the premises with S, the second police officer had in one pocket the large sum said to be \$10,000.00 and in another pocket the uncounted sum taken from the desk. No exhibit bags were used, although it is clear that the officers expected that the visit to the house would reveal the presence of a large sum of money. Indeed this was the very purpose of the visit. When they left the house the police had no conclusive idea of how much they had. It had not been counted.

Having departed the house, the two police officers with S then went to the Commonwealth Bank at Palm Beach. One officer and S went inside so that S could withdraw the \$5,000.00 that had been banked. The other officer remained alone in the car in the possession of the two separate amounts taken possession of at the house. On leaving the bank, the three men then decided to go to McDonald's to have lunch. The two police officers then had in their personal possession the various large quantities of notes. This money was held in their respective pockets. One officer had in his pockets the sum said to be \$10,000.00 and the bundle of fifty dollar notes taken from the desk; the other officer had in his pocket the sum of \$5,000.00 taken from the bank.

Shortly after lunch, the police officer who had had custody of the money on leaving the house, and who had remained alone in the car outside the bank, returned to his station having first handed the money that he held to his fellow officer, who placed the two large sums of money received in his other pockets. It is somewhat ironical that the officer who returned to his station stated that he had to complete a written report on 'risk management' matters. The officer who now had all of the money then proceeded to confiscate the vehicle that S had purchased for \$3,800.00. This police officer then returned alone to the Surfers Paradise CI Branch while in possession of the total amount seized, having first required S to follow him in the seized vehicle.

At the Surfers Paradise CI Branch, the separate sums of money were given to another police officer to count. The latter immediately proceeded to mix the various bundles of notes and he counted the total as one bundle of money — that is, the sum of \$3,400.00 which earlier had been taken from S's wallet and which S had acknowledged as being the correct sum of money seized, the sum of money said to have been withdrawn from the bank (\$5,000.00), the quantity of \$100.00 notes taken from the bottle and the quantity of \$50.00 notes taken from the desk. A count disclosed 123 x \$100.00 (\$12,300.00) and 120 x \$50.00 (\$6,000.00) a total of \$18,300.00. By this time the identity of the individual bundles had been lost and it was never established how much was in the separate bundles upon the arrival of the money at the Surfers Paradise CI Branch. Apart from the sum of \$3,400.00 counted originally, the other three sums — the alleged sum of \$10,000.00 in the bottle, the bundle of fifty dollar notes from the desk and the sum of \$5,000.00 obtained from the

bank — were never counted while the money was in the custody of the police. Again, the persons from whom the money was seized alleged that part of it was stolen.

A third operation named Waldo became part of Operation Shield. It has a remarkable history, not the least because of the fact that the relevant events occurred in 1991 and, when the investigation was commenced by the Commission, not even the name of the person from whom the money was stolen was known. The results of this investigation is a tribute to the skill and commitment of the investigation team which dealt with it.

The first information received by the Commission about the relevant events and the identity of the offender was vague and ill-defined. The name of the relevant person was not known. The ‘story’ received by the Commission simply was that in about 1991 this unknown person had said that money had been stolen from him by police. A comprehensive search of computerised data using the minimal information then available and other related investigative work narrowed the field. Further information then led investigators to a comprehensive search of past editions of the local newspaper which reported events in the local court. When investigators were reasonably confident that they had isolated the likely person, they set about ascertaining his present whereabouts. Through a further detailed and somewhat tedious investigative process they located him in another State.

A telephone call established that the correct person had, in fact, been located. In the course of the conversation, the person in question volunteered the information that he had in 1991 been involved in drug dealing. He said that on a particular occasion when he was apprehended by police he was in possession of approximately \$5,500.00, which was the product of sales he had made shortly before his apprehension. It was this sum which he said was stolen by police in the course of his being apprehended. He was charged only with the possession of cannabis. It has been established that he had travelled from Townsville on that day and had purchased a large quantity of cannabis at Merinda near Bowen. He had dealt in the cannabis in the Whitsundays before he was apprehended. The money in his possession was said to be the proceeds of sales, together with other money remaining after the original purchase. There is no reference in the original police documents to any sum of money.

When originally contacted and having confirmed with Commission investigators the allegation of theft, he then reluctantly refused to assist further or to receive a visit from Commission officers. Advice from his interstate solicitor confirmed this. He disclosed a preference to have nothing to do with the matter. Further detailed investigations disclosed that this person later left one capital city and was known to have relocated in another. Ultimately, while in Queensland, he was served with the Commission’s summons and was interviewed for the first time by Commission staff.

In the course of being questioned on oath by the Commission, the following exchange occurred:

Q: ... And there’s certainly no mention on this court brief of any money being found?

A: There was never any mention of any money right from the word ‘Go’.

Q: Mmm?

A: I was never asked about the money by the police.

Q: You weren't questioned about that?

A: There was never — no one asked me anything about the money and, as far as I was concerned, I didn't want to know about it either because I thought I'd be digging myself a bigger hole even asking what happened to it.

And later:

Q: And what was going to be your attitude to this whole issue — if the prosecution had raised it, what were you going to do, had you discussed that with Mr Telford?

A: I don't think so, no. I — I — I was sort of in the frame of mind myself that, you know, they keep the car, they could keep everything, as long as I didn't get into that much trouble.

Q: Mmm. Do you have a specific recollection that the money was not mentioned in court?

A: No, it was never mentioned in court.

Q: Right. Because the only reason I ask is you've got some — you've — you admitted to having a poor recollection on some matters in court, but you do remember that the money wasn't mentioned?

A: There's - I'm - I'm almost positive that the money was never mentioned.

Q: Mmm?— ever again—

A: Mmm?— not just in court, but from the moment the police started questioning me about it. It was never mentioned in my record of interview. They never mentioned it to me whilst they were searching the car. There was never any mention of it. I never mentioned it to them, they never mentioned it to me.

Q: So you had no conversation with anyone, apart from Mr Telford, about the money? You didn't talk to the police about it at the scene?

A: No, no.

Q: Or at the police station?

A: No.

Q: Or at the court that morning?

A: No.

Q: Perhaps I should have asked you this. In what denominations was the money?

A: Twenties through to hundreds.

Q: And was it in one bundle or several bundles?

A: No, it was in a big round wad with a couple of elastic bands around it.

Q: And were the — were there sort of separate bundles—?

A: No, it wasn't.

Q: — in between that wad or they were just—?

A: No, it was just—

Q: — all one on top of each other and then folded over?

A: Yeah, into a circle, into a round circle.

It is apparent that this person has long since ceased to associate with the drug trade; he has been living a law-abiding life for some years now and is presently responsible for the upbringing of his young son. He proved to be a very credible witness.

He was a most reluctant complainant; he expressed a strong impulse to put the past behind him. His participation in the Commission's investigative hearing process was possible only because of the coercive nature of the summons. He gave his version of the incident first in private hearing and later as part of the public exposure of the facts relating to these events. Commission investigators were able to locate his former wife and his solicitor. Both informed the Commission that immediately after his arrest he had told both his wife and his solicitor of the theft of the money. In the court proceedings at Proserpine, no statement was made to the court by the prosecutor of the fact that the offender had had possession of tainted property, nor did his solicitor raise the matter. To have done so would have meant that the offender would have been presented to the court as a more serious offender than the one contended for by the prosecution. He suffered a modest fine. He left the area soon after and did not return. I am satisfied that he was known in the area as a persistent, relatively low-level dealer in drugs.

The investigation disclosed that the offender's anticipated arrival and his presence in the area on the day in question was the subject of information given to police by a particular informant. This is well documented in the diary of one of the more senior officers involved in the apprehension of the offender.

Perhaps the most disturbing feature of the investigation is that each of the five police officers, both uniformed officers and CI Branch officers, now claim to have no independent recollection of the events relating to the arrest, nor of the name and

circumstances relating to the offender; the police officer who identifies in his diary the informant 'VJ' as the person who provided the information which led to the arrest now claims to have no recollection of the identity of the informant, nor of the identity of five other informants who are referred to in his diary at and around the same time.

One officer involved in the matter, when asked why a person in the position of the offender might in the circumstances have told a false story now to the Commission, replied, 'Perhaps he owed people money and had to make up a story where this money went'.

The offender, described herein as a reluctant witness and complainant, presented to Commission officers and in the investigative hearing as a truthful witness.

In each of these three cases, the allegation is that money was stolen after it had been seized by police. There appear to be no specific procedures which require that sums of money, as distinct from other forms of property seized, should be dealt with in a particular way. The usual practice involves photographing it and later banking it. It is obvious that from time to time police will come into the possession of sums of money, some of which by any standard can only be described as 'large'. The experience of the investigations undertaken is that in Operation Orion two police officers had custody of approximately \$100,000.00 when transporting it from where it had been buried to the police station. It was then handled by other officers before it was placed into the custody of the property officer. In that process a large amount was stolen. In Operation Eclipse, one police officer or the other carried in their pockets large sums of money in bundles which came from different sources. There appears to be no uniformity in how these different quantities of money were dealt with. Either this indicates a lack of system and proper procedure or else the accepted system and procedure was not followed. The first case was clearly a case of theft, so was the third; the second case may be a case of theft or of negligence which left officers open to the making of a false claim. There has to be protection against both; not only should the intentions of dishonest police officers who are tempted be frustrated, so too should honest officers be protected against false claims.

The existing procedures should be reviewed as a matter of urgency. An essential element of any such reform should be a requirement that money seized should immediately pass into the custody of a Commissioned Officer or, preferably, of an independent and reputable member of the community. The money must be counted as a matter of priority in the presence of the person from whose custody it was seized and, if possible, an acknowledgement obtained from that person as to the amount of money seized. These should be understood as minimum requirements only.

Apart from photographing it and banking it, QPS procedures do not appear to deal comprehensively with the issue of handling money seized. In each of the three cases detailed here, there was the high probability of police seizing money. It was anticipated. In two of the three cases, the very purpose of the visit to the respective premises was the seizure of money — in one case, the anticipated seizure was of the order of \$100,000.00; in the other the amount was uncertain but it was known that it could approach \$30,000.00. Yet in neither case was any particular supervisory strategy put in place. There was no reason a Commissioned Officer or any

independent person could not have been enlisted to oversee the seizures. Some flexibility in defining the procedures is obviously necessary.

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.

Prima facie, the procedures should require the presence of a senior officer or reputable independent lay person. It should only be when neither is reasonably available that exceptions to the prima facie rule be countenanced.

While there is recognised a need for appropriate flexibility, that should not deflect from the need to ensure the adoption of procedures which will guarantee the integrity of the seized money and limit the scope not only for illegal conduct by police but also for false claims of theft by those who have illegally possessed the money seized.

CHAPTER 7

POLICE APPOINTMENTS AND THE EFFECT OF THE IMMOBILITY FACTOR

One striking feature of the Operation 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. Later in this report, reference is made to the need to target localities in addition to individuals or groups of individuals in any proactive policing strategy that is part of the anti-corruption effort. Several localities in the State immediately come to mind in this context. The point is that such localities are perceived as areas of concern but nothing is effectively done about it. The obvious concern is the fact that the Police Service now, in terms of its apparent immobility, constrains an effective response. It is more than mere coincidence and it is a feature of these areas that the individuals who are seen as the main potential targets in such areas have served in the particular locality for what is apparently an undue length of time.

This raises a serious question of the relationship between the incidence of corrupt police conduct and the long-standing association which the allegedly corrupt police officer(s) has, or has had, with the particular area.

It is acknowledged generally that the Police Service is a disciplined Service. It is the obligation of the Service to provide law enforcement and related services in localities which are geographically disparate. The problem is more acute in a State like Queensland where police have to be deployed from the Cape to the border and west to outlying communities.

It is also recognised that police officers, while necessarily subject to discipline, are like so many others in various occupations and professions who are required to service the needs of persons who live so far distant from the larger centres of population. The social conditions which affect the lifestyle of each of us, also affects that of the police officer. Where he/she is required to serve is, for the time being, 'home'; it is the place where children grow up, attend school, make friends; where the police officer's spouse makes friends, joins in community affairs and often finds acceptable employment.

The expectation is that the police officer whether male or female will of necessity come to develop a close tie with the community in which he/she occupies a position of some status and importance. The social factors which are of importance to the individual police officer and his/her family cannot be denied in any discussion of the process of appointment and of the related but understandable desire to live a settled life as far as possible in a location of choice.

In recent years, however, there seems to have been a much greater emphasis on this point, so much so that it is now a part of the appointment process that transfer has become, for all practical purposes, a matter of individual choice.

There is, however, a serious down side, which is the basis for the concern expressed here. It is an inevitable consequence of the current appointment procedures that the immobility factor in police appointments has produced results which constitute potentially serious problems of one kind or another for a Police Service. These can be identified, and were apparent in the course of Operation Shield. One of these is the likely nexus between a long-standing association which a police officer has within a particular locality and the incidence of corrupt police activity. That is not to say that because a police officer has served in one locality for a long time he/she is likely to be corrupt. The point is that the long-standing association of the police officer with a particular locality appears to be an important, perhaps critical, component in the set of social conditions which have assisted in the development of some corrupt police officers. It is that concern which is being addressed here. During Operation Shield, it was apparent that those police officers in respect of whom there are substantial concerns have all worked in the one locality for lengthy periods.

The current strategy of the Queensland Police Service in education and training is to encourage the professional development of its officers. There is now a much more urgent emphasis on ongoing education and training as an integral feature of one's career development. Promotional prospects are generally not possible unless the officer has met appropriate professional development criteria. Perhaps the logic of this proposal, admirable as it is, needs to accept the fact that a significant percentage of officers are prepared to forego promotion, particularly if it involves transfer, so that within the Police Service at large there is a risk of developing two streams — the one composed of officers intent on developing their careers and who accept transfer as an inevitable component of promotion; the other, composed of those who are more intent on matters of lifestyle than advancement and whose attitude is that if the prospect of advancement arises well and good, provided it does not involve a transfer from the present locality. The consequence is that one can easily identify officers who entertain only the most modest of ambitions and who are prepared to forego advancement in favour of a more convenient lifestyle. Of course there will be officers whose personal circumstances will heavily affect career development. That is well understood. The concern here focuses on that significant body of police officers who will never experience advancement in the Police Service; indeed they would prefer to shun it in favour of maintaining an acceptable status quo, particularly if the officer has set his/her roots in a particular locality. It is not mere coincidence that the officers here referred to are more likely to be located in a resort-like environment or in provincial areas on the eastern seaboard. One can readily identify areas on or close to the Coast as the kind of provincial areas which boast a popular lifestyle. Most of the potential targets have lived in such areas for lengthy periods.

The Commission in the course of Operation Shield heard evidence from certain police officers which well demonstrates the immobility factor in the appointment and deployment of police throughout the State.

An officer, now a Detective Senior Constable, was sworn in in May 1989. In June 1990, that officer was appointed to serve at Proserpine. In March 1991, he was seconded to the Whitsunday Criminal Investigation Branch and confirmed in that position in December 1991. He is still at the same station, in the same position. In short, this officer, apart from his first year of training, has never seen service as a police officer in work at any location other than at the Whitsunday and Proserpine

Police Station, which are separated by less than an hour's drive. Furthermore, his apparent reluctance to serve elsewhere appears from the following evidence:

Q: ... you've been in the Whitsunday area — Proserpine — Whitsunday since June 1990.

A: Yes Sir.

Q: That's just a little over seven years.

A: Yes.

Q: How much longer do you expect to be there?

A: At this stage I got into the CI Branch relatively early in my career — I — probably in the next year or so would be looking for promotion to Detective Sergeant — oh I don't know. I really don't know what the future holds: whether I go back to uniform or continue a career in the CI Branch.

Q: It's conceivable that you'd stay at Whitsunday?

A: Yes. Well I've got a family there — my wife's got a job. We're well entrenched in the area.

Another officer of the rank of Sergeant has served at the Whitsunday Police Station for the last twelve years and has no intention of serving elsewhere. He gave this evidence:

Q: How long have you been in the Whitsundays as a police officer?

A: Twelve years sir.

Q: For the last twelve years?

A: Yes Sir.

Q: And what is your present expectation that you'll stay another twelve?

A: Yes Sir.

A younger Senior Constable, sworn in in June 1990, has served all of his time, apart from the initial six months, at the same station. He has no present intention of shifting elsewhere.

A particular Gold Coast police officer, who came to the attention of Operation Shield and who has had approximately sixteen years' service, has served all of his time at the Gold Coast, except for a period of about six months. The last fifteen years have been served at various stations at the Gold Coast.

Another such officer, who has been a police officer for at least twelve years, has served the last ten years at the Gold Coast.

These are a few examples only, but they are typical.

As pointed out earlier, it is not intended to submit that all police officers who have been in the one location for long periods are corrupt — far from it. On the other hand, it is apparent that those who have demonstrated allegedly corrupt conduct can be shown to have had a long-standing association with a particular locality and with particular persons of considered ill repute within that locality. In other words, the factor of immobility that is a feature of Police Service in this day and age and that can be seen to be justifiable for social reasons can also be identified as being a serious influence in creating an environment for corrupt dealing.

It stands to reason that an inappropriate association between a police officer and persons of ill repute needs time to develop and to be nurtured. That process is easily facilitated by a system which entrenches relief from transfer and which affirms the idea that whether a police officer transfers from one place to another is effectively a matter of individual choice.

There are some members of the general public who would argue that it is not to the advantage of a particular community that its affairs be habitually policed by the same police officers. Not only is it good for the Queensland Police Service that individual officers receive a breadth of experience in various locations doing different policing tasks, so too is it to the advantage of the particular community that it should have the benefit of being policed by officers of differing experience and personality. It is axiomatic that police officers will and, indeed, should be part of the community within which they live and work. Normal social contact apart from official contact will be a feature of everyday life. Associations will inevitably form, most of which will be benign but others will not be. As Operation Shield has demonstrated, the formation of identifiable inappropriate associations and practices by police officers have occurred in those areas where they have served for inordinately long periods.

It is as well to record here the experience of certain Operation Shield investigators who were confronted by an apparent lack of cooperation from responsible members of a local community. Information was being sought from them and it seems that they were in a position to assist in relation to a certain officer, but reluctantly refused to do so on the basis that 'you will be gone in a few weeks; we have to live here'.

A discussion of this subject reveals the obvious need for striking the right balance in dealing with the competing considerations that emerge.

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. It is frequently the case that an expressed community concern about a particular officer cannot, as a result of investigation, be established to the required standard of proof, namely that the officer

had acted unlawfully or had committed an identifiable breach of discipline. Nonetheless, the extent of that concern both at the official and community levels may be clearly sufficient to transfer that officer to another location.

Inappropriate associations between a police officer and other persons will often be explained on a variety of bases. Often times the explanation proffered will be ‘the standard excuse’ — namely, that the other person is or was the police officer’s informant. Whatever the explanation, it will be habitually difficult to prove or disprove precisely the reason(s) advanced for the association. Yet, by any objective standard, the association(s) will be clearly inappropriate. Likewise, the conduct or performance of a police officer will often be such that it falls short of what is to be expected. That level of performance may be the result of valid concerns which may be incapable of conclusive proof. Inappropriate associations within a particular community will often be a factor in the assessment of that concern. There will of course be others.

In circumstances such as these it is surely a relevant factor that the police officer has been working in the particular area for an undue length of time and has demonstrated a clear intention to remain in the same locality indefinitely. It is a matter of increasing concern, and one which right-minded people in the community would share — namely, that the present capacity of the Commissioner to transfer that officer from that locality as a matter of urgency is extremely limited and is so heavily constrained by the need to comply with costly and cumbersome procedures that he may be deterred.

The circumstances in which the Commissioner may properly need to exercise his/her authority will be many and varied, but it must be recognised that unless the Commissioner has the unfettered discretion to transfer an officer from a particular locality when the Commissioner reasonably suspects that that officer has acted improperly or in a way that may discredit the Service, then the community in that locality will come to regard the Service as moribund and not worthy of respect.

The individual rights of a police officer are one thing; the good name of the Service and the obligation of the Commissioner to protect it is another. Striking the proper balance will always be difficult and potentially controversial. But given the special position which the police officer occupies in the community, there is valid justification for vesting in the Commissioner of Police a special authority to transfer any officer if in the Commissioner’s opinion the good name of the Queensland Police Service may be put at risk by retaining the services of a particular officer at a particular location.

The need to exercise such authority will arise only in particular cases depending upon the measure or degree of concern which attaches to an officer or group of officers in a particular locality. It is entirely consistent with the good order and proper management of an accountable Police Service that the Commissioner should be able to exercise his authority in appropriate cases to transfer any officer from a particular locality as a matter of discretion and free from the need to have the decision subjected to costly, time-consuming and cumbersome procedures such as the process of appeal or some form of judicial review.

As part of this process of re-evaluating the impact of the so-called immobility factor which pervades the Queensland Police Service, there is the additional need to consider the implementation of a proposal to attach a time limit to any officer's service in a particular place. Such a limit should be based on a reasonable alignment of the competing considerations — the private and social considerations affecting the officer on the one hand and, on the other, the well-being of the Service, and the development of the right relationships with the community.

There is a reasonable expectation on the part of people who choose the Police Service as a career that, during their service, they will have to serve at appointed locations. There should be, in addition, a stated and explicit direction that any officer appointed to any location come to expect a measure of permanence at that location such as a minimum of three years' and a maximum of seven years' service, subject to the unfettered discretion of the Commissioner to transfer any officer at any time if, in his opinion, it is in the best interests of the Queensland Police Service that that transfer occur. Such a process will necessarily involve the Human Resource Management Division of the Service, as well as those involved in the management of the Regions, in an ongoing evaluation of the service duration of individual officers at individual locations.

It is clearly understood that such a proposal involves industrial issues which will provoke some contentious dialogue. However, it should also be clearly understood that the right of the Commissioner to transfer personnel on the appropriate criteria and as a matter of unfettered discretion is essential and should be not negotiable. Nor should the cost involved in transferring an officer(s) be permitted to deter the implementation of this urgent imperative.

The integrity of the Queensland Police Service requires it.

CHAPTER 8

IMPROPER USE OF DATA: RECORD KEEPING — SUPERVISION & RISK MANAGEMENT

This chapter focuses on the misuse of police computerised data and on problems relating to record keeping. Operation Shield demonstrates how these matters, coupled with poor supervision and inefficient risk management practices, can be used to advantage by police who have a propensity to behave improperly or unlawfully. It will deal with:

- the improper use of computerised data
- the making of computer checks for improper purposes
- incomplete or inadequate drug record keeping
- the use of e-mail
- lack of supervision — inefficient risk management.

THE MISUSE OF COMPUTERISED DATA

The Queensland Police Service manages a comprehensive database which contains a massive body of information. This is habitually accessed for law enforcement purposes and the proper use of it is essential in the course of daily police work for a wide range of disciplines within the Service. Obviously, there is enormous potential for misuse of the information and of the technology which is designed to support it. It is a serious breach of discipline for any officer to access the information and to use it for his/her own purposes. The present concern is that it can be shown that this misuse of official information facilitates the operations of those who are corrupt.

Operation Caesar II revealed a capacity for police not only to misuse the computerised data for corrupt purposes but also to present to others the potential to assist with information by such misuse for the purposes of entering into corrupt arrangements. Persons involved in drug dealing and well known to police became part of the complex factual matrix of which GC14, the Commission's covert agent, was a part. This investigation exposed the close improper associations between serving and former police and others. It will be recalled that GC14 having first met one female dealer (A) was then introduced by her to another (B), then in turn introduced by B to a former police officer (C), who then introduced GC14 to serving corrupt police. The operation also revealed that the former police officer and GC14 were able to draw upon the capacity of serving police to access the computerised data as a matter of routine, merely upon request. It would be unduly naive to believe that police were providing this valuable service gratuitously. The extent of the misuse of computer access can be easily demonstrated. It will be recalled that the apparently corrupt arrangement was based on a promise to access computer-based data to ascertain whether it revealed any possible police interest in GC14.

At 1415 hours on 13 June 1996, a sergeant of police (D), a well-known friend and associate of the former police officer C, conducted police computer checks on the drug dealer whom GC14 had met first. There is no basis for believing that this police

officer in the course of his duties had any reason to make the checks on account of his police work, nor was he apparently involved in any investigation concerning this person. It is probable that D made the check on behalf of C.

On the evening of 16 June 1996, GC14 attended a meeting with a serving police officer and the former officer C, and an apparently corrupt arrangement was entered into. On the next morning, 17 June 1996, the police officer concerned, at 1023 hours, conducted computer checks on GC14. At 1132 hours, a public servant conducted checks on GC14, and at 1231 hours, another police officer employed as a District Intelligence Officer conducted further checks on GC14. There is no basis for any valid belief that at that time police had any interest in GC14 for law enforcement purposes. He was apparently not known to police, nor was there any interest in him as a person involved in unlawful activities. The last two checks made in respect of GC14 were clearly made on behalf of serving police. 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. This obvious deficiency in the system will be discussed below.

It will be recalled that the basis of the corrupt arrangements made in respect of GC14 was that, in return for payment, inquiries would be made to ascertain the nature and extent of any apparent police interest in GC14. Obviously some of this information, even if it had existed, could not have been accessed, and it is accepted that much of what was offered by way of assistance in return for a money payment would be of little or no value. That, however, did not prevent the relevant persons from offering such a service and, indeed, in giving GC14 the impression that this facility was available. The fact remains, as will be seen, that numerous QP checks were made in relation to GC14 when objectively speaking there was no basis for believing that he was a person of interest to police.

On 13 September 1996 at 1415 hours, the serving police officer friend of the former police officer C checked the first female drug dealer. It is known that he was in no way involved in the investigation of her activities. On 19 September 1996, the previously mentioned District Intelligence Officer checked the first female drug dealer A, and the ex-police officer's friend, a serving police officer, also checked her. On 24 September 1996, three different checks were made in respect of GC14 by three different people from three different terminals — two were made by public servants and one by a police officer. The checks were made at 0925 hours 1025 hours and 1107 hours. On the next day, 25 September 1996, a further check was made on GC14 by a police officer at 0859 hours.

By 14 October 1996, a day of feverish activity involving requests made for assistance by GC14, which were complied with, the corrupt arrangement was well in place.

At 1243 hours, GC14 rang one R, a colleague of former police officer C, who had represented himself to GC14 as a police officer. GC14 informed R that he believed he was being surveilled by a vehicle, the registration number of which was 146-DIG and requested that it be checked. This was a scenario which was designed to determine what activity it might provoke. The original call by GC14 to R was made at 1243 hours. The following events occurred in the course of which it will also be seen that police accessed computerised information to satisfy the request of GC14:

at 1243 hours GC14 called R and asked him to arrange for a check to be done on 146-DIG
at 1247 hours R rang C
at 1252 hours C rang Broadbeach QPS
at 1253 hours vehicle 146-DIG was checked from Broadbeach Communications Room from terminal BRBS08
at 1300 hours C rang R
at 1302 hours R called GC14 to tell him the name of the registered owner [19 minutes later]
at 1314 hours R rang C
at 1400 hours C rang Southport CIB
at 1405 hours GC14 rang C
at 1409 hours C rang Conrad Jupiters, where the Casino Crime Squad is located
at 1423 hours R called C
at 1425 and 1700 hours C rang B
at 1429 hours C rang Broadbeach QPS
at 1443 hours C rang Conrad Jupiters
at 1541 hours R rang C
at 1545 hours R called GC14 and told him who was the hirer of the vehicle 146-DIG
at 1633/4 hours C rang D
at 1713 hours police officer S rang C from Casino Squad
at 1755 hours C rang Southport CIB.

On the next day, 15 October 1996, the vehicle 146-DIG was checked further by police officer D, the associate of former police officer C.

At this time, C had in place arrangements with certain police at Broadbeach Police Station, Southport Police Station and the Casino.

On 16 October 1996, at 1045 hours, GC14 met with former police officer C and paid him \$1,000.00 pursuant to the corrupt arrangement which had earlier been entered into. During that meeting, GC14 asked for checks to be made on vehicle 058-CZY and of a particular named person who was in fact fictitious. At 1658 hours on 23 October 1996, police officer D checked both the vehicle and the named person. On 24 October 1996, GC14 was told by former police officer C that Main Roads and licence checks had been made on the named person but no details could be found. Meanwhile, on 16 October 1996, at 0859 hours, a police officer made checks on GC14. On 21 October, at 1558 hours, a public servant made checks on GC14. On 22 October 1996, at 0839 hours and 1153 hours, the same public servant made further checks on GC14.

On 23 October 1996, a police officer made checks on GC14. At 1007 hours on 6 December 1996, the same officer again checked GC14. Again on 9 December, at 1104 hours, GC14 was checked by the same officer, and the same checks were done by the same officer at 1130 hours on 10 December 1996.

On 17 December 1996, at 1603 hours, a police officer checked GC14. The same occurred on 21 December 1996, but on this occasion the check was made by a different officer.

On 10 January 1997, at 1353 hours, GC14 spoke to a police officer [E] who had recently been introduced into the corrupt arrangement by ex-police officer C. GC14 sought information concerning a certain fictitious 'Billy Robinson'. At 1357 hours on that day, the checks were conducted by E as requested. On 20 January 1997, a police officer made checks on GC14. On 23 January 1997, a public servant conducted checks on GC14. On 25 January, at 0050 hours, GC14 was checked by a public servant. A further check on GC14 was conducted on the same day by a police officer at 0144 hours. On 31 January 1997, GC14 was checked by a public servant. On 15 February 1997, the police officer who had performed the checks on 25 January 1997 again checked GC14.

On 11 March 1997, former police officer C was detected on a covert listening device asking a person for checks to be made on a certain vehicle (which had no association with GC14). This occurred at about 0923 hours. At 1108 hours, the police officer friend of C who was attached to the Casino Crime Squad office, made a check of that vehicle, and at 1136 hours phoned the former police officer twice from the police office.

On or about 25 March 1997, the first female drug dealer, A, enlisted the aid of ex-police officer C to assist in recovering jewellery allegedly stolen by her niece. On that day the former police officer was heard on a covert listening device speaking to his friend police officer D with whom he discussed the alleged theft. At 1318 hours, he was heard requesting that a check be made on the police computer in respect of the niece. Fourteen minutes later, at 1332 hours, police officer D made the checks.

Apart from the checks made at the instigation of GC14, checks were made on GC14 himself on 26 occasions between 17 June 1996 and 15 February 1997. That fact must be noted in the context of the original corrupt arrangement, the substance of which was that GC14 would be protected by being provided with information which might indicate that there was police interest in him. The persons who made the checks now claim to be ignorant of the reasons for the individual checks or on whose behalf the same were made. As pointed out, GC14 was a CJC covert agent and there was no objective basis for believing that he was involved in unlawful activity. He purported to be a drug dealer and had represented himself as such to the corrupt police officers and to the former police officer. The payments made by him, which totalled in all \$25,000.00, were made for 'protection' and for any computer-recorded information which might disclose that he had become a person of interest to police.

It can be clearly established that the checks made on GC14 were not genuinely made for law enforcement purposes but rather were probably made or were organised to be made pursuant to the corrupt arrangement. While an audit can disclose who made the checks, at what time they were made and from what terminal they were made, there is no reference to the purpose for which a check was made or whether it was made on behalf of another person and, if so, what person. These omissions greatly reduced the investigators' chances of identifying all of the details of the obvious abuse of the official system.

This unsatisfactory result should be met by a recommendation that there be inserted on the computer a screen which will reveal the reason for the check and the person on whose behalf it was made, and these should be routinely audited.

THE MAKING OF OTHER CHECKS FOR IMPROPER PURPOSES

In addition to this abuse of the computerised database, the fact emerged that it is not uncommon for police to check vehicles somewhat at random. This process has facilitated the identification of Commission surveillance vehicles. This matter is presently the subject of correspondence between the Commission and the Commissioner of Police.

Operation Lime presents an excellent illustration of how the police's computerised information on vehicles was misused by corrupt police. As a result of this operation, two police officers were found to be engaged unlawfully with drugs and firearms. The operation had commenced as a result of a so-called police officer-informant relationship between one of the police officers concerned and a Commission covert source.

On 5 June 1997, which was early in the development of the relationship, police officer A was informed by the covert source that some friends of his were to be prosecuted for traffic offences and he sought A's assistance. On that day A accessed the computerised data to confirm the details. By 24 June 1997, the two police officers had completed their planning for a break and enter. They planned to steal property including firearms and drugs which they believed were owned by one McC. They were also led to believe that McC used vehicle 433-AAJ. Between 1731 and 1734 hours on 24 June 1997, one of the officers attended at a police station and checked both the person and vehicle.

In the course of the execution of their illegal plan, they observed certain vehicles which they believed may have been surveillance vehicles. Their first thought was that their target for the robbery may also have been the subject of surveillance by an undisclosed law enforcement agency. In fact, they were the subject of surveillance by Commission staff. Both police officers at the time were not on duty. At 2110 hours, a female employee at the police station where the two police officers then were, checked the details of one of the surveillance vehicles and, between 2120 hours and 2156 hours, one of the officers also checked the details of the same vehicle. Later, at 2305 hours, the woman made checks on another of the surveillance vehicles. Both checks were made by women who were employed as civilian radio operators. In respect of the first, the Commission has accessed information which records one of the corrupt officers requesting one of the women to make a check of the particular vehicle. It should be said that these women were used by the police officers to do these checks but were in no way themselves involved in any improper dealings. They assumed that the requests made to them were proper. Two days later, on 26 June 1997, three further checks on surveillance vehicles were made by one of the police officers and by civilian employees.

It is clear that these police officers, even in the course of executing their criminal plan and for the purpose of assisting and facilitating it, made computer checks on vehicles including surveillance vehicles. They also recruited innocent civilian staff for the same reason. Their intention was clear, namely to be able to satisfy themselves whether their unlawful activities may have been compromised by the occupants of the vehicles which they observed in the vicinity. For this purpose, they used their capacity to access the official information. The information was used not only for a private purpose but for a corrupt private purpose.

These examples demonstrate cogently the advantages which access to the computer gives police officers intent on corrupt dealings, and at the same time it illustrates the difficulty inherent in the investigation of corrupt police. That difficulty becomes more pronounced when it is realised that the investigation of relevant issues, such as identifying the reasons for a check or on whose behalf a check is made, is frustrated by the fact that the screen does not allow the inclusion of this basic information. One cannot assume that merely because a police officer or other authorised user accesses the database that access is obtained for official purposes only.

There is one other practice that emerged in the course of Operation Shield. There are stations, of which Broadbeach is an example, where the police computer, having been accessed by one person, is left open and is thereupon used by others without having to disclose a user ID. The problems with attempting to identify a particular user are obvious.

As mentioned earlier, there is a practice whereby one person requests another to do a particular check. Operational requirements will often require this. In several instances, however, this occurs in circumstances where the person requiring the check does not provide, nor is he/she asked to provide, the inquirer's user ID.

DRUG RECORD KEEPING

The investigations carried out in the course of Operation Shield reveal a significant concern in relation to the proper record keeping of drug seizures and exhibits. At the closure of Operation Jetski, which resulted in the seizure of a large body of station records, officers of the Commissioner's Inspectorate were seconded for a short time to assist the investigators with a critical assessment of the record keeping concerning drug seizures and exhibits. More recently, the Inspectorate has undertaken its own investigation of records kept at various stations in different regions to assess the correlation between the records of quantities of drugs kept and recorded as exhibits and the details of their ultimate destruction. This work of the Inspectorate, whether in aid of an investigation or done independently, well illustrates the desirable level of cooperation which is possible between the two agencies.

This more recent work of the Inspectorate is contained in a report *The State Drugs System Assessment* which has recently gone to the Commissioner. This initiative was prompted by Operation Shield evidence given in the Commission's investigative hearings relating to the mishandling by police of drugs and drug exhibits. The officers of the Inspectorate who were responsible for the research and the compilation of the report conferred with the Operation Shield team before undertaking the project.

The research and the consequential report had a relatively narrow focus, namely, the relationship between the drugs recorded as having been seized as exhibits and those later destroyed. Nonetheless, the quality of the work carried out, not surprisingly, revealed a number of findings of concern and suggested courses of action. It highlighted the need for a 'comprehensive examination' of all drug-handling issues and the adoption of 'an integrated and realistic approach' to the problems identified by the evidence revealed by Operation Shield and related problems.

That report has recommended the establishment of a project group to examine the problems and to develop a suitable response. Operation Shield clearly established the need for such a review and a re-evaluation of current procedures. The initiative developed by the Inspectorate must be commended and the recommended review must be strongly endorsed. Compliance with official procedures and requirements is, in the end, a matter of supervision, and this will be referred to below.

In the course of Operation Shield, it was so often necessary for investigators to go to the station records to attempt to confirm the truth or otherwise of allegations or to seek to determine whether possibly corrupt conduct could be supported by lack of compliance on the part of suspect officers. Again it emerged from time to time that investigations were hindered by the failure of police officers to deal properly with seized material in the official records or indices. Often times, the results obtained from the records were equivocal in furthering the investigation. Perhaps it was only a case of sloppy bookkeeping; on the other hand, it may have been an indication of a corrupt or improper dealing with the seized material. A core finding of the Inspectorate's research is that 'only 70.8% of drugs seized are confirmed destroyed'. Other cases require explanation and/or investigation. No conclusive finding should be drawn at this stage. At the same time, this finding, however tentative, is sufficient to warrant the establishment of the suggested project group to undertake the comprehensive review.

THE USE OF E-MAIL

Electronic mail is now a fact of life. The capacity to communicate in writing almost instantaneously from a distance with another person is now one of the more mundane features of the 'information superhighway'. The Queensland Police Service, not surprisingly, now uses to its advantage its capacity to communicate by e-mail. Again it is not surprising that individual police officers use the official system to communicate with others in the Service for their own reasons and not always for official purposes. This is no doubt legitimate if the system is used properly.

In the course of Operation Shield the investigation of police suspects revealed their use of the e-mail facility for their own improper reasons. A few examples will suffice. This e-mail message sent from one officer at a particular station to a particular person at another on 4 December 1996 at 4.51 a.m., said:

Do you remember the Going Away present I got you? Yes that fancy little wooden and glass paper weight. Well I have a whole lot more of them and I thought that you could sell them off for me to some of your friends or could use them yourself or Willy could use them etc etc.

Gimme a yell and I'll sent you some pictures of my newest project along with a Christmas Card.

Cosmo. Your good buddy and shy friend.

These officers were suspect. The investigation of them suggests that the 'going away present' was an LSD tablet or 'trip' and the reference to the officer having 'a whole lot more of them' is a reference to his possession of a quantity of various types of 'trips' which were being marketed within the corrupt arrangement of which he was a part. His request 'that you could sell them off for me to some of your friends' was his apparent attempt to recruit the other officer into the scheme. The e-mail message was signed: 'Cosmo your good buddy and shy friend'. Investigations revealed that it was unlikely that the person to whom it was sent actually received it.

This exchange occurred a few weeks later with the despatch of the following message between the same officers, but in reverse, part of which reads:

Just a short note to let you know I found some property belonging to you. It is a little black book with lots and lots of lies in it.

The 'little black book' was a reference to one police officer's police notebook of which the other officer had possession.

At 4.59 on 8 January 1997, a male officer at a country station sent the following e-mail message to a female officer at a city station:

SMEE AGAIN

Yeh the golden haired boys are ... (BIG SUCK) and ...

SHOCK HORROR—NOT IF YOU COULD SEE IT. IT'S SICKENING, BUT NOT AS MUCH AS ... —NOW SOMETHING IS DEFINITELY GOING ON THERE—SHE IS SO WELL LOOKED AFTER, I GOT UP HER ABOUT HER FIGURES AND I GOT IN THE SHIT.

THEN HE TIELLS ME TO GET UP EVERYONE ELSE, BUT THERE'S ARE OK.

ANYWAY I'M ALIVE, WHITE AND HAPPY ABOUT MYSELF SO WHO GIVES A RATS.

NO WAY WILL I TRANSFER BACK TO ANYWHERE IN BRISSY EVER—IT'S ALL YOURS, TELL ... HE JUMPS WHEN YOU SPEAK. HA HA HA!!!

SEE YA

This message prompted this reply from the female officer at 5.47 a.m. on the same day:

I really hate favourites. I guess because I have never been one as I do not possess the skill of BROWN NOSING. ... must be in all her glory. good luck. (LIPO HEAD) I really miss Airlie Beach but I do not miss the station or being a police officer at Airlie. I hate clicky stations. and EXCUSE me, ... does not say "how high". I have actually not spoken to ... for ages. You have been my e mail friend. Aren't you lucky. So you didn't get to shute Harbour. Oh well maybe tomorrow.

You can even make me a cuppa or a jam muffin while your at it or massage me to sleep. HA. well thats about my 5th e mail to you tonight so I guess I will leave you alone for about 12 hours. Sleep tight.

Luv ...

Hardly official police business!

The concern, however, is that during Operation Shield when attempts were made to reveal the details of communications between officers, it was found that after a short time the e-mail was downloaded and no longer stored. This hampered the complete investigation of possible improper relationships. It seems clear that there is the need for establishing a full audit trail. The experience of Operation Shield supports this strong recommendation.

SUPERVISION — RISK MANAGEMENT

This report identifies some of the more extreme cases of corrupt or improper conduct, all of which occurred in the course of the performance of normal police duties or which involved the improper use of official information which can be accessed easily in the course of daily police work. The misuse of police–informant relationships, misuse of official procedures for registering so-called informants, the making of false diary entries to give apparent legitimacy to corrupt associations, the making of inadequate diary entries such as ‘confidential drug matters’, the wholly indiscriminate use of police computerised data for personal, even corrupt, purposes, the failure to record accurately the details of property seized including drugs, the failure to properly keep station records, the failure to ensure that monies seized are handled with integrity — these are some of the more serious excesses that can be demonstrated as having actually occurred and that were identified in the course of Operation Shield. That is not to say that the investigation comprehensively identified all the faults. It is likely that what emerged in the course of this investigation is only the tip of the iceberg.

All of the matters mentioned above have this in common — each presents as a risk the proper management of which is essential if the Police Service is to maintain its desired image of integrity and accountability. At the same time, the proper management of each risk demands a level of efficient supervision by appropriately ranked supervisors aimed at immediately identifying the faults and, at the same time, deterring the misuse of established systems either to facilitate or to cloak the activities of those who are corrupt. Let me collect here some examples that are referred to elsewhere:

If \$100,000.00, suspected to be tainted property, is dug out of the ground, surely that requires special supervision so as to ensure not only that continuity of evidence concerning the money is maintained for court purposes but also to ensure that the money, or any part of it, is stolen. (In other States, the experience is that if a large sum of money is located and seized, the supervision of a Commissioned Officer is immediately required. The Wood Royal Commission recommended the introduction of a reputable independent lay person in such circumstances.)

A person is found in possession of drugs or drug money but is later charged with a smaller amount. The difference cannot be located.

A person is found in possession of significant quantities of drugs and the recorded evidence available to the prosecution is such as to support a trafficking brief. The offender is charged only with the relatively minor offence of possession.

A drug offender with a significant criminal history is before the court on further offences. Details of the prior criminal history are withheld either deliberately or accidentally.

A person in a particular area is recognised by police as one who is and has been involved in the drug trade — but apparently no action has been taken to investigate the activities of the person in question, nor has he/she ever been charged with any criminal offence.

Persons are questioned about their possession of drugs, yet neither the full details of the drugs nor the quantities are properly recorded. (It was asserted that police stations do not have appropriate weighing facilities or the capacity to heat-seal exhibit bags. One officer said that the required equipment was purchased and donated to a police station by a local service organisation.)

Offenders have been questioned concerning their possession of drugs but the drugs do not pass into the custody of the property officer until after an inordinate delay.

Warrants are 'executed' when the premises are unoccupied. Police enter such premises without removing any property (or so it is alleged) and return later when the occupant is present.

Property is frequently moved out of, or into, the Property Section without the 'movement' of the property or drugs being properly recorded. There are numerous incidents of this occurring in relation to the movement of powder and tablet drugs to the Government Chemical Laboratory.

Drugs seized have to be destroyed when no longer required. The integrity of the destruction process requires that the amount seized, recorded and kept for exhibit purposes should be the same amount destroyed. There are examples where there is no effective way of confirming this and, at least in one police station which came to our attention, the destruction certificate, which is signed by the non-police agency responsible for the destruction, is actually prepared in the police station that held the drugs.

The tendency seems to be to sheet home the final responsibility in drug matters to the property officer. But the responsibility of the property officer extends only to safeguarding the property that comes into his/her possession. The property officer will generally have no knowledge of the amount or nature of the property originally seized. It appears that many persons performing property officer duties are, in fact, unsworn staff who may or may not be overborne by those officers who are more intimately involved with the arrest and the prosecution of the offender(s). Minimum risk management would require that such lay officers be adequately trained and made

to understand fully the need to preserve evidence and to maintain continuity in respect of the property. Further, such persons have to be invested with authority in respect of the investigating police.

One notable example occurred of a quantity of drugs ‘going missing’ in the police station itself while the investigating officer was escorting the offender off the police premises — or so it was alleged. It is demonstrable that a quantity of cannabis was seized, was taken possession of by police, and that the offender was questioned about it. It is said that it was left on the table in the interview room when the sole police officer involved was questioning the suspect, and later removed when the particular police officer escorted the offender outside. The quantity of drugs was never satisfactorily accounted for — it was never recorded, never passed to the property room, continuity was never maintained, and its loss was never reported. In short, a quantity of drugs was stolen while it was physically inside the police station and in the obvious custody of police. Similarly, as has been mentioned above, a large quantity of money was stolen while it was physically in the custody of police.

What supervisory practices are available to ensure that procedures designed to *maintain* integrity are *maintained* or that risk management processes are so efficient as to remove or minimise the risk of the theft within a police station of money or drugs or for dealing with other serious problems?

That is a serious question for the Police Service. ‘Tick and flick’ type processes are hardly sufficient and possibly reflect only a superficial compliance with supervisory obligations. Any effective supervision over drugs and their seizure would appear to require regular district-based audits which commence with the identification of the property seized and the circumstances whereby it first came into police possession.

The experience of this operation leaves one with the definite impression that many of the problems that the QPS is likely to encounter in the area of interest defined by Operation Shield have so far resulted from a lack of effective management and supervision. One can only urge that there be an immediate re-assessment and a critical appraisal of the supervisory and risk management issues which have emerged from the execution of this operation. This should be done with the assistance of corruption prevention personnel within the CJC.

The present process of risk management seems to focus on ticking boxes and ensuring that that occurs. Has the offender been recorded in the custody index? Has a court brief been prepared? Has the drug search register been filled out? Has the drug index number been obtained? And so on. However, properly managing the risks, which were encountered in the course of Operation Shield, seems to raise different questions: Were the drugs/money obtained lawfully? Was the quantity of drugs/money seized the same quantity recorded and used for the charges? Did the interrogation of the suspect relate to the property/drugs seized? Are the proper procedures being used for weighing and preserving the drugs seized? Were proper procedures followed in relation to the removal of the drugs for any purpose from the property room? And, in relation to the destruction of the drugs seized, is there coincidence between the drugs destroyed and the drugs seized and used as exhibits?

There is a broader issue in this context which should likewise be raised. Should police be obliged to retain possession of drugs which in individual lots or collectively may amount to very large amounts? Can an acceptable process be designed which permits of the destruction of the drugs at a much earlier stage?

A visit to the Government Chemical Laboratory and discussions with senior personnel there clearly suggest the need for reviewing urgently the current procedures which relate to the tracking and packaging of drug exhibits. The several problems that attend the seizure of drugs and drug-related paraphernalia and the perceived need to retain the same for court purposes need urgent and close examination. Such would involve not only the Police Service but the Departments of Justice and Health. This examination should focus, inter alia, on establishing a system which permits the more efficient removal of drugs from the custody of police/laboratory/court system and which permits their being destroyed more quickly.

The contest is likely to arise between the requirement to hold drug exhibits once seized and the need to retain the same to meet the evidentiary standards imposed in the courts. Some large drug seizures, such as a plantation or cannabis, are identified and destroyed immediately. The perceived need to weigh smaller drug quantities should also be reconsidered. There is little doubt that any studious approach to the problem will recommend the amendment of current legislation or the enactment of new legislation. The justification for this seems clear enough. There are many reasons to support it, not the least of which is that the early identification and destruction of drug seizures will assist in minimising the potential for corrupt conduct by police officers.

Returning to the question of effective supervision, it is an interesting fact, which can be seen from the complaint statistical material on page 15, that complaints emanating in respect of State Crime Operations Command are, in any year, few. For instance, in 1996–97 when 262 complaints alleged 424 cases of wrongdoing, only two complaints alleging three instances of wrongdoing were made of officers engaged in State Crime Operations Command. This statistic is revealing, particularly when it is realised that the Drug Squad is located within this Command.

The regular rotation of staff within the Command, a proper attention to detail in obtaining warrants and generally closer and more effective supervision can be identified as a few of the reasons, which demonstrate the impact that appropriate risk management strategies will have in minimising the problems that attend the policing of drug offences.

In the end, proper management and effective supervision will be the most successful strategy.

Senior officers attached to Operation Shield, who have had extensive experience in the policing of drugs, have noted with concern the obvious lack of supervision and risk management, which was easily identifiable in the course of the various investigations undertaken as part of the various operations.

Hence, the QPS should re-assess and critically appraise its supervisory and risk management practices with the assistance of the CJC's Corruption Prevention Division, in the course of which consideration should be given to the following:

The CJC and the QPS 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. This could then be included in trainer education and in position descriptions.

The QPS 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.

The QPS 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.

The QPS Commissioner's Inspectorate should be encouraged to continue to reinforce the need for better understanding of the process of risk management when it relates to investigations, with the focus placed more sharply on the processes adopted by the individual officer in the individual case.

Processes for improved supervision and risk management should be marketed as methods which the QPS wishes to adopt so as to assist individual members with 'integrity preservation' rather than allow them to be seen merely as cumbersome, restrictive practices.

The QPS should examine the feasibility of establishing a computer-generated tracking system from seizure to destruction.

Current legislation and procedures should be reviewed to facilitate the early identification and destruction of drug seizures.

Finally, there are two matters that call for more effective supervision in the policing of drug offenders.

The law in relation to search warrants has been dealt with by the courts. The application for a warrant and its issue by the Justice are circumscribed by a strict body of law. A valid warrant can only be issued if the circumstances are appropriate and the law is complied with. The police officer seeking the warrant, therefore, bears a heavy onus to properly inform the Justice from whom the warrant is sought. Considerable care is required. The obtaining of a warrant is not, as some police seem to believe, a mere formality to be based only 'on confidential information received'.

The experience of Operation Shield requires that close supervision be exercised over those who seek the issue of such warrants. It needs to be said that one could not but be impressed with the care taken by and the integrity which attended the application for search warrants by the police and lawyers engaged in Operation Shield. Their approach was exemplary and would be an object lesson to many involved in criminal investigation.

Attention is also directed to the practice by police of the so-called 'letter of comfort'. This practice is often part of a 'deal' entered into by some police and an offender

whereby the former seeks to 'buy' information from the latter by the offer of a letter of comfort. The letter is offered to a person not yet sentenced for use in court or to a person already sentenced and in custody for use on an application for parole or other community-based orders for release from custody.

It seems that such letters are often issued by police officers without appropriate supervision and without the due consideration of the matter by officers in supervisory positions.

Operation Shield personnel witnessed by covert means the possible offer of assistance in return for information by the use of this process.

There is an urgent need to tighten the practice and to ensure the adoption of appropriate procedures, which necessarily must involve due supervision by senior personnel.

CHAPTER 9

POLICE AND DRUG ABUSE

The recently adopted New South Wales Police Service Drug and Alcohol Policy refers to a detailed research program recently conducted by St Vincent's Hospital, Sydney, which indicates that the drinking levels of police officers are significantly higher than those of the general community. [New South Wales Police Service Weekly , Volume 9, No. 19, 12 May 1997.]

The escalating use of prohibited drugs in the general community is seen as one of the major social disorders of modern times. It is recognised that the Police Service needs to closely interact with and remain an integral part of the community. It can be expected that a police officer's lifestyle will generally reflect that of the wider community and, although a police officer is invested with powers to effectively police the community, it can be expected that his/her social habits will not be unlike those of the wider community. It is logical to expect that a significant proportion of the Police Service will have had contact with, and experience in, the use of prohibited drugs.

In the course of Operation Shield it was quite common to hear evidence of police officers using the so-called recreational drugs. The emphatic denial of any corrupt behaviour involving drugs was often attended with the concession that the officer(s) had had experience in the use of cannabis or amphetamine in off-duty hours. The focus here is not upon those engaged as covert police officers (CPOs), who will be referred to separately. Rather this discussion has a much broader base and attempts to examine the use of prohibited drugs by police generally. This investigation was essentially designed to identify the corrupt behaviour of police in relation to drugs and drug dealing. In the course of it, drug use by police was frequently identified but, in the context, it was regarded as being relatively less culpable.

The conclusion from Operation Shield is that there is probably widespread recreational use of prohibited drugs by police, in particular among younger police. In the case of some, the problem may be sufficiently acute to indicate a measure of addiction. It should not be thought that the reference here is solely to the so-called 'soft' drugs like cannabis. The problem has a wider focus. For instance, the information available suggests considerable unlawful use of anabolic steroids.

It is unnecessary to attempt to define the extent of the use of prohibited substances to which police may resort and the above references should not be regarded as exhaustive. It is sufficient to state the general proposition that unlawful drug abuse in the Police Service has to be accepted as a not uncommon phenomenon.

Again, in this context, it is unhelpful to restrict the discussion to the question of unlawful drug use. The abuse of alcohol and prescribed drugs can be taken for granted. For instance, there is no reason to believe that the St Vincent's Hospital research in New South Wales cannot be applied here. Therefore, any policy that is developed in Queensland should have a broad focus and application and not simply address the question of the unlawful use by police of drugs.

In relation to the use of prohibited drugs by police, there are important conceptual issues which can be easily identified and which are of such basic importance that they ought to be reflected in the development of policy.

The simple and undeniable fact is that the possession and use of prohibited drugs is unlawful. Any police officer who unlawfully possesses or uses or supplies any prohibited drug is acting unlawfully and is liable to prosecution. The same law applies to the police officer as applies to any member of the community. But there are other issues that apply to this breach of the law by the police officer which make his/her offence the more serious.

Firstly, a police officer can obtain, say, cannabis by one of four means: by stealing it, by buying it from a dealer, by means of a corrupt arrangement with a dealer, or by growing it.

Secondly, if a police officer uses, say, cannabis with another person, there are three significant consequences that make the commission of the offence so much the more culpable. Not only does the officer commit the offence, the officer also expressly condones the commission of an offence by another in respect of whom he or she will have taken no action. But thirdly, and perhaps more importantly, the police officer is immediately compromised in his/her capacity for effective future law enforcement.

One cannot sensibly dismiss lightly the use of cannabis by a police officer on the basis that its use is commonplace in the community and that a police officer is a product of the community from which he/she comes. The fact is that a police officer who engages in the persistent use of cannabis, even for recreational purposes, has not only engaged in some form of illegality to possess it, but has also become an habitual offender. This raises the fundamental question as to how the Police Service should deal with one of its members who breaks the law perhaps frequently, even habitually.

The developed policy of the Police Service has obviously to deal with this issue, as it must with the issue of the treatment of those who suffer the consequences of abuse, whether the offending substance be alcohol or a prohibited drug. The desirable balance in such a policy involves mixing an acceptable measure of compassion with a strategy which identifies those officers who are acting unlawfully and, at the same time, provides appropriate sanctions.

The Queensland Police Service does not have a developed drug and alcohol policy. It is essential that such a policy be adopted as a matter of priority. The good name of the Queensland Police Service requires it. The New South Wales Police Service Drug and Alcohol Policy appears to have recently addressed the relevant issues, the core elements of which have been well blended in the policy document. Consideration should be given to the terms of the New South Wales policy and to the impact of its adoption. The core elements of the New South Wales policy might well be considered for adoption. The essential elements in any such 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. THE SPECIAL POSITION OF THE COVERT POLICE OFFICER (CPO)

Operation Monument commenced with the need to investigate the true nature and extent of the relationship between a serving police officer and a person alleged to be a major drug criminal. As might be expected the original explanation given to support the legitimacy of the relationship was ‘the standard excuse’ — the police officer–informant ruse. It is significant that the police officer in question was a former covert police operative. It will be recalled that only days after the investigation commenced the police officer was found to be at the premises of the alleged drug dealer at a time when police had arrived at the premises to execute a search warrant. The police officer was spoken to by the police officers involved in the execution of the warrant and they detected a strong smell of cannabis on him.

As this operation developed, the fact of the persistent, perhaps addictive, abuse of cannabis by this police officer was confirmed.

There are, however, two features of the police officer’s behaviour that demand attention. Firstly, it was discovered that this police officer had clearly developed a personal relationship with people who were involved in criminal activities with which he had become well familiar but in respect of which he had done nothing. The product of a covert listening device well and truly confirms this. Secondly, the investigation and the use of covert surveillance confirmed that the premises occupied by one major criminal involved in the drug trade had become something of a base for certain former police officers at the Gold Coast, all of whom had worked as CPOs. Not only were they regular visitors to the premises, they had maintained an apparently close relationship with each other and with their former CPO colleague who had retained membership of the QPS. It is said of the last-mentioned person that he is now addicted to drugs and has sought to resign from the Police Service. His demonstrated conduct as a serving police officer including an allegation of extortion — requesting a money payment to ‘go slow’ on an investigation that had been assigned to him — has long since rendered him unsuitable for continued service as a police officer.

This introduction to the topic is sufficient to provide a focus for one aspect only of the CPO problem. It is not intended here to discuss all of the issues which arise for any law enforcement agency in its management of its CPOs. This particular aspect of policing is a specialist discipline and raises issues which call for the use of particular strategies in the proper management of the CPO both while he/she is engaged as such and upon his/her reintegration into mainstream policing. Nor is it intended here to deal with issues that may become relevant in an action in the Supreme Court, brought by a number of former CPOs against the Commissioner of Police for negligence.

The aspect of the matter to be dealt with relates to the potential for unlawful conduct by the CPO. The problem of the unlawful possession and use of drugs by police officers applies a fortiori to the CPO. Any drug and alcohol policy to be developed by the QPS has to take special account of the fact that a CPO will necessarily have had habitual contact with drugs and drug use and it can be expected that, at least in some cases, that officer may use or may have come to abuse prohibited substances. This is

only one aspect of a larger problem. I agree with the main thrust of Detective Superintendent Ann Lewis's paper, 'From Covert to Overt: The Reintegration of the CPO into the Queensland Police Service', that an holistic approach rather than a fragmented one has to be taken in relation to the whole CPO issue.

The experience of Operation Shield confirms beyond question the potential for service as a CPO to generate not only unlawful conduct on the part of the CPO but also the development of a benign attitude to the commission of criminal acts by those whose society the CPO has effectively infiltrated. Furthermore, it shows that these developed attitudes in the CPO are not merely transitory — to be dismissed as 'a passing phase' — but rather are potentially productive of a mind set that tends to exculpate offenders and encourages conduct on the part of the CPO that is the very antithesis of the value systems that are integral to an accountable Police Service. In referring to unlawful conduct by the CPO, a distinction needs to be drawn between the criminal acts which are necessarily committed by the CPO in the course of executing his/her role and function and those which are not. The need to provide statutory protection to the officer for the former has been raised before but it seems that nothing has yet been done. It has been recognised in other jurisdictions (e.g. South Australia) where the required statutory protection has been afforded to CPOs in the appropriate circumstances. The QPS might consider it advantageous to have the benefit of a provision such as section 4 of the *Criminal Law (Undercover Operations) Act 1995* [South Australia].

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 a part of this. The special need for inculcating ethical standards and integrity in the training and preparation of the CPO requires emphasis. After all, the CPO is expected to infiltrate the criminal milieu and to present as one who habitually indulges in crime or criminal behaviour. The need to counterbalance that culture is imperative when the services of that officer as a CPO are no longer required. It is clear that statutory protection should be afforded the CPO in appropriate circumstances for acts done in the course of his/her duty. On the other hand, the CPO cannot be excused, nor should serious default be excused, by reference to his/her service as a CPO when he/she has engaged in unlawful behaviour, whether as a serving police officer or otherwise. 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 sub-optimal 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.

The question of drug abuse by CPOs also needs special attention not only because of its impact on the lifestyle of the individual but because it is unlawful and tends to dilute the values and standards that the Service rightly demands of its police officers.

Therefore, the potential unlawful behaviour of a CPO, unrelated to the operation, and the likely change of attitude towards crime, are the matters to be emphasised here.

Service as a CPO can be shown by Operation Shield to have produced police officers who have now left the Service and who associate with the criminal element or those who have remained in the Service but whose contact with the criminal element has left them disaffected with the standards and values required of police.

It is strongly recommended, therefore, that CPO training and supervision be re-evaluated in order to ensure the institution of a suitable counterculture with the reintegration of CPOs to mainstream policing.

CHAPTER 10

THE FUTURE DEVELOPMENT OF OPERATION SHIELD

The background to Operation Shield and its establishment is dealt with at the beginning. This report also contains a brief review of some of the individual operations. Some of the issues that arise from them have also been identified.

The major issue for consideration is the desirable form and methodology for the ongoing investigative structure which needs to be put in place now in order to better equip the CJC and the QPS to more effectively investigate forms of corruption in the Police Service, whether it concerns drugs or any other identifiable source of corrupt behaviour. In short, how can the experience of Operation Shield be best used and developed in order to achieve best practice? It is beyond question that this process will require the ongoing cooperation and joint support of the Commission and of the Service.

The process needs to reflect the corporate goals of the Commission and to be consistent in structure and operation with the existing and ongoing operations of the Commission. For instance, a multidisciplinary team approach is essential with appropriate interaction between the different disciplines within the Commission. The desirable process, in the form explained below, should integrate with and be complementary to the existing core functions of the Commission.

Operation Shield itself could not have been effective without the support of the Commissioner of Police, who committed valuable resources to it. These resources included making available to the Operation police officers whose integrity, commitment and investigative skills are exemplary and without whom Operation Shield would never have been as effective as it has been. The desirable and preferred design of the necessary ongoing investigation will require considerable resources if the investigative effort is to be optimised. More importantly, it requires the future combined commitment of both the Commission and of the Police Service.

That critical step requires the payment of more than mere lip-service to the future development of Operation Shield. So too does it require more than the provision of temporary staff relief in terms of personnel. It requires the establishment within the Commission, with the committed and unequivocal support of the Police Service, of a sophisticated anti-corruption investigative body or structure which is permanent, adequately resourced and staffed by Commission and Police Service investigators who are noted for their professional skills and integrity.

The successful establishment of such a structure requires a change in culture and attitude. There is, on the part of some police, a clearly defined and broadly based attitude that service at the Commission is a less than desirable step in a police officer's career path, that such service is perceived by the peer group as representing only modest achievement, and that it is a form of police service which is less than professionally satisfying. It is a common complaint that those police officers who have experienced service with the Commission find themselves disadvantaged when applying for transfer and/or promotion elsewhere within the Service and complain

that their service at the Commission, no matter how valuable and professional, is perceived by the Police Service generally and some of its executive staff in particular as less worthy than that undertaken by peers involved in general operational policing. There is a corresponding need for the Commission to be continually aware of the necessity to ensure that police skills are adequately developed in the course of service at the Commission.

This is an issue of wider importance for both the Commission and the Police Service. It is given a much sharper focus in the context of a discussion concerning the further development on a permanent basis of an anti-corruption policing strategy such as will be proposed below. The dedicated commitment of both the Service and the Commission to the concept is of fundamental importance. The mutual recognition by both agencies that the work done by Operation Shield was of fundamental importance is vital, as is the need to ensure that it is continued in a form that is essential for the well-being of the Police Service and of the community. Petty jealousies and negative and destructive preconceptions can have no place in any discussion within the Commission and in the Service about the establishment of the ongoing process, its form and investigative methodology and the proper resourcing of it within the Commission. It is a matter of law that the Commission has the statutory obligation to undertake the investigation of corruption and other forms of misconduct in the Queensland Police Service. It is an onerous public duty. The beneficiary of this effort is the Queensland Police Service itself and of course the wider community. The more vigorous the anti-corruption effort, the more positive will be the perception which the community will have of its Police Service. It follows that the case for a combined effort and commitment is compelling. Indeed, there is no other available alternative.

What is set out below is a considered response to this issue and it reflects the views of those who have been closely involved in the execution of Operation Shield.

It is a fundamental assumption that the investigation of corrupt conduct within the Police Service should come to be recognised within the Service as an elite form of public service, admission to which is restricted only to those whose integrity and professional skills are of the highest order and beyond question, that service in such an anti-corruption investigative body ought to be much sought after in one's career path and that such service will receive peer-group recognition as a high water mark of achievement.

The experience of Operation Shield shows that such a goal can be achieved. But the effort must be continuous. This is only possible if both the Commission and the Queensland Police Service own it and work together with mutual effort to achieve it.

The future development of Operation Shield has in recent months been in the forefront of the minds of those who have been involved in it. If what is proposed here is accepted by both the Commission and the Police Service, it will prove to be the most successful outcome of the Operation. It needs to be emphasised that it has been developed by those who have been involved in the Operation, each of whom has had the opportunity to contribute.

It is critical for both the Police Service and the Commission that the process be adequately resourced. The close management of resources such as occurred in the

course of Operation Shield should remove any doubt about the capacity of management to properly use the available resources in a way which is cost effective. There will always be debate about how resources are to be shared. On the other hand it has to be recognised that the establishment of an efficient, ongoing anti-corruption effort working with reasonable resources is the most cost-effective way of addressing the issue. The past experience in both Queensland and New South Wales has seen the need for Government to commit enormous resources to the detection and exposure of corruption and corrupt police. These ‘one-off’ episodes, which have been high profile, have nonetheless attracted criticism, in spite of their apparent success, on the basis that not enough was achieved. It is a more logical and a more cost-effective use of resources to adequately and reasonably resource a permanent ongoing effort, provided that the structure is sound and that the methodology adopted is effective in providing a proactive investigative approach to the various forms of corruption within the QPS.

In short, the need to commit huge resources to investigate what has happened in the past is a poor substitute for adequately and reasonably resourcing a present proactive investigative strategy designed to seek out, identify and prosecute those who are presently intent on compromising the good name of the Queensland Police Service and which will act as a powerful ongoing deterrent to the development of insidious corruption.

It is the consensus of opinion of all staff in Operation Shield that proactive investigations similar to the work currently being performed must continue in order to expose police officers involved in any unlawful activity.

Crucial to the success of any ongoing proactive unit is the selection of staff with the highest level of integrity, motivation and investigative skills. To encourage suitable personnel to apply for such assignments, either by way of secondment or position vacancy, service in such an area must be recognised by Senior Management of the Queensland Police Service as contributing to the overall effective management of the Service. There must be genuine acknowledgement of the skills and commitment of officers working in this area. If there is no recognition of the worthiness of such service, then the most suitable personnel will not apply, nor will they readily accept service in this area.

The initial approach of the QPS and the CJC in combating corruption was primarily based on a reactive approach resulting from the complaint process. This approach had resulted in both agencies essentially becoming focused on discipline issues and criminal matters resulting directly from complaints. That changed as the result of the initiatives developed by the OMD which led to the establishment of Operation Shield. The more traditional approach does not proactively attack corruption that is not complaint-based. That is not to say that that process should be discontinued; rather the two processes have to be complementary and integral to the execution of the CJC’s overall statutory responsibility.

TEAM STRUCTURE — TARGET DEVELOPMENT TEAM

Reference to figure 1 (page 79) indicates the pivotal position and role in the process to be occupied by the Target Development Team, which combines in one small team of five persons the disciplines of intelligence analysis, financial analysis and investigation. As will be emphasised here, this anti-corruption strategy within the Commission's operation will be proactive and intelligence-driven in its work rather than be reactive and complaint-driven. It is, therefore, essential that the Target Development Team and its work provide the catalyst for much of the investigative work. It is important that its role structure and dominant thrust be clearly understood.

Staffing of any target development function should consist of two investigators, two intelligence analysts and a financial analyst, to reflect the joint ownership and importance of the initiative to both the Official Misconduct and Intelligence Divisions. These officers would liaise closely with intelligence analysts supporting tactical operations, and would draw from material generated through these as well as historical data. The Target Development Team would have, as its primary function, the identification of those who should become the subject of proactive investigation.

Any proposal for specific staffing levels with regard to both Intelligence and Official Misconduct Division officers is governed by several external factors which affect the future of the Commission as a whole, but the deployment of two analysts, two investigators and a financial analyst is seen as an appropriate resource allocation to initiate the proactive strategies which have been discussed by Shield management and staff in recent times and which are set out above.

Information and intelligence concerning police involvement in corrupt activity come to the Commission from four main sources — complaints, intelligence sources, information acquired in the course of investigations and information provided by other sources and law enforcement agencies. It will be the task of the Target Development Team to draw on all of this information and intelligence in order to execute its main function.

The proper working relationship between the Target Development Team and the Complaints Assessment Unit needs to be spelt out. The Intelligence Division already has close liaison with that unit and obtains a copy of the schedule of complaints, which are prepared daily. To ensure proper integration between the Complaints Section and the proposed anti-corruption unit, the Intelligence liaison function should desirably be carried out by an intelligence analyst from the Target Development Team. In respect of incoming complaints, appropriate criteria can be developed for deciding which complaints should remain for investigation by the Complaints Section and those which should be referred to the Target Development Team. The basic test should be that the information which comes to the Commission by way of complaint and which alleges the commission of serious crime or serious criminal activity or which, in the opinion of the Complaints Assessment Unit, ought to be referred for further assessment should be referred to the Target Development Team. The other information, the sources of which are intelligence- or investigation-based, once added to the relevant complaint material will form the base material for developing the targets and the appropriate recommendations by the Target Development Team for the Management Committee. I pause to add that this process ought to be well disciplined and the urge to refer apparently high-profile material for instant or urgent

investigation resisted. At the same time, the process has to be sufficiently flexible to accommodate the need to act promptly if the circumstances demand.

The design of the process and its relationship with the Complaints Section is founded on some basic considerations. It has been announced that the CJC will be given jurisdiction of the Queensland Corrective Services Commission as a unit of public administration. This is likely to lead to an increased investigative workload for the Complaints Section. Accordingly, it is likely to be a more efficient and productive process overall if a sharper focus is given to that investigative work which involves those police whose corrupt activity demands a specialist proactive response, such as will be provided by the proposed anti-corruption unit.

The composition of the Target Development Team has been identified above. In accordance with the need for intelligence-based, proactive investigations, the Target Development Team leader should be a senior officer from Intelligence Division whose responsibilities will include the preparation and formulation of the relevant data to be submitted for the consideration of the Management Committee for ultimate submission to the investigative teams. The Target Development Team will, of necessity, be a small, tightly knit group which will work in a collaborative way and whose role will involve providing the essential liaison between the source material and the Management Committee. It will also ensure the required coordination so that the Management Committee and, ultimately, the investigative teams are properly seized of only those targets that are to be the subject of the proactive investigative effort of the investigative team. The place of the Target Development Team in the process is illustrated by figure 1.

The operation of the Target Development Team has as a by-product of its work, the capacity to resource other divisions within the Commission. By its very nature, it will generate in an orderly and disciplined way a mine of valuable information which will assist in developing research projects and papers; it will identify areas of interest for corruption prevention initiatives and, generally, has the considerable capacity to facilitate strategic assessments required to be made by the Commission.

THE MANAGEMENT COMMITTEE

Figure 1 has to be read in association with figure 2 on page 81. The Target Development Team is the initiating component in the total strategy, the full structure of which is shown in figure 2. The references in figure 1 to the Management Committee and the investigation teams are coincident with the details in the total structure set out in figure 2.

The Management Committee should consist of Director and Deputy Director, Official Misconduct Division, the Director Intelligence, the Assistant Commissioner, the Chief Superintendent, the Detective Superintendent, Operations and the Executive Legal Officer. The addition of the two last-named officers will provide close coordination between the management team and the investigative teams.

The Management Committee's major role will be to assess and evaluate the target material and the recommendations generated by the Target Development Team and to

ensure that the investigation teams efficiently execute the goals and objectives set for them by the Management Committee on the basis of, and as a consequence of, the target development process. Figure 1 illustrates that the Management Committee in the process may require further intelligence development in a particular case or may decide that it is preferable in another case to have the material stored in CID (the Criminal Intelligence Database) for future reference.

A sensitive issue then arises concerning overall team leadership and leadership responsibilities for the three investigative teams. Operation Shield has provided another prime example of the value of a multidisciplinary operational team. Operational leadership on a daily basis has been provided to Operation Shield by a senior police officer. That officer and the Executive Legal Officer have led the team, which has had the combined advantage of the investigative skills of the police officer and of the specialist legal expertise of the Executive Legal Officer. They have worked collaboratively through a process of mutual respect and regard for each other's expertise. A defined single leadership, however, is preferable to leadership being vested in two people.

There are, in my view, very good reasons for the Executive Legal Officer to assume leadership of the investigative teams. He/she is an officer of the Commission and such an appointment is consistent with the existing practice of the Commission. Furthermore, because of the proactive nature of the investigations and the teams' likely use of integrity testing processes, there will be significant legal implications for the investigators. These will affect the success of later prosecutions, in the course of which it is inevitable that some evidence secured will be challenged and sought to be excluded in the exercise of a judicial discretion. Therefore, considerable and careful overview of the investigative work will be required so as to ensure the legal integrity of sensitive investigations. The team leader will need to be fully accountable and responsible for the process. In the circumstances, that onerous responsibility should be accepted by the Executive Legal Officer.

The logic of this appointment should be recognised. One person has to be identified as the person with final responsibility. The need to do that should not be allowed to obscure or in any way detract from the absolute imperative that the Executive Legal Officer and the senior police officer develop a close and healthy working relationship such as was developed throughout the whole period of Operation Shield. As well, they should provide mutual leadership and direction in the response to the many demands that are inevitable in the different processes which investigative teams will undertake.

THE INVESTIGATIVE TEAM STRUCTURE

It is generally agreed that three teams within the current team structure is appropriate. Each team must consist of the following members:

- Financial Analyst
- Intelligence Officers
- Investigators — sworn and unsworn
- Administrative support officers

Temporary Commission staff as required. (These are employed to perform listening-post duties. This practice should continue as it allows flexibility to employ staff during busy periods and allows trained investigators to be more appropriately tasked.)

The necessity to have members from the newly established Ethical Standards Command (which now incorporates the Commissioner's Inspectorate, Professional Standards Unit) briefed on specific investigations at appropriate times is considered fundamental. This enables audits to be conducted as appropriate on the various indices, accountable documents and registers.

To ensure the maintenance of joint cooperation, regular briefings on non-sensitive issues with senior management from the Ethical Standards Command, as well as liaison and networking on a professional level, are essential.

These briefings, conducted at appropriate stages, will assist the Police Service generally, but more particularly will afford the Police Service the opportunity to implement appropriate prevention strategies in a timely manner and hopefully prevent a recurrence of the conduct. The risk management issues are addressed elsewhere in the report.

Figure 2 below is the proposed organisational structure which is seen to be an essential feature of the proposal.

SECONDMENTS/TENURE

Irrespective of whether the investigative staff for such a unit are selected by way of secondment or position vacancy to the CJC, success will only be achieved by the selection of quality, motivated staff. While reactively investigating complaints requires a certain level of skill, proactive investigations require officers to be motivated to seek out and actively investigate corruption. They must be selected on merit.

To encourage suitable staff to apply, I recommend a two-year term of service at the Commission, supported by a written agreement between the Service and the suitable applicants guaranteeing that each officer will return to the Police Service at the end of his/her term at least to an equivalent or like position and/or location as that from which the officer was seconded or appointed. No-one must be disadvantaged. This will need to be negotiated between the Service and the officer. There are added advantages in rotating staff within a structure which is permanent and subject to consistent management policies. The important thrust of this proposal is to ensure that this term of service does not disadvantage any officer appointed or seconded; rather it has to be seen as entitling the officer to have recognised within the Police Service the period of service by him/her in the Commission's anti-corruption unit.

SUPPORT STAFF

It is recommended that each of the three teams have a support officer attached to the team. Workloads may require the employment of part-time support officers when

necessary. In particular, the regular transcription of taped material is a frequently heavy, time-consuming requirement.

The proposed team structure of the Surveillance and Technical Unit to which reference is made below also allows for a part-time support officer.

FINANCIAL ANALYSTS

The experience of Operation Shield is that the workload for a Financial Analyst more than warrants the necessity for each team to include one in its personnel.

Also it is considered necessary for a Financial Analyst to be attached to the target profiling team. This would enable financial analysts attached to the investigative teams to concentrate on their target.

INTELLIGENCE ANALYSTS

The critical role of intelligence analysts in the Target Development Team has already been mentioned. Figure 2 illustrates the additional need for an intelligence analyst to work with each investigative team. This is developed more fully later.

INVESTIGATORS

Each team should consist of six investigators comprising QPS personnel and CJC investigators. If necessary, part-time investigators could be employed on short-term contracts as workload demands. Two investigators should be attached to the Target Development Team.

LEGAL

The current arrangement of having two legal officers attached to Operation Shield is sufficient and should continue, with the provision for further legal assistance as circumstances arise.

EXHIBITS

The current arrangement of having a property registrar working within the Shield Team has worked well. This arrangement was made to ensure confidentiality of operations and has also resulted in exhibits being readily available to team members. It is considered that this practice should continue.

INVESTIGATION STRATEGIES

To obtain maximum effect from such an investigative team, it is desirable that the effort be continuous and not come in peaks and troughs. The deterrent effect on unlawful activity can best be obtained if the unit is seen to be continually effective and professional in a proactive way. Although it is not possible to anticipate the

complexity and length of time an investigation, will take, ideally each team should at any one time be at a different stage of investigation, e.g. the planning of investigation strategies, the investigation stage itself, the close-down stage and brief preparation. This approach would allow for Shield operations to be ongoing. Investigative hearings should be seen as an investigative tool and be included throughout the process as required.

Where possible, teams should complete an investigation and prepare briefs of evidence before moving on to the next investigation. This will depend on workload and the complexity of the investigations.

In the case of the close down of an operation, all Shield staff would be utilised for that particular function and then return to complete their individual team investigations as soon as possible. It is desirable that all non-urgent inquiries be carried out by the team responsible for the investigation so as to ensure minimum disruption to the investigative teams.

INTEGRITY TESTING

It is now generally accepted that strategies for minimising police corruption should, in appropriate cases and subject to proper controls, include the use of targeted integrity testing. The recent visit to the Commission of Professor Lawrence Sherman of the University of Maryland persuasively supported the general principle that the inclusion of targeted integrity testing is a valuable tool for use in appropriate cases in proactively combating police corruption. Professor Sherman is a leading US criminologist who has done extensive research into issues relating to the control of police corruption. He played a key role in the introduction of integrity testing into the New York City Police Department.

It is not the intention here to create the impression that integrity testing should be regarded as wholly synonymous with the investigation of police corruption. Rather the purpose is to identify the process of integrity testing as one valuable strategy that may be resorted to in certain cases.

Accordingly, the use of targeted integrity testing as an investigative tool is considered to be essential in proper cases if the unit is to have a proactive focus. Intelligence gained from complaints, traditional investigative methods and general intelligence-collection programs will assist in profiling suitable targets and locations. In many instances, the intelligence does not afford suitable evidence to support applications for listening devices or the introduction of a covert operative. It may be necessary in some cases to carry out limited integrity testing to advance the investigations and confirm the criminal activity identified from intelligence.

The legal implications for this process have to be kept in mind and cases like *Ridgeway v. The Queen* [(1995) 184 CLR 19] consulted to ensure compliance. In one case in Operation Shield, this process was effectively and successfully handled.

Much has been said and written about the appropriate use of integrity testing. It is undoubtedly true that its use in appropriate circumstances, subject to proper controls

and overview, is a valuable investigative process which will assist in identifying and dealing with corrupt police. Leading law enforcement agencies throughout the world have come to recognise its advantages. It has to be understood, however, that it is very resource-intensive.

That is not to say that the random and unfettered use of the process of integrity testing is the only strategy. The process must be allowed to develop under careful and disciplined overview rather than be seized upon as providing, in all circumstances, the final solution for the effective policing of corruption.

There are good arguments against the random and ad hoc use of the process in other circumstances. In the *Report of the Commission of Inquiry into Operation Trident*, I wrote at page 510 'Any covert operation which, in whole or in part, involves the random testing of the virtue of any individuals is grossly objectionable'. That statement has to be read in its proper context. It was written in the context of a police operation allegedly designed to identify the receivers of the parts of stolen motor vehicles. The statement might apply equally to the provision of drugs by an undercover agent to persons who are heavy users of, or perhaps addicted to, drugs. It was designed to sound a general note of caution about the indiscriminate use of random integrity testing in criminal law enforcement and to alert police to the fact that such a strategy might ultimately lead to evidence so obtained being excluded in the exercise of a trial judge's discretion. Whether the same concern will emerge in this context will depend on the purpose for which the strategy is to be used and the goal or objective designed for it.

In the context of identifying police of less than acceptable integrity, some considerable care needs to be taken and the manner of its use and the consequences of failure for a particular officer closely examined and evaluated before its widespread use is seriously considered. Also, the effect upon police morale of the adoption of the practice generally will inevitably arise for consideration.

Subject to that note of caution, however, it has to be accepted that, given the position of a law enforcement officer in the scheme of things and his/her capacity to engage surreptitiously in corrupt activity which is virtually protected from exposure by the use of traditional means, the use of targeted integrity testing has to be seen as an effective proactive strategy in any serious attack upon police corruption.

It needs to become an important investigative tool in the unit that will continue the work of Operation Shield.

SURVEILLANCE/TECHNICAL SUPPORT

Surveillance and technical staffing levels must reflect the number of investigation teams to be used in the police anti-corruption unit. Current operations have required two fully operational surveillance teams at all times. If integrity testing is to become a function of the CJC for future proactive investigations, then surveillance officers will be supporting this activity as well as traditional investigation methods which use listening devices and physical surveillance skills. One additional team will allow for

down time, for the preparation of statements, court attendance, leave requirements and training.

It needs to be borne in mind also that surveillance/technical support is required by the Complaints Section and for other complex investigations. Clearly a more proactive strategy in the matter of police corruption will involve a heavier requirement for surveillance/technical support. Accordingly, the Commission's overall requirement for surveillance/technical support needs to be re-assessed so as to take this matter into account, as well as ensuring adequate support for other operations within the Commission.

Ideally, therefore, a surveillance team is necessary to ensure that each investigative team can utilise surveillance when needed during an investigation. Current investigations have relied heavily on the use of surveillance and technical support throughout most of its investigative phase. It is recognised that this has made life difficult for investigators working in other sections of the Commission's operations.

Experience gained during Operation Shield further highlights the importance of the technical unit to the success of a proactive investigative unit. Setting up sting operations such as Operation Lime, to test the integrity of police officers was resource-intensive for the technical unit. If the future direction of a proactive unit was to conduct targeted integrity testing, then an increase in human resources and equipment will be required to ensure proper functioning.

Current resources do not allow sufficient down time for the repair and maintenance of equipment, advanced planning, training and statement preparation. Officers of the technical unit are working long hours and in the long term this can only result in mistakes, stress, and fatigue, which will be reflected in the efficiency and effectiveness of the unit.

Appendix A sets out the current organisational design of the surveillance and technical units and appendix B the proposed organisational design for the surveillance and technical units.

COVERT OPERATIVES

The appropriate use of CPOs is presently recognised as a worthwhile investigative tool. Because investigations will principally target police officers, special considerations arise. There may be some circumstances where a QPS CPO can be used, but in many instances this will not be possible. The question is how can this problem be best met? There are two possible solutions — either the Commission should examine the feasibility of recruiting and training CPOs for service within the Commission's range of activities or, alternatively, interstate-based operatives could be engaged with the approval of other law enforcement agencies. In the course of Operation Shield, the latter process was used on one occasion. It will be a matter for ongoing consideration by Commission management as to how this issue can be best dealt with.

It is also convenient to mention here the increasing range of law enforcement technical products which are available particularly in the US. The available technology can considerably assist in covert operations and all of the Shield operations at one time or another needed support from this quarter.

INTELLIGENCE

Appropriateness of Current Structures and Practices

There is consensus for the view that, at an operational level, the integration of intelligence support within investigation teams has been a great success, the most obvious tangible benefit being the timely two-way information sharing between intelligence officers and investigators. Observation and feedback from those involved in Operation Shield suggest that this strategy of personnel integration should continue.

The current experience suggests that operational intelligence support should be maintained at about the present levels as a minimum standard; i.e. approximately one intelligence analyst per team of four or five investigators. Obviously, the size and complexity of the matters under investigation is a telling factor for consideration in establishing intelligence support levels. This, of course, is a variable.

Similarly, the levels of clerical/keyboard/quality control support needed for the intelligence function of Operation Shield should be maintained at current levels, although in the medium term, greater efficiency will be obtained through the automated batch transfer of raw CCR data direct from the phone companies to a new CCR database soon to be utilised.

The area of intelligence work for Shield that is most in need of additional resources is that of target development and strategic assessment. At present there has been little proactive, forward assessment or profiling of individuals, groups or regions which, on the basis of an analysis of the Commissions holdings, might form the foundation for future investigation packages. While one officer is nominally in a position to do some limited work of this kind at present, he is also engaged in the operational support of less significant operations for Shield and complaints investigations, and is currently unable to focus on any strategically orientated tasks.

At the same time, the work which has been done so far provides a valuable beginning in the process, e.g. Operation Mosaic and some current development work are based on a strategy which draws on the Commission's intelligence holdings to identify areas of interest that ought to become the subject of proactive investigation. The development of the Target Development Team, as outlined above, will take this process further, and gives target development a critical and central role in the total investigative strategy.

Discussions between all staff on the future development of Operation Shield reveal a consensus view that any investigative unit established on a permanent basis to carry forward the work of Operation Shield should operate on a proactive basis, investigating individuals, groups or locations within the Queensland Police Service which, on the basis of existing data, are reasonably suspected of being the focus of

corrupt activity. To operate on this basis, Operation Shield would need to be fuelled by the regular provision of intelligence which identifies areas for attention and suitable targets from an analysis of information held within the Commission's database. The Target Development Team will be effective in providing this stimulus.

While a proactive philosophy should drive the overall operations and practices of a future investigative team, it is obvious that from time to time matters of serious criminality involving police will be reported to the Commission, and will require substantial resources for effective investigation. In these instances, a thorough and objective preliminary assessment should be made in deciding whether a matter received in this way is best investigated by the Shield team or can be effectively dealt with through investigative processes elsewhere in the Commission. It could be that the matter is of such seriousness or complexity that it warrants investigation within the proposed structure. There must be an acceptance that this will occur from time to time and quite possibly divert resources from long-term proactive targeting work.

A DISCIPLINED, INTELLIGENCE LED APPROACH TO INVESTIGATIONS

Therefore, despite the need to react to certain matters referred to the Commission, the proactive approach to investigations should be seen as the abiding philosophy of any future Commission-based anti-corruption unit and should drive the core activities of investigators and intelligence officers. It is easy to espouse this view ahead of the commencement of operations of any such unit. Great discipline will be required of management to maintain this philosophy under the pressures of day-to-day demands on resources and the dynamic nature of the work environment within which Operation Shield operates. Even so, a commitment to the long-term aims and objectives must be maintained if the Commission and the Service are to properly deal with the problems that the Commission's intelligence holdings have indicated as existing in various QPS Regions. THE UNIT'S AREA OF OPERATION

There is one final issue of considerable importance that must be addressed. One has to have a clear idea of the terms of reference for such a police anti-corruption unit within the Commission. Operation Shield was established pursuant to terms of reference contained in a Commission's resolution. This was useful for more clearly defining the role of Operation Shield and for better identifying the tasks which were to be committed to it. There was always valuable liaison between the Shield team and the Complaints Section in giving effect to the terms of this resolution and it is generally agreed that if a specially constituted group or unit is to be specifically tasked, then there is value in defining, as clearly as possible, those tasks and the terms of reference which will govern the content of its operation.

Operation Shield was concerned with corrupt police activity involving drugs, although drug-based investigations sometimes led the teams to investigate matters which were not concerned with drugs but which were a consequence of, or in some other way, related to the core activity which initiated the investigation. From that experience, it is clear that it is not always possible to define with precision the matters with which a specific agency will need to concern itself. Therefore, any attempt at definition might be seen to be necessarily flawed. On the other hand, good reason and

common sense will facilitate the proper working out of a particular process in determining the matters which are properly comprehended by a jurisdictional-type definition. It is clearly possible to identify the relevant criteria which can be used in giving meaning to a broadly defined reference.

Whereas Operation Shield was concerned essentially with police misconduct involving drugs, the proposed unit should not be so confined. On the other hand, it is not designed to be used for investigation of every allegation about alleged police corruption.

It has already been emphasised that the unit will generally operate with a proactive strategy of seeking out corrupt behaviour. It is unrealistic to think that it can operate, as it were, in a vacuum. It will essentially be intelligence- rather than complaint-driven. But this dichotomy cannot necessarily be definitive because complaint material will often be relied upon in the course of the investigation as well as adding to the store of intelligence data which will generally be the initiating component in the investigation.

The criteria which will generally separate the unit's jurisdiction from, say, the work of the Complaints Section will be:

the requirement for a proactive investigation based on assessments made by the Target Development Team

any investigation of alleged corrupt behaviour by police which, in the opinion of the Management committee, should be submitted to this unit, having regard to:

- (i) the nature and extent of the corruption;
- (ii) the resources which need to be committed to the investigation; and
- (iii) the likely duration of it.

RESOURCES

It is inevitable that in deciding the future of Operation Shield the question of adequately resourcing the future anti-corruption effort will loom large. A properly integrated and adequately resourced strategy is essential. Its structural design, which is set out here, can only become a reality if there is a commitment to providing the reasonable resources which are necessary to support it. This will ultimately depend on the Commission's budget allocation.

As pointed out earlier, Operation Shield was only possible because of the additional police personnel which the Commissioner of Police committed to it from the resources of the QPS. This substantial commitment has put pressure on the Service. Not surprisingly, there has been persistent agitation from some sections of the Service for the return of those staff who were seconded to Operation Shield. Ongoing operations and the proposals for future action which are set out herein will mean that the future of Operation Shield will be doubtful if the resources of a like strength as that committed to it by the Commissioner cannot be maintained. In simple terms, the future of Operation Shield and the implementation of a suitable proactive strategy, such as is proposed here, depend upon the availability of reasonable resources.

This is obviously a matter of concern both to the Commission and to the Commissioner of Police. In the course of preparing this report, I made available to the Commissioner the contents of this chapter in order to inform him of the proposal and to invite his comments. In his response, he advised that the Queensland Police Service 'endorses your objective of establishing an effective and progressive anti-corruption system that is based on professional commitment and mutual recognition by the Service and the Commission and of the need to avoid destructive misconceptions'.

On the other hand, the concern of the Commissioner that continued recourse has to be made to Police Service resources on behalf of external agencies is well understood. He writes:

The criminal justice system is under considerable pressure presently as a result of budgetary constraints and the uncertainty surrounding the reviews underway within the Department of Justice and the Legislative Assembly. In this environment, it is imperative that future arrangements ensure that there is no reduction in ethical standards. Consequently, the planned launch of Ethical Standards Command on 1 October 1997 is of particular importance. Also, more recent developments in relation to the proposed State Crime Commission and the review of the Criminal Justice Commission could have a significant impact on resourcing, particularly if additional police officers are sought by way of secondment to external agencies.

In this context there is potential for problems to arise as a result of the duplication of functions. Given the links between organised crime, corruption and related activities, care is needed to avoid fragmentation of the fight against corrupt activity through the duplication of agency functions and the creation of "crime gaps".

There are currently 20 vacant police positions at the Commission which cannot be filled for lack of funding. The Commissioner has rightly pointed out that the police personnel required 'for the anti-corruption unit' should be sourced from 'existing police component positions at the Commission'. The problem is, however, that the Commission's current funding does not permit the filling of those positions.

This fundamental question therefore arises: Will the CJC's resources be such as to permit the implementation of an effective, proactive, anti-corruption strategy, or will the proposal go by default?

It should never be said that Operation Shield during its term of operation was likely to identify all of the police officers or groups who were corruptly involved with drugs. What it has done effectively is to raise awareness of the fact that there is a significant number of police who are or have been acting corruptly. Furthermore, by investigating more proactively, it has demonstrated that it is possible to break through the considerable barriers which corrupt police are able to construct in order to avoid detection and prosecution. The type of work done by Operation Shield approaches best practice and there is some evidence emerging that it is likely to have a deterrent effect on corrupt police activity.

It is submitted that the structure and methodology set out above represents best practice. It cannot be achieved, however, without its being supported by reasonable resources.

The CJC budget has, unfortunately, become a matter of controversy. I have no intention of becoming a part of that. The fact, however, cannot be denied that an appropriate anti-corruption policing strategy will inevitably fail unless it is reasonably resourced.

This concern is not met by the mere assertion of a total budget sum of money as representing the allocation for the execution of all of the Commission's functions. There is an urgent need for the Commission to be able to access a level of resources which, after proper consideration, is such as will permit of a reasonable anti-corruption policing effort being implemented in the form designed here and which is based on the methodology spelt out for it.

It is obvious that it is essential to build further on the work of Operation Shield. All who have been involved in Shield have in one way or another contributed ideas towards that development. This chapter reflects the major contribution which has been made by members of the Shield team. Its sole purpose has been to design for the Commission and for the Police Service, not only a suitable organisational structure and methodology, but also a model for cooperative effort by both in proactively addressing corrupt influences within the QPS.

CHAPTER 11

CONCLUSION AND ACKNOWLEDGEMENTS

For those who are statistically minded, here are a few unimportant and irrelevant details.

Throughout the investigative hearings in the course of Operation Shield, the Commission sat in public or private hearings on 74 days, examined 84 witnesses, issued 129 summonses, received 306 exhibits and has, so far, produced 5,233 pages of evidence.

Those details fail to reveal the extraordinary effort and months of ‘hard slog’ by a group of dedicated committed people — investigators, legal officers, intelligence and financial analysts, surveillance and technical staff and support staff — all men and women of the utmost integrity with whom it was my good fortune to work and for whom I have a profound admiration. The police officers concerned are the epitome of all that is good in the Queensland Police Service. I need only refer specifically to Mr Forbes Smith (the Executive Legal Officer) and Detective Superintendent Ann Lewis — both of these superb professionals in their respective areas of expertise gave me the benefit of their considerable skills as well as their unreserved and friendly cooperation. I came to rely very heavily on each of them.

I have already referred in the text of the report to the valuable support given to Operation Shield by Commissioner O’Sullivan.

I would also like to record the friendly and tolerant support that staff of the CJC gave to my many requests at a time when they were obviously working under considerable stress.

Finally, a few concluding observations.

The Fitzgerald Inquiry was a cathartic event for the Queensland Police Service. Its lessons cannot be forgotten. It needs to be remembered, however, that Operation Shield exposed corruption at various levels of the Service including some officers of relatively junior rank. These officers were still at school during the Fitzgerald Inquiry years. They are the new breed who have been incorporated into a much enlarged and reformed Police Service. For them, the Fitzgerald Inquiry is a piece of history.

One cannot sensibly expect that they will be coerced into an acceptable level of conduct by the fact that a former Commissioner of Police is still serving a sentence of imprisonment.

All of the developed expertise in investigative and related skills has to be proactively brought to bear on the process now. It has to be ongoing and be ever present. It has to act also as a powerful deterrent.

If that occurs the lessons of Fitzgerald will not be forgotten.

I do not subscribe to the unduly superficial attitude adopted by some to the serious question of police corruption — that ‘there will always be a few bad apples in the case’. Recently, a high-profile police officer wrote — ‘There will always be the odd one among us who lets the side down but these are being dealt with under existing processes’. I strongly disagree with him. Such an approach reflects an attitude of complacency and smug satisfaction and is likely to distract from the insidious and devious influences which one can assume are present and which are likely to escalate unless checked.

The corrupt constable of today is the corrupt inspector of tomorrow.

The recent experience here and in New South Wales has been that corrupt police conduct had become such a serious public scandal that the commitment of massive resources to fund an official response was seen to be necessary. Paradoxically, both Justices Fitzgerald and Wood conceded, quite properly, that their considerable efforts did not, indeed could not, expose every corrupt police officer.

Fitzgerald and Wood were placed in the position of having to explore what had happened in the past and that which had become part of a well-developed corrupt police culture. There is always a risk that once such a process has been completed and has been overtaken by the inevitable and consequential reform process that it will be thought that all is well again with the inevitable proviso about ‘a few bad apples’ or ‘the odd one’ who will always let the side down. Nothing could be further from the truth.

The anti-corruption effort must be ongoing rather than cyclical. It must not be restricted only to the corrupt conduct which has happened in the past. It must confront that which is current and happening now. That can only be done by adopting the proactive strategy initiated by the Official Misconduct Division of the Criminal Justice Commission and which led to the development of Operation Shield.

It is in the further development of Operation Shield that the real challenges lie — for the Commission, for the Queensland Police Service and for the Government. Chapter 10 of this report — The Future Development of Operation Shield — is perhaps its most critical section. It is the product of the combined experience of each member of the Operation Shield team. It is the result of many, many hours of discussion and insightful contribution by every member of the team. The designed methodology is efficient in concept and achievable with the commitment of reasonable resources.

If, therefore, there is to be an acceptance of the notion that it is more cost-efficient to reasonably resource an ongoing, proactive investigative strategy that focuses on present corrupt behaviour in the Police Service, the core problem can be properly dealt with. Otherwise, it will only be a matter of time before the need arises again to commit massive resources to another high-profile public examination of the corrupt behaviour of the past.

That would be a great pity and can be avoided. Operation Shield is proof of that.