

Engaging in public policy

Public policy and the CMC

Ways in which we have engaged in public policy in 2005–06 include:

- > evaluating the Queensland Government's response to volatile substance misuse
- > carrying out a national comparison of adult entertainment regulation
- > conducting an inquiry into extending legal outcall prostitution services
- > conducting follow-up reviews to our *Seeking justice* (2003) and *Protecting children* (2004) reports
- > reviewing the public nuisance provision of the *Summary Offences Act 2005*.



Public policy projects are a major focus of the CMC's Research and Prevention unit.

Director, Research and Prevention, Susan Johnson (*left*) and Acting Deputy Director Margot Legosz (*right*) with CMC Chairperson Robert Needham

Engaging in public policy

In recent years the CMC has been engaged in an increasing number of projects with a significant criminal justice and public policy focus. These projects originate in one of three ways. They may:

- > arise from investigations
- > be referred by our minister under section 52(1)(c) of the CM Act
- > be undertaken as a requirement in legislation other than the CM Act.

Projects arising from investigations

Over the years the CMC and its predecessor, the CJC, have produced a number of major reports on social and criminal justice policy issues confronting government, which have arisen out of our misconduct investigations. The most recent of these were two major public policy projects culminating in the following reports:

- > *Seeking justice: an inquiry into how sexual offences are handled by the Queensland criminal justice system* (2003)
- > *Protecting children: an inquiry into abuse of children in foster care* (2004).

We are currently reviewing the responses to those reports.

Seeking justice

This inquiry was prompted by the public furore over the decision by the DPP (Director of Public Prosecutions) to drop charges of indecent dealing against Mr Scott Volkens, a well-known Australian swimming coach.

Comment by political leaders and in the media over the handling of the Volkert case raised concerns about how the QPS and the DPP were handling sexual offence matters. Questions were also raised regarding the sufficiency of laws relating to the naming of people accused of such offences during the criminal justice process.

In September 2002 the CMC sought permission from the Premier to conduct the inquiry and in October and November of that year called for submissions and held public hearings.

The report of the Volkert investigation, entitled *The Volkert case: examining the conduct of the police and prosecution*, was published in March 2003 and the report of the public inquiry, *Seeking justice: an inquiry into how sexual offences are handled by the Queensland criminal justice system*, was published in June that same year. The latter report contained 24 recommendations for reform of the criminal justice system. Recommendation 24 states:

That the Crime and Misconduct Commission review the implementation of the Commission's recommendations arising from the Inquiry into the Handling of Sexual Offence Matters by the Criminal Justice System, and report to Parliament in two years' time.

Accordingly, submissions were sought reviewing the implementation to date of the 24 recommendations made. In their submission to the CMC in April 2006 the QPS and the ODPP reported that implementation of most of the recommendations was either completed or well under way.

Our report to parliament will be handed down during the next reporting period.

Protecting children

During 2003 information came to light from various sources indicating that the foster care and child protection systems in Queensland, as administered by the Department of Families, had failed many children. The evidence pointed to systemic failures over many years to prevent children placed in foster care from being further abused or neglected. In July 2003 the Premier referred these concerns to the CMC, which responded immediately by launching two major misconduct investigations and an independent public inquiry.

The inquiry resulted in publication of the report *Protecting children: an inquiry into abuse of children in foster care*. This report contained 110 recommendations for reform, including a recommendation for the creation of a new department – the Department of Child Safety.

The Queensland Government resolved to adopt all 110 recommendations. The child protection system in Queensland has undergone what is arguably the most substantial reform in its history as a result of the CMC's recommendations, and work is continuing to build a better system to protect our children.

In the report, the CMC recommended that the Queensland Government report on progress of the implementation of reforms within two years of the original report. The government and the Commission for Children and Young People and Child Guardian provided implementation reports to the CMC in January 2006 and we are currently reviewing those reports. We expect to issue a public report of our review in the second half of 2006.



Referrals from the minister under the CM Act

Under section 52(1)(c) of the CM Act the CMC has a function to 'undertake research into any other matter relating to the administration of criminal justice or relating to misconduct referred to the commission by the Minister'. In recent years, the CMC has received referrals under this provision to conduct research into the live adult entertainment industry and into police radio communications. Both reports resulting from this research were published during 2004–05.

During 2005–06 we published a further report arising from the live adult entertainment industry referral.

Regulating adult entertainment

The regulation of adult entertainment is complex, and varies throughout Australia, depending on liquor licensing regulatory systems and the criminal law. In recognition of this complexity, we carried out a survey of adult entertainment regulation in each of the six states and two territories in Australia, and issued a companion report to our December 2004 publication (*Regulating adult entertainment: a review of the live adult entertainment industry in Queensland* – see above).

The companion report, entitled *Regulating adult entertainment: national comparison of adult entertainment regulation*, was released in November 2005. It places Queensland in the national context of adult entertainment regulation so that those considering the recommendations made in the CMC's earlier report may be better informed.

Projects required under other legislation

As well as the research functions set out in the CM Act, the CMC is increasingly required to conduct research under provisions inserted into other legislation, such as the *Prostitution Act 1999*, the *Police Powers and Responsibilities Act 2000* (PPRA) and the *Summary Offences Act 2005*. Our evaluation of the Prostitution Act, *Regulating prostitution*, was described in last year's annual report.

Regulating outcall prostitution

The *Prostitution Act 1999* required the CMC to review the effectiveness of the Act. In December 2004 we released our review in the report *Regulating prostitution* (see *CMC annual report 2004–05*). A recommendation in that report was that the review be extended to examine whether Queensland should legalise outcall or escort prostitution services. To assist with this, we conducted consultations with key informants, called for public submissions, updated our review of the pertinent research literature and legislation, and conducted two days of public hearings. An interim position paper was released in December 2005. (The report of the inquiry was released in October 2006.)



Government's response to volatile substance misuse

The misuse of volatile substances (often referred to as 'chroming' or 'sniffing') is not a crime in itself, but is often a sign of serious social disorder in individuals and communities.

Under section 371E of the PPRA, we were required to review the trial police powers contained in sections 371B–D of the Act. These powers were enacted as a response to the misuse of volatile substances, and were intended to enable police to respond effectively to people affected by a volatile substance by taking them to a safe place where they could recover. These 'places of safety' were a Department of Communities initiative.

Between 1 July 2004 and 31 March 2005, we evaluated the 'trial' powers, which were exercised only for a defined period in five specified areas (Brisbane central, Logan, Townsville, Mount Isa and Cairns).

The report, *Police powers and VSM: a review*, was tabled in parliament in September 2005. On the whole, the CMC evaluation found that the trialled police powers were a useful component of the broader response by government to the difficult issue of VSM, and that, with some enhancements (e.g. giving the police the power to hold a person affected by VSM for a limited period, and the power to require a person affected by VSM to supply their name and address), they should be retained and extended statewide.

Because of our obligation to review the new police powers related to volatile substance misuse, the Department of Communities requested that we also evaluate the success of the places of safety model. The Commission considered this request and determined that undertaking such an evaluation was appropriate, as well as of significant public benefit.

Our evaluation, which took place between 1 July 2004 and 31 March 2005, combined survey research, focus groups, administrative data, stakeholder interviews and community-level socio-demographic data drawn from five trial sites across Queensland in order to identify the strengths and limitations of the places of safety model.

A confidential report was provided to the Department of Communities in September 2005 and a summary of the report – *Responding to volatile substance misuse: evaluation of the places of safety model* – was published at the same time.

Review of public nuisance provision

We are currently conducting a review of the public nuisance provision of the *Summary Offences Act 2005* (SO Act), which was passed by parliament in February 2005. This new Act replaced the *Vagrants, Gaming and Other Offences Act 1931* (VG00 Act) and reformulated a number of street offences. In particular, the SO Act is intended to repeal those provisions of the VG00 Act that are no longer relevant



to Queensland society, and to ensure that more recent phenomena, such as chroming, are specifically covered. The SO Act deals with such matters as the quality of community use of public places, and offences relating to piercing and tattooing of children.

Section 7AA(6) of the VG00, which required the CMC to undertake a review of the operation of the public nuisance provision of that Act after 18 months, was carried over into section 6 of the SO Act. The provision came into force on 1 April 2005 and the CMC's review started in October 2005.

Work is under way to collect and analyse relevant police data concerning public nuisance. An issues paper was published in May 2006, calling for public submissions on how the new public nuisance offence is being enforced and its impact on the Queensland public. The submissions, as well as the results of a targeted consultation process, and analysis of relevant offence data, will form the basis of a report to be published in the next reporting period.

Forthcoming reviews

In 2006, the Queensland Parliament made a number of amendments to the *Police Powers and Responsibilities Act 2000* (PPRA). Three of the amendments require the CMC to conduct a review of the changes to the legislation. These include the following:

Motorbike noise

Section 458 of the *Police Powers and Responsibilities Act (Motorbike Noise) Amendment Act 2005* states that, as soon as practicable after the end of one year after the commencement of the Act (i.e. after 1 July 2007), the CMC must review the effectiveness of the motorbike noise provisions in mitigating the emission of excessive noise from motorbikes being driven on places other than roads and prepare a report on the review.

Move-on powers

The *Police Powers and Responsibilities and Other Acts Amendment Act 2006* received assent on 1 June 2006. Among other amendments, the Act amended the PPRA to expand the QPS's move-on powers. In particular, the amendment expanded the operation of the move-on power to include any public place, and inserted a requirement that the CMC review the use of the power by police. The review is to begin as soon as practicable after 31 December 2007 and will be tabled in the Legislative Assembly.

New offence of 'evade police'

The *Police Powers and Responsibilities and Other Acts Amendment Act* also amended the PPRA to insert a new Chapter 11A, which contains provisions about evading police officers.

The purposes of the new Chapter 11A are threefold, in that it

- > provides for an offence called an evasion offence
- > makes particular provision to help police officers in the investigation of evasion offences
- > enables a court to order the impoundment or forfeiture of a motor vehicle after the court finds the driver of a motor vehicle guilty of an evasion offence.

Section 443ZZM directs that the CMC review the use by police officers of powers under this chapter and prepare a report on the review. The review must be started as soon as practicable after 30 June 2009. (*Note: At the end of the reporting period, these specific changes had not been proclaimed.*)

Australian Police Oversight Agencies Research Forum

On 31 May 2006, a contingent of staff from Research and Prevention travelled to Sydney to attend the Australian Police Oversight Agencies Research Forum. Representatives from all Australian police oversight agencies attended:

- > New South Wales Ombudsman
- > Police Integrity Commission (NSW)
- > Commonwealth Ombudsman
- > Western Australia Corruption and Crime Commission
- > Office of Police Integrity Victoria
- > CMC.

The main purpose of the forum was to share knowledge and experience in order to reduce unnecessary duplication, as well as fostering the development of collaborative arrangements between agencies.