



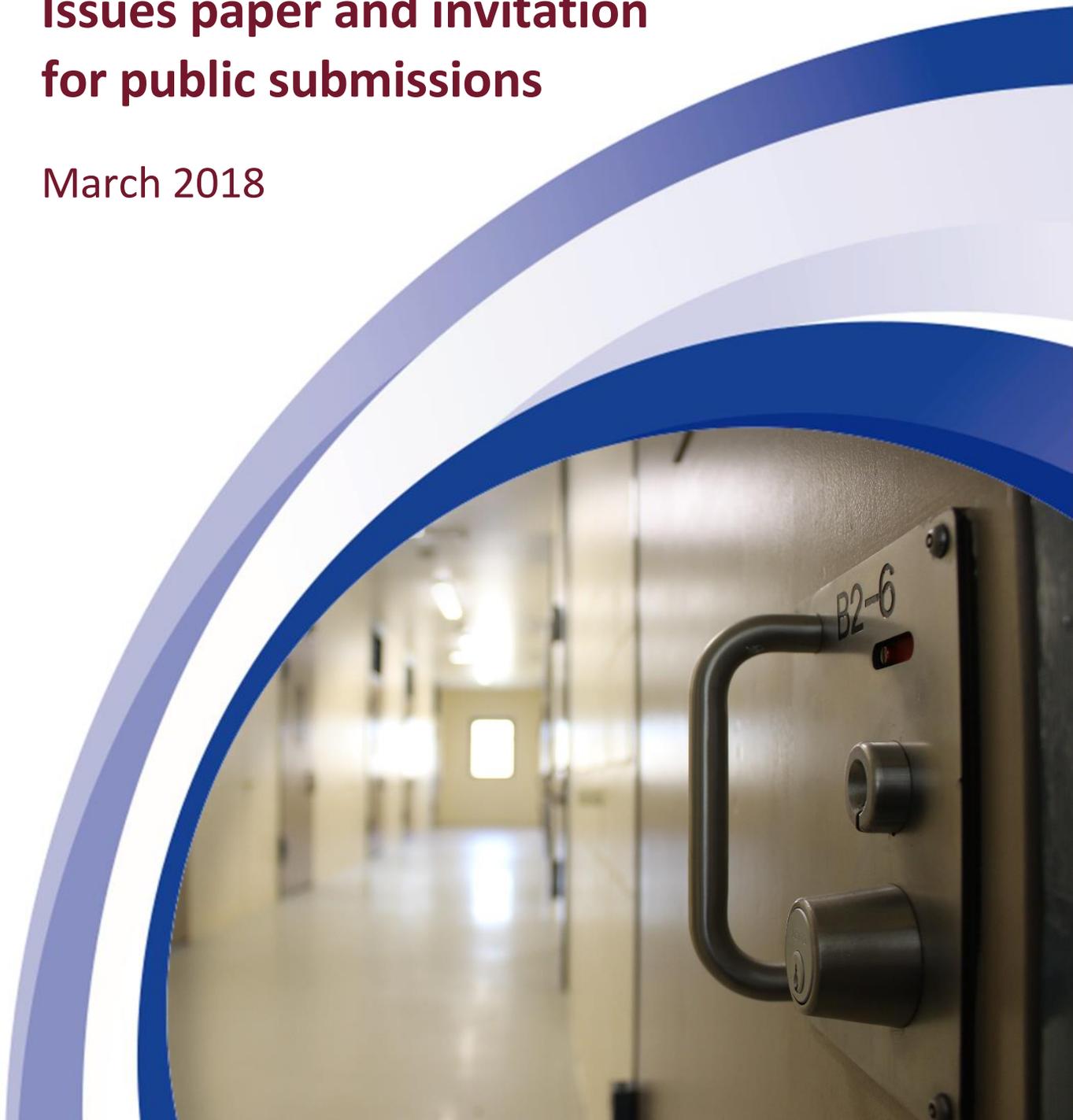
**Crime and Corruption Commission**  
**QUEENSLAND**

## **Taskforce Flaxton**

An examination of corruption and corruption risks in Queensland corrective services facilities

### **Issues paper and invitation for public submissions**

March 2018



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# Introduction

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The Crime and Corruption Commission (CCC) is examining corruption and corruption risks in Queensland corrective services facilities (focusing on adult prisons and work camps). This Inquiry reflects the CCC's ongoing commitment to raising standards of integrity and conduct in units of public administration (UPAs) throughout Queensland.<sup>1</sup> The CCC will conduct a public hearing to examine corruption and corruption risks in these facilities (expected to be held in May 2018).

## Corrective services in Queensland

Queensland Corrective Services (QCS) recently became a stand-alone department, after previously being part of the Department of Justice and Attorney-General.<sup>2</sup> Dr Peter Martin APM commenced as Commissioner on 13 November 2017.

QCS is governed by the *Corrective Services Act 2006* (Qld) (CS Act), which establishes the legislative basis for the management of prisoners and those on community based orders. The purpose of corrective services is community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders.<sup>3</sup> QCS does this by administering and managing the sentences imposed by the courts, ensuring safe, secure and humane management of prisoners, and reducing crime and re-offending by delivering evidence-based rehabilitation programs and risk management. (QCS also supervises adult offenders in the community and provides opportunities for prisoners and offenders to make reparation by performing community service, but these functions are outside the scope of this Inquiry.)<sup>4</sup>

Reflecting the diverse needs of the sector, Queensland has varied corrective services infrastructure throughout the State. Fourteen prisons have been established<sup>5</sup> throughout the State with high and low-security options available at some locations. There are also a number of work camps, which are low-security facilities designed to promote prisoner rehabilitation by providing prisoners the opportunity to participate in community service projects.<sup>6</sup> While the CS Act provides the broad legislative framework and there are some uniform state-wide processes (see, for example, the Custodial Operations Practice Directives),<sup>7</sup> each prison has significant autonomy in its operation.

While QCS predominately runs Queensland's prisons, QCS also contracts two privately operated facilities. Arthur Gorrie Correctional Centre is managed by the GEO Group Australia Pty Ltd, and Southern Queensland Correctional Centre by Serco Australia Pty Ltd (these are engaged service providers<sup>8</sup> of the QCS). This is not a unique situation in Australia – in a number of jurisdictions, prisons are privately managed (New South Wales, Victoria, Western Australia and South Australia).

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- 1 Units of public administration include Queensland public sector agencies such as departments and statutory bodies, and the Queensland Police Service.
  - 2 QCS became a stand-alone department pursuant to Administrative Arrangements Order (No. 4) 2017 made by the Governor in Council on 21 December 2017.
  - 3 Section 3(1) *Corrective Services Act 2006* (Qld) (CS Act).
  - 4 As reflected on the QCS website <<http://www.justice.qld.gov.au/corporate/business-areas/queensland-corrective-services/about-us>> (accessed 16 March 2018).
  - 5 Defined under schedule 1, *Corrective Services Regulation 2017* (Qld).
  - 6 As reflected on the QCS website <<https://news.correctiveservices.qld.gov.au/2016/05/10/the-qcs-work-camp-program/>> (accessed 22 March 2018).
  - 7 Access to the Custodial Operations Practice Directives (public version) is at: <<http://justice.qld.gov.au/corporate/business-areas/queensland-corrective-services/procedures/custodial-operations-practice-directives>>.
  - 8 Sections 272 and 273 CS Act, and section 45 *Corrective Services Regulation 2017*.

## Oversight of corrective services

There are currently a number of entities that have a role in oversight of corrective services in Queensland – including the Office of the Chief Inspector, the Queensland Ombudsman and the CCC. While the Government has announced that an independent inspectorate of correctional services will be established in Queensland, it is unclear when this entity is to be delivered. There are also accountability mechanisms within QCS including the Intelligence and Investigations Branch, which provides intelligence and undertakes investigations in regards to QCS operations, as well as the Ethical Standards Unit, which is responsible for (amongst other things) receiving, assessing and where appropriate, case managing allegations of misconduct and corrupt conduct.

The Office of the Chief Inspector performs statutory functions under the CS Act and reports to the QCS Commissioner. The Chief Inspector (along with appointed Inspectors) has functions to investigate an incident,<sup>9</sup> inspect a corrective services facility, review the operations of a corrective services facility and review services offered at a corrective services facility.<sup>10</sup> To discharge these functions, the Chief Inspector and Inspectors are granted power under the CS Act to, amongst other things, enter a corrective services facility at any time and interview any prisoner or staff member. The Chief Inspector also coordinates the Official Visitor scheme. Official Visitors are appointed under the CS Act to investigate complaints made by prisoners and report to the Chief Inspector.

The Ombudsman may investigate the administrative actions of agencies on its own initiative, in response to a complaint or following a reference from the Legislative Assembly or a statutory committee of the Legislative Assembly.<sup>11</sup> The functions of the Ombudsman include making recommendations to government agencies to address inappropriate administrative actions or to improve practices and procedures. The Ombudsman receives and investigates prisoner complaints concerning a range of decision-making that impacts them. The general practice is that a complaint should be managed locally (i.e. within the corrective services facility), with the Ombudsman available for escalation of a complaint.<sup>12</sup>

The CCC is established to investigate and prevent major crime and corruption in Queensland. In performing its corruption function, the CCC must focus on serious or systemic cases of corrupt conduct in UPAs. The QCS is a department and therefore a unit of public administration, and pursuant to the CS Act, the *Crime and Corruption Act 2001* (Qld) (CC Act) also applies to an engaged service provider of the QCS.<sup>13</sup> The CC Act provides that subject to the cooperation and public interest principles, and the capacity of the agency, action to prevent and deal with corruption in an agency should generally happen within the agency. This allows the CCC to focus its resources on the most serious and systemic corruption matters.

## Recent reviews and developments

There have been a number of recent reviews and reports into corrective services in Queensland. The Queensland Ombudsman and Queensland Audit Office have examined and publicly reported on aspects of the prison environment. These reports include, *Overcrowding at Brisbane Women's Correctional Centre* (Queensland Ombudsman 2016), *Strip searching of female prisoners* (Queensland Ombudsman 2014), *Classification and movement of prisoners* (Queensland Ombudsman 2009), *Justice on the Inside* (Queensland Ombudsman 2009), *Management of Privately Operated Prisons* (Queensland Audit Office 2016) and *Criminal justice system – reliability and integration of data* (Queensland Audit Office 2017).

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9 Schedule 4, CS Act defines "incident" to include a death, escape or attempted escape, riot or mutiny or another event involving prisoners that the chief executive considers requires being investigated by inspectors.

10 Section 294(2) CS Act.

11 Section 12 of the *Ombudsman Act 2001* (Qld).

12 Queensland Parole System Review Final Report (November 2016), page 239.

<<https://parolereview.premiers.qld.gov.au/assets/queensland-parole-system-review-final-report.pdf>>.

13 Section 273(2) of the CS Act and section 45(2) Corrective Services Regulation 2017.

Relevant to corrective services more broadly, there have also been significant reports delivered on parole and youth detention in Queensland respectively. Recently, the Queensland Parole System Review<sup>14</sup> and Independent Review of Youth Detention<sup>15</sup> made recommendations (subsequently accepted by Government) that seek changes to the accountability and oversight mechanisms in the Queensland corrective services system. Specifically, both reviews recommended that an inspectorate be established to oversee corrective services.<sup>16</sup> Independence was a key aspect of this inspectorate.

There have also been investigations and reviews specifically related to corruption in corrective services facilities across Australian jurisdictions. These investigations have ranged from allegations focusing on smuggling drugs and other types of contraband into correctional facilities<sup>17</sup> to allegations focusing on subverting procurement processes in awarding contracts, failing to declare and manage conflicts of interests and inappropriately influencing recruitment processes.<sup>18</sup> Recently, the Independent Broad-based Anti-corruption Commission (IBAC) published a report, *Corruption risks associated with the corrections sector*<sup>19</sup>, which also emphasised that the corrections sector often faces unique corruption and integrity issues and included a number of the same areas of concern.

## Why is the CCC examining this area?

In discharging its corruption function, the CCC receives allegations of corrupt conduct.<sup>20</sup> Allegations of corrupt conduct occurring within Queensland corrective services facilities that the CCC receives involve staff (not an exhaustive list):

- assaulting prisoners (or other staff/visitors) or using excessive force to control prisoners
- misusing their authority or power, particularly to threaten or harm prisoners (or other staff)
- failing to comply with policies and procedures or failing to provide appropriate care or access to services (e.g. medical treatment, legal advice or other necessities such as food or hygiene facilities)
- facilitating the introduction of contraband into a facility
- misusing information, such as unauthorised access or release of official information.

Overall, allegations received by the CCC about corrective services facilities have increased over the last three years. In particular, the number of allegations received about assaults/excessive uses of force and the misuse of official information have increased.

CCC investigations of alleged corrupt conduct within Queensland corrective services facilities have identified a number of possible systemic issues. Taskforce Flaxton will examine these issues with a view to raising standards of integrity relevant to detecting, managing and preventing corruption risks associated with Queensland corrective services facilities.

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14 Queensland Government 2016, *Queensland Parole System Review* Final Report (QPSR) November 2016 <<https://parolereview.premiers.qld.gov.au/>>.

15 Queensland Government 2017, *Independent Review of Youth Detention* (IRYD) Confidential Report December 2016 <<http://www.youthdetentionreview.qld.gov.au/review-of-youth-detention-centres-report-updated-28-June-2017.pdf>>.

16 See IRYD recommendations 8.R1 and 8.R2 and QPSR recommendation 88.

17 See for example West Australia Corruption and Crime Commission 2018, Media release "CCC investigation leads to a custodial officer being jailed for corruption" 2 February 2018 <<https://www.ccc.wa.gov.au/news-media/news/media-release-ccc-investigation-leads-custodial-officer-being-jailed-corruption>> and Independent Broad-Based Anti-corruption Commission (IBAC) 2014, Operation Ettick <<http://www.ibac.vic.gov.au/media-releases/article/ibac-reveals-corruption-risks-faced-by-victoria%27s-corrections-sector>>.

18 IBAC 2017, Operation Nepean An investigation into the conduct of former employee of Dame Phyllis Frost Centre, Jeff Finlow <<http://www.ibac.vic.gov.au/docs/default-source/special-reports/operation-nepean.pdf?sfvrsn=4>>.

19 IBAC 2017, Corruption risks associated with the corrections sector <<http://www.ibac.vic.gov.au/publications-and-resources/article/corruption-risks-associated-with-the-corrections-sector>>.

20 Corrupt conduct is defined under section 15, *Crime and Corruption Act 2001* (Qld). It includes conduct by anyone that adversely affects a public agency or public official so that the performance of their functions or the exercise of their powers: is not honest or impartial, knowingly or recklessly breaches public trust, or involves the misuse of agency-related information or material. It is engaged in for the purposes of providing a benefit to the person or another person, or causing detriment to another person. In addition, the conduct must be serious enough that, if proved, would constitute a criminal offence or disciplinary breach providing grounds for dismissal.

Taskforce Flaxton focuses on adult prisons and work camps in Queensland, including the two privately run facilities at Arthur Gorrie Correctional Centre and Southern Queensland Correctional Centre. The CCC is not examining corruption and corruption risks in community-based corrections (e.g. probation and parole) or the youth system.

## **Invitation for public submissions**

To support its examination of the issue, the CCC is calling for public submissions. The CCC invites your views by way of written feedback in response to this issues paper. You are welcome to provide comments on any or all of the key topics identified in the paper, and any other areas that you think are relevant to the aims of the inquiry. We are particularly keen to hear from people who may have had experience about inappropriate behaviour they have seen at correctional facilities.

Submissions are due by **COB 13 April 2018**. Please refer to the Appendix for more information on how to make a submission and how the CCC will handle the submissions it receives.

# Key topics

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## Corruption and corruption risks

Prisons and other correctional custodial settings (hereafter simply referred to as “correctional facilities”) can be complex, dangerous and high-risk environments for staff and prisoners alike. They are inherently closed and isolated settings which, while working to deliver the necessary confinement of prisoners, can also create an environment that presents significant corruption risks for staff. These risks are not confined to Queensland – they exist across every jurisdiction.

Corruption, in the context of correctional facilities, may present itself in a range of behaviours. There are, however, some key behaviour types as reflected in the CCC complaints data (and reinforced by other government reviews and literature). These behaviours include:

- provision of contraband to prisoners – drugs, mobile phones, cigarettes
- inappropriate relationships
- excessive use of force
- inappropriate access to information, such as computer systems, and disclosure of information
- falsification of documents
- accepting bribes in exchange for contraband or information
- denying prisoners access to food or medicine
- failing to report incidents as required
- fraud relating to the purchasing of goods or services, or the commissioning of construction projects.

When considering these behaviours, there is some clear indication of particular vulnerabilities in correctional facilities that may facilitate such behaviour.

## The unique environment

Correctional facilities house a particularly challenging sector of society. Individually and collectively prisoners present challenges to the order and functioning of correctional facilities. Many prisoners have disadvantaged backgrounds, come from marginalised groups in society and have a range of highly complex and constant needs. Additionally, prisoners are deprived of their liberty, confined to limited spaces for prolonged periods of time and live in close proximity with other prisoners with their own special needs. Together these conditions present challenging circumstances for the state of mind and behaviour of prisoners, and as such, the correctional environment is typically characterised by conflict and violence.<sup>21</sup>

For staff, the work environment is such that there is typically a much higher proportion of prisoners than staff members and one where they persistently face intimidation, threats to their personal safety and assaults.<sup>22</sup> This high-risk environment can increase occupational stress, undermine job satisfaction and reduce commitment to their jobs and organisation. Negative perceptions of their job could motivate staff to

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21 Taking increases in prisoner population into account (by analysing rates of incidents per 1000 prisoners for each month), analyses of incident data for July 2013 to February 2018 show the rates of prisoner-on-prisoner assaults have increased significantly since July 2013 <<https://data.qld.gov.au/dataset/custodial-incidents-report>> <<https://data.qld.gov.au/dataset/custodial-offender-snapshot-statewide>>.

22 In 2016-17, there were 258 incidents of assaults classified as prisoner on staff <<https://data.qld.gov.au/dataset/custodial-incidents-report>>.

compromise their job responsibilities, particularly if they perceive the workplace as unfair and they have a sense of isolation within the organisation. In such demanding chronic working conditions, there may be a strong sense of team spirit among staff that facilitates camaraderie and support. At the same time, this solidarity could motivate staff to cover for a fellow colleague's wrongdoing.

### **Delegated power**

Staff exercise their delegated power to maintain safety, order and security, with this power extending to decision-making over almost all aspects of a prisoner's life. There is a risk, however, that staff may abuse this delegated power by extending unauthorised punishment or granting privileges. Staff may use excessive force while deploying legitimate restraint techniques, restrict access to food and medicine or deliberately place vulnerable prisoners in cells with more experienced prisoners to encourage abuse of a prisoner. On the other hand, they may grant increased time with visitors or overlook some types of wrongdoing. Such treatment of prisoners adds to the already volatile and fragile setting of correctional facilities.

### **Regular and close interactions**

Within the closed correctional facility environment, staff interact daily with prisoners to supervise and monitor their safety and well-being, and to ensure prisoner security. Many tasks including removal of clothing searches and restraints of prisoners involve close physical contact between staff and prisoners. In the unpredictable, and sometimes volatile and dangerous environment, such interactions present high risks to the abuse of staff power.

While regular and close interactions between staff and prisoners are necessary, frequent interactions create opportunities to establish favour or disfavour with prisoners. Such interactions may make staff vulnerable to violating defined professional boundaries of what is acceptable. Additionally, it may not be clear between parties whether an interaction exceeds a professional boundary and if risks are not safeguarded, make such interactions particularly vulnerable to manipulation.

When professional boundaries are violated, there are adverse effects on staff and the management of the correctional facilities. Inappropriate relationships often provide the basis to support the smuggling of contraband, to aid prisoner escapes or to support organised crime activities. Furthermore, inappropriate relationships potentially subject staff to blackmail or exploitation.

### **Scarcity of commodities**

Commodities such as illicit drugs, cigarettes, prohibited images and mobile phones are highly sought after by prisoners. These items can enter correctional facilities through various ways, including through the mail, visitors, staff or newly admitted prisoners. As the capacity to screen for prohibited items improves with technology, staff are highly vulnerable to invitations to traffick because of their knowledge and control of screening processes to avert being caught.

The presence of prohibited items, and the trafficking of such items, in correctional facilities puts the security and safety of staff, prisoners and the community at risk. Illicit drugs, in particular, can threaten the orderly functioning of correctional facilities when staff members are faced with unduly aggressive and unpredictable behaviour associated with drug use or increased violence among prisoners that results from drug use. Staff members involved in illicit dealing are also in danger of being extorted or blackmailed, placing themselves or their families at risk if the arrangements to traffick cease.

### **Significant role of information records**

In their role, staff access, use and share confidential and sensitive information relating to prisoners. This information is needed to facilitate a variety of system decisions including security classification, transfers and eligibility for parole. Given that prisoner records include private personal information (e.g. address and criminal history), health-related information (e.g. physical and mental health diagnoses and course of treatment) and legal information (court orders and upcoming legal proceedings), this information forms a significant part

of a prisoner's profile upon which decisions are made during their time in a correctional facility and after their release.

The highly confidential and sensitive nature of prisoner records, and the potentially high-stakes decisions that rely upon these records, makes this area vulnerable to corrupt activities in correctional facilities. Staff may inappropriately access information for non-work related purposes, particularly if they lack an understanding of information security management. This opens up risks for, either deliberate or inadvertent, unauthorised disclosure to others. If confidential information becomes known to others in prison, it can affect the way a prisoner is treated by other prisoners and may harm the order and functioning of the correctional facility.

Staff use their discretion about how a matter is represented or recorded in official records. As such, there are opportunities to present information in inaccurate or misleading ways to intentionally influence an outcome. The abuse of prisoners' records can seriously undermine prison security or impact on prisoners' chances of rehabilitation while in a correctional facility

## Contemporary systemic pressures

Similar to other jurisdictions, the Queensland corrections sector faces a number of contemporary systemic pressures. Within a tight fiscal environment, these pressures significantly impact the management of correctional facilities and risk compromising the safety, efficiency and legitimacy of these facilities.

### Overcapacity

As with other jurisdictions, Queensland is experiencing growing overcrowding in its correctional facilities. In Queensland, prison overcrowding has had impacts on infrastructure and resourcing. In a number of high-security correctional facilities, this has resulted in people "doubling-up" in a cell originally built for one person.<sup>23</sup> As prisoner numbers continue to exceed the capacity of correctional facilities, this increases the risk of conflict, violence and serious assaults against prisoners and staff.

### Recruitment

The growth in the prisoner population in Queensland has increased the need for frontline staff. Additional staff continue to be employed to respond to the increase in prisoner numbers despite the challenges of an industry facing a relative shortage of suitably qualified and experienced staff. On-going recruitment of correctional staff gives rise to integrity issues in recruitment and selection processes that include identifying applicants with criminal histories or conflicts of interest. Furthermore, the regular entry of new staff presents challenges in establishing and maintaining a strong integrity culture.

### Procurement challenges

The substantial strain on correctional facilities increases the demand for large-scale infrastructure. Such large-scale infrastructure projects, and corresponding contracts for goods and services essential for running these facilities (e.g. laundry facilities, meals) involve contracts worth substantial amounts of money to successful suppliers. As such, corruption risks are inherent in the process of awarding and fulfilling procurement contracts.

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23 For example, in 2016, the Brisbane Women's Correctional Centre (BWCC) was found to be the most overcrowded correction centre in Queensland and 47.7 per cent above its single cell capacity. Queensland Ombudsman (2016), *Overcrowding at Brisbane Women's Correctional Centre* <<https://www.ombudsman.qld.gov.au/improve-public-administration/reports-and-case-studies/investigative-reports/overcrowding-at-brisbane-women-s-correctional-centre-report--2016->>>.

# Key questions for stakeholders and community members

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The CCC is interested in hearing from a range of people who have had recent experience with correctional facilities (prisons and work camps). These include people who were previously in a correctional facility current and former staff members, official visitors and representatives of non-government organisations with an interest in prison management and treatment of prisoners. The CCC considers it important to hear views from a diverse range of groups to inform the public hearing.

To help guide your submission, the following questions are provided. Please note your submission does not need to address every question. We encourage interested parties to provide information in response to matters raised in this issues paper as relevant to them. This may include other matters not raised in this issues paper.

1. In relation to complaints made to the CCC (see page 3), what may account for the increase in the number of corrupt conduct allegations received, over the last three years, about:
  - a. assaults/excessive use of force
  - b. the misuse of information?
2. What are the most significant corruption risks in Queensland correctional facilities?
  - a. What are the consequences of this type of corruption for prisoners and how the correctional facility operates?
  - b. What are the consequences of this type of corruption for the community?
  - c. How does this type of corruption undermine integrity and public confidence in QCS and engaged service providers?
3. What factors create a corruption risk or facilitate corruption in Queensland correctional facilities?
  - a. How do these factors create a corruption risk or facilitate corruption?
  - b. Are these factors systemic (present across all correctional facilities) or symptomatic of local conditions (that is, factors specific to an individual prison or work camp)?
4. What legislative, policy or procedural changes could be made to address corruption risks in correctional facilities?
  - a. What are the barriers to successfully implementing these reforms and how could these barriers be removed or mitigated?
5. Are there any other issues that are relevant to understanding corruption risks in Queensland correctional facilities or how to address these risks?

# Appendix: Making a submission

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## Invitation for public submissions

We would like to hear your views and experiences. To make a submission to the CCC:

- Review the “Key questions for stakeholders and community members” (see page 8)
- Ensure that your submission clearly addresses one or more of these key questions. If it does not, the CCC may decide not to accept your submission. Your submission does not need to address every question.
- Clearly identify how you would like the CCC to treat your submission, based on the following options:
  - **Public submission** — the CCC may refer to or quote directly from the submission, and name the source of the submission, in relevant publications. Public submissions may be published on the CCC website.
  - **Anonymous submission** — the CCC may refer to or quote directly from the submission in relevant publications but will not identify its source. Anonymous submissions, with all identifying information removed, may be published on the CCC website.
  - **Confidential submission** — the CCC will not quote or refer to the submission in any report or publication. Confidential submissions will not be published on the CCC website.

If there is no clear selection of one of these options, the CCC will regard your document as a public submission. Note that the CCC will not make public any submission or, where practicable, any part of a submission that:

- contains allegations of corrupt conduct or police misconduct
  - contains identifying information about a third party (the names of people, businesses or organisations), offensive material (including abusive or threatening behaviour), defamatory material, or links to other websites
  - does not address issues relevant to the review
  - infringes the intellectual property rights of others
  - promotes commercial interests.
- Send your submission to the CCC **by COB 13 April** by one of the following methods.

Email: [TaskforceFlaxton@ccc.qld.gov.au](mailto:TaskforceFlaxton@ccc.qld.gov.au)

Post: Taskforce Flaxton  
Crime and Corruption Commission  
GPO Box 3123  
Brisbane Qld 4001

Fax: 07 3360 6333

### ***Allegations of corrupt conduct***

The submission process is not the correct avenue for reporting suspected corrupt conduct to the CCC.

Should you wish to do this, please see the CCC's website for further information

<<http://www.ccc.qld.gov.au/corruption/report-corruption/how-to-report-corruption>>.

You may also call 07 3360 6060, or toll-free (in Queensland outside Brisbane) on 1800 061 611.

The CCC will forward any submissions containing allegations of corrupt conduct to its complaints area for assessment.

### ***Privacy statement***

No submission marked as confidential will be published on the CCC's website. However, any submission may be subject to disclosure under the *Right to Information Act 2009*, and applications to access submissions will be determined in accordance with that Act.

**Submissions are due by COB 13 April 2018. The CCC may not consider late submissions.**





# Crime and Corruption Commission

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