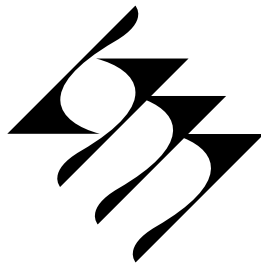


# STRIKING A BALANCE

AN INQUIRY INTO MEDIA ACCESS TO POLICE RADIO COMMUNICATIONS

DECEMBER 2004

CRIME AND  
MISCONDUCT  
COMMISSION



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QUEENSLAND

**CMC Vision:**

To be a powerful agent for protecting Queenslanders from major crime and promoting a trustworthy public sector.

**CMC Mission:**

To combat crime and improve public sector integrity.

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Dear Sirs

In accordance with section 69 of the *Crime and Misconduct Act 2001*, the Crime and Misconduct Commission hereby furnishes to each of you its report, *Striking a balance: an inquiry into media access to police radio communications*.

The Commission has adopted the report.

Yours faithfully



**BRENDAN BUTLER SC**  
Chairperson



# FOREWORD

---

The recent adoption of encrypted digital radio communication technology by the Queensland Police Service promises to provide a number of important benefits to police, including increased coverage and improved security of communications. However, one of the consequences of this new technology is that media organisations will no longer be able to listen in to police radio communications, which will prevent the public from having access to information on police activities through media reports.

In the wake of the Queensland Police Service's decision to begin a roll-out of digital radio technology, the Crime and Misconduct Commission was asked to determine what level of access, if any, the media should have to police radio communications.

This gave the Commission a unique opportunity to examine the interplay between a number of critical principles which lie at the very heart of social and political life in this state. The current inquiry has required the Commission to consider the issues of freedom of the press and the media's role in a democratic state, within the context of modern policing.

The Commission's standpoint is that government information should ordinarily be available to the public unless there are compelling reasons, in the public interest, to the contrary. In considering the release of police radio communication information the Commission has balanced individual privacy, operational security and public safety considerations against the need for high levels of transparency and accountability in policing.

I am confident that the report's recommendations strike an appropriate balance in the public interest.

**Brendan Butler SC**  
**Chairperson**



# CONTENTS

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<b>Foreword</b>	<b>v</b>
<b>Terms and abbreviations</b>	<b>ix</b>
Definitions of terms	ix
Abbreviations	x
A note about citations	x
<b>Acknowledgments</b>	<b>xi</b>
<b>Summary</b>	<b>xiii</b>
Recommendations	xiv
<b>Chapter 1: Background to the inquiry</b>	<b>1</b>
The inquiry	1
The referral	1
Terms of reference	2
Inquiry methods	2
Structure of the report	4
<b>Chapter 2: Secure radio communications and police practice</b>	<b>5</b>
Introduction	5
Police radio communications infrastructure in Queensland	5
Police communications centres	6
Computer-aided dispatch (CAD) systems	6
How police are dispatched	7
The migration to digital radio by police	7
Encryption	9
The introduction of secure digital radio in Queensland	10
Current status of the digital roll-out	11
The argument for secure digital communications for police	12
Operational effectiveness	12
Public safety	13
Protection of private and confidential information	14
QPS Media and Public Relations Branch	14
<b>Chapter 3: The impact of secure radio communications on media practice</b>	<b>17</b>
Introduction	17
The media: definition, role and regulation	17
Defining the media	17
The role of the media	19
Media–police relations	20
Control of information	22
The media’s role in preventing or promoting police corruption	23
The scanner as a source of news	25
The impact of digital roll-out on the media	26

<b>Chapter 4: The central issues</b>	<b>29</b>
Introduction	29
The four competing considerations	30
Freedom of the press	31
Transparency and accountability	33
Security and safety	34
Privacy	35
Assessing the balance	40
<b>Chapter 5: Alternative models for media access to police communications</b>	<b>43</b>
Introduction	43
Model 1: Access to voice communications	43
Model 2: No access to voice communications	44
Model 3: Access to real-time communications other than voice transmissions	45
<b>Chapter 6: Striking a balance: recommendations</b>	<b>49</b>
Introduction	49
Recommendations	50
A dispatch data-feed model	50
Authorisation of media outlets	50
Security	51
Job types	52
Job details	53
Objective, transparent and accountable	54
Real-time information	55
Privacy	55
Dispatch data-feed media notes	56
Implementation issues	57
Further considerations	61
<b>Appendix 1: International police agencies that provided information to the inquiry</b>	<b>63</b>
USA	63
Canada	63
UK	64
<b>Appendix 2: List of submissions to the inquiry</b>	<b>65</b>
Written submissions	65
Consultations and interviews	66
<b>Appendix 3: Hearing schedule</b>	<b>67</b>
Tuesday 27 July 2004	67
Wednesday 28 July 2004	67
Thursday 29 July 2004	67
Friday 30 July 2004	68
<b>References</b>	<b>69</b>
Print and online publications	69
Cases	71
Legislation	71
Acts discussed in the report	71
Further Acts considered by the Commission	72



# TERMS AND ABBREVIATIONS

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## DEFINITIONS OF TERMS

### ***Common Air Interface***

P25 systems (see definition below) use what is called the Common Air Interface (CAI). This standard specifies the type and content of signals transmitted by compliant radios. One radio using CAI should be able to communicate with any other CAI radio, regardless of manufacturer.

### ***Interoperability***

Interoperability is 'the ability of public safety agencies to talk to one another via radio communication systems — to exchange voice and/or data with one another on demand, in real time, when needed' (National Taskforce on Interoperability 2003). Interoperability can be divided into three categories, with each having specific characteristics (Powell 2003):

- day-to-day interoperability, which represents perhaps 95 per cent or more of all interoperability use — the communications between officers who back each other up on incidents
- taskforce interoperability, which supports planned events such as large sporting matches and political conventions; the links for taskforce interoperability are planned ahead of the event, and exist only during the event
- mutual aid interoperability, which is the least used but most demanding of the three categories. It is the response to major disasters such as terrorist strikes, or natural disasters such as bushfires and cyclones, where there can be no detailed preplanning for the event and communications links are established as the event unfolds and responders arrive at the scene.

### ***Project 25 (P25)***

Project 25 (P25) is a set of common technical standards for land mobile radio systems, which was approved by the Association of Public-Safety Communications Officials International in 1995. The P25 standards specify that DES be used for encryption, although other algorithms may be used. P25 supports both voice and data transmission (<[www.signalharbor.com/ttt/00jun](http://www.signalharbor.com/ttt/00jun)>, viewed 25 May 2004).

### ***Terrestrial Trunked Radio (TETRA)***

Terrestrial Trunked Radio (TETRA) is an open digital trunked radio standard defined by the European Telecommunications Standardisation Institute (ETSI) to meet the needs of public safety organisations. TETRA allows the radio to transmit and receive voice, video and still images and to connect with computer databases and download information efficiently. TETRA is the standard that all police forces in the United Kingdom are adopting as part of their move to secure digital radio communications.

## ABBREVIATIONS

AJA	Australian Journalists Association
APCO	Association of Public-Safety Communications Officials
CAD	Computer-Aided Dispatch
CAI	Common Air Interface
CJC	Criminal Justice Commission
CMC	Crime and Misconduct Commission
ComCo	Communications Coordinator
DES	Department of Emergency Services
DVP	Digital Voice Protection
FOI	Freedom of Information
GSM	Global System for Mobile Communications
IMS	Information Management System
MEAA	Media, Entertainment and Arts Alliance
NEPI	National Exchange of Police Information
OIC	Officer in Charge
OPM	Operational Procedures Manual
OPR	Operational Performance Review
PAMR	Public Access Mobile Radio
PCC	Police Communications Centre
QPS	Queensland Police Service
QPCOUE	Queensland Police Commissioned Officers' Union of Employees
QPUE	Queensland Police Union of Employees
SAPOL	South Australia Police
SSL	Secure Sockets Layer
TETRA	Terrestrial Trunked Radio

## A NOTE ABOUT CITATIONS

This report uses two forms of citation to distinguish between the types of information provided to the Commission during the course of the inquiry.

- The title of an organisation followed by the term 'submission' and a page number indicates that the information has been drawn from a written submission tendered to the inquiry — for example: '(QPS submission, p. 6)'.
- Verbal testimony given in person during the public hearing phase of the inquiry is cited in the following way: '(Smith [ABC] transcript, p. 23)'.

# ACKNOWLEDGMENTS

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This inquiry required dedication and commitment from a wide range of people. The Crime and Misconduct Commission is most grateful to the government departments, academic institutions, legal groups, unions and individuals who provided oral and written submissions relevant to the terms of reference for the inquiry. These submissions were of great assistance in developing what the Commission believes are comprehensive and workable recommendations. In particular, the Queensland Police Service and Motorola Australia Pty Ltd provided the project team with a great deal of relevant information. The CMC also thanks those media organisations and all interstate and overseas law enforcement agencies that responded to requests for information.

The project team — consisting of Dennis Budz, Kim Adams, Derran Moss, Alexa van Straaten and Sue Stephen from Research and Prevention — was responsible for collecting and coordinating the information and writing the report, while other CMC officers also provided valuable assistance.

The CMC acknowledges and thanks Mr Russell Pearce, who served as General Counsel during the course of the public hearings. The CMC is also grateful to the Honourable Chief Justice P de Jersey AC and the Honourable Justice JDM Muir for providing material and insights relevant to the inquiry.

The CMC thanks the Queensland Police Service (Media and Public Affairs Branch) for supplying the photographs reproduced on pages 6 and 20.

The report was prepared for publication by the CMC's Communications Unit.



# SUMMARY

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After media organisations had expressed concern about the implementation of a Queensland Police Service (QPS) decision to adopt encrypted digital radio communication technology, the Crime and Misconduct Commission received a referral on 6 May 2004 from the Honourable Peter Beattie, Premier of Queensland, under section 52(1)(c) of the *Crime and Misconduct Act 2001* (Qld).

The Premier's referral was considered by the Commission at its regular meeting on 7 May 2004, at which time it was resolved that the public interest warranted the holding of an inquiry involving the receipt of submissions followed by public hearings. The Commission subsequently adopted terms of reference for the inquiry and invited written submissions from the QPS, other government agencies, media organisations, concerned interest groups and individuals. The Commission received a total of 48 submissions from organisations and individuals.

The Commission held public hearings over four days to obtain information and views from relevant organisations. The public hearings enabled the Commission to explore options with people who were closely associated with the issues or were representatives of organisations identified by the CMC as having a particular interest or expertise.

In both submissions and oral testimony, the QPS argued that the adoption of secure digital communication technology would offer a greater level of protection to police officers and the public when police respond to critical and sensitive operational situations. Further, the advent of secure police communications allows more detailed information to be communicated and prevents unauthorised access to sensitive and personal information in the possession of the police service. The QPS submitted that this secure technology is important in preventing criminal elements and potential terrorists from accessing police information.

The news media, on the other hand, claimed that maintaining the previous level of access to police communications was critical to ensuring external scrutiny of police activities, maintaining police standards and allowing timely and accurate reporting of crime and safety issues to the community.

The views of all stakeholders were duly considered, analysed and incorporated in the report. The recommendations aim to reconcile and balance these competing interests in order to achieve a result which is in the public interest of the people of Queensland.

The Commission makes 14 recommendations to ensure efficient, transparent and technically feasible information-sharing practices between the police service and the media in Queensland, while simultaneously protecting the privacy of individuals and ensuring confidentiality.

## RECOMMENDATIONS

### *Recommendation 1*

That the Queensland Police Service (QPS) develop the capability to provide secure electronic transfer of information about operational police activity via a direct data-feed from the police computer-aided dispatch (CAD) system to authorised media outlets.

### *Recommendation 2*

That the Commissioner, QPS, authorise media organisations that are involved in providing current news reports to the public to receive access to the dispatch data-feed, subject to compliance with arrangements for the secure receipt of the data-feed.

### *Recommendation 3*

That information provided via the dispatch data-feed be protected by secure processes that ensure access is available only to authorised media organisations.

### *Recommendation 4*

That the QPS release information by direct data-feed dispatch about all job types, with the following exceptions:

#### A Job types to be excluded

- mentally ill person
- offences against children
- shop-steal child
- absconder hospital/institution
- absconder juvenile
- rape
- attempted rape
- indecent assault
- wilful exposure
- indecent acts
- domestic violence
- suspect terrorist activity

#### B Job types to be released after a one-hour delay

- armed person
- siege
- shots fired
- hijack
- hostage taken
- bomb threat
- sudden death

#### C Discretionary delay

- Authority to withhold or exclude a job from release should reside with the Duty Officer, Police Communications Centre and be based on documented compelling and demonstrable public safety or police safety reasons.

#### ***Recommendation 5***

That the release of information by the dispatch data-feed include the following CAD information fields:

- job number
- initial job code
- verified job code
- time call received
- street (but not street number)
- suburb
- time crews dispatched
- priority rating.

#### ***Recommendation 6***

That the dispatch data-feed display all jobs, numbered in sequence, in order to facilitate monitoring and auditing of the system. When job information is being withheld or delayed in accordance with Recommendation 4, the data-feed will record the job number and the exception category (A, B or C) relied upon from Recommendation 4.

#### ***Recommendation 7***

That the delivery of information by the dispatch data-feed occur in as close to real time as current technology allows, subject to the limited exceptions identified in Recommendation 4.

#### ***Recommendation 8***

That the QPS take all necessary steps to safeguard the privacy of individuals by ensuring that information identifying a person be excluded from the dispatch data-feed.

#### ***Recommendation 9***

That QPS media liaison staff attach timely media notes to data-feed entries for jobs of high public interest.

#### ***Recommendation 10***

That fully trained staff dedicated to the purpose be assigned to monitor the dispatch data-feed and, where appropriate, add value by providing media notes.

#### ***Recommendation 11***

That the establishment and ongoing costs associated with the delivery of the dispatch data-feed and media notes be met by the QPS.

#### ***Recommendation 12***

That the cost of receiving and accessing information on the dispatch data-feed be met by the user media organisations.

#### ***Recommendation 13***

That the Commissioner, Queensland Police Service, invite news directors/ editors (or delegates) of media outlets with authorised access to the dispatch data-feed, and representatives of media peak bodies, to form a joint committee to meet on a regular and continuing basis, to provide opportunities for ongoing dialogue between the major stakeholders and to provide a forum to consider any concerns raised by stakeholders, including media organisations refused authorisation by the Commissioner.

***Recommendation 14***

**That a dispatch data-feed model similar to that recommended for the Brisbane metropolitan area be introduced in other police regions simultaneously with the introduction of secure digital communications, to the extent that is technically feasible.**

In considering the issues before the inquiry, the Commission has sought to achieve a balance between the needs of modern policing in Queensland and the responsibility of government to the people. Through the recommendations in this report, the balance has been struck with reference both to the current situation in Queensland and to future developments in radio communications. The Commission believes that it has set down a series of principled recommendations which reflect the societal and political needs of the State of Queensland.

The Commission recommends this report to the Queensland Government and encourages the Queensland Police Service to undertake to implement its recommendations in the shortest possible time.



# BACKGROUND TO THE INQUIRY

## THE INQUIRY

As in other Australian and international police jurisdictions, the Queensland Police Service (QPS) has made a move towards implementing secure digital radio communications. Secure digital radio communications will replace analogue radio systems, providing improved clarity of communications, giving wider coverage, and preventing unauthorised access to sensitive and personal information transmitted over police radios. The security of police communications is important in relation to privacy concerns, safety of police officers and operational effectiveness. Currently, secure digital radios are used by police officers in the Metropolitan North and Metropolitan South police regions, which encompass the greater Brisbane area.

However, an effect of this new communication technology is that the news media (and the public generally) will be prevented from monitoring police radio communications. In the past, the media have been able to scan police radio communications and listen to police as they go about their daily business. The media use the information gathered through these scanning activities to determine the occurrence and location of newsworthy events. Not surprisingly, the news media in the Brisbane area have expressed concern with this move to secure radio networks as they are now unable to listen in to police communications. Not only does this limit their sources of news stories, but the media also contend that access to police radio communications is in the public interest and provides a mechanism for external scrutiny of police.

Efforts by the media to have their concerns addressed by the QPS were unsuccessful, leading to a number of media representatives raising the issue with the Minister for Police and Corrective Services, the Honourable Judy Spence (and previously the Honourable Tony McGrady), and with the Premier, the Honourable Peter Beattie.

### The referral

In an effort to identify a potential solution to the concerns raised, on 6 May 2004 the Premier referred the matter to the Crime and Misconduct Commission (the Commission or the CMC) under section 52(1)(c) of the *Crime and Misconduct Act 2001*. That section authorises the Commission to undertake research into any matter relating to the administration of criminal justice referred to the Commission by its relevant minister, the Premier.

The Premier's letter referred the matter in the following terms:

**Referral of research matter pursuant to s. 52(1)(c) of the *Crime and Misconduct Act 2001* – Appropriate dissemination of police communications information**

In line with developments in other jurisdictions, the Queensland Police Service (QPS) has commenced a roll out of secure digital communications. The technology offers a greater level of security to police officers and the public when police are responding to critical and sensitive operational situations. It also allows more detailed information to be communicated

and prevents unauthorised access to information in the possession of police, information that is often of a sensitive personal nature. The technology helps prevent criminals and, in these times, potential terrorists from accessing police information.

While the technology is not being implemented for such a purpose, the technology will have the effect of preventing the media (and the public generally) from monitoring police communications. Media organisations have expressed concern to me and the Minister for Police and Corrective Services about the implementation of the technology.

One media organisation has requested that the media be given the same level of access to police transmissions that the media traditionally enjoyed, through scanning pre-digital radio transmissions. The organisation has stated that this 'provides external scrutiny that is crucial to maintain police standards and the public's faith in the police service'. Also, I am informed that the Media and Public Relations Branch of the QPS has a policy of advising media of significant newsworthy events as quickly as possible.

The roll out of this technology raises important public interest, privacy and operational considerations. I would be pleased to be advised of how other jurisdictions have dealt with the issue of disseminating, or otherwise providing access to, police information once secure communications have been implemented.

Pursuant to section 52(1)(c) of the *Crime and Misconduct Act 2001*, I request the Crime and Misconduct Commission to examine the appropriate dissemination of Queensland Police Service (communications) information to the media in light of the pending introduction of secure digital police communications, with the objective of identifying the parameters of, and considering options for, appropriate dissemination.

## Terms of reference

On 7 May 2004, the Commission resolved that public interest warranted the holding of an inquiry, involving the call for written submissions followed by a public hearing. The Commission adopted terms of reference in which it would inquire into:

- (a) the extent to which it is appropriate for the news media to have access to Queensland Police Service radio communication information
- (b) the options available to provide access to Queensland Police Service radio communication information to the news media
- (c) any recommendations that may be considered appropriate in relation to (a) and (b) above.

In focusing on these terms of reference, consideration was given to:

- the public interest
- the integrity, safety and effectiveness of police operations
- any privacy concerns of individuals.

## Inquiry methods

To address the terms of reference, the CMC used a number of strategies including:

- consultation with stakeholders
- research into the technology and policies governing police radio communications in other national and international jurisdictions
- a call for submissions from a range of stakeholders and the general public
- public hearings.

### ***Consultations***

Members of the project team consulted with representatives from all levels of the judiciary, police organisations in all Australian jurisdictions and some international jurisdictions, representatives of the media in Queensland and elsewhere in Australia, other agencies (e.g. Department of Emergency Services) and leading academics in the field of law and journalism.

These consultations provided the project team with a greater awareness of the issues from a range of perspectives.

### ***Research***

Digital radio communication technology has been, or is being, adopted by many police organisations across the world. It was considered important, therefore, to determine how other agencies have handled the information accessibility issue and what mechanisms or innovative solutions, if any, are being used elsewhere to provide the media with timely and accurate information about police activity.

Research officers contacted all national police agencies to determine the radio communication technology currently in use, and whether they had plans to move to the use of encrypted digital radio in the near future. In addition, contact was made by email, letter or telephone with 140 international police organisations, seeking information about their radio communications technology.

Responses were received from 49 police organisations in the United States of America, Canada and the United Kingdom (see Appendix 1). Several organisations provided comprehensive information, including internal policies and other documentation, that described how they work with the media.

The information collected from national and international police agencies was used to identify and assess a range of options for informing the media in Queensland about police activities. In order to fully assess the practicality of a number of these potential options, research officers listened to eight hours of taped communications between QPS Communications Centre dispatch officers and operational police, and reviewed Computer-Aided Dispatch (CAD) screens associated with these dispatch calls.

### ***Submissions***

The CMC placed advertisements in a number of urban and regional newspapers, calling for public submissions. In addition, letters of invitation were sent to the primary stakeholders, including the QPS and major media organisations in Queensland, and heads of all law and journalism or media departments in Australian universities, commissioners of police from all Australian states and territories, and other related government departments and statutory authorities.

A total of 48 written submissions were received from a range of organisations and individuals (see Appendix 2). Of these, 15 were from media organisations, 13 were from individuals, five were from police organisations and six were from government departments or statutory authorities; there was also one from a privacy organisation, one from a professional legal body, three from unions and four from academics in the field of journalism and/or the law.

### ***Public hearings***

Public hearings were held over four days, from 27 July to 30 July 2004. The hearing schedule can be found in Appendix 3. Appearance at the public hearings was by invitation, with those who were invited being considered representative of the

range of views. The hearings allowed for a more detailed discussion of the key issues raised by stakeholders in their written submissions.

A total of 26 witnesses appeared at the public hearing. The testimony from these hearings, in conjunction with written submissions and research, was considered by Counsel Assisting, Mr Russell Pearce. His final submission detailing the findings and recommendations of the inquiry was delivered on 1 September 2004. At this time, organisations and individuals who had appeared before the hearings were invited to provide written submissions by 15 September 2004 in response to recommendations put forward. Eight written submissions were received.

## STRUCTURE OF THE REPORT

The report is divided into six chapters:

After this chapter, which provides background information about the inquiry, **Chapter 2** discusses the role and function of police communication centres in Queensland, and describes the processes used to dispatch police in response to a call for service. This chapter also describes the nature of digital radio communications and discusses the main advantages of this technology.

**Chapter 3** discusses the relationship between the police and the media, with particular focus on how this relationship has evolved in Queensland within the context of the Fitzgerald Inquiry and the role the media play in preventing or promoting police corruption. This is followed by a discussion of how the use of secure digital radio by police is impacting on the ability of the media to report on police activity and crime and safety issues in the community.

**Chapter 4** provides an analysis of the central issues raised during the inquiry. This analysis seeks to consider and determine the proper balance of several broader considerations including freedom of the press, transparency and accountability of police activities, privacy of individuals and security of police operations.

**Chapter 5** discusses the relative merits of various models of information dissemination used in other police jurisdictions in Australia, the United Kingdom, Canada and the United States in relation to media access to police communications.

**Chapter 6** describes the type of model proposed by the Commission and includes 14 recommendations on how the QPS should work with the media to implement this model of information delivery.

# SECURE RADIO COMMUNICATIONS AND POLICE PRACTICE

Encrypted digital radio communications are being used by police in the Brisbane metropolitan area. While detailed plans have not been made regarding the roll-out schedule of digital radio across Queensland, the QPS does intend to provide digital communication capability to all major metropolitan areas in the future. Secure digital radio provides a number of important benefits to police, including increased operational effectiveness due to improved clarity, coverage and interoperability.

The ability to prevent people from listening in to police communications may also ensure greater public safety and provide enhanced protection of private and confidential information. The view expressed by the QPS is that media organisations, rather than relying on being able to scan police radio communications, could make better use of the full range of specialist services offered by the QPS Media Unit to obtain information about police activities.

## INTRODUCTION

Police and other public safety agencies are moving to secure digital radio communications as their primary means of internal and interagency communication. Digital technology provides a number of benefits to police services, particularly the ability to conduct operations in the knowledge that unauthorised persons are not listening in to conversations between police officers. Currently, only the Brisbane metropolitan police regions are using encrypted digital radios in the general patrol environment, although the QPS anticipates that this capability will be provided for all major centres in Queensland in the future.

This section describes the nature of digital radio communication and the encryption capabilities that the digital format allows. The QPS has provided written and oral submissions regarding the advantages of secure digital radio communications which include benefits such as:

- improved effectiveness of police operations
- increased public safety
- enhanced ability to protect private and confidential information.

## POLICE RADIO COMMUNICATIONS INFRASTRUCTURE IN QUEENSLAND

The QPS's radio communication infrastructure consists of a number of separate facilities and systems specifically designed to provide information quickly to police. The key components of this infrastructure that are discussed in this section of the report include the location and management of police communications centres throughout Queensland, the computer-aided dispatch (CAD) systems used in these centres and the procedures that the QPS follows to dispatch police.

## Police communications centres

Currently, there are 21 police communications centres (PCCs) located throughout the state. These centres use two different types of computer-aided dispatch systems. The first type consists of five PCCs using a computer-aided dispatch (CAD) system called 'Escort' — Emergency Service Communication and Operational Resource Tasking. PCCs using Escort are located in Brisbane, Broadbeach, Beenleigh, Townsville and Cairns. These PCCs come under the umbrella of the Officer in Charge of the Communications Branch situated within the Operations Support Command of the QPS.

The second type consists of 16 PCCs that use a stand-alone CAD system called the Information Management System (IMS). PCCs operating IMS-based systems are located in Toowoomba, Ipswich, Roma, Charleville, Redcliffe, Maroochydore, Gympie, Bundaberg, Maryborough, Gladstone, Rockhampton, Longreach, Mount Isa, Mackay, Mareeba and Innisfail. Currently, all of the PCCs operating IMS-based systems are operated and controlled at the district level within a particular police region (e.g. Gladstone District and Rockhampton District both located in the Central Police Region operate and control their own separate PCCs).



*Brisbane Police Communications Centre, showing the communications coordinator operating the computer-aided dispatch system*

## Computer-aided dispatch (CAD) systems

A CAD system is a computer program located in a PCC that assists an operator to collect information and efficiently dispatch police to the scene of a reported crime or community problem. In effect, a CAD system consists of a series of computer screens that allow an operator to detail and log various tasks and police actions.

'Escort' is the larger and more sophisticated of these systems; it was designed by the QPS in the late 1980s and has been operational since 1991. Two key features of Escort are that it automatically returns and safely stores information in a central data warehouse, and it incorporates an address validation feature that helps to assure the quality and accuracy of information stored in the system. Although Escort appears to be meeting the immediate needs of the QPS, its overall functionality may be somewhat behind that of most modern CAD systems.

The second system, called the Information Management System (IMS), is a stand-alone system also developed by the QPS in the late 1980s. The IMS system is designed to function in a similar manner to that of Escort, albeit on a much smaller scale. However, IMS operates in isolation to any other QPS computer information system and has been so heavily modified at the local level as to make any comparison of data between different IMS systems and Escort difficult.

### **How police are dispatched**

When a call is received from the public (such as an '000' emergency call), the information is recorded by a call taker located in a PCC. After the details, such as the name of the caller, the nature of the incident and the address, have been entered into the CAD by the call taker, the communications coordinator (ComCo) reviews the information provided by the caller and ensures that the correct priority code and job code are applied before releasing the job to the radio operator. The radio operator then contacts an available patrol unit by radio and tasks them to provide a police response. In most cases this radio message is sent out unsecured over the existing analogue radio network. However, in the Brisbane metropolitan area this message is sent out over the new digital encrypted network. It is these radio messages that the media have in the past been able to scan, but can no longer do so because of the change to encrypted digital technology.

On receipt of the assignment, whether it be transmitted via the new digital or old analogue radio network, the patrol unit acknowledges the time of the call, drives to the assigned location, interviews the informant (if one can be found), conducts a preliminary investigation (if a crime has occurred) and completes any necessary paperwork. Once these tasks are completed, the responding unit notifies the dispatcher when it is available for a new assignment.

If the incident being attended to by police is a potentially newsworthy event, the communications coordinator will advise the duty officer who, in turn, usually contacts the QPS Media Unit staff for advice or assistance regarding the handling of any media inquiries that may arise out of the incident.

Figure 1 (see next page) shows this information flow, and how calls for service are handled.

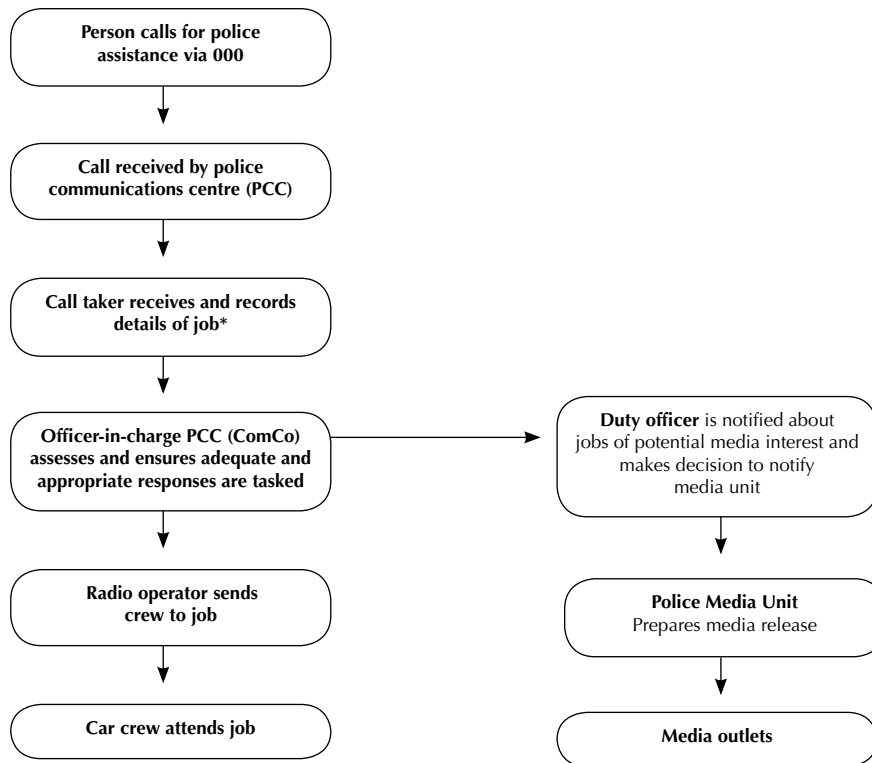
## **THE MIGRATION TO DIGITAL RADIO BY POLICE**

Before the introduction of digital communications technology, police relied on analogue communications that transmitted information (usually voice) in a high-frequency electrical form by modulating a continuous radio wave (National Institute of Justice 2002). In contrast, digital radio systems convert voice information into a digital format (a binary code) before it is sent out over the air. When the digital signal reaches the receiving radio, it is converted back to analogue so that it is intelligible to the human ear.

The move towards the use of digital radios by public safety agencies (i.e. police, fire and ambulance) in the USA is principally to enhance the ability of different agencies to talk directly to each other using radio communications, a practice known as interoperability (National Taskforce on Interoperability 2003).

The issue of interoperability is particularly important during times of emergency or disaster. For example, in January 1982, federal, state and local rescue personnel responding to the Air Florida Flight 90 crash in Washington DC found it almost impossible to coordinate their efforts because radios from each agency used different frequencies and signalling techniques. Similarly, immediately after the Oklahoma City bombing, search and rescue teams assigned to comb the rubble for

**Figure 1. The process for handling calls for service**



\*If call taker determines job is code 1, 2 or 3a, information is directly sent to the radio operator and the ComCo is advised.

Code 1 — very urgent matters when danger to human life is imminent

Code 2 — urgent matters involving injury or present threat of injury to person or property

Code 3 — e.g. alarm

signs of life found that they were unable to communicate with each other. At one point, runners were being used to send messages back and forth between agencies (Monitoring Times® 2000).

To address this problem, representatives from US federal, state and local governments came together under the banner of the Association of Public-Safety Communications Officials (APCO) to develop a set of common technical standards for land mobile radio systems. Known as Project 25 (P25), these standards aimed at allowing any number of manufacturers to produce compatible equipment, thus increasing competition and lowering prices. The problem of interoperability was also addressed through the use of a Common Air Interface (CAI). In effect, the interface ensures that one radio fitted with the CAI will always be able to communicate with any other radio fitted with a CAI, regardless of manufacturer. Radio systems built to P25 standards are mainly in operation in the US, Canada and Australia (APCO n.d.). In addition to interoperability benefits, digital technology is less susceptible to eavesdropping and has better reception over more of the radio system's coverage area (National Institute of Justice 1998).

Police forces in the United Kingdom are also in the process of migrating from analogue to a fully secure digital radio system called AIRWAVE. However, rather than using the P25 standard, AIRWAVE uses a European open standard called TETRA (Terrestrial Trunked Radio). TETRA is a modern digital Private Mobile Radio (PMR) and Public Access Mobile Radio (PAMR) standard that builds upon the lessons and techniques of previous analogue trunked radio systems and the successful development of the Global System for Mobile Communications (GSM) during the 1980s.



Regardless of whether digital radio is based on the P25 or TETRA standard, other key benefits of digital radio are:

- **improved voice quality with minor degradation as the range increases** (speech is digitally coded, enabling officers to communicate more clearly and with less interference from background noise)
- **enhanced systems coverage** (digital systems permit a large number of users to share a small number of communication paths or 'trunks')
- **increased spectrum efficiency** (more channels and less congestion)
- **better signalling and control** (embedded signalling — integrated voice and data on one channel)
- **multiple accessing** (talk groups can be established enabling direct officer-to-officer communications without routing all calls through a control centre).

One of the major consequences of digital communication capability is that the technology provides a platform for significant changes and advances in the way police will communicate. Advances in technology and miniaturisation allow police, and other public safety agencies, to move towards the use of mobile in-car computers that enable users to send and receive data. In a number of overseas jurisdictions mobile data terminals are already being used to receive information about crimes and community problems, to transmit or receive images, to write crime reports and to conduct database inquiries. Some Australian police agencies already have limited mobile data capability and most police agencies are expected to implement this technology in the future.

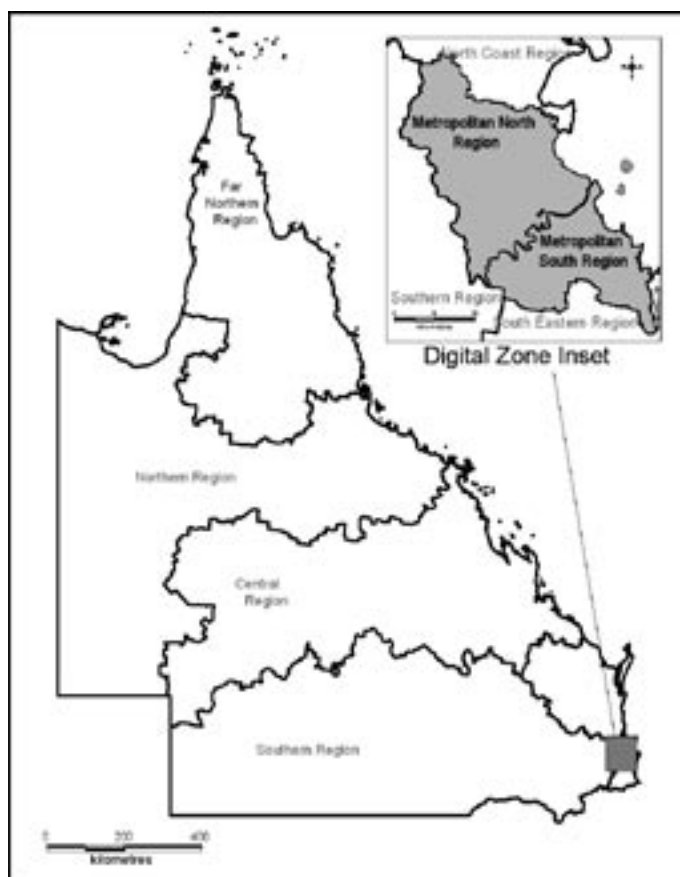
The increasing reliance on data as a means of quickly communicating information to officers in the field will result in less reliance on using radio as a means of dispatching police to the scene of a crime or complaint. That is, officers will receive information about a call for service as computer text rather than by radio voice messages. Subsequently, the use of scanners to listen to police dispatch communications will eventually become obsolete.

An ability to transmit data will also fundamentally change the nature or type of information exchanged by officers. Much more detailed and potentially more private information will be sent to officers in the field. For example, a suspect's criminal history and photographs can be sent to mobile data terminals. Similarly, field officers can complete detailed crime reports in the car and transmit those to central databases.

## Encryption

While increased data transfer and easy interaction between police and other public safety organisations will increase the amount and type of private information being transmitted over police radio, digital communications can be relatively easily secured by encryption. For example, normal analogue or digital radio transmissions can be listened to by third parties through the use of radio scanners. A scanner is basically a radio receiver capable of receiving multiple signals, generally in the VHF to UHF range. However, the ability of a third party to scan into specific talk groups can be prevented through the use of encryption technology, which essentially provides secure coded transmission of information via radio. Unless a person has a radio or a radio scanner that is programmed with the code key, they are unable to listen to any communications sent via an encrypted radio signal. The emphasis that public safety agencies are placing on securing their voice and data transmissions is likely to continue and will probably accelerate into the foreseeable future.

**Figure 2. Digital coverage area in Queensland**



## **THE INTRODUCTION OF SECURE DIGITAL RADIO IN QUEENSLAND**

Since the 1930s and until recently, the QPS has primarily relied on analogue radio technology for the majority of its internal radio communications. Before the introduction of digital radio communications in the Brisbane area, police radio communications were largely conducted on UHF channels in clear voice, using a network and equipment that were old and mostly obsolete. The radios were, for the most part, manual, with the user having to know what channel to select before they could communicate with the Police Communications Centre or other police. In addition, due to population expansion occurring in south-east Queensland, the number of areas outside the effective reach of the existing radio network (i.e. radio black spots) was rapidly increasing, and posed a risk to the safety of police officers (QPS submission, p. 6).

Consistent with trends elsewhere, the move towards secure digital radio communications has been considered by the QPS since at least the 1990s. In its 1989–90 annual report, the QPS first disclosed its intention to establish a Digital Voice Protection (DVP) network extending from the Sunshine Coast to the Gold Coast, including Brisbane and Ipswich. The primary reason given by the QPS for the planned introduction of this network was to ‘prevent the monitoring of police radio frequencies, thereby increasing the effectiveness of police officers involved in crime detection activities’ (QPS submission, p. 3).

During the 1990s, there were also moves towards digital radio communications at the national level. For example, as indicated in the QPS submission, in March 1995 a NEPI (National Exchange of Police Information) Voice Communications Working Party resolved that P25 be the accepted standard for digital radio communications

for police in Australia. By 1998, five police services had committed to the P25 digital radio standard. These were the Australian Federal Police, Northern Territory Police, South Australia Police, New South Wales Police and the QPS. Currently, all Australian police services have indicated their commitment to digital radio, but are at different stages in the roll-out of these systems. For example, South Australia Police and Northern Territory Police have been operating with secure digital radio for several years, whereas the roll-out in Western Australia and Victoria is in the planning and development stages.<sup>1</sup>

The initial phases of the roll-out in Queensland focused on introducing digital radio communications in the Brisbane metropolitan area over a three-year period, commencing in 1998–99, thereby rendering the ageing DVP network largely obsolete (QPS submission, p. 4).

The decision to host some rounds of Olympic soccer for the Sydney 2000 Olympics in Brisbane gave additional impetus to introducing secure digital communications in the Metropolitan South Region. According to the QPS submission, this resulted in the QPS purchasing and deploying 56 Motorola in-car mobile radios and 184 hand-held radios in the South Brisbane District in support of the Olympics (QPS submission, p. 4). Two years later, the 2002 Commonwealth Heads of Government Meeting (CHOGM) was held on Queensland's Sunshine Coast, with police providing security with the very latest digital radio technology. This ensured interoperability between state and Commonwealth agencies, including units of the Australian Defence Force (QPS submission, p. 4).

In November 2003 the Commissioner, QPS, and the Director-General of the Department of Emergency Services agreed to co-sponsor the Joint CAD/Communications Project. This project aims to investigate and recommend options relating to the future communications needs of the Queensland Ambulance Service, the Queensland Fire and Rescue Service and the QPS. The project will consider the wider application of digital radio technology across Queensland for the three services, and the application of new CAD systems operating from rationalised communications centres and information communications technology networks. It is not anticipated that any component of this project will be implemented for at least three to five years (QPS submission, p. 5; DES submission, p. 11).

As indicated by the QPS and the DES submissions, any recommendations made by the CMC in relation to this inquiry will be considered in developing business cases and technical specifications for the joint CAD initiative.

### **Current status of the digital roll-out**

At present, the roll-out of digital radio in Queensland has been restricted to the Brisbane metropolitan area (see Figure 2, facing page). This encompasses the areas within the boundaries of the Brisbane Metropolitan North and Brisbane Metropolitan South regions. However, the QPS still maintains limited capacity to encrypt radio communications using DVP during special operations in several major rural and regional centres, such as Cairns, Townsville, Mackay, Rockhampton, Gladstone, Bundaberg, Maryborough and Toowoomba (QPS submission, p. 5).

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1 Information provided by representatives of Motorola Australia Pty Ltd on 27 August 2004.

The Commissioner, QPS, has indicated that the police service wishes to extend the roll-out of digital communications to major populated areas across the state, dependent on affordability and the outcome of this inquiry. However, no detailed planning regarding implementation timeframes and cost analysis has been undertaken at this stage.<sup>2</sup>

## THE ARGUMENT FOR SECURE DIGITAL COMMUNICATIONS FOR POLICE

In its written and oral submissions to the inquiry, the QPS documented a number of advantages provided by digital radio communications. In addition to the general benefits of digital technology over analogue systems, as documented previously, digital technology has enabled the QPS to encrypt all radio transmissions in the Brisbane area, providing specific operational and administrative benefits. The benefits can be broadly grouped into three categories: operational effectiveness, public safety, and protection of private and confidential information.

### Operational effectiveness

The capacity to encrypt communications is vital in the interest of operational effectiveness (QPS submission, p. 9).

Digital radio communications, with or without encryption, provide a number of operational advantages for police. As already noted, the move to digital technology has allowed the QPS to replace an outdated and unreliable analogue system with a digital system that enables more efficient use of the police radio spectrum — a factor that provides potential for future data transfer capabilities. Police agencies around the world are sending increasing amounts of information, other than voice, over the radio system (Nikolakopoulos [Motorola] transcript, p. 73). Digital radio provides the potential for police to process and send fingerprints, search criminal databases or send and receive photos of suspects. Undoubtedly this will have substantial benefits for effective and efficient policing in Queensland in the future.

Digital radio provides improved clarity of voice across the entire radio footprint without the degradation that occurs with analogue radio and with fewer black spots. This means that officers can clearly talk to each other from anywhere within their district without the risk of losing contact with other officers or with the Police Communications Centre. This is an important safety feature for officers, particularly if they require urgent assistance.

The security of radio communications has been a concern for as long as police have used mobile radios in Queensland. Unencrypted conversations allow unauthorised access to police communications by external parties, such as the media, tow-truck operators, radio enthusiasts and criminals.

When police use analogue radios and have to discuss operationally sensitive or personally confidential information, they will often revert to using personal mobile phones. This has at least two disadvantages. First, following a critical incident (e.g. police shooting, siege situation), it is usually necessary to conduct an investigation into the incident to determine the facts. Police communications conducted via their radio systems are recorded and kept for this purpose. However, if officers have switched to mobile phone use, there is no officially recorded version of events, and thus the chronological account of events and actions of police cannot be verified. Second, during critical situations it is often necessary for a number of police and other emergency services personnel to communicate simultaneously

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2 Letter from Commissioner Atkinson dated 26 August 2004.

in order to coordinate the activities of a large number of officers efficiently. Most mobile phone technology only operates on a one-to-one basis, and is thus a very inefficient means of communicating with a number of people.

Police officers working with encrypted radios in Brisbane metropolitan regions are now discussing more private or confidential operational information over the radio system. In the past, this information would not have been communicated at all or would have been discussed via mobile phones. During the inquiry, research officers were able to access recordings of communications between dispatch officers and operational police in the Brisbane area. There was a substantial amount of personal information, such as officers' own personal phone numbers, additional information about alleged offenders' mental status, a person's arrest history, home addresses or phone numbers, commonly discussed by officers.

Another element of operational safety which the QPS maintains has been strengthened by secure communications capability is the integrity of crime scenes. When police are called to investigate a reported crime, they are often required to establish a crime scene for the time that is deemed necessary to search for and gather evidence of the commission of the offence. Police officers have the power to prevent unauthorised access to the crime scene to maintain the integrity of the investigation. A number of submissions provided to the inquiry suggest that a serious problem for police has been the ability of the media, as a direct result of hearing details about the incident via a scanner, to arrive at crime scenes before police. Not only can the presence of the media change or destroy important evidence, but the safety of journalists and police officers can be potentially placed at risk if the offender has not been apprehended. For example, the submission by the Queensland Police Commissioned Officers' Union of Employees referred to a suspected homicide incident when the media arrived before police and were in the crime scene area (Horton [QPCOUE] transcript, p. 270). Similarly, the Queensland Police Union of Employees (QPUE) gave an example of a murder investigation when the media arrived before the police and had driven over the crime scene (Wilkinson [QPUE] transcript, p. 261).

## **Public safety**

The QPS identified the issue of public safety as another key argument for the adoption of secure radio capabilities, as it is linked very closely with operational effectiveness. The ability of police to operate within a secure environment is central to the service's ability to ensure the safety of the public. The QPS recognises that it may be in the public interest to notify the media immediately; but there is also considerable risk involved in unauthorised release of information during the early stages of an operation, as this information may well be inaccurate or insufficient (QPS submission, p. 9). The QPS also suggests that community safety may be at risk if information regarding ongoing operations becomes available to the public, though their submission fails to document clearly how this risk is operationalised.

Central to the public safety argument is the claim that the media are not the only ones to have scanned police radio. Criminals also use scanners to monitor police activity, and this can be a significant risk to both police officers and the public. Consequently, in areas where analogue radio communication is used, the police have to modify their communications to ensure that neither the media nor criminals become aware of confidential police activity, thereby potentially placing operations, and consequently public safety, at risk.

The QPS submission documents 10 examples that demonstrate how media scanning of radio communications impedes operational effectiveness and public safety. Only two of the examples deal specifically with media interference at a

crime scene, and the QPS did not provide evidence during the hearing to support the claims. In response, a number of media agencies dispute the claim that they compromise crime scenes and the safety of officers or the public.

I haven't seen an example where we have compromised an operation, where we have compromised either officers' safety or public safety or indeed our own safety by being there. (Crawford [ABC] transcript, p. 21)

### **Protection of private and confidential information**

A number of legislative provisions and internal operating procedures determine the responsibility of the QPS and other emergency service agencies to protect private information and prevent unauthorised disclosure. In particular, the QPS asserts that it would be contrary to the provisions of the *Police Service Administration Act 1990* to provide the media with total access to radio communications.<sup>3</sup> In the past, the QPS has been unable to prevent the media, or anyone else, from monitoring police communications, but now that the police have the technology and the capability to encrypt and prevent unauthorised monitoring, they are obliged to ensure that they observe all legislative and policy provisions and ensure that private information is protected.

The QPS argues that, while it has rigorous processes in place to ensure that confidential information is protected and treated in an appropriate way, other organisations or individuals may not have the same level of organisational control mechanisms in place. In other words, once information is accessed via a radio scanner, the police service has lost control over how that information may be used (QPS submission, p. 7).

## **QPS MEDIA AND PUBLIC RELATIONS BRANCH**

All Australian police agencies have specialist media units that provide the primary link between the police and media outlets. Usually these specialist units also provide public relations and marketing services.

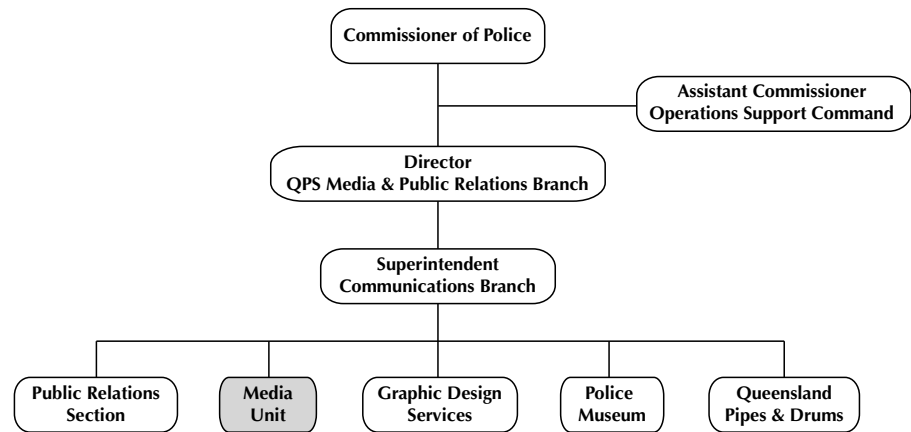
The Media and Public Relations Branch of the QPS (see Figure 3) is responsible for statewide marketing and public relations on behalf of the QPS, as well as providing media liaison between the QPS and media organisations, and providing media advice to the Commissioner of Police. The branch includes several separate units, including the Media Unit, the Public Relations Section, Graphic Design Services, the Police Museum and the Queensland Police Pipes and Drums. The branch also conducts media training for police officers, and publishes the quarterly official QPS journal (*Police Vedette*) and the fortnightly internal newsletter (*Police Bulletin*).

The Media Unit currently operates from 6 am to 10 pm Monday to Friday, and from 7 am to 8 pm on weekends. If officers of the Police Communications Centre deal with a potential matter of interest, they alert the Media Unit to the basic details of the job. Officers in the Media Unit confirm details of the incident with operational police in the district of the incident and phone the major media agencies. There are on-call arrangements and the Police Communications Centre is authorised to provide information on newsworthy events. In the event of a significant policing event, a media liaison officer often attends the scene to assist with the management and coordination of the media.

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3 Letter from Commissioner Atkinson dated 4 June 2004.

**Figure 3. Structure of Media and Public Relations Branch**



The branch is currently undergoing a restructure aimed at bringing the two major components of the branch, the Media Unit and the Public Relations Section, together (QPS submission, p. 25). This restructure will also create office space for a new media liaison room to be staffed 24 hours a day by officers rostered to media-only duty. They will provide a single point of contact for all media inquiries. It is envisaged that the staff in this media liaison room will have direct access to information from the CAD system, reducing their reliance on the Police Communications Centre for alerts or provision of information on specific jobs. In this way access to CAD will improve the timeliness of the communication process. This system will also benefit the Police Communications Centre staff, allowing them to focus on operational work without having to field requests from the media.

In its written submission, the QPS identified several options that could improve the Media Unit's ability to provide the media with timely information (QPS submission, pp. 25–27).

These options include:

- **SMS messaging system**

An SMS messaging system would provide simultaneous communication of information to an unlimited number of media agencies. Costs would be incurred on a user-pays basis, with current calculations suggesting costs of approximately \$9 per month and 22 cents per message received.

- **Broadcast telephone connection**

This system uses a one-call-to-all mechanism, where a voice message is sent via a phone line to telephones in newsrooms. More detailed information could be sent by this system than by SMS messaging, and it would allow the media, particularly radio, to use voice grabs for broadcast. This system would also be user-pays, including a one-off establishment cost and small line rental fee.

- **24-hour Media Unit operation**

Making the Media Unit available 24 hours a day would involve substantial ongoing financial costs, but could be expected to improve the timely provision of information to the media.





# THE IMPACT OF SECURE RADIO COMMUNICATIONS ON MEDIA PRACTICE

The scanning of police radio has been used by the media for decades as a mechanism to find out about police activities as they are happening. The introduction of encrypted radio communications means that the media are no longer able to use scanning as the alert to a breaking news story. The media believe that this will negatively impact on their role of informing the public about crime and safety issues. In particular, the concern expressed by the media is that increasing reliance on the QPS Media Unit will place increased control of information in the hands of the police, and allow police to more actively filter the release of information to the public.

## INTRODUCTION

Stories on crime and safety are always important components of the daily news. Consequently, police activities generate substantial interest among journalists. The first section of this chapter defines who constitutes the media and discusses their role and the self-regulatory systems that govern the conduct of media organisations and journalists.

The next section examines the relationship between the media and police, with particular focus on the history of evolving police–media relations in Queensland in the aftermath of the Fitzgerald Inquiry. Of specific interest to the current inquiry is the role that scanning of police radio communications plays in providing the media with information about breaking news stories involving the police. In submissions to the inquiry, a number of media organisations in Queensland described how the roll-out of secure digital radio technology has affected their ability to report on police activity. Their main concerns revolve around the immediacy of information and the filtering of information by police.

## THE MEDIA: DEFINITION, ROLE AND REGULATION

The definition of who constitutes the media appears to be quite broad, although there is some guidance provided by privacy legislation which seeks to separate the news media from other media organisations that deliver purely entertainment-related products. The news media play an important role in informing the public about matters of interest — in particular, matters pertaining to crime and other policing activities. In performing this role, news media organisations and individual journalists must adhere to codes of conduct within a self-regulatory framework.

### Defining the media

The Commission recognises that defining the term ‘media organisation’ in the context of the Australian media environment is not a simple task. During the hearings, several groups (e.g. the Australian Press Council) noted the problems associated with defining the media in the Australian context.

Among the issues raised were:

- the lack of media licensing
- no standardised and universal accreditation system
- the prevalence of freelance journalism
- the difficulties in drawing real distinctions between journalists and entertainers in some contexts.

With respect to print journalism in Australia, there are no licensing systems or systematic governmental standards required to launch a newspaper, although some basic regulation of the media industry is provided in legislation. Section 5 of the *Printing and Newspapers Act 1981* (Qld) provides that any person publishing a paper for public distribution must include the name and address of the business on the front, first or last page. Further, it specifies that the definition of a newspaper:

... includes a paper or pamphlet containing any public news, intelligence, occurrences or any remarks or observations thereon or upon any political matter, printed for sale or distribution, and published periodically or in parts or numbers at intervals not exceeding 31 days between the publication of any 2 such papers or pamphlets or parts or numbers.

There is thus a requirement for publications under the Act to have a basic character of news.

With respect to broadcast journalism, the *Broadcasting Services Act 1992* (Cwlth) governs the regulation and licensing of broadcast services, but does not specify programs or program content. The Act may govern which stations are licensed operators, but not whether a particular program on a licensed station constitutes the character of news.

No Queensland legislation defines 'media' or 'media organisation', but some assistance can be gathered from the legislative enactments regulating the industry and the definitional model provided in the Commonwealth *Privacy Act 1988*.

The *Privacy Act 1988* (Cwlth), section 6 states:

'media organisation' means an organisation whose activities consist of or include the collection, preparation for dissemination or dissemination of the following material for the purpose of making it available to the public:

- (a) material having the character of news, current affairs, information or a documentary;
- (b) material consisting of commentary or opinion on, or analysis of, news, current affairs, information or a documentary.

This should also be read in conjunction with the definition of 'journalism' given in section 7B(4):

**Journalism**

- (4) An act done, or practice engaged in, by a media organisation is exempt for the purposes of paragraph 7(1)(ee) if the act is done, or the practice is engaged in:
  - (a) by the organisation in the course of journalism; and
  - (b) at a time when the organisation is publicly committed to observe standards that:
    - (i) deal with privacy in the context of the activities of a media organisation (whether or not the standards also deal with other matters); and
    - (ii) have been published in writing by the organisation or a person or body representing a class of media organisations.

Though the media industry in Queensland does not require accreditation of journalists, an application of the state and Commonwealth regulatory schemes provides a relatively clear indication of the types of broadcast channels and

newsprint organisations that have been accepted at the widest level as being suppliers of public information.

## The role of the media

The media have an important role in informing the public about crime and safety issues and about how police perform their duties in response to crime. Indeed it is through the media that the public find out about events happening in their community. Not surprisingly, the media can have a major role in moulding how the public perceive their neighbourhood and the wider world.

At a broader level, the media have an important role to play in maintaining a transparent justice system, with the term 'open justice' being used to describe the principle that the justice system benefits when legal proceedings are open to the public (Pearson 2004). Under the principle of open justice, the judicial process should be open and transparent to public examination. People should be able to sit in a courtroom and observe cases in progress. By extension, the media are seen as representing the general citizenry who cannot actually be present to witness the workings of justice.

The importance of media being the public's eye over the justice system is enunciated by Chief Justice Lord Hewart, who pronounced that '... justice should not only be done, but should manifestly and undoubtedly be seen to be done' (*R v. Sussex Justices* [1924] 1 KB 256 at 259). New South Wales Chief Justice James Spigelman said in a 1999 speech that the principle that justice must be seen to be done '... is one of the most pervasive axioms of the administration of justice in our legal system' (Spigelman 1999, p. 3).

Another often referred-to role of the media is that of the 'fourth estate', which refers to the media's role as a watchdog over other major social institutions (Pearson 2004). During the 20th century, investigative journalism produced many notable examples where media scrutiny exposed faulty or corrupt government. Without media attention, these activities may never have been revealed. In Australia, perhaps the best-known example of investigative reporting was the series of reports by the *Courier-Mail* newspaper and the 'Moonlight state' episode of the ABC's *Four corners* which together exposed endemic corruption in Queensland and led to the Fitzgerald Inquiry (Pearson [Bond University] transcript, p. 47).

However, the role of the media to inform the public seems to have been changing in recent times, with the perception that media corporations are operating as 'just another business', rather than as important public institutions with duties to the wider citizenry, not just their shareholders (Pearson 2004). If this is indeed the case, the special freedoms that the media have been granted in the past may not be warranted in the modern commercial context in which they now operate. Research supports the view that the press freedom ideal is being undermined by the operations of the media as a business. Schultz (1998), in *Reviving the fourth estate*, found 'political purpose' and 'independence of the fourth estate' to be important elements of the occupational self-definition of Australian journalists, but that there was a conflict between the responsibilities of the fourth estate and the demands of commercial success.

Nevertheless, the media organisations and journalists are constrained in their behaviour by self-regulatory systems and codes of conduct. The main organisation that deals with complaints regarding the behaviour of journalists is the Media, Entertainment and Arts Alliance, which is the union and professional association representing journalists and media workers in Australia. The behaviour and ethics of the print media are guided by the Australian Press Council, while the electronic media are governed by their own codes of practice.

The Australian Broadcasting Authority (ABA) is the regulatory authority responsible for allocating electronic broadcast licences and assisting television, radio and Internet industries to develop codes of practice relating to content and complaints handling. Television networks are guided by, and must adhere to, the Commercial Television Industry Code of Practice (Channels Seven, Nine and Ten), the ABC Code of Practice, and the SBS Code of Practice. Radio stations are guided by, and must adhere to, the Commercial Radio Codes of Practice and Guidelines.

The ABA, in partnership with government, the community and the industry, also administers a 'co-regulatory' scheme for Internet content. The scheme aims to address community concerns about offensive and illegal material on the Internet and, in particular, to protect children from exposure to unsuitable material.

## MEDIA-POLICE RELATIONS

The police and the media exist in an uneasy symbiosis. The police use and need the media to publicize their crime control efforts and manage their public image; the media find policing a vast source of scandalous, criminal and human interest stories. And occasionally the police and the media clash. (Marenin 2003, p. 1)

Police work is inherently interesting to the media. Crime, natural disasters, community events, tragedies and celebrations regularly bring the media and police together in interactions that may be mutually beneficial or, alternatively, mutually dissatisfying. Putnis (1996) suggests that there are four elements that, in combination, can lead to a complex and sometimes difficult relationship:

- mutual dependence
- exploitation
- impediment
- criticism.



*Police media officer assisting local police with a media inquiry*

### ***Mutual dependence***

The first element of the police–media relationship is that of mutual dependence. Crime and police stories are important for the media, and constitute between 15 per cent and 30 per cent of news reports (Putnis 1996). The most obvious and detailed sources of crime information are police. The reliance on police for the ‘inside scoop’ has, in some circumstances, provided opportunities for police officers to develop inappropriate relationships with individual journalists where the journalist is willing to ignore negative stories about police in order to ensure that police officers continue to favour them with information (Putnis 1996). If individual journalists or media groups expose police corruption or misbehaviour, they may find their internal sources of information cease to be cooperative.

However, the police also depend upon the media to assist in investigations and crime prevention strategies. An example of this type of assistance occurred recently in Queensland with the carjacking of a vehicle with a baby still in the car. Radio stations were able to broadcast a request to the public to look out for the car, emphasising the urgency of finding the baby. Police regularly use media-owned helicopters during searches for missing people or escaped felons, and public campaigns for assistance during complex crimes. The media can also broadcast ‘good cop’ stories which publicise the heroic efforts of police, as well as reporting about the difficult tasks that police do on a daily basis. In these ways the media provide an important source of publicity for the police, without which most people would have limited knowledge of police work.

### ***Exploitation***

Alternatively, the police–media relationship can be one of exploitation. Media can exploit police in several ways, including using information inappropriately, misrepresenting the actions of police and overemphasising minor infractions and thus potentially ruining careers (Putnis 1996). The police can also use the media for their own needs, perhaps to embrace the sensationalisation of crime reports, to make demands for increased government funding, or to publicise cases (Putnis 1996). For example, in order to ensure coverage of an event, police may leak information to the local media about when and where they will be arresting a high-profile offender. Police associations also use the media to highlight the lack of resources for police officers, particularly during political elections.

### ***Impediment***

However, when police do not want media attention, they can actively impede the media’s access to information (Putnis 1996). On the other hand, the media can impede the ability of police to conduct effective investigations by releasing sensitive information about an ongoing operation, or by actively interfering with witnesses or offenders during an investigation. The negative interaction between police and media can quickly lead to ***criticism*** against both parties, with claims of inappropriate behaviour not in the public interest.

While it is clear that the symbiotic relationship between police and the media is a balancing act in any jurisdiction, the tension between police and the media in Queensland seems to be somewhat more strained than in other locations. This relationship is played out against the historical backdrop of the Fitzgerald Inquiry. The media, particularly Phil Dickie of the *Courier-Mail* and Chris Masters of the ABC, played a critical role in exposing police corruption that ultimately led to the Fitzgerald Inquiry (Grundy 1992).

Within the historical context of the media exposing police misconduct in Queensland, it may be difficult to move forward and build cooperative working relationships. However, building a more positive relationship with the media

can have beneficial outcomes for police. A research study in Reno, Nevada, demonstrated that open police–media relationships can have a dramatic impact on public perceptions of police. The Reno Police Department implemented a multi-pronged approach to improving the ability of the media to get information about police activity (Weston 1996). Part of the strategy involved:

- authorising all employees to provide information to the media
- providing direct access to the highest-ranking officer on duty at any time
- giving reporters physical access to the main police station without scheduled appointments
- routinely providing the media with information about employee conduct and disciplinary actions
- providing ‘off-the-record’ information.

Not only did Weston (1996) conclude that this off-the-record information was rarely abused by the media but he also found that, over an eight-year period, the public’s approval of police performance increased from 49 per cent to 84 per cent, approval of how police handled criminals increased from 51 per cent to 81 per cent, and approval for the overall image of police more than doubled from 32 per cent to 81 per cent.

### **Control of information**

Underpinning the relationship between the media and police is the question of who should decide what information about police activity becomes public knowledge. This is a contentious issue of debate. Most people do not have direct regular contact with police, and therefore their impressions and opinions of police are largely formed through the media. The extent that any organisation (such as the police) can control the messages and impressions released to the public is referred to as ‘media power’. A substantial portion of a group’s media power is derived from the control of information, the loss of which can diminish legitimacy and authority of the group (Meyrowitz 1986). That is, the ability of individuals or organisations to put forward a positive public image reinforces their legitimacy in the wider community. This legitimacy may be questioned if the media publish information contradictory to the organisationally sanctioned impression of the organisation (Surette 1998).

Although there has not been wide research on how police use the media to manage public opinion, Lovell (2002) argues that the police do not passively pass on the information to the media, but actively filter and shape the news. The degree to which police actively manage information that becomes public depends on the nature of the information. Sometimes routine information is simply passed through to journalists, while information about events that may negatively affect the public’s opinion of police is more actively filtered. Indeed, a number of media representatives raised concerns during the course of the inquiry that their inability to scan police radios would increase police control of information, and hence the only information the media would receive would be that which had been filtered by the QPS Media Unit.

In recent years, police have been more proactive in managing the media, particularly through the creation of professional media and public relations units (Ericson, Baranek & Chan 1989; Mawby 1999). The role of the police media unit was raised in the Fitzgerald Report (1989), with particular focus on the two distinct roles that the unit fulfils: informing the public of police activities, and impression management. While public relations management (i.e. impression management) is now part of all public sector agencies, there may be a conflict of interest when

there are overlapping roles of managing public relations and informing the public — particularly when the transparency of police activities is an essential component of ensuring accountability of the police.

As Fitzgerald noted, the public relations role can be used to deflect criticism of police behaviour or to manipulate the information released to the public over police behaviour. Fitzgerald recommended that guidelines be developed to ensure 'that the legitimate role of informing the public on matters of crime and security is not tarnished by a predisposition to misinform in the face of legitimate criticism' (Fitzgerald Report 1989, p. 281).

Whether police have the balance of power in managing the control of information about their activities is debatable. The orthodox view is that police hold the position of power and select and filter what information is released to the media, and thus they influence and strategically manage what the public know about crime and police activities (Mawby 2002). If this is the case, there is opportunity for police to inappropriately control the nature and amount of information that becomes available in the public arena, and consequently limit the ability of external agencies to monitor police integrity and accountability.

The alternative view put forward by Mawby (1999) is that the complexity of police organisations and the pervasiveness of modern multimedia technology prevent the police from exercising total control over the media. This view is supported by Putnis (1996):

The public interest is served by a balance of power in which neither the police nor the media are ascendant and in which the professional independence of each organisation is recognised and maintained. (Putnis 1996, p. 218)

Police, in general, tend to have negative and suspicious attitudes towards the media, with the majority of police believing that the media present a negative portrayal of police (Reiner 1992) and sensationalise violent crime (Simmons 1999). The media are seen as 'a hostile and unsympathetic quarter from which unjustified criticism can regularly be expected' (Leishman & Mason 2003, p. 29). Contrary to this perception are a number of studies which include content analysis of media stories that have clearly demonstrated that police are generally represented in a positive light in the mass media (Leishman & Mason 2003). For example, Chermak (1998) conducted a content analysis of 2500 crime stories from newspapers and television and found that most stories provided a positive portrayal of police. Nevertheless, this predominantly positive portrayal of police can quickly change during police scandals, at which time the media may quickly turn their focus to exposing corruption and seeking the headline-grabbing story.

### **The media's role in preventing or promoting police corruption**

Through good investigative journalism, the media can help expose police corruption or inappropriate behaviour of individual officers. At the same time, the media, through a desire to gather more information about crime and disorder stories, can actually provide opportunities for corrupt behaviour from officers who improperly provide confidential information to the media.

Two of the most widely known royal commissions into police corruption in Australia (Fitzgerald; Wood) were largely instigated by media exposure of corrupt police activities (Dempster 2001). The media undeniably played a central role in exposing the corruption. However, it would be incorrect to assume that this corruption exposure is directly linked to the fact that the media were able to scan police radio channels, or obtain information from listening to police

radio communications. The exposure of corruption is usually the end result of a sequence of events and the collation of information from numerous sources.

After the Fitzgerald Inquiry into police corruption, the CMC (previously the CJC) and QPS have worked cooperatively against entrenched corruption in the police service, using a wide range of corruption prevention strategies and appropriately resourcing corruption prevention activities and structures within the police service.

A number of the submissions by media agencies identify the ability of the media to perform a watchdog role over police activity as central to ensuring police accountability and integrity (e.g. *Gold Coast Bulletin* submission, p. 1). In the exercise of this role the media may expose police misconduct such as assaults on civilians. Marenin (2003) contends that the media have limited capacity to hold police accountable, largely due to the media not having any formal control or sanctions over the police. Nevertheless, Marenin goes on to argue that the media are essential to the democratic process, simply by providing an alternative source of information to the public:

The media may have no directly discernible influence on specific police policies and practices. Yet their very presence ensures caution by the police and encourages responsiveness and reform. (Marenin 2003, p. 20)

Police also modify their behaviour in response to the knowledge that their actions can be filmed or otherwise reported, and thus are more likely to conform to acceptable behaviour. Media access to police radio communications may, therefore, have a contributing role in police misconduct prevention, but a less significant role in exposing deeply entrenched or systemic police corruption.

On the other hand, the media may encourage police misconduct when they form inappropriate relationships with police officers in an effort to obtain inside information on police activities. In recent years there has been increasing reliance on government agencies using public relations specialists to ensure that information about government activity is closely managed to provide positive media coverage (Dempster 2001). Channelling all information through media units, and thereby increasing journalists' dependence on media units for stories, is one way for police to actively manage the flow of information (Mawby 1999, 2002). However, when access to information on police activities becomes more restricted, journalists may cultivate internal police sources to acquire more detailed information.

Total police control of information may, therefore, strengthen the reliance of the media on building relationships with individual police officers in order to obtain information. This is concerning if officers are encouraged to release information contrary to a duty to keep it confidential. This may lead to unhealthy relationships between the police and the media that could erode the ethical conduct of individual police officers. Such control, therefore, may provide opportunities for police to take their first steps on the 'slippery slope' towards potentially corrupt behaviour, such as receiving payment for information.

When socialising with police, it may be seen as acceptable by journalists to buy lunch or drinks for police officers as a way of building the relationship, or a way of acknowledging the police officers for providing the information. These practices are considered to be part of normal day-to-day business practices by many private organisations. However, for government employees and particularly police officers, the issue of receiving gratuities or other benefits can have severe ramifications. Even if the acceptance of minor gratuities is seen as acceptable, the main concern with these transactions is the potential for an escalation into transactions that fall clearly within the bounds of corrupt behaviour.



The media may play a direct and indirect role in preventing police corruption. Through their ability to be at the scene of police activity, or through protracted investigation of suspected corruption, the media can expose inappropriate behaviour of police officers. On the other hand, in an attempt to gain access to information that is withheld by police, the media may cultivate inappropriate relationships with individual officers and, in this way, actively promote improper conduct.

## THE SCANNER AS A SOURCE OF NEWS

The media do not rely solely on official police sources for information regarding police activity or crime and safety issues, but have several other mechanisms by which information can be gathered. One informal mechanism is through contact with the general public, who will often phone the media (particularly via talkback radio stations) with information about events that are unfolding in their neighbourhood, traffic problems or questions about community problems. In Queensland, the media will then contact the QPS Media Unit, or operational police with whom they have developed relationships, to confirm the story or to find out more detail. This is an ad hoc approach and, according to a number of media representatives, can prove quite frustrating when official police sources are unaware of breaking stories and/or deny that anything is happening.

Another, and more constant, source of information for the media is the use of radio scanning equipment which enables the media and other interested parties (e.g. criminals) to listen in to police, fire or ambulance service radio communications. For the past 50–60 years (Fagan [*Courier-Mail*] transcript, p. 26), the media and the public in general have been able to use scanners to listen to police radio communications. In addition, there is a large group of radio enthusiasts who regularly monitor not only police, fire and ambulance communications, but also airport, armed services and other agencies that communicate by radios.

During the early stages of this inquiry, the question of the legality of the media using scanners to listen in to police communications was raised, as this activity may be considered to be a private conversation between the police service and the individual. In their submission, the QPS acknowledges that 'anyone has been able to monitor police communications using a relatively inexpensive scanner bought from an electronics store' (QPS submission, p. 7). Thus unencrypted analogue communications cannot be considered as private conversation under the *Invasion of Privacy Act 1971*, as these conversations occur in circumstances where they may reasonably have been expected to be overheard, recorded, monitored or listened to by other persons (*Invasion of Privacy Act*, s. 43). It follows that media scanning of analogue police communications is not unlawful.

In the event that police communications are not reasonably accessible to third parties (i.e. through the use of digital encryption), then such communications would be considered a private conversation and use of a listening device to monitor them would be a breach of the Act. Publication of material extracted from such conversations would also be prohibited (*Invasion of Privacy Act*, s. 44). Therefore media access to digitally encrypted communications would be illegal under the Act, as there is no reasonable expectation of interception.

The project team visited several television stations during the inquiry, which had between four and six scanners operating in the newsroom, usually close to the workstation of the News Director or Chief of Staff. The scanners were constantly monitoring radio traffic in a number of police districts, as well as water police, fire service and ambulance service. Often the communications were unclear, and it was difficult to understand the details of the communications, particularly as all

scanners were operating concurrently and consequently multiple conversations were happening at once. However, as a number of media representatives noted, either in their submissions or during consultation, the aim of scanning is not to listen in detail to every communication; the normal or mundane radio traffic is ignored until a particular phrase, word or intonation of voice attracts attention.

What we're actually listening for are the nuances, the intensity of the announcement, the change of tone, change of pace and then we'll try to tune in. (Speziale [4BC] transcript, p. 38)

The nature of radio scanners and the type of information broadcast over police radios means that the media receive only limited information about the job. However, the information they can glean from scanning can be enough to give them the 'tip' about a potentially newsworthy story. This information is used as the trigger to instigate further inquiry or to prepare to send out reporters and camera crews. The specific information that is discussed over the radio is not reported on until it is confirmed through official police channels.

It's used as the tip — we hear you've got a raid going on ... you make the call to the police media unit or the regional crime coordinator, and having the information confirmed, then you run the story. It's the tip-off that we're looking for. (Crawford [ABC] transcript, p. 24)

An important element of news reporting is the provision of timely information that can be acted on quickly to prepare for the next scheduled news bulletin or edition. The ability to use a radio scanner to listen, in real time, to police activity allows media representatives to be at the scene as the drama unfolds. This ability is particularly important to primarily visual media, such as television, who rely heavily on images to tell the story.

... it's about getting journalists to the scene, I think that my view of reporting is that there's nothing beats being on the spot and ... good reporting also requires reporters to see and talk to people who are involved in an event that might be newsworthy. (Fagan [*Courier-Mail*] transcript, p. 31)

The media contend that the ability to scan police radio not only provides timely access to general news stories, but also allows the media to expose police corruption or inappropriate behaviour. Perhaps more importantly, the only access to information about police day-to-day activities for the general public is through news reporting. Where information is not available soon enough to meet media deadlines, it is unlikely to be reported at all, denying many members of the public access to those facts.

## THE IMPACT OF DIGITAL ROLL-OUT ON THE MEDIA

The roll-out of secure digital communications will provide police with a system of communicating which cannot be listened to by any unauthorised persons. This has several benefits — such as the ability for police to transmit private and confidential information without being concerned that other people may be listening, or that criminals may be informed of police activities. In addition, digital radio offers a number of practical benefits, such as clearer voice quality, improved coverage and interoperability.

However, secure digital radio communications will essentially block the media's ability to scan police radios. From the media's perspective, the two most important considerations are that:

- the inability to listen in to police communications in real time will critically affect the media's ability to respond swiftly to breaking news
- the media's ability to choose which stories they will report on will be limited.

It is important to the news media that they be informed about breaking news as it happens. Old information does not make a good story; and when a story is not used, the public is denied access to that information. The definition of 'old' may vary between the different types of media. Radio operates continuously 24 hours per day and often provides news bulletins on an hourly, if not half-hourly, basis. The public expect that they will hear the latest news on the radio, and that news reports will be updated continuously. Television programming relies very heavily on visual footage of events, captured as they are happening, and so the importance of being informed as soon as possible about events is paramount to television news reporting.

When we had open access to police radio communications, we were able to hear first hand and immediately the sort of information that's been a staple part of our news gathering diet for decades. The television media needs to be on the scene when police activity is taking place so that we can gather the pictorial elements for broadcast later in the day. (Crawford [ABC] transcript, p. 19)

Before the introduction of encrypted digital radio communications, police had limited control over who accessed information about ongoing operational incidents being discussed on police radios. Correspondingly, access to police radio communications meant that the media had some control over decisions about the police stories they would report on. However, the introduction of encrypted digital radio will have a substantial effect on who controls the flow of information about police activities to the public arena. Mawby (1999) suggests that, while police are actively seeking more control of information, the competition between journalists to deliver stories on tight deadlines may mean that journalists publish media releases provided by the police verbatim, without any investigation or independent input from the journalists. Consequently, it could become easier for police to take almost total control over the type and content of stories written about their activities.

Currently, the emergency service agencies such as the Queensland Fire and Rescue Service and the Queensland Ambulance Service are still communicating by analogue radios, and consequently the media are still able to scan their radio communications. Therefore the media are still using the dispatch of fire or ambulance crews as a tip-off to jobs that also involve the police. This window of opportunity will eventually close, however, as the Department of Emergency Services changes over to secure digital communications, having already trialled some digital radio alternatives with the QPS.



## THE CENTRAL ISSUES

The Commission has carefully considered the key issues involved in both the written and the oral submissions placed before it. The central considerations are broadly described as:

- freedom of the press
- transparency and accountability
- security and safety
- privacy.

These all represent important and valid public interests, and have been balanced both against each other and against the prevailing presumption of disclosure of government information.

In undertaking its research and considering the submissions of all parties to the inquiry, the Commission concludes that:

- the public interest favours a presumption of disclosure of police communications to the public
- disclosure should not unduly or unnecessarily prejudice police or public safety, or operational security
- disclosure should not unduly or unnecessarily prejudice an individual's right to privacy
- disclosure should be made through the media, who should have access to police communications information, subject to privacy, safety and security considerations, in order to investigate, verify, and report upon such matters to the public.

### INTRODUCTION

The Commission has considered the circumstances in which it is justified for governments to withhold information relevant to the public, and the importance of ensuring that all information is collected and stored in a secure fashion. In determining the limits of withholding information, the Commission took into account the comments made in the *Brisbane River flood levels* report (CMC 2004), where the Commission stated:

Obviously there will be circumstances where it will be justifiable for a government to keep certain information confidential. In this respect, the public interest should, in the Commission's view, be the determining factor in government decisions about whether information should be released ...

Decisions about where the public interest properly lies, and whether information should or should not be disseminated to the public, will often not be straightforward matters to determine. They will often involve a balancing exercise of competing factors and differing views. (CMC 2004, p. 25)

The Commission adheres to the view expressed in the *Brisbane River flood levels* report and, in considering the focal issues of the inquiry, has similarly followed both the balancing approach suggested in the earlier report and the prevailing

presumption that information should generally be released, in accordance with the following conclusion:

In the Commission's view, a helpful general starting point would be for the relevant decision-makers to approach the balancing exercise involved in these decisions from the stance that information should ordinarily be released to the public, unless there are compelling reasons, in the public interest, to the contrary. (p. 26)

It must be understood that the concept of 'public interest' is not a static one, with the significant factors in any given situation being variable. Therefore, when determining what the prevailing public interest is, there is a balancing process between competing public interests and rights. Consistent comment by the High Court reflects a continuing desire for balance in relation to the public interest debate. Correspondingly, the Commission has also sought to achieve balance on this issue.

**Public interest: An interest common to the public at large or a significant portion of the public and which may or may not involve the personal or proprietary rights of individual people. (Nygh & Butt 1997)**

During the course of the public hearings before the Commission, it became apparent that there are two broad groups of interests. While it could be convenient to group them as the 'interests of the media' and the 'interests of the police', it must be recognised that a number of broader interest groups, beyond media outlets and the QPS, provided valuable assistance to the Commission on both sides of the debate.

There are four competing considerations, which can be grouped into two categories:

- arguments in favour of media access to police communications, claiming that:
  - to disseminate information to the public, the principle of **freedom of the press** demands a right to access police radio communications without being fettered by poor information quality or reduced timeliness
  - access to police radio communications is essential in ensuring **transparency and accountability** in the exercise of police activities
- arguments opposed to broad media access to police communications, claiming that:
  - restricted communications access is necessary for the **security and safety** of police operations
  - individual **privacy** dictates that police communications remain on a restricted-access basis.

## THE FOUR COMPETING CONSIDERATIONS

Although the public interest argument — which favours disclosure and access to public records and information on the activities of government — is strong, the Commission recognises that it is not absolute. In the Commission's view, there are four considerations to balance when deciding the issue of access to police communications. The first two (the public access to information and accountability) support the media's bid for access to police communications while, in contrast, the other two (security and effectiveness, and privacy) can be in opposition to the media's desire to access police communications.

## Freedom of the press

Currently, there is no existing legislation that specifically deals with the release of information from police radio communications. The *Invasion of Privacy Act 1971* deals only incidentally with the issue. However, despite the absence of specific legislative provision, the intent of the parliament in other areas can be used to identify a broader position about freedom of the press and access to government information. In recognising a basic right of the public to access government information, the *Freedom of Information Act 1992* (Qld) (FOI Act) provides information about how the parliament has dealt with these critical areas.

While the FOI Act primarily deals with requests for the disclosure of public documents, it also demonstrates the central principles of open and accountable government — principles that form the foundation for any claim to public access to police communications. During the parliamentary debate surrounding passage of the Bill, members on both sides of the house recognised the importance of ensuring public access to government information.

Similar sentiment was expressed by the Australian Senate Committee in its recommendations for the *Freedom of Information Act 1982* (Cwlth).

The essence of democratic government lies in the ability of people to make choices: about who shall govern; or about which policies they support or reject. Such choices cannot be properly made unless adequate information is available. (Bayne 1984, p. 6)

This same principle holds true about access to timely and accurate information on police activities, and highlights the need not to spoon-feed information to the media, but rather to provide the media with sufficient access to information so that they can do their job.

It is clear from the discussions concerning FOI legislation that both the Queensland Parliament and the Commonwealth Parliament consider open and accountable government to be principles at the heart of democratic governance, and that the presumed bias is in favour of disclosure.

Accepting that there exists a strong public interest in allowing citizens access to information about the functions and operations of government, the Commission turns then to the basis for such information access. It is the Commission's view that citizens have a right to know how decisions of government are made and how the functions of government bodies are carried out, and that it is most often the media that provide access to this information. This allows citizens to make informed and appropriate decisions about the manner in which they are governed and by whom. Such information, therefore, needs to be not only accurate but timely and complete as well.

In turn, reducing the accuracy, timeliness or completeness of information about police activities reduces the clarity and effectiveness of the information, which reduces the public's ability to make informed decisions. The Commission has considered the concerns of the media in this regard, and recognises that the media, in providing information to the public independently of the police service, perform an important service. It is important that the media are able to choose the stories that are to be published. Further, in order that the media may convey important information to the public in a timely and accurate fashion, the release of information should, in general, be as near to 'real-time' as possible, and not be subject to additional filtering through any other body.

### ***The media's special right or special role***

In discussions of freedom of the press and public access to information, the issue of the position of the media within society was raised. The Commission recognises that the media have an important duty to disseminate information to the public in order to enable and promote public political discourse and accountability. It is clear that a tension exists whereby the media have no entitlement to access beyond that available to the general population, yet they have a responsibility to the community to provide timely, accurate and necessary information to facilitate political discussion and decision-making.

The Commission seeks to resolve this tension by applying the same balancing of public interest considerations that form the core of judicial and parliamentary reasoning on the issue to date. So that the public can still have access to timely and accurate information about police activities, with a minimal risk of interference with police operations, the Commission concludes that the media should be provided with controlled access to police communications. The extent of this access will be primarily limited by existing legislation that constrains disclosure of information.

### ***Public access v. media access***

The Commission recognises that media organisations need to be distinguished from other groups with more commercial, criminal or voyeuristic motives when it comes to questions of access to information. As noted in the courts, the media act as a conduit for information from government and about government to the people. Their role, therefore, is important because of the service they provide to the public. It is important to the public interest that the media be enabled to provide timely and accurate reporting of police activities to the public.

There are two features of police radio communications information that distinguish it from more general government information released to the public. First, police radio communications information is potentially highly time-sensitive and revealing of police capacities and responses. With the passing of time, police communications information becomes significantly less sensitive and revealing of police activities, but in its immediate, raw form, general public dissemination gives cause for justifiable concern. Of particular and reasonable concern is the potential for criminal elements within the public to gain an advantage in calculating police response times and officer locations.

There is evidence that criminals have used scanners to monitor police communications in order to facilitate criminal activity and to avoid detection. Furthermore, the attendance of sightseers at incident scenes can impede police operations. These considerations weigh against general and immediate release of police dispatch information directly to the public.

Second, information communicated across police radio is often unsubstantiated, incomplete and potentially misleading. The QPS submission opposes general public access to police radio communications, not only on privacy grounds, but also on the basis that public broadcast would be detrimental to police operations and public faith in police capacity. The QPS note that radio communications often include unconfirmed, inaccurate or insufficient information, and that immediate dissemination of this could compromise officer and public safety. The public may draw incorrect conclusions or act precipitately, based upon information that the QPS have not yet had an opportunity to verify.

When discussing the release of police information to any group — media or public — these factors must be borne in mind.



During the course of the hearing, the Commission was told by media representatives that police communications information was used as a catalyst for further inquiry or investigation, and not necessarily for immediate action. In using police communications data, media practice therefore necessitates the verification of information — a process for which the media are trained and which they are capable of undertaking. Furthermore, the media as a group are subject to professional standards and complaint mechanisms.

The Commission recognises that the release of information to the media, rather than directly to the public, is a compromise between the public interest in open government and the public interest in effective police operations. Any claim by the media to access over and above that granted to others relies on their unique role in informing the public. Ultimately, the need to minimise the risks involved in the release of potentially sensitive police communications must be a key factor in any decision to grant the media preferred access.

### **Transparency and accountability**

Informed judgment and appraisal by public, press and parliament alike is a difficult, even fruitless task if government activities and the decision-making process are obscured from public scrutiny. (Transparency International 2000, p. 236)

The governing principle guiding the Commission in its investigation of the public interest has been to strive to ensure open and accountable government. In short, **the doors of government should stay open more often than not.**

The cornerstone of political participation is the freedom of political expression, closely linked to freedom of speech and freedom of the press. If information about the functions and operations of government is not readily available, the public cannot exercise their rights to change or influence the manner and form of government and its institutions. Thus, the central concern in discussion of the public interest is to ensure that citizens are capable and enfranchised to meaningfully participate in the functions and operations of government. This is only possible where government is open and accountable.

The Commission undertakes this inquiry from the position that government information should ordinarily be released to the public unless there are compelling reasons, in the public interest, to the contrary.

In deciding the general public interest about government-held information, the current indication in both the courts and the legislature has been in favour of disclosure of information, and for access to the public to be denied only in a clearly defined set of circumstances. Though this indication has not been across the board, with a number of judicial decisions failing to produce a disclosure-friendly result, the decisions in several key cases indicate a general predisposition in favour of full disclosure. For example, in the matter of *Eccleston*, the Information Commissioner concluded that the legislative intent of the parliament, in requiring a public interest test to be applied to exemptions, was a:

... recognition by the legislature that in this context public interest considerations favouring disclosure will generally always exist ... and must be outweighed by factors favouring non-disclosure to the extent that disclosure would be contrary to the public interest.<sup>4</sup>

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<sup>4</sup> See *Re Eccleston and Department of Family Services and Aboriginal & Islander Affairs* (1993) 1 QAR 60 at 69.

A series of cases in the High Court have affirmed not only the pre-eminence of freedom to access government information, but also the direct linkage that this principle has to the wider concepts of freedom of the press and freedom of communication.<sup>5</sup>

The Commission recognises the important role that the media have played in providing a public accountability watchdog in the area of public misconduct and police corruption. The Commission also acknowledges the Police Commissioner's claim that, post-Fitzgerald, no large-scale investigation into police corruption or public misconduct has been triggered or assisted by access to police communications (Atkinson [QPS] transcript, p. 16). The Commission is not, however, convinced that this submission reduces the importance of access to police communications in a broader accountability sense. On the contrary, the Commission concludes that allowing the public access to police communications through the media promotes transparency and is in the public interest.

Press freedom to access police communications for the purposes of public accountability has three essential components:

- The people possess an ownership of government (i.e. public officers ultimately work for the people).
- The principles of democratic and open government necessitate a high level of transactional transparency.
- Accountability can only be meaningful where people are aware of the activities of government through information provided to them.

The flow of information to the media about police activities is therefore central in ensuring a transparent and accountable public authority and, while other accountability mechanisms are certainly available, this does not outweigh the importance of a direct media–public relationship.

In terms of the current inquiry, the Commission concludes that, as a record of government activities, police radio communications are presumed to be accessible in the public interest of open government. The question that necessarily follows is therefore: 'At what point is that presumption of openness limited by other rights or legal considerations in the public interest?'

## Security and safety

... It is necessary to weigh the public interest in citizens being informed of the processes of their government and its agencies on the one hand against the public interest in the proper working of government and its agencies on the other ...<sup>6</sup>

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5 See *Attorney-General v. Times Newspapers* [1974] AC 273 at 315, approved in *Nationwide News Pty Ltd v. Wills* (1992) 66 ALJR 658 at 662, per Mason CJ:  
'The first public interest involved is that of freedom of discussion in democratic society. People cannot adequately influence the decisions which affect their lives unless they can be adequately informed on facts and arguments relevant to the decisions. Much of such fact-finding and argumentation necessarily has to be concluded vicariously, the public press being a principal instrument.'  
See also: *The Commonwealth v. John Fairfax & Sons Ltd* (1980) 147 CLR 39 at 52, per Mason J (approved in *Nationwide News Pty Ltd v. Wills* (1992) 66 ALJR 658 at 662, per Mason CJ).  
See also: *Australian Capital Television Pty Ltd v. The Commonwealth* [No 2] (1992) 66 ALJR 695 at 703, per Mason CJ.  
See also: *Lange v. Australian Broadcasting Corporation* (1997) 189 CLR 520 at 559–560.

6 *Harris v. Australian Broadcasting Corporation* (1983) 50 ALR 551 at 561, per Beaumont J.

There is a strong public interest in the government's capacity to ensure the security of all citizens; and the police, as a necessary part of this duty, must be capable of functioning in the most effective and efficient manner. In operations where the risks to both operational and public safety are heightened, there is sufficient reason to justify non-disclosure of police communications. The Commission notes that there was no disagreement at the hearings about the necessity of the police encrypting their communications channels for high-security and covert operations.

The Commission therefore accepts that it would be justified, for a limited range of police matters, for there to be no disclosure to the media or the public. In addition, for a further limited group of police matters, delayed disclosure may be justified in the public interest.

It was submitted to the Commission that police officers may operate more effectively in the absence of media monitoring of police communications (Atkinson [QPS] transcript, p. 17; Wilkinson [QPUE] transcript, p. 261). Doubtless, in the absence of media monitoring of police frequencies, police officers may feel less constrained in the manner and form of their discussions. The Commission responds to this issue by making three points:

- 1 The public interest in maintaining an accountable and transparent police force remains strong, particularly given the constant contact that police officers have with the community, and the powers that have been entrusted to them. Giving the public some access to police communications maintains a direct link between the police and the community they work with and for. Although officers may feel more constrained in their communications when they know that they are potentially being monitored by the media, this is a necessary imposition on their functional capacity, and should not grossly affect their capacity to function in a professional and efficient manner.
- 2 Queensland society has a legitimate expectation that its police officers will demonstrate high personal and professional standards. Therefore, media and public scrutiny of how police conduct themselves should not cause any dramatic alteration of practice.
- 3 A substantial factor in this concern was the release of private information. The Commission intends that its recommendations will maintain existing protections for private information. Concerns by police in this regard will therefore be addressed.

## Privacy

A free and democratic society requires respect for the autonomy of individuals, and limits the power of both state and private organisations to intrude on that autonomy. (Australian Privacy Charter Council 1994)

Privacy forms an integral part of the democratic system and underpins other values such as freedom of speech and freedom of association. While privacy is therefore important in a democratic state, it is not absolute, and must be balanced against other public interests.

The Commission recognises that information about citizens is given to the police in the course of investigations and to courts in the course of legal proceedings, and such information is often of a sensitive personal nature. In theory, this represents a breach of an individual's privacy, but it is accepted as a necessary infringement for the purpose of public safety and justice. This does not mean, however, that such information should be available to anyone who does not have a legitimate requirement for it.

In his 1991 report on government integrity, Professor Paul Finn noted two primary factors that require balancing in an assessment of the public interest. On the one hand, there exists an interest in the public availability of information in a democratic society, in particular in those circumstances where this ‘enables the public to discuss, review and criticise government action’. On the other hand, there are people whose personal information is supplied to the government and who have a ‘legitimate interest in having the integrity and confidentiality of that information respected’.<sup>7</sup>

In this inquiry, the balance must be similarly drawn between the public interest in the individual’s privacy, and the public interest in media access to police information. These interests are not necessarily in direct competition. A vast proportion of information communicated during the course of police communications is not confidential and, as such, has no impact on questions of privacy. The Commission concludes, therefore, that a denial of media access to all the available information would be excessive.

### **Legislation protecting privacy**

No overarching privacy legislation exists in Queensland, but there is a series of Acts that individually prohibit disclosure of certain classes of material, none of which either expressly or implicitly provides an exemption for media organisations.

**Table 1. Queensland Acts that deal with issues of disclosure relevant to the inquiry**

<i>Child Protection Act 1999</i>	Section 186 prohibits disclosure of a notifier. Section 187 prohibits disclosure by a police officer of information relating to another person’s affairs.
<i>Commission for Children and Young People and Child Guardian Act 2000</i>	Section 153 prohibits disclosure of confidential information about a person.
<i>Criminal Law (Rehabilitation of Offenders) Act 1986</i>	Section 6 prohibits disclosure of expired criminal offences.
<i>Drugs Misuse Act 1986</i>	Section 119 prohibits disclosing identifying information about an informer, unless such disclosure was in the public good.
<i>Health Services Act 1991</i>	Section 63 prohibits giving out identifying information.
<i>Juvenile Justice Act 1992</i>	Section 288 prohibits the disclosure, intentionally or recklessly, of identifying information concerning a child under the Act.
<i>Police Powers and Responsibilities Act 2000</i>	Section 146 prohibits disclosure of information obtained under a surveillance warrant, except in specific circumstances. Section 192 prohibits disclosure of information relating to controlled operations and the identity of covert operatives. Section 318ZX prohibits disclosure of identifying information from the QDNA or CrimTrac databases.
<i>Police Service Administration Act 1990</i>	Section 10.1 is a general prohibition against disclosing information which has come into officers’ knowledge through the course of their employment.

<sup>7</sup> See *Re Eccleston and Department of Family Services and Aboriginal & Islander Affairs* (1993) 1 QAR 60 at 73.

In undertaking the review of the legislation raised during the hearings and in submissions, the Commission dismissed a number of provisions and Acts as being irrelevant to the current inquiry. A number of these provisions related solely to the question of publication or to hearings before a court or tribunal. There are, however, provisions in eight Queensland Acts which deal with issues of disclosure that may be an issue in police communications. Table 1 (facing page) lists the Acts of interest to this debate.

The protection of information detailed in these eight Acts has been enacted by parliament to:

- safeguard a general level of potentially sensitive private information about individuals
- protect particular categories of people within society who have been deemed to require additional and specific protection.

The identities of informants and notifiers, and the identities of children, are of particular concern, and are specifically noted in the Acts and the discussions and notes that preceded their assent.

The intent of parliament in this regard can be found in examining the debate and explanatory memoranda that accompanied the passage of each Bill. For example, the explanatory notes to the Child Protection Bill include the following comment on the clause that became section 186:

**Clause 180:** that confidentiality is maintained about the identity of persons who notify statutory authorities of their concerns about possible harm to a child.

This clause is essential for the effectiveness of the system for the protection of children in Queensland. Statutory authorities with responsibility to protect children rely upon members of the public to report concerns about children. In most cases, notifiers will not report or disclose information unless they can be assured that their identity will be protected. Any lessening of this standard would erode public confidence in Queensland's child protection system.

There are comments in other Acts that reflect a similar desire by parliament to safeguard groups within society from unwarranted public exposure.

Having assessed the current legislative provisions in Queensland, the Commission recognises parliament's intent to protect individual privacy in enacting these provisions and, at this point, sees no reason to seek alteration of the legislative scheme.

As a result of the substantive and important privacy concerns that would have an impact on the release of certain police communications, the Commission undertook to determine the nature and scope of disclosure of information, as it relates to privacy concerns.

### ***Disclosure of information v. the publishing of information***

The change from analogue to encrypted digital communications does not alter the rights and responsibilities of any party concerning the publication of confidential information. Legislation provides the definition of publication. For example, three of the Acts that are mentioned in submissions define 'publish' as follows:

**Child Protection Act 1999:** 'publish', for information, means to publish it to the public by way of television, newspaper, radio or other form of communication. (s. 185)

**Juvenile Justice Act 1992:** 'publish' means publish to the public by television, radio, newspaper, periodical, notice, circular or other form of communication. (Schedule 4)

**Mental Health Act 2000:** ‘publish’ means publish to the public by way of television, newspaper, radio, the Internet or other form of communication. (Schedule 2)

The common features of all definitions are twofold. First, the material must be actively published to the public and, second, it must be published using a form of media capable of broad dissemination. Using communications that can either be incidentally intercepted, or to which the media have been given conditional access, would not satisfy these criteria.

The Commission recognises that currently, regarding publication, there are sufficient safeguards on media activity, both under law and under the various media codes of conduct. Formalised access to police radio communications may grant media organisations access to more or to less information, but this will not necessarily affect the subsequent handling of information. Therefore, the current issue concerns disclosure of information and not publication.

However, there is little assistance given in the legislation about the extent or nature of the disclosure that is necessary to be considered a breach. The only Act to define ‘disclose’ is the *Juvenile Justice Act 1992*, which defines the term as follows:

**286 Meaning of ‘disclose’ for pt 9**

For this part, a person ‘discloses’ information to someone else if the person —

- (a) orally discloses the information to the other person; or
- (b) produces to the other person, or gives the other person access to, a document containing the information; or
- (c) discloses the information to the other person in another way.

This definition relates more to the methods of disclosure than to the nature of disclosure itself. The definition indicates that it could be seen as sufficient to satisfy the understanding of ‘disclosure’ even if only one other person is involved. This is distinct from ‘publish’, which contemplates the potential for a more far-reaching dissemination of information.

In the absence of clear definition, the ordinary meaning is assumed to apply. The *Macquarie Dictionary* defines ‘disclose’ as ‘to cause to appear; allow to be seen; make known; reveal’ (p. 542). It is consistent with this definition that disclosure can occur to a single person and not necessarily involve an intent, or possibility of dissemination, to the wider public. Therefore, it is important to keep in mind that the term ‘disclose’ is distinct from ‘publish’.

However, some submissions urge a broader view that defines disclosure as occurring only when the information is released into the public domain. According to this view, disclosure to media alone would be insufficient to satisfy this requirement. Under this reasoning, disclosure does not occur until the information is deprived of its confidential quality by public dissemination. This approach forms the basis of submissions from the Australian Broadcasting Commission and the *Courier-Mail*, and relies in part upon issues raised in cases relating to commercial confidentiality agreements.

The legislative intent of parliament, in relation to disclosure of private information held by government, is distinct from that relating to commercial confidentiality and disclosure. The Commission is of the view that the legislative intent of parliament, in enacting the various privacy provisions, indicates that the narrow approach to disclosure was intended. That is, disclosure can be considered to occur when anyone other than authorised personnel is given such information, even if there is no intention to publish or otherwise disseminate to the wider public.

This intent can be clearly seen in the guidelines to Information Standard 42 (IS 42), where ‘disclosure’ is stated to be ‘a release of personal information from the

effective control of the agency' (p. 45). The examples given of 'disclosure' in the guidelines involve disclosure to an individual and not to the general public, and offer support for the more narrow reading of the term.

However, the media have consistently argued that they have never disclosed information of a private and confidential nature to the general public. This proposition does not persuade the Commission. It is immaterial that the media have been, or would be, the only parties privy to disclosed information. In the Commission's view, release to the media is sufficient to breach those provisions of the legislation noted above which prohibit disclosure of certain categories of information.

The Commission recognises that the media have had access to police radio communications for a lengthy period of time and have rarely used it in ways contrary to the spirit of the legislative prohibitions or the media's own codes of conduct. Nevertheless, the legislature has expressed particular concern for the privacy of groups such as children, informers and medical and mental health patients.

The primary issue is to balance the public interests resulting from the technological shift to digitally encrypted communications. The Commission remains of the view that information currently prohibited from disclosure should not be open to persons other than those permitted in the legislation.

### ***Exemptions from privacy***

Accepting that disclosure of personal information, even to an individual or media organisation, would be in breach of certain provisions of Queensland legislation, the Commission then considered if there are any exemptions for the police or media which negate their respective privacy responsibilities.

The Queensland government administrative standard, Information Standard No. 42: Information Privacy (IS 42), contains 11 mandatory information privacy principles (IPPs) to be applied by agencies in the collection of personal information about citizens. IS 42 is based upon the provisions of the *Privacy Act 1988* (Cwlth), and was decided upon by Cabinet in December 2000. Under this scheme, the QPS is exempt from the operation of IPPs 2, 3, 9, 10 and 11. This does not, however, mean that all information collected by police can, or should, be disclosed or accessible to the world.

In its submission to the Commission, the Department of Justice and Attorney-General, as lead agency for IS 42, stated in relation to the exemption to IPP 11 that 'Privacy and other considerations will often suggest that it [personal information] should not be accessible ... The exemption is not a licence to publish or make accessible to the whole world all personal information held in the operational context.'

Therefore the QPS, while exempt from the operation of a number of IPPs, is under no duty or obligation to disclose information as a result. On the contrary, the legislative provisions and requirements of privacy and non-disclosure are still operative and supersede the administrative provisions of IS 42.

If there is no obligation upon the QPS to disclose private information and, in fact, legislative prohibitions still exist that prevent disclosure of certain information, is there any law that compels or necessarily authorises disclosure of private information?

The *Courier-Mail*, in further submissions of 15 September 2004, argued that the Commonwealth *Privacy Act 1988* provides an exemption for media organisations

during the course of journalistic activities. While the Act does not apply to state government authorities and agencies such as the QPS, it does apply to private sector organisations. The *Privacy Amendment Act 2003* exempts media organisations from the requirements of the Privacy Act in relation to acts done, or practices engaged in, in the course of 'journalism' at a time when the organisation is publicly committed to observe standards that:

- deal with privacy in the context of the activities of a media organisation
- have been published in writing by the organisation or a person or body representing a class of media organisations.

There are two important points to note:

- 1 The exemption deals with acts or practices of the media organisations (i.e. the receiver) and not the QPS (i.e. the discloser).
- 2 The federal exemption for media organisations is not necessarily imported into Queensland legislation governing disclosure of personal information, and it does not dilute the provisions of existing Queensland Acts.

In a limited number of circumstances, while acting in a journalistic role, the media may be exempt from the requirements of the National Privacy Principles. However, for the QPS, this does not remove responsibility to preserve the privacy of information that it receives when the interests of privacy, as highlighted in existing legislation, remain current. However, should the media come by information through their own methods, acts or practices, the media exemption under the Privacy Act may, in fact, protect them.

The Commission recognises that limitations have been placed upon disclosure by the current legislative scheme in Queensland regarding private information, and it does not seek to disrupt the operation of provisions currently designed to protect individual privacy. Although the media have no rights to access police information otherwise prohibited from public disclosure, they do possess a special role within society to provide necessary information about public activities to the citizenry. Thus, where private information can be protected, and other material can be released in the public interest, the balance between privacy and the right to know can be effectively resolved.

## ASSESSING THE BALANCE

In the Commission's view, the prevailing presumption in a democratic society is in favour of open government and the disclosure of information held by government to the citizenry. This presumption rests upon the notion that citizens can only play a meaningful role in a democratic society when they have access to sufficient information about government activities and actions. Exemptions to disclosure must therefore be carefully weighed.

Having concluded that a presumption in favour of disclosure does exist, and after balancing the various considerations, the Commission has formed three other conclusions:

### **That any disclosure should not be prejudicial to safety and security**

The Commission recognises that the primary duty of any government is the security of its citizens. There exists a strong public interest in ensuring that governments can operate effectively and efficiently to fulfil this duty. The police are, therefore, given certain rights that are not granted to the general citizenry in order to undertake their task, including access to private information and the ability to use force in



certain circumstances. It does not necessarily follow, however, that all police communications should be protected from public dissemination because of this.

There exist certain categories of communications which deal with issues of such a critical nature that any dissemination to individuals outside the police service would be prejudicial to officer and public safety. All parties to the current debate have recognised this fact. These communications primarily concern covert and high-security operations.

In general the evidence does not suggest that media knowledge of matters outside this category has grossly impeded police operations in the past. However, the timing of the disclosure of operational information may have a significant impact on the safety of officers and the public. Information that may be released without threat to safety, after the passage of a period of time, may nevertheless give rise to a considerable risk of compromising the safety of officers or the public, if released at the time of initial dispatch of police units. For this reason, in addition to covert and high-security operations not being publicly disclosed, it will also be necessary in a further category of matters to delay release of information for a time until the risk of compromising the safety of officers and the public has passed.

There is no doubt that allowing media access to police communications, even in data form, may require the implementation of new procedures and training. It may alter the standard manner and form of dispatch communications. It may require increased vigilance on the behalf of communications operators. However, the Commission concludes that the public interest, in ensuring that the exercise of police powers is transparent and accountable to the citizenry, outweighs any transitional efficiency difficulties.

#### **That any disclosure should not be prejudicial to an individual's privacy**

The Commission recognises that a certain level of personal information is necessarily held by government agencies to enable them to carry out their functions. As is reflected both in FOI legislation and in the provisions of a number of individual Acts of parliament, personal information about a citizen should not be disclosed to the public.

The Commission recognises that, during the ordinary course of police communications, it is inevitable that personal identifying information, of a category otherwise prohibited from disclosure, will be aired. Within the confines of police functions in carrying out their duties, this is accepted as a necessary disclosure. However, further unauthorised disclosure of this information to third parties would be in potential breach of privacy provisions under law.

The Commission acknowledges, however, that not all information transmitted over police communications is personal identifying information. On the whole, this represents a very small amount of the total information discussed over police radios. The key factor in all considerations of privacy is not that a certain incident took place, but rather that a certain incident could be tied to a certain person. For example, the *Child Protection Act 1999* does not seek to prevent disclosure to the public of the fact that children are placed into foster care, or that the police may receive information about child welfare from the public, but only prevents disclosure of who the child or the notifier is. Similarly, the *Juvenile Justice Act 1992* does not prevent disclosure to the public that children may commit offences, be apprehended and punished; instead, it prevents disclosure of any information that could identify the child in question. In this way the vulnerable individual is protected from scrutiny or contact that might adversely impact on them.

It is unsatisfactory to prevent public access, therefore, to all information relating to police communications. This would unjustifiably deny the public access to

information they need to make decisions about police activity, the government and issues of justice and law enforcement. Prevention of disclosure need only take effect with respect to identifying information.

**That disclosure should be made through the media**

The Commission has considered the extent to which information in police communications should be released to the public. In investigating this question, the Commission concludes that, while it is in the public interest for information contained in police communications to be made public, it is not necessarily in the public interest that police communications themselves be made immediately and directly available to public. The Commission is proposing that disclosure should be made through the media.

The media provide the broadest opportunity of communicating to the public. Most members of the public will obtain their information about police activity from radio, television or newspaper reports. Furthermore, release through the media reduces the potential for information to be misused, as may occur if information is released generally at too early a stage. The time delay, in most cases, between notification to the media and the publication of news reports will minimise any undesirable use of the information by criminals or sightseers in the period before the police or emergency services have had an opportunity to respond.

The Commission remains committed, however, to ensuring that the public has access to police matters. In order to achieve this, the Commission holds that the media are well recognised as the best conduit for information between government and citizenry.

The Commission concludes that allowing media access to police communications in a way that excludes certain private information is an acceptable and desirable balance between the public interest in disclosure and accountability and the public interest in protecting the privacy of some categories of vulnerable individuals.

## ALTERNATIVE MODELS FOR MEDIA ACCESS TO POLICE COMMUNICATIONS

The Commission, having reached the conclusion that the media should have access to police communications, with certain provisos, then turned to the experience of police and media organisations in other jurisdictions to explore alternative mechanisms for providing such access.

Police agencies from national and international jurisdictions have developed different mechanisms to provide the media with access to information about police calls for service. The Commission examined a range of approaches, acknowledging that each has its advantages and disadvantages for the media and for police. However, the Commission acknowledges the advantages of a model that uses computer processes to provide information to the media in the form of data rather than voice. This model provides the media with real-time information about police activity, while at the same time addressing the privacy concerns of individuals and ensuring the integrity, safety and effectiveness of police operations.

### INTRODUCTION

The previous chapters have documented the views of both the local media and the police concerning the use of encrypted digital radio communication. Further information on this issue was sought from a large number of Australian and international law enforcement agencies to understand how the use of encrypted digital radio has affected the media in other jurisdictions and to identify potential options for Queensland. This chapter provides a brief overview of three models for providing media access to police communications information.

Law enforcement agencies differ in the types of communications systems they use, and in the decisions on whether they provide the media access to police radio communications. A review of the various ways of managing media access to radio communication reveals three models of access:

- access to voice communications
- no access to voice communications
- access to real-time communications other than voice transmissions.

The advantages and disadvantages of these three models are discussed below.

### MODEL 1: ACCESS TO VOICE COMMUNICATIONS

Many police agencies provide the media access to encrypted analogue and digital voice communications. In particular, some police agencies view the media as a resource that can be used in operations and thus conduct joint training of the media and police. This also ensures operational efficiency when media are involved. Media access to police voice communications is supported by policy in some police agencies in the belief that they have nothing to hide from the media in normal day-to-day communications.

There are essentially three ways for media to access police voice communications:

- Restore the analogue radio network.
- Use non-encrypted digital radio communications.
- Authorise media use of encrypted digital police radios.

### ***Restore the analogue radio network***

If police reverted to using analogue radio communications, this would solve the problem for the media in terms of access to radio communications. However, at the same time, it would negate the advantages of digital technology, such as providing the police with a clearer signal and greater coverage that enhances officer safety. Given the recognised advantages of digital technology this option is not desirable.

### ***Use of non-encrypted digital radio communications***

A number of law enforcement agencies introduced digital radio communications without using the optional encryption technology. In those jurisdictions, police allow the media to use digital scanning devices (*Capital Hill Monitor* 2000). The Cleveland Ohio Police, for example, sell a radio scanner to media outlets that is programmed to receive police dispatch radio transmissions only (Shaffer 1999). In this situation the police retain the advantages of digital technology and the media retain the capability to scan police radio communications. The main disadvantages are that digital scanners are considerably more expensive than analogue scanners, and police may feel there are a number of operational effectiveness and safety concerns with the media scanning their communications. This option also does little to address police concerns over media access to raw police information and fails to substantially account for operational safety and privacy concerns.

### ***Authorise media use of encrypted digital police radios***

Some police agencies in Canada and the USA provide police digital radios to authorised media outlets. In most cases these radios are configured to receive dispatch calls only and cannot transmit. For example, in Baltimore the media lease radios from the city at a cost of US\$100 per month, and can listen to some police and fire/emergency services talk groups (Shaffer 1999). In other jurisdictions the media are given the opportunity to buy police radios or scanners from the police or city (Eck 2003). For example, the Winnipeg Police in Canada sell radios to the media at a cost of approximately CA\$4000 per unit.

The provision of dispatch-only radios to the media is not technically feasible in Queensland due to the technological design of the QPS radio network. The QPS uses combined communication networks across districts (patched districts) to allow all conversations between the communication centre and district patrol cars to be heard by everybody on the system. In effect, this means that individual radios cannot be programmed to receive dispatch calls only.

## **MODEL 2: NO ACCESS TO VOICE COMMUNICATIONS**

A number of agencies have made the decision not to provide media access to police radio communications, and instead require the media to use the Police Media Unit as the primary source of information about police activity. This model has been operating in the Brisbane metropolitan area since the introduction of encrypted digital radios by the police.

The main processes used by the QPS Media and Public Relations Branch to disseminate information to the media are media releases, telephone contact

and responding to ad hoc requests for information. Police media units in other jurisdictions use a variety of other innovative methods to provide the media with information about police activity, including media lines/voice banks, paging systems and web-based media releases. These are described in more detail below.

### ***SMS messaging***

Current SMS technology allows simultaneous advice to be sent to multiple media outlets on a range of potentially newsworthy events. When events occur, the SMS message is composed and sent to a nominated mobile telephone or group of mobile telephones. It is also possible for the same SMS message to be sent via email.

### ***Pager system***

Some police services, including the Northern Territory Police, use a pager system to notify the media of newsworthy events. The Northern Territory Police, Fire and Rescue Service (NTPFRS) supply local media with one or two pagers. When the Officer in Charge (OIC) of the Communication Centre becomes aware of an incident that might be of interest to the media, the police media liaison officer is informed. The OIC of the Communications Centre then sends a message to the media via the pager, containing basic information about the incident. The media are encouraged to contact a media liaison officer for further information. The pager system used by the Northern Territory Police has not been formally evaluated. However, some local media in the Northern Territory have expressed dissatisfaction with the system and complain that they are not always informed of newsworthy events.

### ***Telephone-based, one-call-to-all technology***

One-call-to-all technology 'fans out' a telephone message to a nominated group of receivers. For instance, if a potentially newsworthy event should occur, a designated person could record or send a live telephone message to all participating media organisations simultaneously.

### ***Message board/media line/voice bank***

A message board is sometimes referred to as a 'media line' or 'voice bank' in some jurisdictions. These message boards are particularly common in the United Kingdom and the South Australia Police also have one in operation. They enable messages to be pre-recorded and accessed by media representatives to use as background information or as a 'sound grab'.

There are a number of advantages of this model for police, as the media have limited ability to interfere in police operations and police are able to ensure the privacy of personal information discussed on radios. The main disadvantage of this model is that police have total control of the information released to the media. The media are concerned that police can filter, delay or manipulate the information that they choose to release to the media, thereby reducing transparency.

## **MODEL 3: ACCESS TO REAL-TIME COMMUNICATIONS OTHER THAN VOICE TRANSMISSIONS**

During the inquiry, the CMC received detailed information concerning a process by which information about police calls for service can be electronically transferred from police communications centres to media outlets. In this way the media can obtain information about police activity quickly and efficiently, without having to rely on intercepting radio transmissions.

**Computer-aided dispatch (CAD) media-feed (South Australian process)**

The South Australia Police (SAPOL) use a software program to extract job information from the computer-aided dispatch (CAD) system and send this data via a dedicated telephone line to computers at media outlets. The media receive a job number, job code, street name, suburb and time of the incident. Some job codes are withheld from the media feed for operational reasons. For example, the sudden death code has a one-hour delay to allow police to attend to immediate operational needs before the media arrive. No identifying personal information is sent to the media. The media contact the SAPOL Media Unit to get more information about any job codes of interest.

**Web-based data-feed (London Ontario)**

The London Ontario system shares many of the features of the South Australian model but uses Internet technology. The media log-on to a secure website that only approved media outlets have access to. In this model the media receive a job number, job code with text, street name, a range of 50 street numbers, suburb and time of incidents. The only jobs that are excluded from the data-feed are those relating to domestic violence and sexual assaults.

If a job is of potential media interest, a media liaison officer will provide additional information and regular updates about the job. This is provided in a block of text known as a 'media note' and typically contains information such as names of suspects, information about arrests, appeals for public assistance, warnings when suspects are dangerous and also general information about police events. Figure 4 provides an example of the information that the media receive about a pursuit in progress. This system is supported by a signed agreement between the media and the police that sets out the roles and responsibilities of all parties.

**Figure 4. Example of a police job displayed on a web-based data-feed system**

2004-10-10	London Police Service Media Releases			6:30:35 AM
C #	Type	Date/Time	Case Type/Text	Location
04-099999	Media Interest	2004-10-10 04:30	5301 - PURSUIT - IN PROGRESS	HILLCREST RD AT HIGH RD
<b>Text Release Date and Time:</b> 2004-10-10				
<p>On Sunday October 10, 2004 at approximately 4:00AM a member of the London Police Service was on general patrol in a marked police vehicle in the area of Hillcrest Rd at High Rd, London. At this time the officer observed a white Toyota Land Cruiser stopped at the intersection. The officer was aware that there was an outstanding white Toyota Land Cruiser that had been stolen in the city earlier. The officer turned around to follow the Land Cruiser which proceeded to drive through a red light and continue on Hillcrest Rd at a high rate of speed. A short pursuit of the vehicle resulted with the car stopping on a parking lot at Hillcrest Rd at Commissioner Rd. Four occupants fled from the vehicle and police were able to apprehend one. A thorough search of the area was conducted at the time with no other arrests made. One adult female is currently in police custody pending further investigation. No charges have been laid as of this time. The investigation is continuing by members of the CIB. There were no accidents, injuries or property damage caused as a result of this incident.</p>				

The main advantage of this system for police is that a dispatch data-feed model is a relatively low-cost technological solution that resolves most concerns about privacy, and about officer and operational safety, by ensuring that certain categories of sensitive or personal information remain protected and unable to be accessed by unauthorised persons.

Although the media may prefer unfettered access to radio communications along similar lines to the access they have had in the past, a dispatch data-feed model contains a number of important features that actually facilitate and enhance their ability to report on police activity:

- It is an automated and transparent process, meaning that there is less risk of the information being filtered or withheld.
- The data-feed is an equitable and efficient process, in that all media outlets receive timely information simultaneously; this reduces the need for the media to continually contact police for information about breaking news.
- A dispatch data-feed provides a viable alternative to a 'voice' transmission, by replacing it with a constant stream of information about crime and community problems. This will be particularly important as police agencies in Australia and overseas continue to develop the infrastructure to communicate with officers in the field using in-car and hand-held computers.





## STRIKING A BALANCE: RECOMMENDATIONS

**This inquiry has documented and considered the practical needs of both the police and the media, and has carried out an in-depth analysis of a number of philosophical issues central to the debate. The Commission has arrived at the conclusion that the media should have access to police communications in a way that maintains the safety and security of police operations and protects the privacy of individuals. Consideration of the methods used by other police agencies to inform the media of police activity was used as the basis for developing a model that the Commission believes will meet the needs of the police and media in Queensland. The recommendations centre around the development and implementation of a dispatch data-feed model that will provide the media with consistent and timely information about police activity.**

### INTRODUCTION

In arriving at its recommendations, the Commission has considered arguments for and against media access to police communications, and has developed a practical model that balances the need for operational effectiveness of the police with the ability for the media to report on police activity. The Commission is concerned about people's right to privacy, but believes it is possible to find the right balance that protects individual privacy without restricting legitimate access by the media to information of public interest.

In its November 2000 report *Protecting confidential information*, the Criminal Justice Commission proposed a series of recommendations aimed at ensuring that personal and confidential information held by the QPS was given an appropriate level of protection, and that the information-security mechanisms of the QPS were capable of providing that protection. That inquiry focused on the protection of confidential information, but acknowledged that restrictions on access to government information may need to be removed in certain cases. More recently the CMC, in the *Brisbane River flood levels* report (CMC 2004), recognised that there will be circumstances where it is justifiable for a government to keep certain information confidential, but concluded that information should ordinarily be released to the public, unless there are compelling reasons, in the public interest, to the contrary. In this report the Commission is guided by the public interest when making its recommendations and, in doing so, seeks to strike an appropriate balance between often competing considerations, favouring disclosure, operational security, public safety and individual privacy.

There is no doubt that the introduction of secure digital radio communications provides police with an enhanced means of communication, establishing a platform to build data communication capabilities. Nevertheless, the Commission believes there is a strong and defensible argument for the media to have access to information about police communications, enabling open and transparent reporting of police activity. Given the recent roll-out of encrypted digital radio in the Brisbane area, and the need to ensure that privacy and legislative restrictions are adhered to, this media access can no longer be via scanning of police radio as in the past.

As detailed in Chapter 5, the South Australia Police and London Ontario Police have replaced the scanning of police radio with the capability to provide real-time dispatch data to the media via the Internet or computer linkages. The Commission does not specifically recommend that an exact replication of either of these models of data-feed be adopted, but instead recommends that the process and concepts as demonstrated by these models provide a useful basis for developing a model that specifically meets Queensland's needs.

## RECOMMENDATIONS

The following recommendations favour the provision of real-time information from the QPS dispatch system directly to authorised media outlets, in the form of data rather than voice. In addition to the proposal for the adoption of a live dispatch data-feed model, there are suggestions for how the QPS Media Unit can add value to the process so as to deliver timely and relevant information to the media.

### A dispatch data-feed model

A dispatch data-feed system ought to be capable of providing information to authorised media outlets, in as close to real time as possible. To ensure that this can happen, software will need to be developed to interrogate the computer-aided dispatch (CAD) system, extract relevant information and dump this information into a user-friendly database that is accessible to the media. If this level of information is provided via a real-time computer interface, the Commission believes that the media will, in most circumstances, have access to information that is more consistent, detailed and accurate than was previously scanned from police radios.

#### *Recommendation 1*

**That the Queensland Police Service develop the capability to provide secure electronic transfer of information about operational police activity via a direct data-feed from the police computer-aided dispatch system (CAD) to authorised media outlets.**

### Authorisation of media outlets

While it is the Commission's opinion that the public should be informed of police activity, it is proposing a system where this will happen through the media. There is a practical basis for this, as the media provide the broadest opportunity for access to the public. Most people will receive this type of information through radio or television news reports, or through the newspapers.

However, there is a further justification, which relates to potential for information to be misused if released generally at too early a stage. At the time of dispatch, only limited information will be able to be made available by the police. Responsible media organisations will ordinarily seek out further information before publishing the story in a news broadcast. Early notification of the media will facilitate their responding to the incident by seeking further information from police or emergency services, or by assigning reporters and camera crew so that a well-informed report can be prepared. However, the time delay, in most cases, between notifying the media and the publication of news reports will minimise any undesirable use of the information by criminals or sightseers.

Simultaneous release of the dispatch information to both the media and the public (e.g. on a website) would heighten the risk of misuse of information at that early stage by some members of the public. On the other hand, imposition of a general delay in release to the media would impede the ability of the media to

provide effective coverage, and thus potentially affect the quantity and quality of information ultimately reaching the public about operational police activity.

The proposed scheme assumes that the Commissioner, QPS, will authorise media organisations that provide timely news reports (radio, television and print) to receive access to the dispatch data-feed. Before giving this authorisation, it would be appropriate for the following questions to be among those that the Commissioner considers:

- Is the material gathered by the organisation for dissemination to the general public?
- Is the organisation involved in the provision of current news reports to the public?
- Does the organisation publicly adhere to a set of published standards relating to privacy and use of information?
- Does the organisation agree to comply with arrangements for the secure receipt of the data-feed?

### ***Recommendation 2***

**That the Commissioner, Queensland Police Service, authorise media organisations that are involved in providing current news reports to the public to receive access to the dispatch data-feed, subject to compliance with arrangements for the secure receipt of the data-feed.**

## **Security**

One of the concerns with unencrypted analogue communications is that, in addition to access by persons with valid interests, they are also accessible to persons with criminal intentions. As noted in this report, none of the submissions to the inquiry dispute the importance of police keeping their operations secure. Similarly, the Commission is proposing a system where the public will receive access to information about current operational police activity through the mainstream media. Direct access to police radio communications will no longer be available. Instead, the media will be given prompt access to dispatch information to allow them to pursue their reporting activities in an effective way. However, the Commission has identified some types of incidents where it considers there is a higher risk, and will recommend that a delay occur in dissemination of dispatch information in those cases.

It follows that, whether data are provided to the media via line connections or via a website, it is important that there are processes to ensure security of the data. In the case of Internet-based delivery of data, appropriate security protection such as Secure Sockets Layer (SSL) protocol should be used to ensure that access to the website would require a secure password, available only to authorised media organisations. Inappropriate use of this password might result in restriction of that media outlet's access to the data-feed. Consequently, information can be conveyed to the media in a secure environment with minimal risk of access by third parties, including the criminal element.

### ***Recommendation 3***

**That information provided via the dispatch data-feed be protected by secure processes that ensure access is available only to authorised media organisations.**

The development of the specific infrastructure and processes for delivery of this data-feed are best dealt with by QPS information technology specialists, through consultation with the QPS Media Unit, police senior management and

media representatives. However, the Commission believes that there are several components of this model that are integral to success and must be considered in the development and implementation.

## Job types

An important element of the proposed model is a philosophy of providing all information, unless there is justifiable reason to withhold. The Commission considers there is justification for withholding release of dispatch information for certain job types. For the purpose of dispatch each job type has a corresponding identifying number, referred to as a job code. The Commission has identified 19 job types where it considers exclusion or delay is justified, out of a total of 138 job types used by police for the purpose of dispatching officers.

**First**, parliament has recognised a number of special groups in society that require additional protection from public scrutiny. This has been reflected in existing legislation and the related parliamentary debates as discussed in Chapter 4 of this report. These Acts include the *Juvenile Justice Act 1992* and the *Mental Health Act 2000*. In accordance with this principle the Commission would recommend that jobs classified as 'mentally ill person', 'offences against children', 'shop steal child', 'absconder hospital/institution', and 'absconder juvenile' be excluded from the dispatch data-feed.

Additionally, the Commission recognises that there are two other offence categories where additional protection ought to be given to victims. They are domestic violence and sexual offence categories, namely 'rape', 'attempted rape', 'indecent assault', 'wilful exposure', 'indecent acts' and 'domestic violence' job types. Consequently, these jobs should be excluded from the dispatch data-feed.

Furthermore, the Commission accepts that there are valid operational reasons to exclude 'suspect terrorist activity' from the dispatch data-feed, to allow police to conduct effective investigations of this potentially life-threatening activity.

These codes are excluded to ensure that the vulnerable individuals are protected from identification or contact, which may occur if the media attend at the scene of the incident.

It does not follow that the media should be denied general information about details such as the number and nature of such dispatches, and the QPS should ensure that such information is made available on a regular basis. In addition, police may choose to release information about such incidents (for example, to further an investigation or make a public safety warning), subject always to the need to respect the privacy of victims from vulnerable groups.

**Second**, there are a number of other specific incident types where the Commission considers it is important for police to have the opportunity to respond before knowledge of the incident is publicly released. In these situations the Commission considers that it will be appropriate to implement a time-delay mechanism to enable officers to more effectively manage a situation. This delay enables police to establish a crime scene, provide support for victims or witnesses of traumatic crime, and ensure the safety of members of the public. The provision of these job codes in the dispatch data-feed, though delayed, will still provide the media with information on police jobs of potential interest. Therefore, the Commission recommends that the jobs categorised as 'armed person', 'siege', 'shots fired', 'hijack', 'hostage taken', 'bomb threat' and 'sudden death' be delayed from release on the dispatch data-feed by one hour, unless a police decision is made that the information may be released sooner.

**Third**, in certain instances a particular incident may need to be withheld from immediate release. However, this would only be in situations where immediate release was likely to compromise public safety or police safety. In these circumstances police would retain the authority to delay the release of information and would be required to document the reasons for this decision. This decision would usually have to occur before a job was released to the media on the data-feed. The decision should be made by the Duty Officer, Police Communications Centre and not a media liaison officer. As soon as public safety needs have been addressed by operational police, the job information should be immediately released to the media via the dispatch data-feed. It is expected that only a limited number of matters would fall into this exceptional category.

#### **Recommendation 4**

**That the Queensland Police Service release information by direct data-feed dispatch about all job types, with the following exceptions:**

##### **A Job types to be excluded**

- **mentally ill person**
- **offences against children**
- **shop-steal child**
- **absconder hospital/institution**
- **absconder juvenile**
- **rape**
- **attempted rape**
- **indecent assault**
- **wilful exposure**
- **indecent acts**
- **domestic violence**
- **suspect terrorist activity**

##### **B Job types to be released after a one-hour delay**

- **armed person**
- **siege**
- **shots fired**
- **hijack**
- **hostage taken**
- **bomb threat**
- **sudden death**

##### **C Discretionary delay**

- **Authority to withhold or exclude a job from release should reside with the Duty Officer, Police Communications Centre and be based on documented compelling and demonstrable public safety or police safety reasons.**

### **Job details**

On the basis that it is generally desirable that the public be kept informed of police action through the media, information provided by this system needs to be sufficient to allow the media to make decisions regarding the newsworthiness or priority of a police incident. As indicated in submissions to this inquiry, radio communications are currently used by the media as the 'tip' to a potential news story. Therefore the model required must contain a similar level of detail as previously gathered by the media from scanning police radio. This can be achieved by identifying the data fields in the current computer-aided dispatch (CAD) system that should be released in the proposed data-feed.

### Recommendation 5

That the release of information by the dispatch data-feed include the following computer-aided dispatch information fields (see also Figure 5):

- job number
- initial job code
- verified job code
- time call received
- street (but not street number)
- suburb
- time crews dispatched
- priority rating.

Figure 5. Example of how the dispatch data-feed might appear on the screen

<b>Job no:</b> 12347	<b>Job code:</b> 136 Property lost	<b>Time rec:</b> 14:20	<b>Time dispatched:</b> 14:40
<b>Street:</b> Grey St	<b>Suburb:</b> West End	<b>Priority:</b> 3	
<b>Job no:</b> 12348	<b>Job code:</b> 201 Accident fatal	<b>Time rec:</b> 14:28	<b>Time dispatched:</b> 14:32
<b>Street:</b> Smith St	<b>Suburb:</b> Cannon Hill	<b>Priority:</b> 1	
<b>Job no:</b> 12349	<b>Job code:</b> 124 Shop steal adult	<b>Time rec:</b> 14:58	<b>Time dispatched:</b> 15:13
<b>Street:</b> Queen St Mall	<b>Suburb:</b> Brisbane City	<b>Priority:</b> 3	

### Objective, transparent and accountable

Another important issue raised in the submissions from media organisations was that, without the ability to scan police radios, they (and therefore the public) are often not aware of police activity. Associated with this issue is the concern that police will have greater control over what information they choose to release to the public and, consequently, have the ability to filter the type and amount of information released to the public. The media contend that it is critical that, in an open and accountable government environment, the decision regarding what is, or is not, newsworthy resides with them and not with the government agency. Therefore an important element of the proposed data-feed model is that the media need to be confident that they are receiving notification of all police jobs (excluding covert and special operations).

Consequently, it is considered important to provide a model of information delivery that includes elements to promote objectivity and transparency. For example, the decision about which job codes would be sent via the data-feed would be an automated process, developed around a defined set of criteria. That is, the decision to include a particular job would be determined by whether it fell within the pre-approved job codes. If, for public safety reasons, the Duty Officer, Police Communications Centre believes it necessary to delay the release of a particular job that would normally have automatic distribution, the Duty Officer

would have the authority to do so, and would be required to document the reasons for this decision. The job may then be released at a later time, once public safety limitations on its disclosure have been resolved.

The system should be configured to provide a mechanism for the media to know when a job is being withheld or delayed by police (i.e. transparency). For example, the data-feed would show job numbers in sequence and record the exception category (A, B or C) from Recommendation 4, so that the media could easily ascertain whether a job was missing.

### ***Recommendation 6***

**That the dispatch data-feed display all jobs, numbered in sequence, in order to facilitate monitoring and auditing of the system. When job information is being withheld or delayed in accordance with Recommendation 4, the data-feed will record the job number and the exception category (A, B or C) relied upon from Recommendation 4.**

## **Real-time information**

The importance of timely provision of information was an issue consistently raised by the media during the inquiry. This was seen as critical to the media's ability to report breaking news to the public. A practical consideration is that often the media will be reluctant to publish information perceived to be stale news. Accordingly, public access to information about police activity may often depend on the timeliness of the release of the information. The Commission recommends that this dispatch data-feed should, for the most part, be available to the media in real time (or as close to real time as current technology allows), subject to identified exceptions. In addition, the data-feed model needs to be equitable to all users of the system, with exactly the same information being provided simultaneously to all authorised media.

### ***Recommendation 7***

**That the delivery of information by the dispatch data-feed occur in as close to real time as current technology allows, subject to the limited exceptions identified in Recommendation 4.**

## **Privacy**

The privacy of citizens who are involved in a police matter must be given substantial protection. Appropriate steps must be taken to maintain the privacy of individuals. Indeed, unauthorised disclosure of private information to third parties may in certain cases be a breach of confidentiality and privacy provisions under law. Consequently, it is recommended that information that could potentially identify a person must be exempt from disclosure to the media.

This type of information includes not only visual representations of a person, but also name, address, school or place of employment — in other words, anything that may be used to identify a specific individual. Withholding such information will safeguard both the privacy of individual citizens and the integrity of police operations.

As is the practice in other jurisdictions, withholding information would be a relatively simple process of excluding certain fields (e.g. a person's name or address) from the data-feed. However, it would be acceptable to provide sufficient details to enable the media to identify the vicinity of the call for service (e.g. Smith Street, Cannon Hill). Reports of incidents occurring in a public space, where no specific link could be drawn to an individual's identity, would not require exclusion of the location details from disclosure to the media. In this way, there

is no barrier to prevent the media from covering the story, but there is sufficient protection to ensure that an individual's privacy is maintained.

### **Recommendation 8**

**That the Queensland Police Service take all necessary steps to safeguard the privacy of individuals by ensuring that information identifying a person be excluded from the dispatch data-feed.**

### **Dispatch data-feed media notes**

The dispatch data-feed will provide an automated and consistent delivery of information about all police calls for service in the metropolitan region to authorised media outlets. This will give the media a timely notification of operational police activity. However, it is recognised that this type of system (automatic data-feed model) will provide limited information, which may be insufficient for the media to determine, for example, the value of sending a news crew to the scene. This could result in a substantial increase in calls by the media to the QPS Media Unit (as is the situation in South Australia).

Therefore, the Commission believes that, for the system to operate efficiently, it is necessary for additional features to be incorporated into the basic model to allow the media to have timely access to more detailed information on relevant matters.

According to the QPS, the Brisbane Police Communications Centre, which services the two metropolitan regions that are currently using encrypted digital radio, dispatches approximately 1200 jobs per day. Many of these jobs are mundane calls for police assistance, and not of particular interest to the media or the public. In the same way that much of the analogue transmissions previously scanned by the media were 'banal, not newsworthy and very boring' (Crawford [ABC] transcript, p. 20), so too will be a large proportion of the data-feed information. It is not expected that detailed notes need be provided for these jobs.

However, a likely outcome of adoption of the dispatch data-feed could be an increase in phone calls from the media to the QPS Media Unit, as reporters will want clarification and additional information on jobs they see being dispatched to operational police. Media notes were developed by the police in London Ontario to minimise unnecessary phone contact with the media. If the QPS Media Unit can provide timely and useful information on all jobs included in the data-feed that are potentially of interest to the media, this will minimise calls from the media.

The dispatch data-feed software must therefore be capable of providing free text media notes in addition to the basic job information provided by the data-feed. These notes will be created by media liaison officers from the QPS Media Unit, and will give the media additional information about job details or police action (see Figure 6).

It is expected that the data-feed entries for jobs of high public interest would have media notes attached as soon as media liaison officers can establish details. One efficient source of additional information for media liaison officers is direct computer access to live CAD screens, where they can search and retrieve information on historical or current dispatched jobs. Other means of collating additional information are through directing queries to the Officer in Charge, Police Communications Centre, or to officers in the field. Media liaison officers can access these sources to provide detail on breaking news to the media in dispatch media notes.

Media liaison officers need to base their decisions on specific criteria (to be developed). These officers should understand the media's needs and the types of



stories that are considered of public interest. It is not expected that media notes would substitute for more detailed media releases where these are considered appropriate by the QPS.

Because hundreds of jobs are dispatched each day, it would be desirable to build-in a notification alert system to jobs that have media notes attached. For example, the media could develop computer macros that provide a colour-coding mechanism or alarm to alert staff to the addition of media notes. This type of alert system, used by some media outlets in South Australia, provides an effective means of monitoring the data-feed without staff constantly watching the computer screen.

**Recommendation 9**

**That Queensland Police Service media liaison staff attach timely media notes to data-feed entries for jobs of high public interest.**

**Figure 6. Example of dispatch data-feed with additional media notes**

<b>Job no:</b> 12347	<b>Job code:</b> 136 Property lost	<b>Time rec:</b> 14:20	<b>Time dispatched:</b> 14:40
<b>Street:</b> Grey St	<b>Suburb:</b> West End	<b>Priority:</b> 3	
<b>Job no:</b> 12348	<b>Job code:</b> 121 Armed hold up	<b>Time rec:</b> 14:28	<b>Time dispatched:</b> 14:32
<b>Street:</b> Smith St	<b>Suburb:</b> Cannon Hill	<b>Priority:</b> 1	
15:12 An armed robbery has occurred at the Commonwealth Bank, Kmart Plaza, Cannon Hill. Two armed male suspects have left the scene in a white Commodore. Police are currently at scene. Ambulance treating bank staff for shock, no persons injured. Media Liaison Officer Sarah Jones is at scene – please refer all media requests to her ph 0412 xxx xxx. Detailed media release will be available by 17:00.			
<b>Job no:</b> 12349	<b>Job code:</b> 124 Shop steal adult	<b>Time rec:</b> 14:58	<b>Time dispatched:</b> 15:13
<b>Street:</b> Queen St Mall	<b>Suburb:</b> Brisbane City	<b>Priority:</b> 3	
<b>Job no:</b> 12350	<b>Job code:</b> 203 Accident no injury	<b>Time rec:</b> 15:12	<b>Time dispatched:</b> 15:20
<b>Street:</b> Jones Ave	<b>Suburb:</b> Hendra	<b>Priority:</b> 3	
15:30 Truck carrying fresh produce has collided with two vehicles at the intersection of Jones Ave and George St. Ambulance present but there are no serious injuries. Jones Ave is blocked in both directions and traffic is being diverted.			

**Implementation issues**

It is obvious that the introduction of a dispatch data-feed and media notes model will change how QPS communicates with the media. This model requires certain support mechanisms to deliver timely and relevant information that meets the needs of the media to inform the public.

This new communication method will need:

- appropriate technological infrastructure
- dedicated media liaison personnel
- clear operational procedures
- clear information dissemination policies
- commitment for resources and staffing.

Without these essential components, the ability of the new system to meet the expectations of all stakeholders will be limited.

### ***Software capability***

Currently, the QPS does not have the software to search, extract and deliver the data from the live CAD to an external database. However, consultations with QPS information management personnel confirm that the capability to extract the required data fields and feed this information into a user-friendly database can be relatively easily developed and implemented within a matter of months.

### ***Media liaison staff***

By providing a dispatch data-feed and, in particular, consistent, reliable and useful media notes, it is hoped that the media will learn to rely on these technological mechanisms to know about police activities. Nonetheless, there will still be times when media personnel will call the Media Unit for help and more information. Consequently, media liaison officers will still be required to take calls from the media and provide information in a professional manner.

The dispatch data-feed model is not expected to replace the need for alternative methods of communicating with the media, and the CMC supports the use of other options to provide timely advice to the media. Options such as SMS messaging and one-call-to-all telephone systems could operate in tandem with the data-feed to provide supplementary information. Similarly, there would still be a need to provide detailed media releases in relation to newsworthy occurrences.

The CMC notes that Commissioner Atkinson, during his appearance before the inquiry, gave the undertaking that resources would be obtained to expand the operational hours of the QPS Media Unit to create a service that operates 24 hours, 7 days per week. It is apparent that this would be a desirable step as it would facilitate more timely communications with the media.

The preparation of dispatch media notes will require the skills of trained staff. These staff would be media liaison officers who, in addition to normal media unit skills, will be specifically trained in monitoring the dispatch data-feed, and in providing media notes to the dispatch data-feed. It will be important that, when media liaison officers are working in the dispatch media notes role, they are for that time dedicated to the position. This would not exclude the rotation of different media liaison officers through the position.

### ***Recommendation 10***

**That fully trained staff dedicated to the purpose be assigned to monitor the dispatch data-feed and, where appropriate, add value by providing media notes.**

### ***Costs***

There will be resource costs associated with the delivery of the proposed model by the QPS. Once the technological capabilities for the dispatch data-feed are established, it is not expected that there will be substantial ongoing maintenance

costs associated with the technological infrastructure. However, providing timely and quality media notes will require dedicated personnel and resourcing to establish and maintain the process. The delivery of this service will be the responsibility of the QPS, and specifically of the Media and Public Relations Branch. It is important to acknowledge that there is a general public interest in information about police activity being made available to citizens. For this reason it is appropriate that the government meet the cost of making this information generally available. On the other hand, it is appropriate that media organisations and not the taxpayer bear the costs integral to the operation of their businesses, such as computers, software and line rental for receipt of the information. If an Internet-based solution is adopted, costs for media organisations will be minimal.

The CMC proposes that the costs for implementing a data-feed model not be met solely by the QPS. The QPS should be responsible for costs associated with developing and maintaining the dispatch data-feed and media notes systems, whereas the media should be responsible for costs associated with accessing or downloading the data within their organisations.

***Recommendation 11***

**That the establishment and ongoing costs associated with the delivery of the dispatch data-feed and media notes be met by the Queensland Police Service.**

***Recommendation 12***

**That the cost of receiving and accessing information on the dispatch data-feed be met by the user media organisations.**

***QPS/media working group***

Police and media organisations in London Ontario agree that a component vital to the success of their data-feed model was their participation in a joint committee, which was initially developed to find a solution to the problems that arose when the London police migrated to secure digital radio communications. This committee remains active and provides opportunities for all stakeholders to raise issues of concern, and to work in partnership to develop solutions to problems. In effect, the group maintains an open channel of communication between the police and the media.

Media–police relations in Queensland have a history of tension, and the adoption of secure radio communications in Brisbane, resulting in the inability of the media to scan police radios, has further added to these tensions. The model recommended by the Commission will require commitment and input from the police and the media to ensure that the final product meets the needs of all stakeholders. A process is also needed for the media to raise concerns about the delivery of information by this model. For example, if the QPS Media Unit does not provide adequate or timely media notes on police jobs, there needs to be a process for the media to raise this concern with the police, with an expectation that these concerns be carefully considered.

The CMC recommends the creation of a joint committee to provide a forum for constructive dialogue between the QPS and voluntary representatives from authorised organisations utilising the data-feed, as well as from invited media peak bodies such as the Australian Press Council, the Australian Broadcasting Authority and Free TV Australia. The committee will also be available to consider complaints or concerns received from stakeholders, including media organisations refused authorisation to access the data-feed by the Commissioner of Police.

### ***Recommendation 13***

**That the Commissioner, Queensland Police Service, invite news directors/ editors (or delegates) of media outlets with authorised access to the dispatch data-feed, and representatives of media peak bodies, to form a joint committee to meet on a regular and continuing basis, to provide opportunities for ongoing dialogue between the major stakeholders and to provide a forum to consider any concerns raised by stakeholders, including media organisations refused authorisation by the Commissioner.**

### ***Roll-out of digital technology in other police regions***

The Police Commissioner has advised that the QPS wishes to extend the roll-out of digital communications to major populated areas across the state, depending on affordability and on the outcome of this inquiry.<sup>8</sup> However, no detailed planning in relation to implementation timeframes and cost analysis has been undertaken at this stage.

The current inquiry has considered the issue of media access to police communications within the context of the metropolitan Brisbane area, and thus has developed its recommendations around the Escort dispatch system. The Commission recognises that the Escort system is not universal throughout Queensland, with a number of districts using IMS (Information Management System) as their dispatch and call management system. A number of remote areas in the state use neither of these dispatch systems and rely solely on voice communications, and this may continue in the future. Although the Commission's recommendations in this report, and the submissions from interested parties during the course of public hearings, have focused upon the potential of utilising a modified Escort system, the Commission does not see the principles applied to be necessarily tied to only Escort technology.

The concerns raised over the release of identifying material, the preservation of operational security and the public's right to access information are all applicable, regardless of the technology in question. With regard to Escort technology, the Commission makes its recommendations solely on the grounds that it is the dominant information delivery system used by the QPS. Nevertheless, the same recommendations apply, in principle, to any future changes to QPS capacity. It is foreseeable that technological advances will alter information dissemination methods, both for the QPS and for the public. If this does occur, the Commission is confident that the current recommendations, with their principles of disclosure, will remain relevant in all circumstances.

Accepting this, the Commission is of the view that data from IMS, or any other integrated resource management system, should be extracted and manipulated in a manner similar to that recommended for the Escort system. However, the core recommendations relating to the protection of individual privacy, operational security and public disclosure through the media remain in effect.

Accordingly, it is recommended that a dispatch data-feed model similar to that recommended for the Brisbane metropolitan area be introduced in other police regions, at the same time as they introduce digital secure communications. This should present no significant difficulty in major regional cities. It is acknowledged, however, that technical difficulties may exist in more remote areas. In such cases the QPS is urged to adopt alternative means of communicating police activity, in consultation with the local media, and having regard to the considerations highlighted in this report.

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8 Letter from Commissioner Atkinson dated 26 August 2004.

### **Recommendation 14**

**That a dispatch data-feed model similar to that recommended for the Brisbane metropolitan area be introduced in other police regions simultaneously with the introduction of secure digital communications, to the extent that is technically feasible.**

## **FURTHER CONSIDERATIONS**

Under the terms of reference given to the Commission, this report has focused specifically upon the QPS deployment of digitally encrypted radio communications. The recommendations made above have reflected this mandate. However, during the course of both the inquiry and the development of this report, the Commission is aware that the QPS deployment of digital radio communications has not taken place in a vacuum. On the contrary, the QPS and the Department of Emergency Services (DES) have begun a project aimed at integrating communications infrastructure between police, ambulance and fire and rescue services.

The Joint Computer-Aided Dispatch (CAD) and Communications Project was agreed upon by the Director-General of the DES and the Commissioner of the QPS in November 2003, and is tasked to investigate and recommend options relating (amongst other issues) to the application of digital radio technology across Queensland in the Ambulance Service, the Fire and Rescue Service and the Police Service. It is not anticipated that any component of this project will be implemented for at least three to five years.

In its written submission, the DES highlighted a number of advantages with a move to digital technology and a number of disadvantages associated with the current analogue system.

It is the Commission's view that the QPS should bear these issues in mind when undertaking its continued development of radio communications. With the prospect of communications interoperability being a real and imminent development, it is in the interests of the QPS to understand the implications of digital roll-out on the DES agencies.

The DES reports that unauthorised scanning of their analogue radio communications has resulted in direct interference with operational calls, a reduction in the utility of information transmitted over radio to protect incident management, and increased complexity in protocols and procedures to protect individual privacy. The Ambulance Service and Fire and Rescue Service often bear responsibility for patients requiring medical treatment. This creates a patient-carer relationship with attendant privacy obligations. In an emergency situation, highly private patient details may have to be communicated over the radio system. For the emergency services, the move to digital technology would:

- hugely improve the security of communications within DES agencies
- ensure that private information is secure; reduce the chance of inaccurate or incomplete leaks to the public; reduce danger to emergency service staff
- help prevent delays
- prevent tactical decisions being overheard by unauthorised persons.

These concerns reflect the QPS concerns with analogue radio communications.

Importantly, the DES also recognises that a secure digital network would enable emergency services to appropriately support the QPS in potentially dangerous incidents.

In light of the limitations of analogue technology, the Commission views a change to digitally encrypted technology by both the QPS and the DES as a positive step for Queensland. It is important that the people of Queensland can continue to rely on emergency services for rapid, effective and efficient service in dealing with crisis situations. Thus, the state's emergency response capabilities must not be unduly hampered by problems which can be solved through technological innovation. Digital technology will support the ability of all public safety services to communicate within a secure environment and thus contribute to an efficient and effective response to critical incidents.

The Commission would commend this report to the Joint Project and encourage the QPS to consider the recommendations made concerning its own implementation procedures as being relevant to the broader interoperability question throughout the three services. The Commission reiterates the importance of stakeholder consultation throughout the planning and implementation processes, and notes that the DES has already recognised the important role that media organisations play in the community in this regard.

There are important implications for the QPS in participating with these other emergency services in a joint digital communications project, not the least of which is the impact such interoperability will have upon QPS operational procedures. It is vital, therefore, that the QPS continue to develop strong and up-to-date information security protocols to deal with information transfer, while at the same time developing procedures which allow for smooth information flows to both other agencies and the public. In particular, the QPS must be mindful that information that originates on its dispatch system, which is subsequently available through a joint dispatch system to ambulance, fire or disaster management services, would most likely remain QPS information. This being the case, the QPS should take particular note of the privacy and operational security recommendations contained within this report, and should ensure they are not only appropriately implemented within the QPS dispatch system, but are recommended to other agencies in the development of a joint dispatch system.

The current report and the recommendations seek to balance these important considerations and, in addressing them within the context of the current debate, the QPS should be well-placed to anticipate and effectively respond to issues which arise during the ongoing development and implementation of the Joint Project with the DES.

# APPENDIX 1: INTERNATIONAL POLICE AGENCIES THAT PROVIDED INFORMATION TO THE INQUIRY

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## USA

Abilene Police Department (TX)  
Arizona State Department of Public Safety  
Boston Police (MA)  
Broward Sheriff's Office (FL)  
Charleston Police Department (SC)  
Charlotte-Mecklenburg Police Department (NC)  
Colorado State Patrol  
Coral Springs Police Dept (FL)  
Delaware State Police  
Denver Police Department (CO)  
(FBI) Federal Bureau of Investigations  
Florida State Technology Office  
Georgia State Patrol  
Honolulu Police Department (HI)  
Iowa Department of Public Safety  
Kentucky State Police  
Maryland State Police  
Metropolitan Nashville Police Department (TN)  
Montana Highway Patrol  
Nebraska State Patrol  
Nevada Department of Public Safety  
New Jersey State Police  
Ohio State Highway Patrol  
Oklahoma Police Department  
San Diego Police Department (CA)  
Tallahassee Police Department (FL)  
Tennessee Highway Patrol  
Texas Department of Safety  
Torrance Police Department (CA)  
Tucson Police Department (AZ)  
Washington State Patrol

## CANADA

Edmonton Police Service (ALTA)  
London Police Department (ONT)  
(OPP) Ontario Provincial Police  
Peel Regional Police (ONT)

***Canada, cont.***

(RCMP) Royal Canadian Mounted Police  
Winnipeg Police Department (MB)

**UK**

Avon & Somerset Constabulary  
Cambridgeshire Constabulary  
City of London Police  
Central Scotland Police Department  
Cleveland Constabulary  
Durham Constabulary  
Humberside Police  
Kent County Constabulary  
Metropolitan Police, London  
Norfolk Police  
Northern Ireland Police Service  
Lincolnshire Police



## APPENDIX 2: LIST OF SUBMISSIONS TO THE INQUIRY

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### WRITTEN SUBMISSIONS

- Academic:** Craig Burgess, Faculty of Arts, University of Southern Queensland  
Associate Professor Des Butler, Faculty of Law, Queensland University of Technology  
Dr Joyce Kirk, Faculty of Humanities and Social Sciences, University of Technology, Sydney  
Professor Alan Knight, Faculty of Information and Communication, Central Queensland University
- Advocacy:** Australian Privacy Foundation
- Government:** Department of Emergency Services (DES)  
Department of Justice and Attorney-General  
Office of the Public Advocate  
Queensland Health — Health Strategy and Funding Branch  
Queensland Integrity Commissioner  
The Park — Centre for Mental Health
- Legal:** Queensland Law Society
- Media:** APN News and Media  
Australian Broadcasting Corporation (ABC)  
Australian Press Council  
*Courier-Mail*  
*Gold Coast Bulletin*  
Media Entertainment and Arts Alliance  
Network Ten Pty Ltd  
Queensland Radio 2000 Pty Ltd (4BC/4BH 882 Radio)  
Queensland Television Ltd (Channel Nine)  
Radio 4AK Pty Ltd  
RG Capital Radio Ltd  
SBS Corporation  
Seven Network  
Star Broadcasting Network Pty Ltd (River 94.9 Radio)  
*Townsville Bulletin*
- Police:** Queensland Police Service (QPS)  
Northern Territory Police  
South Australia Police  
Tasmania Police  
Victoria Police

**Unions:** Queensland Police Commissioned Officers' Union of Employees (QPCOUE)  
Queensland Police Union of Employees (QPUE)  
Queensland Public Sector Union

**Individuals:** Thirteen submissions were received from a range of individuals and interested members of the community.

## CONSULTATIONS AND INTERVIEWS

ABC Radio and TV, Adelaide  
ABC Radio and TV, Brisbane  
*Advertiser*, Adelaide  
Australian Centre for Policing Research  
Channel Nine, Brisbane  
Channel Nine, Adelaide  
Channel Nine, Darwin  
District Court of Queensland  
*Gold Coast Bulletin*  
London Ontario Police, Ontario, Canada  
Magistrates Court of Queensland  
Motorola Australia Pty Ltd  
Network Ten, Brisbane  
Network Ten, Adelaide  
Northern Territory Police  
*NT News*, Darwin  
Queensland Council for Civil Liberties  
Queensland Department of Emergency Services  
Queensland Police Service (QPS)  
Queensland Police Union of Employees  
Radio 4BC  
School of Humanities and Social Sciences, Bond University  
School of Journalism and Communication, The University of Queensland  
Seven Network, Adelaide  
Seven Network, Brisbane  
Somerset and Avon Constabulary, UK  
South Australia Police  
Supreme Court of Queensland  
Torrance Police Department, California, USA  
Victoria Privacy Commissioner

## APPENDIX 3: HEARING SCHEDULE

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### TUESDAY 27 JULY 2004

Queensland Police Service	Commissioner Bob Atkinson
Australian Broadcasting Corporation	Ms Fiona Crawford
<i>Courier-Mail</i>	Mr David Fagan
Queensland Radio 2000 (4BC/4BH)	Mr Steve Speziale
Bond University	Professor Mark Pearson
Crime and Misconduct Commission	Mr Dennis Budz
Motorola Pty Ltd	Mr Spiros Nikolakopoulos

### WEDNESDAY 28 JULY 2004

South Australia Police Service	Superintendent Colin Cornish
Australian Broadcasting Corporation	Ms Fiona Crawford, Mr Jonathon Horton
Network Ten	Mr John Bennett, Mr Robert Osmotherly, Mr Mark Anning (Holding Redlich)
Media Entertainment & Arts Alliance	Mr David Waters
<i>Gold Coast Bulletin</i>	Mr Bob Gordon
APN News & Media ( <i>Toowoomba Chronicle</i> )	Mr Jason Purdie
Australian Press Council	Mr Jack Herman, Ms Inez Ryan

### THURSDAY 29 JULY 2004

Queensland University of Technology	Associate Professor Des Butler
Crime and Misconduct Commission	Ms Alexa van Straaten
Australian Privacy Foundation	Mr Ian Dearden
Queensland Council of Civil Liberties	Mr Terry O’Gorman
Queensland Health	Dr Jacinta Powell
Office of the Public Advocate	Mr Lindsay Irons
Department of Emergency Services	Ms Bryony Chapman, Mr Graham Metcalf
Queensland Fire & Rescue Service	Mr Kevin White
Queensland Ambulance Service	Mr Gary Gillies
Queensland Police Union of Employees	Mr Gary Wilkinson, Mr Ross Musgrove
Queensland Police Commissioned Officers’ Union of Employees	Inspector Glenn Horton
Queensland Police Service (Police Media and Public Relations)	Mr Leon Beddington

## FRIDAY 30 JULY 2004

Queensland Police Service  
Queensland Television Limited

Queensland Law Society  
*Courier-Mail*

Queensland Radio 2000 (4BC/4BH)

Commissioner Bob Atkinson  
Mr Paul Reed, Mr Andrew Shute (Minter  
Ellison)

Mr Glenn Ferguson

Mr David Fagan

Mr Steve Speziale

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*Child Protection Act 1999* (Qld)

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*Crime and Misconduct Act 2001* (Qld)

*Criminal Law (Rehabilitation of Offenders) Act 1986* (Qld)

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*Freedom of Information Act 1992 (Qld)*

*Health Services Act 1991 (Qld)*

*Invasion of Privacy Act 1971 (Qld)*

*Juvenile Justice Act 1992 (Qld)*

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*Police Powers and Responsibilities Act 2000 (Qld)*

*Police Service Administration Act 1990 (Qld)*

*Privacy Act 1988 (Cwlth)*

*Privacy Amendment Act 2003 (Cwlth)*

*Printing and Newspapers Act 1981 (Qld)*

### **Further Acts considered by the Commission**

*Ambulance Service Act 1991 (Qld)*

*Criminal Law (Sexual Offences) Act 1978 (Qld)*

*Domestic and Family Violence Protection Act 1989 (Qld)*

*Fire and Rescue Service Act 1990 (Qld)*

*Telecommunications (Interception) Act 1979 (Cwlth)*