



Crime and Corruption Commission  
QUEENSLAND

# Assessing complaints of corruption: the effectiveness of the Queensland Police Service's policies and practices

Summary audit report

December 2018



## Acknowledgments

The Crime and Corruption Commission would like to acknowledge the cooperation and assistance of the Queensland Police Service, particularly the Ethical Standards Command during this audit.

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## Summary

The Queensland Police Service (referred to in this report as Queensland Police) receives complaints about the conduct of its police officers and staff members from within the Service itself (that is, from other officers or staff members), members of the public or from other sources.

When a complaint is received, the Queensland Police Commissioner (as the “public official” for the purposes of sections 37, 38, 40 and 48A of the *Crime and Corruption Act 2001*<sup>1</sup>) is obligated to notify the Crime and Corruption Commission (CCC) of any matter where the Commissioner has formed a reasonable suspicion of corruption (i.e. corrupt conduct or police misconduct).

If complaints are incorrectly assessed as not raising a reasonable suspicion of corruption, and thus not referred to the CCC, this may result in a loss of public confidence in the complaints process. For this reason, the CCC decided to audit how well Queensland Police were complying with their obligations under the *Crime and Corruption Act 2001* (CC Act).

The audit considered a total of 143 complaints between 1 November 2016 and 1 August 2017 which, by Queensland Police’s assessment, did not raise a reasonable suspicion of corruption, and of those 143 complaints we audited a sample of 115 matters.

### Findings and recommendations of the audit

Of the 115 audited matters, we found that Queensland Police officers had assessed 103 (90%) appropriately, i.e. that the allegations did not reasonably raise a suspicion of corruption. The remaining 12 matters (10% of total audited matters) did raise a reasonable suspicion of corruption and Queensland Police should have notified the CCC of these matters.

We also identified 12 instances where Queensland Police officers did not adequately record complaint information, such as the correct descriptions of the allegations and the reasons for deciding why the particular complaints did not raise a reasonable suspicion of corruption, into the complaints management system.

We identified three areas for improvement:

#### 1 – Update policy and develop procedures and a charter for complaints assessment

Queensland Police’s policies, procedures and manuals governing the assessment of complaints involving corruption were sometimes unclear and not fully in compliance with the CC Act and did not, in the CCC’s view, cover Queensland Police’s statutory legislative obligations under the CC Act effectively. The procedures were not sufficiently thorough to ensure that complaints assessment processes were followed effectively and appropriately. Queensland Police has now drafted guidelines and is conducting a wide ranging review of the *Police Service Administration Act 1990* (PSAA). The CCC also recommended that Queensland Police draw up a formal charter for its Daily Assessment Committee (now the Complaints Assessment Committee). The CCC will follow up to ensure that policies and procedures are updated to reflect the processes needed to comply with the CC Act.

#### 2 – Application of the reasonable suspicion test

When Queensland Police receives an allegation it is not their role initially to determine whether the allegation is proved or not. The assessing officer should only decide if the evidence readily available to them is sufficient for a reasonable person to suspect corrupt conduct. The audit found that, in 10 per cent of the matters considered, the reasonable suspicion test had not been applied correctly. Some assessing officers were going too far in dealing with the complaints by determining whether the allegations were proved or not.

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<sup>1</sup> Noting the delegation to Queensland Police’s Deputy Commissioners of all powers, functions and duties of the Commissioner pursuant to section 4.10 of the *Police Service Administration Act 1990*, and also the delegation of the notifying obligation under the CC Act to the Assistant Commissioner, Ethical Standards Command.

It is important to note here that the CCC is not suggesting that the incorrect application of the reasonable suspicion test in the matters referred to above resulted in corrupt conduct or police misconduct ultimately not being properly dealt with. It meant, however, that the CCC was not notified of the matters, as required, and was not able to properly exercise its oversight and monitoring function in relation to the way Queensland Police dealt with the matters, potentially compromising transparency.

The CCC recommends that Queensland Police provide assessing officers with adequately documented guidance on assessing initial complaints and their obligations to notify the CCC.

### **3 – Improve the recording of information in the complaints management system**

The audit identified issues in the way Queensland Police records complaint information into the complaints management system. Allegations were not always recorded correctly based on the complaint information reported to them, the characterisation of allegations was incorrect, or the Assessment Committee's decisions to take no further action on matters (e.g. the justification for the decision) were not documented sufficiently in the complaints management system.

Queensland Police was given an opportunity to comment on the findings, and provided valuable feedback on their current processes and some proposed changes.

Our recommendations will, if supported, further improve the handling of complaints by Queensland Police officers, reduce the risk of under-reporting of matters and will overall improve public confidence in how Queensland Police handle complaints against their officers and staff members.

The CCC will continue to overview the implementation of the recommendations made in this report and we intend to carry out a follow-up audit within the next two years.

## Introduction

The CC Act recognises the responsibility of an agency's public official<sup>2</sup> to set and maintain proper standards of conduct for their staff and, by so doing, maintain public confidence in their agency. The CCC has a lead role in helping agencies to deal effectively and appropriately with corruption.

Each financial year the CCC conducts a program of audits to examine how agencies have responded to particular types of complaints and how robust their complaints management and corruption prevention frameworks are.

In 2017–18, the CCC conducted an audit into how effectively the Queensland Police Service had assessed complaints of corruption.

## Reasons for doing this audit

New provisions of the CC Act came into force on 1 July 2014 and introduced changes to complaints assessment and responsibilities. Significantly, the changes require the Queensland Police Commissioner (as the 'public official' for the purposes of sections 37, 38, 40 and 48A<sup>3</sup>) to:

- Assess complaints against the definition of corrupt conduct instead of official misconduct.<sup>4</sup>
- Notify the CCC of a matter where the Commissioner has formed a reasonable suspicion of corrupt conduct. This differs from the previous threshold where Queensland Police notified the former Crime and Misconduct Commission when they had a suspicion of official misconduct.

**Note:** the Commissioner must also assess complaints against the definition of police misconduct, and notify the CCC if he reasonably suspects that a complaint involves police misconduct.

The amendments to the CC Act were implemented to ensure that the CCC focuses its corruption function on more serious cases and cases of systemic corruption within an agency.

Queensland Police receives complaints about the conduct of its police officers and staff members from within the Service itself (that is, from other officers or staff members), members of the public or from other sources. Queensland Police is obligated to notify the CCC of corrupt conduct and police misconduct, subject to directions issued pursuant to section 40 of the CC Act.<sup>5</sup> The directions issued describe the kinds of complaints about which the Queensland Police Commissioner must notify, or need not notify, the CCC. This includes how and when the Commissioner must notify the CCC of complaints made under sections 37 and 38 of the CC Act.

From 1 November 2016, in cooperation with the CCC, a new complaint assessment process was implemented at Queensland Police to improve the handling of complaints received by them.<sup>6</sup> In addition, the changes in the assessment process were implemented to assist in driving legislative reforms to the police discipline system. During the pilot period of the new complaint assessment process (November 2016 until July 2017) the section 40 directions were temporarily suspended. The consequence of this was that all complaints involving a reasonable suspicion of corrupt conduct and police misconduct had to be notified to the CCC.

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2 A public official is defined in Schedule 2 of the CC Act.

3 Noting the delegation to Queensland Police's Deputy Commissioners of all powers, functions and duties of the Commissioner pursuant to section 4.10 of the PSAA, and also the delegation of the notifying obligation under the CC Act to the Assistant Commissioner, Ethical Standards Command.

4 Official misconduct is conduct that could, if proved, be: a) a criminal offence, or b) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment. See section 15 of the superseded *Crime and Misconduct Act 2001*.

5 The CCC has re-issued a new direction in August 2017, under section 40 of the CC Act, to Queensland Police.

6 The new process is the Joint Assessment and Moderation Committee (JAMC), comprised of the CCC and Queensland Police. It discusses all matters involving police that have been assessed as raising a reasonable suspicion of corrupt conduct or police misconduct, and determines how they should be progressed. The audit identified that some matters were, incorrectly, not being assessed as raising a reasonable suspicion and were therefore not being notified to the CCC for assessment and referral to JAMC as they should have been.

In the case of complaints received by Queensland Police, if they are incorrectly assessed as not raising a reasonable suspicion of corruption for notification to the CCC, then this may result in a loss of public confidence in the complaints process. For these reasons, the CCC decided to conduct this audit to ensure Queensland Police was complying with their obligations under the CC Act.

## Focus of the audit

This audit evaluated if Queensland Police had effectively assessed complaints of suspected corruption, specifically matters where assessing officers recorded that allegations did not reasonably raise a suspicion that corrupt conduct or police misconduct had occurred.

We examined if Queensland Police had:

- sound policy, procedures and processes to guide and inform the assessment of complaints, with a specific focus on the formation of a view as to whether or not there was a reasonable suspicion of corrupt conduct or police misconduct to enliven the notifying obligation
- appropriately assessed matters as not raising a reasonable suspicion of corrupt conduct or police misconduct. The audit considered a total of 143 complaints between 1 November 2016 and 1 August 2017 where Queensland Police did not reasonably suspect corruption. Of the 143 complaints considered, 115 matters (80%) were audited by the CCC.

The CCC's *Corruption in focus* guide, specifically Chapters 1 and 2, was the standard against which the CCC measured the Queensland Police's assessment work and decisions. The guide has been designed to be used throughout the public sector and provide practical advice, as follows:

- Chapter 1 describes what corrupt conduct is, and what the CCC's role is in relation to it. It differentiates between corrupt conduct and other misconduct, and provides scenarios to help agencies do the same.
- Chapter 2 describes the agencies' obligations in relation to corrupt conduct. It explains the concept of "reasonable suspicion", shows how the four elements of corrupt conduct fit together, and takes them through how, when and what to notify the CCC.

Compliance with the *Corruption in focus* guide provided the CCC with the basis for measuring the capacity of Queensland Police to effectively assess complaints of corruption.

## Assessing complaints about corruption

### What is corruption?

Corruption is defined in the CC Act as corrupt conduct<sup>7</sup> or police misconduct.<sup>8</sup>

### Corrupt conduct

Corrupt conduct is conduct by any person that meets the four elements stipulated in section 15 of the CC Act, as described below.

- a) **Effect of the conduct:** adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of an agency; or an individual person holding an appointment in the agency; and
- b) **Result of the conduct:** results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned above in a way that—
  - is not honest or is not impartial; or

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<sup>7</sup> On 9 November 2018, amendments to the CC Act were passed. The definition of corrupt conduct is changing, but not the notification obligation related to reasonable suspicion. The new definition of corrupt conduct is expected to come into effect in early 2019.

<sup>8</sup> Schedule 2; CC Act.

- involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
  - involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
- c) **Benefit or detriment arising from the conduct:** is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and
- d) **Criminal offence or disciplinary breach:** would, if proved, be a criminal offence; or a dismissible disciplinary breach.

The following is an example of a conduct involving misuse of information, and the elements that make it corrupt conduct.

Conduct	Elements that make it corrupt conduct
A Queensland police officer, who was seeking to support a friend involved in court proceedings about a child, accessed confidential information about the friend's ex-partner's criminal history and other personal information. The officer provided that information to his friend. The confidential information was accessed through information systems only available to him through his work. His intention was to help the friend demonstrate the ex-partner's lack of suitability or capacity to care for the child.	<ol style="list-style-type: none"> <li>1. Adversely affects the performance of Queensland Police through breach of privacy obligations.</li> <li>2. Involves a misuse of information.</li> <li>3. Is engaged in the activity for the benefit of the officer's friend.</li> <li>4. Is a criminal offence (i.e. section 408E(2) – Computer hacking and misuse – of the Criminal Code).</li> </ol>

Corrupt conduct can be engaged in by any person in the Queensland Police, such as:

- an officer
- a staff member
- a recruit
- a volunteer
- a contractor/consultant.

### Police misconduct

Police misconduct only relates to sworn officers. Any conduct of unsworn officers must reach the threshold of corrupt conduct for the CCC to have jurisdiction.

Police misconduct means conduct of a Queensland police officer that:

- is disgraceful, improper or unbecoming a police officer, or
- shows unfitness to be or continue as a police officer, or
- does not meet the standard of conduct the community reasonably expects of a police officer.<sup>9</sup>

The following is an example of a case involving police misconduct.

#### Example of police misconduct

The complainant stated that she was arrested for a stealing offence. While seated in the back of a police vehicle and being driven to the watch-house, a vehicle collided with the police vehicle and continued without stopping. Police commenced a pursuit of the vehicle, with the driver of the vehicle stopping about three sets of traffic lights from the accident. After the pursuit the complainant stated that she was not offered any medical assistance or asked if she was alright.

There are multiple allegations in the above scenario. All of the allegations are police misconduct. One example is that the officers failed to provide care to the complainant after the police vehicle in which she was being transported was involved in a motor vehicle accident.

<sup>9</sup> Misconduct is also defined in the *Police Service Administration Act 1990*, section 1.4.

## What is a reasonable suspicion?

For a suspicion to be “reasonable”, there needs to be more than bare or idle speculation (*George v Rockett* (1990) 170 CLR 104). In essence, there must be some evidence sufficient for a reasonable person to suspect corrupt conduct or police misconduct.

The assessing officer does not have to *believe* that the alleged conduct is corrupt conduct or police misconduct, or that the conduct has actually occurred. Reasonable suspicion must be based on an objective assessment of the information at hand. It is not sufficient for an officer to subjectively decide that someone is or is not capable of the alleged conduct.

The assessing officer also does not have to have sufficient evidence to *prove* the corrupt conduct (or police misconduct) allegation, but the available facts, evidence or other information must suggest that the allegation, if proven, would amount to corrupt conduct or police misconduct. The suspicion may be based on hearsay and other inadmissible material that nevertheless is relevant (*George v Rockett*).

### Examples of the application of a reasonable suspicion test

The following two case studies illustrate the concept of a reasonable suspicion.

The first case study demonstrates how a complaint received by Queensland Police gives rise to a reasonable suspicion of corrupt conduct. It also shows that the assessing officer conducted sufficient preliminary inquiries to establish a reasonable suspicion, before considering referring the complaint to the CCC.

#### Case study 1 – Sufficient evidence for a reasonable suspicion

An anonymous person filed a complaint with regards to a Queensland police officer. The complainant believed the police officer had been accessing police resources regarding a number of third parties for purposes other than for official performance of duties.

The assessing officer obtained information system audit logs and noted instances where the police officer conducted a search on Mr Y and Ms Z (i.e. third parties).

Therefore, there is sufficient evidence for a reasonable suspicion of the police officer accessing information about third parties (specifically, Mr Y and Ms Z), regardless of whether their access appeared to have a valid connection to operational duties.

The second case study is an example of the “reasonable suspicion” test being incorrectly applied. It shows that the assessing officer’s actions in reviewing digital footage and contacting witnesses went beyond the purpose of forming a reasonable suspicion of corrupt conduct, and the officer actually “dealt with” the complaint rather than assessing it for notification to the CCC.

#### Case study 2 – An incorrect application of a reasonable suspicion test

The complainant alleged that a Queensland police officer used handcuffs to intentionally scratch his right wrist and kneed him on the left side of the face when arresting him.

The assessing officer reviewed the job log report which showed police officers attempted to locate the individual who was wanted on a warrant. The individual ran from the address and through neighbouring yards and streets, with several officers involved in a foot chase. As Officer X was effecting the arrest, the individual lay face down on the ground and was assisted by another police officer (Officer Y). He was then taken to the watch-house.

The assessing officer also reviewed Officer X’s body worn camera (BWC) footage. The angle of the footage was such that it did not show any contact between the knee of Officer X and the face of the individual.

Witnesses were also contacted by the assessing officer to gain their versions of the event.

It was concluded that the BWC footage and witnesses’ accounts showed that the arrest of the individual was undertaken in a dynamic policing context. It appeared that any injury of the individual occurred in this context, and was likely accidental and unintentional. The inquiries found that the use of force was proportionate to the situation. Therefore, Queensland Police considered the complaint did not reasonably raise a suspicion of corrupt conduct. The complaint was resolved as “No Further Action” and not notified to the CCC.

When Queensland Police receives an allegation it is not their role to determine whether the allegation is proved or not. The assessing officer should only decide if the evidence readily available to them is sufficient for a reasonable person to suspect corrupt conduct. They should not undergo an evidence gathering exercise, such as interviewing subject officers and witnesses.

It is, however, appropriate to look at internal records available to the assessing officer such as job logs. In the second case study, the assessing officer should have decided, based on the complaint of excessive use of force and the evidence the complainant was arrested (i.e. the job log report), that there was sufficient evidence for a reasonable person to suspect corrupt conduct.

### **If no reasonable suspicion formed**

Queensland Police does not have to notify the CCC if they do not hold a reasonable suspicion, or the particulars are such that they are insufficient to raise a reasonable suspicion of corruption.

## **Findings from the audit**

The CCC found no evidence of Queensland Police officers assessing matters where they have a conflict. We also found that officers assessed 103 of the 115 audited matters (90%) appropriately - the allegations did not reasonably raise a suspicion of corruption.

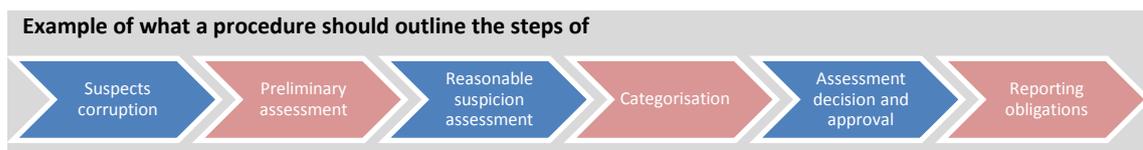
The audit identified three areas for improvement, as detailed below.

### **Area for improvement 1 – Update policy and develop procedures and a charter for complaints assessment**

Queensland Police’s policies, procedures and manuals governing the assessment of complaints involving suspected corruption were sometimes unclear and not fully in compliance with the CC Act. It appeared that the policies and procedures were primarily developed to meet Queensland Police’s legislative obligations under the PSAA. Consequently, the policy for complaint management did not cover Queensland Police’s legislative obligations under the CC Act effectively.

Further, the procedures were not sufficiently thorough to ensure that complaints assessment processes were followed effectively and appropriately.

The diagram below is an example of key steps in complaints assessment.



Queensland Police has a Complaints Assessment Committee, a group of skilled and experienced officers within the Ethical Standards Command whose role is to expeditiously assess each complaint about corruption coming to its attention. The Committee also has a role to form a view as to whether they reasonably suspect that a complaint involves, or may involve, corrupt conduct or police misconduct.

The Committee does not have a charter that describes its roles and responsibilities. A charter is a formal document that provides a framework for performing and promoting a broad range of value-added complaints management activities. It also fosters improved processes and operations of the Committee. An example of information to include in a charter is provided below.

#### **Example – Information to include in a charter**

- the committee’s purpose
- the authority and functions of the committee
- the primary objectives of the committee
- membership of the committee
- conduct of meetings
- evaluation of performance of the committee
- ethical practices e.g. members are to act independently in making assessments or drawing conclusions

Better documentation of policies, procedures and processes can not only improve the effectiveness and efficiency of regulatory compliance efforts, but can also unlock opportunities to improve complaints assessment performance.

### **Recommendations**

- a) Enhance the policy to comply with legislative obligations under the CC Act (specifically, sections 15, 37 and 38).
- b) Develop procedures that articulate the required steps in assessing suspected corruption, including the legal concept of a reasonable suspicion, and the roles and responsibilities of all persons involved.
- c) Develop a charter for the Complaints Assessment Committee, defining the activity's purpose, authority, responsibility and processes.
- d) Communicate the updated policies and procedures to all relevant officers to ensure that complaints are assessed effectively and matters notified to the CCC as appropriate.

**Note:** Queensland Police disputed these findings. They advised the CCC that their current complaint assessment standing orders do reflect the process for complaint assessment and address the role of the Daily Assessment Committee (now the Complaints Assessment Committee). The policy also references reporting obligations under the PSAA and the CC Act. These policy and procedures were not provided to the CCC during the audit for review.

As part of the discipline reform process the Stakeholders Consultation Group (consisting of the CCC, both Police Unions and Queensland Police) have agreed to the draft guidelines governing the policy. The CCC is currently part of Queensland Police's review of the PSAA and corresponding policies and procedures. These recommendations continue to form part of the discussions between all of the internal stakeholders.

### **Area for improvement 2 – Application of the reasonable suspicion test**

Having regard to all the information available to the CCC, the audit found that in 10 per cent of the matters considered, the reasonable suspicion test had not been applied correctly.

We found that assessing officers were determining whether the allegations were proved or not by going too far in dealing with the complaints. The officers were gathering CCTV footage from external businesses and versions of events from witnesses and subject members, which are investigative steps.

The following three case studies are some of the cases we reviewed where the complaint information and other relevant information contained in Queensland Police's records gave rise to a reasonable suspicion of corrupt conduct or police misconduct. Under section 37 or 38 of the CC Act these matters should have been notified to the CCC.

The first case study shows that Queensland Police were considering evidence that was not within their internal records and, therefore, were determining whether the allegation was capable of being proven.

#### **Case study 1 – Considering relevant information outside the Police Service's holdings**

The complainant alleged that three Queensland police officers used excessive force while arresting him for public nuisance. The complainant stated that he was still suffering from back pain resulting from the arrest.

The Queensland Police's assessing officer concluded that inquiries revealed there was insufficient evidence to prove the allegation involving excessive use of force. The inquiries involved the following:

- Body worn camera footage
- CCTV footage from Council
- CCTV footage from within a business entity
- Custody Reports for the arrest of the complainant.

Queensland Police considered the use of force by police officers was lawful and reasonable.

**CCC's assessment:** The CCTV from Council and a business entity were inquiries outside Queensland Police's records and not in the direct knowledge of the assessing officer.

The arrest of the complainant, as noted in the Custody Reports and BWC footage, was sufficient evidence to raise a reasonable suspicion of corrupt conduct. The matter should have been notified to the CCC.

The second case study demonstrates where Queensland Police gathered a version of events from attending officers and a witness to conclude that the conduct of officers was lawful and reasonable.

#### **Case study 2 – Obtaining version of events from attending police officers and a witness**

The complainant alleged that Queensland police officers used excessive force during his arrest. The complainant stated that the arrest resulted in him sustaining a sore shoulder, bloody nose and marks from the handcuffs. Upon return to the watch-house the complainant requested medical treatment and was transported to hospital. Photos were supplied.

The assessing officer obtained the police officers' and witness' versions in relation to the events. The witness stated that the action of the police officers was proportionate to the level of violence that the complainant was using. The witness also stated that the complainant was the one that initially threatened police at which stage he was advised he was arrested. The witness stated that the complainant resisted police heavily and as a result all parties fell to the ground on top of each other. The witness had no concerns for any actions of the police and the manner in which they dealt with the complainant.

The assessing officer had not been able to contact the complainant for his version. It was concluded that the police officers' conduct was lawful and reasonable in the circumstances.

**CCC's assessment:** The preliminary inquiries conducted by the assessing officer included obtaining versions of events from the attending police officers and a witness. This goes beyond appropriate preliminary inquiries. The matter should have been notified to the CCC.

The third case study shows where Queensland Police noted there was a police liaison officer employed in the relevant area complained about, but determined not to pursue further inquiries, and relied on the complaint information to form a view that there was no misconduct on the part of the police officer being complained about.

#### **Case study 3 – Complaint information and the existence of the employed police officer**

The complainant alleged that a Queensland police officer had been tipping off a member of his family who was the local cannabis dealer for over 20 years. The name of the police officer was provided by the complainant.

The Queensland Police's Assessment Committee determined to take no further action (NFA) as there was no misconduct on the part of the police officer being complained about. The initial inquiries by the assessing officer showed that there were four police officers with the family name provided by the complainant. This included a police liaison officer in the relevant area complained about.

**CCC's assessment:** The complainant alleged that a police officer in the relevant area was tipping off family members about local drug raids. A preliminary inquiry by Queensland Police showed that there was a police liaison officer employed at the area at the time of the complaint who matched the information provided by the complainant. Queensland Police did not make further inquiries in relation to any actions that the possible police liaison officer had taken that would raise a reasonable suspicion of corrupt conduct.

The Queensland Police's Assessment Committee's NFA decision was not supported by their justification/reasons, only that it would be an unjustifiable use of resources. We hold the view that the complaint information and the existence of the employed police liaison officer in the area being complained about constituted sufficient evidence to raise a reasonable suspicion of corrupt conduct. This matter should have been notified to the CCC.

While we acknowledge that Queensland Police may be required to conduct further inquiries in order to form a suspicion to the necessary threshold, such inquiries should not continue past what is required to raise a reasonable suspicion that conduct has occurred that would, if proved, be corrupt conduct or police misconduct. They should only decide if the evidence readily available to them is sufficient for a reasonable person to suspect corrupt conduct or police misconduct.

The following is an example of how a complaint should be assessed if raising a reasonable suspicion of corruption.

**Example – A complaint by a complainant that he was assaulted by a police officer during his arrest**

The complaint by a complainant that he was assaulted by a police officer during his arrest is an allegation of corrupt conduct under section 15 of the CC Act. The corrupt conduct matter is then assessed by the Assessment Committee for “reasonable suspicion”. Queensland Police is to simply check QPRIME<sup>10</sup> / log books to confirm if the incident occurred (i.e. on the day the assault alleged to have occurred the complainant did actually interact with police) and officers were present (i.e. timesheets). If those checks verify he was arrested or involved with the officers at the time alleged, then there is a reasonable suspicion of corrupt conduct, and Queensland Police is required to notify the CCC.

Unnecessary inquiries made by Queensland Police before the matter is deemed as “no further action” – particularly the interviewing of subject members or relevant witnesses, and obtaining and viewing businesses’ CCTV footage – may undermine, hamper or defeat an appropriate approach in dealing with the complaint.

The CCC is of the view that, where the initial facts support a reasonable suspicion, then a matter should be notified to the CCC. In the cases considered in the audit the evidence indicated that there was a reasonable suspicion of corruption but police officers made further inquiries that resulted in the “NFA” determination.

As the reasonable suspicion test is a subjective test, it was important that the CCC exercise its monitoring function by auditing the way Queensland Police dealt with allegations of corruption in relation to a particular complaint or a class of complaint. The main objective of the audit was to ensure that the reasonable suspicion test had been applied uniformly and correctly. The CCC does not suggest that the ultimate decision by the Queensland Police to not deal with the matters was incorrect.

The notification of all matters to the CCC where there is a reasonable suspicion of corrupt conduct or police misconduct ensures transparency and contributes to public confidence in relation to the CCC’s oversight of Queensland Police. It also ensures that the CCC has a full picture of complaints being made about police to enable an analysis of trends and more focused corruption prevention activity.

**Recommendations**

- a) Develop and provide assessing officers with adequately documented guidance on assessing initial complaints, using inquiries within their direct knowledge, and forming a reasonable suspicion of corrupt conduct or police misconduct, to assess whether notifying obligations to the CCC are enlivened.
- b) Remind assessing officers that inquiries are limited to information contained within Queensland Police’s records.
- c) Update the complaints management system with relevant information from this audit review including the correct conduct category for the matters.

**Note:** In responding to this audit, Queensland Police expressed the view that three matters were not recorded to an optimal standard, and disagreed that the reasonable suspicion test was met in a total of 10 of the 12 matters identified by the CCC.

Queensland Police indicated that they are committed to maintaining a transparent and efficient decision-making process for complaints against police.

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<sup>10</sup> QPRIME is the Queensland Police Records and Information Management Exchange. It records official police crime reports covering road crash, crime (reported crime victims, reported crime offenders, prosecutions of offenders and offender criminal histories), missing persons and domestic violence applications/orders.

### **Area for improvement 3 – Improve the recording of information in the complaints management system**

The audit identified issues in the way Queensland Police records complaint information into the complaints management system, such as:

- allegations were not recorded correctly based on the complaint information reported to them
- the characterisation of allegations was incorrect
- subject members were not identified as possible subject members, or the identification was incorrect
- the Assessment Committee's decisions to take no further action on matters (e.g. the justification for the decisions) were not documented sufficiently in the complaints management system
- a complainant was not provided with an outcome notice about the Queensland Police's decision to take no further action on the complaint.

Sufficiency of information recorded in the complaints management system and reasons for decisions made by the assessing officers are important because:

- it helps a decision-maker to assess the complaint information efficiently and effectively, and to notify the CCC as soon as he/she reasonably suspects corruption
- the introduction of the new section 40A requirement to prepare and retain complete and accurate records of any decision not to notify the CCC of an allegation of corruption.<sup>11</sup>

#### ***Recommendations***

- a) Update the complaints management system with information and decisions for matters noted by the CCC audit.
- b) Re-assess the allegations to determine the most appropriate way to deal with the allegations.
- c) Provide complainants with outcome notices.
- d) Remind recording and assessing officers to ensure all relevant information is stored in the complaints management system (including in the Summary Reports).

**Note:** During consultation with Queensland Police on this area for improvement, they acknowledged the issues in the way officers recorded complaints information in the complaints management system, and that complainants should be advised of outcomes. Queensland Police has also advised that the recording of decisions from the Daily/Complaints Assessment Committee was addressed early in 2018 with record taking improvements, rationale for decisions and information provided by the Risk Analysis Intelligence Unit (RAIU).

## **Conclusion**

On completion of the CCC's audit, Queensland Police was given an opportunity to comment on the findings. They provided valuable feedback to the CCC on their current processes and their proposed changes, expressing their confidence in the examination of complaints currently being undertaken by the Ethical Standards Command's Complaints Assessment Committee.

The CCC's audit identified areas for improvement to complaints assessment procedures and practices. The recommendations we have made will, if supported, further improve the handling of complaints by Queensland Police. Any improvements to the complaints assessment process will reduce the risk of under-reporting of matters and will overall improve public confidence in how Queensland Police handle complaints against their officers. Queensland Police have advised the CCC that they are committed to maintaining a transparent and efficient decision-making process for complaints against police.

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<sup>11</sup> Amendments to the CC Act were passed on 9 November 2018.

The CCC will continue to overview the implementation of the recommendations made in this report and we intend to carry out a follow up audit within the next two years.

#### **CCC'S MESSAGE**

If agencies want to obtain and maintain public confidence, they must ensure that complaints of corruption are assessed appropriately and expeditiously notified to the CCC, pursuant to the provisions of the CC Act.

While the CC Act recognises that action to deal with corruption in an agency should generally happen within that unit of public administration, it is essential that public officials and CCC liaison officers understand that the CC Act obliges the agency to notify all cases of suspected corrupt conduct and, in the case of the Queensland Police Service, police misconduct to the CCC in the first instance to ensure that all corruption is dealt with consistently. This will then allow the CCC to focus our finite resources on more serious or systemic cases of corruption.



## Crime and Corruption Commission

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### More information

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