

Integrity in the Queensland Police Service: Implementation and Impact of the Fitzgerald Inquiry Reforms

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FOREWORD

On 27 July 1987, the Commission of Inquiry Into Possible Illegal Activities and Associated Police Misconduct ('the Fitzgerald Inquiry') held its first public hearings. The Inquiry brought the problem of police misconduct and corruption into stark public focus and resulted in wide-ranging reforms being made to the Queensland Police Service (QPS) and the institutional environment in which it operated.

Release of this report, a decade after the Fitzgerald Inquiry commenced and eight years since it reported, provides an ideal opportunity to take stock of the progress which has been made in reforming the police complaints and discipline process in Queensland and raising the level of police integrity. The report also fulfils the CJC's statutory responsibility under the *Criminal Justice Act 1989* (s. 23(k)) to report to the Parliament on the implementation of the Fitzgerald Inquiry recommendations relating to the administration of criminal justice and the police service.

This report is not a sensational document designed to capture headlines; its function is to provide a sober and balanced assessment of the implementation and impact of the Fitzgerald Inquiry reforms. The CJC hopes that the release of this report will help inform public debate about police reform and the future role and functions of the CJC. It is essential that the formulation of public policy about these crucial issues is based on comprehensive, careful and objective research, rather than being driven by partisan political concerns.

The report shows that much positive change has been achieved, but also identifies a range of areas where further action is required to ensure that Queensland police conduct themselves according to the highest possible standards. The CJC will continue to work with the QPS to address these issues. As the report observes, it is very important to guard against complacency; the gains of the last few years can be quickly eroded if there is a lessening of commitment to the process of police reform, or if the framework of external oversight is weakened or undermined.

F J CLAIR
Chairperson

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ABBREVIATIONS

AIC: Australian Institute of Criminology

Carter Inquiry: Criminal Justice Commission Inquiry into Police and Drugs

CJC: Criminal Justice Commission

Fitzgerald Inquiry: Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct

Fitzgerald Inquiry report: *Report of a Commission of Inquiry Pursuant to Orders in Council*

FYC: First Year Constable

HRM: Human Resource Management

PROVE: Police Recruit Operational Vocational Education

PSU: Professional Standards Unit

QPE: Query Personnel System

QPS: Queensland Police Service

QPS Review: Queensland Police Service Review Committee

The Act: *Criminal Justice Act 1989*

EXECUTIVE SUMMARY

CHAPTER 1: INTRODUCTION

Aims and focus of report

This report is concerned with those recommendations of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (referred to as ‘Fitzgerald Inquiry’) which were directed towards improving the police complaints and discipline process and enhancing police integrity in Queensland. Key questions addressed are:

To what extent have the reforms proposed by the Fitzgerald Inquiry been implemented?

What impact have these reforms had on:

- * the efficiency and effectiveness of processes for dealing with complaints against police and public confidence in those processes?
- * the public standing of the QPS generally?
- * standards of police behaviour and the incidence of corrupt conduct?
- * police attitudes towards reporting misconduct by other officers?

How much scope is there for further enhancing police integrity in Queensland and what actions should the QPS and CJC be taking to bring about these improvements?

Publication of this report fulfils the CJC’s statutory obligation under section 23(k) of the *Criminal Justice Act 1989* to report:

with a view to advising the Legislative Assembly, on the implementation of the recommendations in the Report of the Commission of Inquiry [the Fitzgerald Inquiry] relating to the administration of criminal justice, and to the Police Service.

Another important purpose of the report is to provide a ‘baseline’ to facilitate future assessments of the progress and impact of reform in the QPS. One of the obstacles encountered in preparing this report was the lack of data about the previous complaints and discipline procedures, their operation and impact. Now that all relevant available information has been drawn together in a single document it should be easier to monitor future changes and report on these as necessary.

Finally, the report is intended not only to document progress to date, but also to outline a way forward. Reform must be seen as a continuing process, not as a one-off exercise. To this end, the report identifies a range of issues which need to be addressed by the QPS, in conjunction with the CJC, if the gains of the last few years are to be consolidated and public confidence in police maintained.

The Fitzgerald Inquiry's findings

Areas of particular concern identified by the Fitzgerald Inquiry in relation to the QPS were:

- inadequate external scrutiny and oversight of the investigation of misconduct
- the existence of a strong 'code of silence' among police
- inappropriate rules and procedures for reporting and investigating misconduct
- closed recruitment policies which had promoted insularity and a resistance to external scrutiny of practices
- poor management and supervision.

The Inquiry recommended a comprehensive package of reforms aimed at restructuring the QPS and the environment in which it operated. These reforms fell into two broad categories:

- those aimed at improving the processing, investigation and monitoring of complaints (such as through the establishment of the Official Misconduct Division of the CJC)
- those directed at changing the organisational climate of the QPS so as to promote proper conduct and reduce the tolerance of misconduct.

Data sources and methodology

In order to assess the implementation and impact of these and associated reforms, the report draws upon four main data sources:

- CJC and QPS data on complaints against police and CJC complaints files
- surveys of police
- interviews with experienced serving officers
- public attitude surveys.

Although each data source has limitations, collectively they can be used to build up an overall picture. It may not be possible to be precise about the extent to which the Fitzgerald Inquiry reforms have led to changes in police attitudes and behaviour or increased public confidence in the QPS and the complaints system. However, in most cases, the data are sufficiently comprehensive — and robust — to support defensible conclusions about the *general direction* of the changes which have occurred.

Chapter 2: Reforming the complaints and disciplinary system

Chapter 2 focuses on recommendations of the Fitzgerald Inquiry relating to police complaints and discipline processes. Most of the Inquiry recommendations relating to these processes have been implemented wholly, or with some modification. Key changes introduced as a result of the Inquiry have involved:

- the creation of the CJC — an independent civilian-controlled organisation with substantial powers and resources to investigate suspected misconduct by police
- re-writing of the Police Rules
- implementation of some measures to make the disciplinary process less adversarial
- strengthening of the statutory obligation on police to report suspected misconduct by fellow officers and greater statutory protection of officers who report misconduct.

Other important procedural and structural changes which have occurred in this area since the completion of the Fitzgerald Inquiry have been:

- the implementation of informal resolution as an alternative method for dealing with minor complaints against police
- creation of two new organisational units — the Professional Standards Unit (PSU) and the Commissioner's Inspectorate — to oversee the disciplinary process and promote compliance with organisational policies and procedures.

A significant recent development is the proposed creation of an Ethical Standards Command within the QPS. This new Command, which will merge the functions of the PSU and the Inspectorate, is intended to facilitate a more proactive approach to the prevention and detection of police misconduct.

Chapter 3: The organisational context

Chapter 3 examines the progress made by the QPS towards creating an organisational climate more conducive to ethical conduct. The chapter also identifies areas where further action is required. Key findings are as follows:

There have been substantial changes to the gender, educational and age profile of recruit intakes, broadly in the directions recommended by the Fitzgerald Inquiry. However, there are still several barriers to the recruitment and retention of female police officers. In addition, as reported by the 1996 Queensland Police Service Review, current lateral recruitment policies aimed at former or serving police from other states are diluting the gains achieved in other areas.

Although the QPS has made some progress in both lateral recruitment and civilianisation, policies in both areas have been targeted principally at lower ranks or administrative or clerical positions. There has been only limited opening up of senior QPS positions to civilians or former officers from other police services.

The importance of an integrated approach to achieving ethical decision-making within the QPS has been recognised in the Project Honour report. Ethics education has been incorporated into the Police Recruit Operational Vocational Education (PROVE) program, Constable Development and Professional Development programs, but the delivery of training in other areas is still inconsistent and uncoordinated. Key areas where further attention needs to be given to ethics education are the First Year Constable program, including training of Field Training Officers, and training for detectives.

The QPS has taken some steps towards utilising more proactive management strategies to deal with complaints and discipline issues. For example: the PSU has developed procedures to identify officers with lengthy complaint histories; processes

are now in place to ensure that minor errors are dealt with managerially, rather than being diverted to the complaints system; complaints investigators are encouraged to include suggestions for remedial action in their reports; and, a risk management policy has been introduced (although implementation has been hampered by a lack of training).

Until recently, the middle management ranks of Sergeant, Senior Sergeant and Inspector received little or no training in either ethics or management. Some officers who are disgruntled because of perceived blocking of their promotional paths continue to have significant negative input into the operational training and supervision of recruits. The recently instituted Professional Development Program will address deficiencies at this level in the longer term, but there is no requirement on officers currently holding middle management positions to undergo this training, unless they are seeking further promotion.

The actual task environment of operational police remains similar in some significant respects to that criticised by the Fitzgerald Inquiry as contributing to a closed organisational culture. Relatively little concrete progress has yet been made in implementing alternative models of policing in the QPS, particularly community policing, although this situation may change once the relevant recommendations of the Queensland Police Service Review have been implemented.

Chapter 4: Public confidence in the QPS and the complaints investigation process

One of the objectives of the Fitzgerald Inquiry was to restore public confidence in the QPS and, more specifically, in the police complaints investigation process. The Inquiry reported that the failure by successive governments to face the problem of police misconduct had undermined the community's confidence in public institutions (1989, p. 30).

Chapter 4 uses available survey data to indicate any trends in public confidence in the QPS, and to compare the Queensland situation with that in other Australian states.

It is not possible to quantify the impact of the Fitzgerald Inquiry reforms on public confidence in the police, given that no comparable pre- and post-Inquiry surveys have been conducted, but the limited data available support the following conclusions:

In the pre-Inquiry period, Queensland police generally had a less favourable public image than their counterparts in other Australian jurisdictions.

Recent surveys show that the Queensland public is generally supportive of the police. Surveys of the general public in the period 1991–1995 undertaken by the CJC indicate that most members of the public see police as honest and are satisfied with the service provided by the police. The surveys also show a marked improvement in the public perception of the image of the QPS between 1991 and 1995 (when the most recent survey was conducted).

According to a recent national survey, conducted in 1996 by the Australian Bureau of Statistics, in some respects Queensland police had a less favourable public image than police in the rest of Australia, but the differences were small and restricted to a few survey items.

In interpreting these findings it is important to be aware that there has always been a high 'base' level of public support for police in Australia, and therefore only limited scope for initiatives such as the Fitzgerald Inquiry to 'make a difference'. In addition, public attitudes towards police are shaped by a range of socio-demographic and personal factors; once attitudes are formed, they are likely to be resistant to change, especially in the shorter term.

Comparable pre- and post-Fitzgerald Inquiry measures of public attitudes towards the police complaints investigation process also are not available. However, the Inquiry reported that public confidence in the pre-Inquiry process was low. By contrast, a 1995 survey undertaken by the CJC found a high level of agreement that complaints against the police should be investigated by an independent body, not by the police. The survey also found that most respondents saw the CJC as independent from the police and as having had at least some success in improving police conduct.

According to this survey, and a 1996 CJC survey of defendants appearing in Queensland Magistrates Courts, many people are still reluctant to make complaints against police. However, to the extent that comparisons are possible, complaint rates in Queensland appear to compare fairly favourably with those in other jurisdictions.

Chapter 5: The processing of complaints

Chapter 5 assesses the impact of the Fitzgerald Inquiry reforms on the way in which complaints against Queensland police are processed. Specific questions addressed are:

To what extent have the reforms been responsible for an increase in recorded complaints against police?

Are complaints more likely to be substantiated now than in the past?

Is the QPS more responsive to CJC recommendations than it was to those of the Police Complaints Tribunal (the external oversight body which preceded the CJC)?

Has the process for administering sanctions against police been improved?

The key findings reported in this chapter are as follows:

The number of complaints per 1,000 police officers rose sharply following the establishment of the new complaints and discipline system recommended by the Fitzgerald Inquiry. This increase was partly due to improved processes within the QPS for recording complaints, and to enhanced public confidence in the complaints process — both of which can be attributed to the Fitzgerald Inquiry reforms. However, extraneous factors have also contributed to the growth in complaints, such as increased police–civilian contact and a possible general cultural change in relation to complaining.

For a variety of reasons, pre- and post-Fitzgerald Inquiry complaint substantiation rates are not comparable. However, the available data indicate that: (a) the substantiation rate for matters investigated by the CJC is now well above the rate achieved by the Police Complaints Tribunal; and (b) the number of charges substantiated per 1,000 officers increased significantly in the post-Fitzgerald Inquiry period. These findings indicate improved investigative effectiveness.

In most cases, the QPS acts upon CJC recommendations that disciplinary charges be brought against officers. By contrast, very few recommendations of the Police Complaints Tribunal were adopted.

It is not possible to measure the extent to which there have been changes in the way in which sanctions are administered, but the CJC continues to have some concerns regarding the adequacy and consistency of sanctions being imposed by the QPS.

Overall, these findings indicate that the implementation of the Fitzgerald Inquiry reforms has significantly enhanced the operation of the police complaints and discipline system in Queensland. However, it has been difficult to increase the likelihood of any given complaint being substantiated because of the evidentiary and legal requirements that must be satisfied. In addition, there is still scope for improvement in the way in which sanctions are administered within the QPS.

Chapter 6: Standards of behaviour in the QPS

Chapter 6 considers whether the reforms introduced in the aftermath of the Fitzgerald Inquiry have improved police discipline and reduced misconduct in the Service. Specific questions addressed are as follows:

What conclusions did the Fitzgerald Inquiry draw concerning the extent and nature of police misconduct in Queensland?

What do police themselves see as the impact of the Fitzgerald Inquiry on police attitudes and behaviour?

What do complaints data show concerning the extent and nature of police misconduct in the post-Fitzgerald Inquiry era?

Has there been a reduction in the forms of misconduct which were of particular concern to the Fitzgerald Inquiry; that is, 'verballing' and corruption?

The chapter primarily draws upon quantitative data taken from the CJC and PSU complaints databases, and qualitative data obtained from interviews with serving police officers who were recruited into the QPS prior to the commencement of the Fitzgerald Inquiry.

Interviews conducted with middle level and senior officers during 1995 indicated that interviewees generally perceived an overall improvement in the behaviour and conduct of police officers as a result of the Fitzgerald Inquiry reforms. The main changes identified by interviewees were:

- a 'cleaner' police service with greater compliance with the rules and regulations governing the conduct and behaviour of police

- less misconduct, particularly involving drinking alcohol on duty, 'verballing' and unlawful assaults on people being interviewed by police

- a greater likelihood of misconduct or improper behaviour being detected and a greater propensity for police officers to report other officers for misconduct.

Complaints data from the pre- and post-Fitzgerald Inquiry eras are not comparable. Consequently, the analysis of complaints trends deals only with the post-Fitzgerald

Inquiry period. In addition, the focus is restricted to misconduct allegations, rather than minor breach of discipline matters.

The main conclusions which can be drawn from this analysis are as follows:

Allegations of duty failure became less frequent between 1991–92 and 1995–96, which supports the conclusion that police became more professional in their dealings with the public over this period.

There was a significant increase in the number of allegations per 1,000 officers pertaining to assaults, arrests and searches, but this was most likely the result of greater police activity levels, rather than indicative of any decline in standards of behaviour. There is some evidence that the severity of alleged assaults reduced between 1990–91 and 1993–94, which indicates a possible reduction in the underlying level of serious misconduct.

There was some increase in allegations of criminal conduct, mainly in relation to allegations of stealing. This may also be explicable in terms of increased police activity levels, but more research would be required to confirm this.

A number of corruption-related allegations were made over this period, but very few of these matters were substantiated.

There was a marked drop in allegations relating to the fabrication of evidence, despite a significant increase in the number of arrests. Viewed in conjunction with the qualitative interview data, this trend is strong evidence that the underlying incidence of ‘verballing’ has diminished.

In summary, the complaints data indicate that, since the conclusion of the Fitzgerald Inquiry and the implementation of associated reforms, there has been an overall improvement in standards of police behaviour in Queensland. However, the pace of change has been uneven and there is clearly scope for more to be achieved.

As far as the specific issue of corruption in the QPS is concerned, it is difficult to draw firm conclusions from existing data sources. The weight of the available evidence is clearly that such conduct is less pervasive and occurs at lower levels than was the case in the pre-Fitzgerald Inquiry QPS, but some problem areas remain. It is extremely unlikely that corruption could ever be eliminated altogether given the size and diversity of the QPS, the opportunities available to officers to act improperly, and the difficulty of detecting and investigating police involvement in corruption. The threat can be contained but it is probably unrealistic to assume that it can be removed completely.

Chapter 7: The police code

The Fitzgerald Inquiry reported that the majority of Queensland police officers had for many years adhered to an unwritten code under which:

- loyalty to fellow officers was paramount
- it was considered impermissible to criticise fellow police, particularly to outsiders
- critical activities of police, including contact with informants, were exempt from scrutiny

police did not enforce the law against, or carry out surveillance on, other police those who breached the code would be punished and ostracised.

The Inquiry described the code as an integral element of the police culture and as ‘a critical factor in the deterioration of the Police Force’ (1989, p. 202).

Chapter 7 examines whether the influence of the police code of silence has been diminished by the implementation of the Fitzgerald Inquiry reforms. This is assessed using data from interviews with experienced officers, surveys of police about their perspectives on ethical conduct, and a statistical analysis of police-against-police complaints reported to the CJC’s Complaints Section in 1991–92 and 1994–95.

There are substantial methodological difficulties involved in measuring the present strength of ‘the code’ and in making comparisons with the pre-Fitzgerald Inquiry era, but the available evidence supports the following conclusions:

Overall, the Fitzgerald Inquiry reforms have resulted in a weakening of the police code of silence within the QPS. This is supported by evidence indicating that:

- * officers in managerial and supervisory positions have become more conscientious in discharging their obligations to initiate action against police officers suspected of misconduct
- * junior officers are still generally reluctant to formally complain against other officers, but there appears to be a greater willingness to bring suspected misconduct to the attention of more senior officers on an informal basis
- * ‘rank and file’ police now generally see the QPS as an organisation which takes a tough line on misconduct by police.

Although there has been a weakening of ‘the code’, particularly in the upper levels of the Service, there is still considerable resistance among ‘rank and file’ police to the idea that they should have to report misconduct by fellow officers, especially for those forms of misbehaviour which are seen as less serious.

Factors which have presented obstacles to bringing about more substantial cultural change at the ‘rank and file’ level include:

- * the strength of the occupational culture, which continues to exert a powerful influence over new entrants, despite the very substantial changes in the composition of recruit intakes following the Fitzgerald Inquiry
- * the organisational climate within the QPS, which is seen by rank and file officers as punitive, rather than supportive, in its approach to promoting proper conduct by police
- * the widespread perception that officers who report other police for misconduct are likely to be ostracised by their peers.

These findings indicate that while progress has undoubtedly been made in changing the undesirable elements of the police culture identified by Fitzgerald QC, there is clearly scope for more to be achieved.

Other Australian and overseas studies of police organisations have also reported that 'rank and file' police frequently take a less serious view of misconduct than do police managers or the general public, and that recruits soon soften their views on ethical issues once they commence operational police work. Similar patterns have been observed in other public and private sector organisations, especially those with para-military structures. Such studies indicate that changing the culture of any large police organisation is, of necessity, a slow and difficult process.

Chapter 8: Conclusion

Issues for the QPS

Much reform has been achieved in the area of complaints and discipline in the QPS since the Fitzgerald Inquiry report was released. However, there is still more to achieve in terms of the outcomes expected from that model. While there have been significant improvements in some aspects of police behaviour and attitudes, there has been relatively little change in other areas. It is therefore critical that the momentum of organisational reform is maintained in the QPS and that the Service and the CJC continue to develop and implement new strategies for promoting positive behavioural and attitudinal change on the part of Queensland police.

In the area of education and training, the QPS needs to ensure that:

- educational standards of recruits are at least maintained and, if possible, raised further
- the trend towards recruitment of older officers continues
- the proportion of females in recruit intakes is further increased over time and any remaining barriers to the retention and promotion of female officers are removed
- the impact of current policies relating to lateral recruitment of Constables is closely monitored, to ensure that these policies do not impact adversely on efforts to raise recruitment standards
- strict vetting procedures are in place and enforced, particularly for lateral recruits from interstate and overseas.

In relation to ethics education in particular, the QPS should:

- develop, as a matter of priority, a comprehensive, integrated approach to ethics education in all aspects of QPS training
- ensure that all officers in supervisory and management positions, and Field Training Officers, receive appropriate education in ethics and are fully aware of their obligations as supervisors to provide suitable role models to new police.

Issues which the QPS should address in the area of personnel management practices include:

ensuring that appropriate management action is taken when 'problem' individuals and work units are identified through the processes of officer and command profiling which are being developed by the QPS

reviewing existing rostering practices, with the aim of ensuring that more supervisors and experienced officers are 'on the street', especially at times when there is a greater likelihood of conflict between police and civilians

instituting regular rotation of staff, especially in 'high risk' areas, to prevent complacency from developing and to reduce opportunities for police to develop and maintain corrupt associations

providing greater organisational support for officers who are prepared to report misconduct by other officers.

The QPS should also be actively developing strategies for reducing the opportunities for police to engage in improper conduct without being detected. This can be achieved by such means as:

mandatory use of personal tape recorders by operational police to record contacts 'in the field' with members of the public and suspects

installation of video cameras in locations where there is likely to be contact between police and members of the public, such as the front counters of watchhouses and police interview rooms

imposition of stricter controls over the handling and storage of drug exhibits, to minimise opportunities for drugs to be misappropriated by police

enforcement of tighter controls over the use of informants by police.

More generally, the QPS should refine and extend the application of risk management strategies so that opportunities for police to act improperly are identified at an early stage and remedial action is taken.

The role of the CJC

Strategies which the CJC has in place to ensure that the process of reform continues in the QPS include:

employing proactive intelligence and investigative techniques to detect and investigate serious misconduct, such as consensual corruption, which does not come to the attention of the complaints system

monitoring and reporting regularly on trends in attitudes and behaviour among QPS officers, through such means as:

- * periodic surveys of members of the public and people who have been apprehended by police
- * regular surveys of police on issues relating to ethical conduct and perceptions of the complaints and discipline process
- * statistical modelling of complaints data

conducting research on practical ways of reducing the incidence of misconduct among police and promoting positive cultural change

working with the QPS to implement and evaluate strategies for reducing the incidence of police misconduct and the number of complaints made against police (such as through the recently constituted CJC–QPS Joint Working Group on the Reduction of Assault Complaints Against Police)

assisting in the development and delivery of ethics education within the QPS.

The CJC, as part of its general statutory responsibility to oversee the Police Service, will also continue to monitor key developments in the area of recruitment, training and organisational reform, with a view to ensuring that the issues identified in this report are adequately addressed by the QPS.

CHAPTER 1

INTRODUCTION

The Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (referred to as ‘Fitzgerald Inquiry’) was a crucial event in the history of the Queensland Police Service (QPS). [For ease of reference the expression ‘QPS’ will be used throughout this report to denote the Queensland Police Service and its predecessors (except in direct quotations and references).] As a result of the Inquiry some senior police, including the then Police Commissioner Sir Terence Lewis, were identified as corrupt and the public image of the Service was severely tarnished. The report of the Inquiry [Report of a Commission of Inquiry pursuant to Orders in Council dated 26 May 1987; 24 June 1987; 25 August 1988 and 29 June 1989.], released in July 1989, was highly critical of the management of the QPS and of the politicians who had been responsible for its oversight. The QPS was said to be ‘debilitated by misconduct, inefficiency, incompetence and deficient leadership’, and characterised by ‘lack of discipline, cynicism, disinterest, frustration, anger and low self-esteem’ (1989, p. 200). To address these problems, the Fitzgerald Inquiry proposed wide ranging reforms aimed at improving standards of police behaviour, ensuring that misconduct was dealt with appropriately, enhancing police effectiveness, and restoring public confidence in the Service.

This report is concerned with those recommendations of the Fitzgerald Inquiry which were directed towards improving the police complaints and discipline process and enhancing police integrity in Queensland. Key questions addressed are:

To what extent were the reforms proposed by the Fitzgerald Inquiry actually implemented?

What impact have these reforms had on:

- the efficiency and effectiveness of processes for dealing with complaints against police and public confidence in those processes?
- the public standing of the QPS generally?
- standards of police behaviour and the incidence of corrupt conduct?
- police attitudes towards reporting misconduct by other officers?

How much scope is there for further enhancing police integrity in Queensland and what actions should the QPS and CJC be taking to bring about these improvements?

The CJC has previously reported on the implementation of the Fitzgerald Inquiry's recommendations relating to its own role and functions (CJC 1993a) and has issued two reports dealing with the implementation of other Inquiry recommendations relating to the QPS: *Recruitment and Education in the Queensland Police Service: A Review* (CJC 1993b); and *Implementation of Reform within the Queensland Police Service: The Response of the Queensland Police Service to Fitzgerald Inquiry Recommendations* (CJC 1994a).

Various aspects of the operation of the police complaints and discipline system have been canvassed by the Queensland Police Service Review Committee (QPS Review) (1996) and in CJC submissions to the Parliamentary Criminal Justice Committee and the now-aborted Commission of Inquiry into the Effectiveness of the Criminal Justice Commission. In addition, the CJC's Research and Coordination Division has published an extensive body of research relevant to the questions outlined above (see reference list for details). This report draws this diverse body of material together for the first time to provide a comprehensive overview of the progress and impact of reform within the QPS as it relates to the complaints and discipline process.

Publication of this report fulfils the CJC's statutory obligation under section 23(k) of the *Criminal Justice Act 1989* to report:

with a view to advising the Legislative Assembly, on the implementation of the recommendations in the Report of the Commission of Inquiry [the Fitzgerald Inquiry] relating to the administration of criminal justice, and to the Police Service.

Another important purpose of the report is to provide a 'baseline' to facilitate future assessments of the progress and impact of reform in the QPS. One of the obstacles encountered in preparing this report was the lack of data about the previous complaints and discipline procedures, their operation and impact. Now that all relevant available information has been drawn together in a single document it should be easier to monitor future changes and report on these as necessary.

Finally, the report is intended not only to document progress to date, but also to outline a way forward. Reform must be seen as a continuing process, not as a one-off exercise. To this end, the report, while not making specific recommendations, identifies a range of issues which need to be addressed by the QPS, in conjunction with the CJC, if the gains of the last few years are to be consolidated and public confidence in police maintained.

The Fitzgerald Inquiry findings: An overview

As indicated, the report of the Fitzgerald Inquiry (1989) identified various features of the QPS that had allowed widespread misconduct to go undetected and unpunished, and documented a lack of confidence by the public in the willingness and ability of the QPS to investigate complaints of misconduct. The Inquiry concluded that the complaints and disciplinary system was inefficient and ineffective in detecting and preventing unethical behaviour and that there was a clear lack of commitment within the QPS to properly investigate complaints of police misconduct.

Areas of particular concern identified by the Fitzgerald Inquiry included:

Inadequate external scrutiny and oversight of the investigation of misconduct. The Fitzgerald Inquiry was highly critical of the Police Complaints Tribunal, the external body established in 1982 to receive and investigate complaints of police misconduct. In the Inquiry's view, the Police Complaints Tribunal had failed to provide an effective external process for overseeing the way complaints were being handled. There were three major reasons identified for this failure: the limited jurisdiction of

the Tribunal to investigate (Fitzgerald Inquiry 1989, pp. 290, 293); the lack of police cooperation in resourcing the Tribunal and acting on its recommendations (p. 290); and the composition and method of appointment of the Tribunal's members (p. 290).

The existence of a strong 'code of silence' among police. According to the Fitzgerald Inquiry, the majority of Queensland police officers had for many years adhered to an unwritten code under which it was considered impermissible for police to criticise their colleagues — particularly to anyone outside of the organisation — or to cooperate in investigations of fellow police. The Inquiry described the code as 'an integral element of police culture ... [which] has been a critical factor in the deterioration of the Police Force' (1989, p. 202) by reducing, if not almost eliminating, concern about possible apprehension and punishment as a deterrent to misconduct.

Inappropriate rules and procedures for reporting and investigating misconduct. The Fitzgerald Inquiry found that: the regulations governing standards of conduct were unclear and poorly defined (1989, pp. 286, 293–94); internal investigation units had inadequate resources and powers (pp. 288–89); and there was little support for officers to report misconduct (p. 286). In the Inquiry's view, the procedures for handling complaints had actually inhibited the reporting and detection of police misconduct.

Closed recruitment policies. The Fitzgerald Inquiry argued that the recruitment practices of the QPS had promoted insularity and a resistance to external scrutiny of practices, due to:

- * the virtually total reliance on base-level Constable recruitment with internal promotions
- * the lack of diversity in recruit intakes (that is, few recruits who were female or from minority backgrounds)
- * the youth and inexperience of many recruits (1989, pp. 246–247).

Poor management and supervision. The Fitzgerald Inquiry identified several deficiencies in QPS organisational and management structures and processes. [This issue is discussed more extensively in the CJC 1994a.] It concluded that poor management and supervision resulted from a number of factors, including inadequate information and administrative systems, inappropriate procedures and guidelines, and insufficient training. These deficiencies often enabled misconduct to be hidden from scrutiny and allowed officers to be unaccountable for their actions. For example, there was no supervision of contacts and arrangements between officers and informants (1989, p. 203), which meant that any irregularities or misconduct could frequently go undetected.

The Fitzgerald Inquiry recommended a comprehensive package of reforms aimed at restructuring the QPS and the environment in which it operated. These reforms fell into two broad categories:

those aimed at improving the processing, investigation and monitoring of complaints (such as through the establishment of the Official Misconduct Division of the CJC)

those directed at changing the organisational climate of the QPS so as to promote proper conduct and reduce the tolerance of misconduct.

The Fitzgerald Inquiry took the view that QPS management and practices must support proper behaviour, as well as detecting and punishing misbehaviour. The Inquiry recognised that a focus on simply reforming the complaints handling and investigation process would not redress the underlying conditions that had enabled misconduct to flourish for so long; organisations like the QPS also had to 'pay attention to the unintentional messages they send about what is permissible' (Bayley 1995, p. 100).

The approach of this report

Focus

The primary focus of this report is on 'impact' rather than 'process' issues. This means that the emphasis is on assessing whether the Fitzgerald Inquiry recommendations and associated reforms introduced over the last eight years have had a positive effect on police attitudes and behaviour, improved the effectiveness and legitimacy of the complaints investigation process, and restored public confidence in the QPS. The report does not attempt to undertake a detailed assessment of the operation of particular procedures and programs. These process issues have been canvassed at length in other reviews, such as that conducted by the QPS Review (1996) and are being addressed on an on-going basis by the QPS and the CJC through various formal and informal mechanisms.

Data sources

The main sources of data used in this evaluation are:

Statistics on complaints against police. When a complaint is made about the conduct of a police officer, a record of the nature of the complaint is made. Currently, these records are contained in three databases: one maintained by the CJC; and the other two by the QPS (see appendix A for details of these databases). These data were used to analyse trends over time in the number, type and outcome of complaints made against police. In addition, more detailed information on some types of complaints was obtained by reading and coding complaints files held at the CJC. Some of the research relating to assault complaints has already been published by the CJC (1997a).

Interviews with serving officers. Semi-structured, confidential interviews with two groups of officers were conducted during 1995 to obtain the perceptions of serving officers at middle and senior management levels about the changes in complaints and disciplinary procedures which have occurred since the completion of the Fitzgerald Inquiry. The first group of interviewees comprised 27 officers from the ranks of Senior Constable to Inspector who had more than ten years service in the QPS. These interviews were conducted externally by academic researchers from Griffith University. The second group, who were interviewed by CJC research staff, consisted of senior officers responsible for regional management in the eight police regions.

Officers in QPS headquarters and members of the Executive of the Queensland Police Union of Employees were also interviewed.

Surveys of police. These surveys were designed to gauge how seriously QPS 'rank and file' officers regard various types of misconduct; their willingness to report misconduct; their attitudes towards how the QPS manages complaints and discipline matters; and the extent to which officers' views on ethical issues change over the period of their service. Three groups of police — recruits, First Year Constables (FYCs) and experienced officers — were surveyed in early 1995. (Detailed results of these surveys were reported in CJC 1995a.) In March 1996 the survey was readministered to a sub-sample of recruits after they had been in the field as FYCs for eight months.

Public Attitude Surveys. In 1991, 1993 and 1995 the CJC commissioned surveys of Queensland residents about their attitudes towards the QPS, and their satisfaction with levels of police service. The 1995 survey included, for the first time, questions which focused specifically on public views and experiences of the complaints investigation process. (Key results of these surveys are summarised in CJC 1995b.) In each survey, 900 adult Queensland residents were interviewed. Some additional survey data were also obtained from other sources such as the Australian Institute of Criminology (AIC), the Australian Bureau of Statistics and a survey undertaken by the CJC in 1996 of approximately 500 defendants appearing in Queensland Magistrates' Courts (CJC 1996a).

Methodological issues

A major problem in preparing this report was the lack of reliable data from the pre-Fitzgerald Inquiry period, which meant that we often did not have a firm baseline for comparison purposes. For example, there are no statistically-based studies of police attitudes towards reporting misconduct by other officers which could be compared with the findings from police ethics surveys conducted by the CJC. Similarly, the only survey on public confidence in the complaints system was undertaken in 1995, after the new system had been in place for some years. The findings of the Fitzgerald Inquiry itself provide a baseline of sorts, but it is not good research practice to rely on a single source, particularly as there is still disagreement about the validity of some of the Inquiry's conclusions. (For example, many police continue to assert that the Inquiry overstated levels of corruption and the extent to which the 'police code' was entrenched.)

Second, the data which are available from the pre- and post-Fitzgerald Inquiry periods were often not readily comparable. For instance, the method of categorising allegations against police which was used prior to the Fitzgerald Inquiry was not adopted by either the Professional Standards Unit (the QPS unit which is responsible for monitoring compliance with disciplinary procedures within the organisation) or the CJC. It was also very difficult to compare findings from different public opinion surveys, because of the lack of consistency in question wording.

Third, there are considerable problems involved in interpreting complaints data, particularly where these data are being used as an indicator of changes in the extent and seriousness of police misconduct. Serious police misbehaviour, such as corruption, is normally conducted in secret and is 'consensual' rather than victim-based: hence, it is unlikely to lead to a complaint. Conversely, it cannot be assumed

that, when a complaint is made, this is necessarily indicative of misbehaviour by police. Complaints are often the result of a misunderstanding on the part of the complainant and some are palpably false. A further complication is that the number of recorded complaints against police may vary over time for reasons unrelated to any change in the underlying level of police misconduct (see chapters 5 and 6). For example, an increase in the number of recorded complaints against police since the Fitzgerald Inquiry could well be the result of: greater public willingness to complain, due to greater confidence in the complaints process; a change in police recording practices, whereby complaints are more likely to be formally documented than in the past; or increased contact between police and citizens.

As a way of dealing with the above difficulties, we have endeavoured, wherever possible, to utilise multiple data sources to explore particular issues. Although each source has limitations, collectively they can be used to build up an overall picture. It may not be possible to be precise about the extent to which the Fitzgerald Inquiry reforms have led to changes in police attitudes and behaviour or increased public confidence in the QPS and the complaints system. However, in most cases, the data are sufficiently comprehensive — and robust — to support defensible conclusions about the *general direction* of the changes which have occurred.

Structure of report

Chapter 2 describes the findings and recommendations of the Fitzgerald Inquiry relating to the police complaints and discipline process in Queensland. It evaluates the extent of implementation of the recommendations and compares the current system with that in operation prior to the Inquiry.

Chapter 3 is concerned with those Fitzgerald Inquiry recommendations which were intended to modify the organisational context within which Queensland police operate. Particular areas focused on are recruitment and training, and managerial and supervisory practices.

Chapter 4 presents survey data on public attitudes to the QPS and the complaints investigation process, identifies areas where public attitudes have changed since the conclusion of the Fitzgerald Inquiry, and compares the Queensland situation with that in other Australian states.

Chapter 5 examines the impact of the Fitzgerald Inquiry reforms on the numbers of complaints recorded, the number and proportion of complaints substantiated, and QPS sanctioning practices.

Chapter 6 addresses the critical question of whether the Fitzgerald Inquiry reforms have resulted in reduced levels of police misconduct. The chapter utilises two main data sources: interviews conducted with serving police who had joined the QPS prior to the Inquiry and CJC complaints data.

Chapter 7 considers whether there has been any significant weakening of the police ‘code of silence’ in the aftermath of the Fitzgerald Inquiry. The chapter draws upon data from interviews with serving police, ethics surveys of ‘rank and file’ police

conducted by the CJC, and a quantitative analysis of ‘police against police’ complaints made to the CJC.

The final chapter presents the key findings of the report and assesses the impact to date of the reforms which have been implemented. The chapter also identifies some outstanding issues and proposes several ways in which the QPS, in conjunction with the CJC, can promote further positive attitudinal and behavioural change within the Service.

CHAPTER 8

CONCLUSION

The Fitzgerald Inquiry concluded that police misconduct was widespread in Queensland, the complaints and disciplinary system was inefficient and ineffective in detecting and preventing misconduct, and the QPS lacked the necessary commitment to investigate misconduct or promote proper standards of behaviour among police. The Inquiry made recommendations aimed both at improving the complaints and disciplinary system, and at changing the QPS organisational environment to make it more supportive of high standards of conduct. These measures were seen as essential to re-establishing public confidence in the QPS, which the Inquiry found had been damaged by widespread police misconduct and the lack of an effective investigations and disciplinary system.

This final chapter summarises the key findings presented in this report concerning the implementation of the Fitzgerald Inquiry reforms and their impact on:

- public confidence in the QPS and the complaints process
- the operation of the complaints and discipline system
- the level of police misconduct
- police ethical standards and the strength of the ‘police code’.

The latter part of the chapter identifies several outstanding issues which need to be addressed by the QPS and proposes strategies for bringing about further attitudinal and behavioural change within the Service. There is also a brief outline of the strategies which the CJC has in place for ensuring that the momentum of reform is maintained.

Key findings

Implementation of reforms

In general, the model of external investigation of complaints and oversight of QPS internal disciplinary processes proposed in the Fitzgerald Inquiry report has been implemented (see chapter 2) largely through the incorporation into the *Criminal Justice Act* and the *Police Service Administration Act* of many of the specific recommendations of the Inquiry. Other significant initiatives have included the establishment of the PSU and Commissioner’s Inspectorate within the QPS, and the institution of informal complaints resolution for dealing with minor complaints against police.

In addition to recommending a new complaints and disciplinary model, the Fitzgerald Inquiry report focused on the need to change the organisational environment within the QPS to ensure that high standards of conduct among police were supported and rewarded (see chapter 3). These recommendations related to two main areas: recruitment and training; and management and supervisory skills within the QPS. Major changes introduced have been as follows:

The QPS has significantly altered the gender, educational and age profile of its recruit intakes broadly in the directions recommended by the Fitzgerald Inquiry, although the impact of these changes is being diluted by current QPS policies aimed at recruiting substantial numbers of current or former police from other jurisdictions.

The PSU has recently implemented strategies to identify police officers with lengthy complaints histories, and is developing techniques for 'profiling' police districts to identify systemic and managerial problems.

The QPS has developed, or is developing, some managerial strategies to reduce the opportunities for misconduct, including establishment of a risk management policy, and a requirement for complaints investigators to incorporate suggestions for remedial action in their reports where appropriate.

Ethics components are now incorporated in, or are planned for, the PROVE, Constable Development and Executive Development Programs. On the other hand ethics education has not yet been implemented in any consistent or coordinated way in other areas of training and education, including the important areas of the First Year Constable program and detective training.

Key areas highlighted in the Fitzgerald Inquiry report where less change has occurred are as follows:

The middle management ranks in the QPS have a significant input into the operational training of recruits and junior officers, yet most were recruited in the pre-Fitzgerald Inquiry era. Many of these officers have had little exposure to training in either management or ethics education, and there are some who are disgruntled with the effect of the reform process on their own careers. The views of these officers can adversely influence the attitudes of junior officers to the reformed complaints and disciplinary system.

In some significant respects the actual day-to-day task environment of operational police has changed little from that criticised by the Fitzgerald Inquiry report as contributing to a closed organisational culture. Relatively little progress has been made so far in implementing alternative models of policing in the QPS, especially in the area of community policing, although this situation may change once relevant recommendations of the QPS Review have been implemented.

To date, lateral recruitment and civilianisation policies have largely targeted lower ranks or administrative or technical positions in the QPS. In practical terms, there has been only limited opening up of senior positions to 'outsiders' who might bring different experiences and outlooks to the dominant police culture.

Effect of reforms on public confidence in the QPS and the complaints investigation process

The lack of comparable pre- and post-Fitzgerald Inquiry survey data makes it difficult to reach firm conclusions about the extent of any increases in public confidence in the police (see chapter 4), but the limited data available suggest that:

there was a marked improvement in the public perception of the QPS between 1991 and 1995 (CJC 1991, 1993c and 1995b)

while Queensland police still have a less favourable public image in some limited respects than other Australian police services, the differences are less than they were prior to the Fitzgerald Inquiry.

The extent of any increase in public confidence in the complaints process in the post-Fitzgerald Inquiry period cannot be measured, but surveys conducted by the CJC have found:

There is a high level of acceptance by the Queensland public of the need for an external complaints investigation process.

The majority of respondents surveyed in 1995 (CJC 1995b) saw the CJC as very or fairly independent of police and as having had at least some success in improving police conduct.

There is still considerable reluctance on the part of members of the public to make official complaints about police, especially among those persons who have been arrested by police. However, complaint rates in Queensland appear to compare fairly favourably to survey findings from other jurisdictions.

Effect of reforms on complaint handling

As documented in chapter 5, the implementation of major structural and procedural reforms to the complaints and discipline system has had a number of significant consequences for the handling of complaints against police. In particular:

There was a sharp and sustained increase in the number of complaints per 1,000 police officers following the establishment of the new system. This is attributable to improved QPS complaints recording processes and enhanced public confidence in the complaints process, as well as to increased levels of police–civilian interaction and a possible general cultural change in relation to complaining.

The substantiation rate for the complaints *investigated* by the CJC is well above the equivalent rate for the Police Complaints Tribunal and the number of substantiated matters has increased significantly.

Most CJC recommendations for disciplinary charges are acted upon by the QPS and most of these charges are sustained — in marked contrast to the previous situation under the Police Complaints Tribunal.

However, while the investigative capacity of the CJC undoubtedly exceeds that of the Police Complaints Tribunal, it is still the case that only a relatively small proportion of the complaints referred to the CJC lead to recommendations of criminal or disciplinary charges. This reflects the inherent difficulty of obtaining sufficient evidence to prove allegations to the required legal standard. The CJC also continues to have concerns about the way in which disciplinary sanctions are imposed and administered within the QPS.

Effect of reforms on police behaviour

The measurement of trends in police behaviour is problematic for several reasons, including the scarcity and unreliability of data on levels of misconduct in the pre-Fitzgerald Inquiry period, the difficulty of interpreting complaints trends, and the fact

that the incidence of serious misconduct, such as consensual corruption, is very unlikely to be accurately reflected in complaints data. Nevertheless, as discussed in chapter 6, analysis of available evidence from different sources enables some conclusions to be drawn.

According to interviews with serving police officers who joined the QPS prior to the commencement of the Fitzgerald Inquiry:

the QPS is a 'cleaner' organisation and there is now greater compliance with rules governing the conduct of police

there is less misconduct in some areas, particularly involving drinking alcohol on duty, unlawful assaults and 'verballing'

there is a greater likelihood that suspected misconduct and improper behaviour by police will be detected and reported.

Analysis of CJC data on complaints of misconduct indicates that, between 1991–92 and 1995–96:

There was a drop in the number of allegations of duty failure recorded per 1,000 officers, despite a considerable increase in the extent of police–civilian contact. This trend suggests that police have become more professional in their dealings with the public.

Allegations of 'verballing' — one of the forms of misconduct highlighted by the Fitzgerald Inquiry — declined markedly, notwithstanding a significant increase in the number of arrests.

There was a substantial rise in the number of allegations per 1,000 officers pertaining to assaults, arrests and searches, but this was most likely the result of greater police enforcement activity rather than indicative of any decline in standards of behaviour. There is some evidence that the severity of alleged assaults declined between 1990–91 and 1993–94, which is suggestive of a reduction in the underlying level of serious misconduct.

Complaints data on corruption and associated forms of criminal conduct by police are very difficult to interpret. However, other information sources indicate that, while corruption has not been eliminated from the QPS, it is less pervasive and occurs at lower levels than were identified by the Fitzgerald Inquiry.

In summary, the data show that since the Fitzgerald Inquiry there has been an overall improvement in standards of police behaviour, but the change has been uneven and there is clearly scope for more to be achieved.

Effect of reforms on police attitudes and the police code

Again, methodological difficulties are involved in assessing the extent to which the Fitzgerald Inquiry reforms have weakened the influence of the police 'code of silence' within the QPS, but the available evidence indicates that there have been some positive changes (see chapter 7).

This conclusion is supported by findings that:

- officers in managerial and supervisory positions appear to have become more conscious of their obligation to initiate action against police officers suspected of misconduct

- junior officers, while apparently reluctant to act as formal complainants against other officers, appear more willing to bring suspected misconduct to the attention of their superiors on an informal basis

- police now generally perceive the QPS as taking a tough line on police misconduct.

On the other hand, the data also show that, consistent with the findings of other studies of police occupational culture:

- there is still considerable resistance among 'rank and file' police to the reporting of misconduct by fellow officers, particularly where the misbehaviour is not seen as particularly serious

- the 'rank and file' culture continues to exert a powerful influence over new entrants, despite substantial changes to the age, education level and gender composition of recruit intakes

- it is widely believed that whistleblowers are likely to face adverse consequences from other officers.

Future directions

While there is always scope for further refinement, in most respects current complaints and discipline processes are working satisfactorily. The new complaints and disciplinary model recommended for the QPS in the Fitzgerald Inquiry report (1989) has been implemented with only relatively minor departures from those recommendations. Moreover, formal and informal mechanisms, such as the CJC–QPS Discipline Working Party (established to advise on the implementation of relevant recommendations of the QPS Review) and other regular meetings between the two organisations have been established to address, on an ongoing basis, any problems with current procedures.

There is now a need to focus more on developing and implementing preventive strategies and modifying the organisational climate of the QPS to ensure that the gains which have been made to date are consolidated, higher standards of police behaviour are promoted and there is less need to invoke disciplinary sanctions against officers. The following discussion briefly outlines some strategies for giving effect to these objectives.

Recruitment and staffing

Improving the quality of recruits will not, of itself, necessarily lead to enhanced police professionalism or a weakening of the undesirable aspects of police culture. Changes to how police are trained and managed, and how they work, are also required. However, appropriate recruitment policies and practices are undoubtedly an important component of any comprehensive strategy to enhance ethical conduct in the Police Service, as emphasised by the recently released report of the Royal Commission into

the New South Wales Police Service (1997, pp. 255–259, 276–277). In this regard, the QPS needs to ensure that:

- educational standards of recruits are at least maintained and, if possible, raised further

- the trend towards recruitment of older officers continues

- the proportion of females in recruit intakes is further increased over time and any remaining barriers to the retention and promotion of female officers are removed

- the impact of current policies relating to lateral recruitment of Constables is closely monitored, to ensure that these policies do not impact adversely on efforts to raise recruitment standards

- strict vetting procedures are in place and enforced, particularly for lateral recruits from interstate and overseas.

Ethics education

As documented in this report, and as acknowledged by the Project Honour report (Project Honour Ream 1996), there are currently some significant gaps in the provision of ethics education within the QPS. Key issues for the QPS are to:

- develop, as a matter of priority, a comprehensive, integrated approach to ethics education in all aspects of QPS training (see Royal Commission into the New South Wales Police Service 1997, pp. 280–281 for a similar recommendation)

- ensure that all officers in supervisory and management positions, and Field Training Officers, receive appropriate education in ethics and are fully aware of their obligations as supervisors to provide suitable role models to new police.

Management of personnel

More proactive personnel management strategies can also help reduce the level of misconduct and the number of complaints against police. Steps which the QPS should take in this regard include:

- ensuring that appropriate management action is taken when ‘problem’ individuals and work units are identified through the processes of officer and command profiling which are being developed by the QPS

- reviewing existing rostering practices, with the aim of ensuring that more supervisors and experienced officers are ‘on the street’, especially at times when there is a greater likelihood of conflict between police and civilians (CJC 1997a, p. 56)

- instituting regular rotation of staff, especially in ‘high risk’ areas, to prevent complacency from developing and to reduce opportunities for police to develop and maintain corrupt associations (Royal Commission into the New South Wales Police Service 1997, p. 500)

- providing greater organisational support for officers who are prepared to report misconduct by other officers (Royal Commission into the New South Wales Police Service 1997, pp. 419–421).

Opportunity reduction

It is evident from the literature on situational crime prevention that one of the most effective strategies for reducing misconduct is to limit the opportunities for police to engage in improper conduct without being detected. This can be facilitated by such means as:

- mandatory use of personal tape recorders by operational police to record contacts 'in the field' with members of the public and suspects, as recommended by the Royal Commission into the New South Wales Police Service (1997 p. 428–429; see also QPS Review 1996, p. 91)

- installation of video cameras in locations where there is likely to be contact between police and members of the public, such as the front counters of watchhouses and police interview rooms (CJC 1997a, p. 60)

- imposition of stricter controls over the handling and storage of drug exhibits, to minimise opportunities for drugs to be misappropriated by police

- enforcement of tighter controls over the use of informants by police (Royal Commission into the New South Wales Police Service 1997, pp. 439–441).

More generally, as discussed above, the QPS should refine and extend the application of risk management strategies so that opportunities for police to act improperly are identified at an early stage and remedial action is taken.

The role of the CJC

The CJC itself has in place a number of initiatives designed to ensure that the process of reform continues in the QPS and there is no resurgence of the problems identified by the Fitzgerald Inquiry. These strategies include:

- employing proactive intelligence and investigative techniques to detect and investigate serious misconduct, such as consensual corruption, which does not come to the attention of the complaints system

- monitoring and reporting regularly on trends in attitudes and behaviour among QPS officers, through such means as:

- * periodic surveys of members of the public and people who have been apprehended by police

- * regular surveys of police on issues relating to ethical conduct and perceptions of the complaints and discipline process

- * statistical modelling of complaints data

- conducting research on practical ways of reducing the incidence of misconduct among police and promoting positive cultural change

- working with the QPS to implement and evaluate strategies for reducing the incidence of police misconduct and the number of complaints made against police

(such as through the recently constituted CJC–QPS Joint Working Group on the Reduction of Assault Complaints Against Police)
assisting in the development and delivery of ethics education within the Service.

The CJC, as part of its general statutory responsibility to oversee the Police Service, will also continue to monitor key developments in the area of recruitment, training and organisational reform, with a view to ensuring that the issues identified above are adequately addressed by the QPS.

Conclusion

Since the Fitzgerald Inquiry report was released, a new and more effective complaints investigation system has been established and substantial organisational reforms introduced to the QPS. These reforms have contributed to improved public confidence in the complaints system and the QPS generally, helped reduce the overall incidence of misconduct in the Service and weakened the influence of the ‘code of silence’. However, while there have been substantial changes in some aspects of police behaviour and attitudes, there is still more to be achieved in terms of the outcomes expected of the Fitzgerald Inquiry model.

The QPS needs to address the outstanding issues identified in this report, and the CJC and QPS must continue to develop and implement new strategies for promoting positive attitudinal and behavioural change within the QPS. It is particularly important to guard against complacency; the gains of the last few years can be quickly eroded if there is a weakening of commitment to the process of police reform, or if the framework of external oversight is dismantled or undermined.

CHAPTER 2

REFORMING POLICE COMPLAINTS AND DISCIPLINE PROCESSES

The focus of this chapter is on the institutional and procedural reforms made to police complaints and discipline processes in Queensland as a result of the Fitzgerald Inquiry. The chapter addresses two main questions:

to what extent have the Fitzgerald Inquiry recommendations relating to police complaints and discipline processes been implemented?

what other major changes have been made to these processes since the completion of the Fitzgerald Inquiry?

The first part of the chapter deals with issues relating to external oversight mechanisms; the second focuses on internal QPS rules and practices.

External oversight

Pre-Fitzgerald Inquiry procedures

Before the Fitzgerald Inquiry, the investigation of complaints about police misconduct was governed by the *Police Act 1937* and the Police Rules. Investigations were largely conducted at the regional level under the direction of the District Officer and Regional Superintendent (now replaced by a regional Assistant Commissioner who has broader responsibilities).

The first specific central unit focusing on police misconduct — the Crime Intelligence Unit — was not created until 1971. The role of this Unit was restricted to collecting, recording and disseminating intelligence on organised crime and corruption; it did not receive or investigate complaints, which still continued to be handled at the regional level. In 1977, the Unit was replaced by the Internal Investigations Section, which did investigate complaints of police misconduct. However, despite a large workload, the Section remained small — at its largest in 1989, a year in which 839 complaints were received, it consisted of only 11 staff (Queensland Police Department 1989, p. 5).

The Police Complaints Tribunal was created in 1982 with three members — a District Court judge as Chairman, a stipendiary magistrate, and the president of the Queensland Police Union of Employees. A fourth member was appointed in 1985. The main function of the Tribunal was to receive and investigate complaints from the public, police officers or the Commissioner of Police (ss. 8 and 9 *Police Complaints Tribunal Act 1982*). The findings and recommendations of any investigation were reported to the Minister for Police who would decide what action was to be taken. The Tribunal did not have the power to discipline or prosecute, or the authority to investigate complaints lodged directly with the police, although there was some monitoring of internal investigations through the requirement on the QPS to maintain a central complaints register that could be viewed by the Tribunal (s. 8(d) *Police Complaints Tribunal Act 1982*).

The Fitzgerald Inquiry recommendations

The Fitzgerald Inquiry argued strongly that there needed to be an effective, independent body with the power both to investigate allegations of suspected misconduct and to monitor the internal investigations conducted by police:

The confidence and comfort which dishonest police have taken from the ‘brotherhood’ and ‘culture’, the creaking and cumbersome Rules, the ineptitude if not the protection of the Internal Investigations Unit and the facade of the Police Complaints Tribunal should be replaced by the very real risk that, without warning and from a quarter which is beyond their reach, investigation by an independent body will expose their corruption (1989, p. 299).

The Inquiry’s recommendations concerning the CJC were incorporated (in many cases, almost verbatim) into the *Criminal Justice Act 1989* (the Act), which established the CJC. Table 2.1 lists those recommendations relating specifically to the external oversight and investigation of complaints and summarises the action taken in response to them. The key features of the CJC model are also considered below.

Table 2.1— Fitzgerald inquiry recommendations concerning functions of Criminal Justice Commission in the complaints and discipline process

Fitzgerald Inquiry Recommendation B.I.	Action taken
10. The Official Misconduct Division function as follows: (a) its Director to have legal qualifications	Implemented. See section 30 of the Act.
(c) the Division direct reports of its investigations to: (i) the Director of Prosecutions for consideration of prosecution; and/or (ii) the Misconduct Tribunal to determine whether official misconduct has occurred, which should be dealt with administratively apart from any prosecution; or (iii) the Chief Executives of Government departments, agencies, or statutory bodies, including the Commissioner of Police if disciplinary action is thought necessary	Section 33(2) of the Act, requires the Chairperson of the CJC to consider which bodies should be provided with an investigation report. The bodies include those referred to in the Recommendation. (Refer to the discussion in the <i>Report on the Implementation of the Fitzgerald Inquiry Recommendations Relating to the Criminal Justice Commission</i> (CJC 1993a, pp. 50–53).

<p>(d)the Division be staffed by police seconded to it for appropriate finite periods on guidelines to be established by the CJC, and a wide variety of skilled civilian staff and consultants</p>	<p>Implemented. See sections 65 and 66 of the Act. Section 65 permits the CJC, with the appropriate Minister's consent, to arrange for use (by secondment or otherwise) of the services of staff or facilities of any unit of public administration. 'Staff' is defined to include members of the Police Service. The CJC currently employs around 92 police in the Official Misconduct Division, in addition to civilian lawyers and financial analysts.</p>
<p>(e)the Division have extensive special powers of investigation established by legislation, which it will exercise subject to strict judicial controls on the use of each power by any member of the Division</p>	<p>Part 3 of the Act, commencing at section 69, deals with the powers of the Commission available during Commission investigations. Those powers are not as intrusive as recommended by the Fitzgerald Inquiry, but exceed those of conventional policing. Some powers — most notably the power to hold hearings and to require the production of documents — are not subject to judicial supervision.</p>
<p>(f)the Division, in addition to responding to complaints, act on its own initiative to:</p> <p>(i)conduct investigations</p> <p>(ii)perform an educative or liaison role with other agencies, departments, and private institutions and auditors in relation to preventing and detecting official misconduct</p>	<p>Implemented.</p> <p>(i)Section 29(2) of the Act provides that the Division is to 'operate of its own initiative, as well as in response to complaint or information received concerning misconduct'</p> <p>(ii)Section 29(3)(e) embodies this recommendation. The Commission's corruption prevention program began in August 1991, initially within the Official Misconduct Division. In March 1993, pursuant to section 19(2) the Commission established the 'Corruption Prevention Division'.</p>
<p>(g)a Complaints Branch be established within the Official Misconduct Division to receive complaints of misconduct or suspected misconduct by public officials, including police, and any other complaints against</p>	<p>Division 5 of Part 2 of the Act establishes the Complaints Section (s. 36). The Complaints Section must not investigate a complaint if, in the opinion of the chief officer of the Complaints Section, the complaint is frivolous or vexatious — s. 38(2)(a).</p>

<p>police or other public officials. The Branch will have discretion, subject to guidelines to be established, to:</p> <p>(i) dismiss frivolous or vexatious complaints summarily</p> <p>(ii) refer trivial or purely disciplinary matters to Chief Executives of Departments or the Commissioner of Police to investigate and take appropriate action</p>	<p>A complaint which involves cause for taking disciplinary action (other than for official misconduct) may be referred to the principal officer of a unit of public administration. (See also the discussion in CJC 1993a pp. 65–69.)</p>
<p>(h) the Commissioner of Police, on guidelines to be determined by the CJC, be required to refer all internal and external complaints alleging misconduct by police officers to the Complaints Branch in the first place for determination of the appropriate action to be taken in each case.</p>	<p>Implemented. See section 37(3) of the Act. This provision is complemented by s. 7.2 of the <i>Police Service Administration Act 1990</i>.</p>
<p>11. The Misconduct Tribunal function as follows: (a) The Tribunal's roles will be:</p> <p>(i) to review decisions on disciplinary matters within the Police Force</p> <p>(ii) to make original administrative decisions in relation to allegations of official misconduct on the part of police</p>	<p>Implemented. Provisions for the establishment of the Misconduct Tribunals are contained in Division 6 of Part 2 of the Act (commencing at s. 40). The Tribunals have an exclusive original jurisdiction (ss. 46 and 47) and a review jurisdiction (s. 49).</p>

The role of the Criminal Justice Commission

The CJC has jurisdiction to investigate complaints against police which, if proved, would amount to 'misconduct'. The QPS, on the other hand, has retained responsibility for 'breach of discipline' matters.

A breach of discipline is a breach of any provision of the *Police Service Administration Act 1990* or directions of the Commissioner. [This includes the Code of Conduct and Code of Dress and Appearance.] Breaches can commonly be described as violations or derelictions of duty. The grounds for disciplinary action for

breaches of discipline, as outlined in section 9(1)(a) to (e) of the *Police Service (Discipline) Regulation 1990*, are:

- unfitness, incompetence or inefficiency
- negligence, carelessness or indolence
- a contravention or failure to comply with a provision of a code of conduct, or a direction, instruction or order of the Commissioner
- a contravention or failure to comply with a direction of a superior officer
- absence from duty without leave or reasonable cause.

Misconduct, which is regarded as more serious, is defined as conduct that is disgraceful, improper or unbecoming an officer; or that shows unfitness to be or continue as an officer; or that does not meet the standard of conduct reasonably expected by the community of a police officer. [Section 1.4 Police Service Administration Act 1990 .] Misconduct, or conviction of an indictable offence, are further grounds for disciplinary action. [Section 9(1)(f) and (g) Police Service (Discipline) Regulation 1990 .]

In contrast to the Police Complaints Tribunal and the external oversight mechanisms in place in most other Australian jurisdictions, the CJC's role extends well beyond that of investigating allegations of police misconduct under the *Criminal Justice Act*. The CJC also has responsibility for:

- overseeing and reporting on reform of the QPS generally, particularly in relation to the implementation of the Fitzgerald Inquiry recommendations

- through research, investigation and analysis, giving policy directives [The CJC has interpreted this provision as authorising it to issue recommendations as well as directives. To date, the CJC has not issued any formal directives to the QPS.] on law enforcement priorities, education and training of police, revised methods of police operation, and the optimum use of resources (sections 23(h), (i) and (k))

- investigating more serious allegations of misconduct (known as official misconduct) in the public sector generally (s. 23(f)(iii))

- monitoring, reviewing, coordinating and initiating reform of the administration of criminal law and criminal justice in Queensland, including the use and effectiveness of investigative powers (s. 23(b) and (e))

- overseeing criminal intelligence matters and managing criminal intelligence specifically with respect to major and organised crime and official misconduct (s. 23(d))

- providing witness protection (s. 23(f)(ii))

- investigating organised or major crime (s. 23(f)(iv))

- advising organisations (including the QPS), and educating the public, on issues relating to ethical conduct by public officials and the prevention of corruption (s. 29(3)(e)).

The *Criminal Justice Act* gives the CJC extensive investigative powers, akin to those of a standing Royal Commission. Where required, these powers can be invoked to investigate possible cases of misconduct by police officers. These powers are substantially wider than those granted to the former Police Complaints Tribunal and

exceed those available to some complaints investigation bodies in Australia (see CJC 1995c).

A very important power of the CJC is the ability to conduct investigative hearings. In 1995–96, for example, the CJC conducted 13 hearings related to complaints against police. These hearings serve the function of an investigative tribunal and, in that sense, are inquisitorial. Witnesses are served with a notice compelling their attendance and, if necessary, the production of records. [See ss. 69 and 76 Criminal Justice Act 1989 .] As a general rule, a witness is not entitled to refuse to answer questions or to refuse to produce documents required by summons under the Act. Where a witness objects to answering a question and is directed to do so, the answer cannot be used against the person in civil, criminal or disciplinary proceedings, except in proceedings for contempt of the Commission or perjury. [Section 96 Criminal Justice Act 1989.]

Investigative hearings are normally closed to the public, but open hearings may be held where the matter is one of broad public interest (e.g. the Inquiry into the death of Daniel Yock) [Mr Yock was an Aboriginal dancer who died while in police custody; see CJC 1994c.] or there is a suggestion of chronic and pervasive problems in the criminal justice system. [Examples include the problems identified in the Report on the Investigation into the Complaints of Kelvin Ronald Condren and Others (CJC 1992).]

The CJC also has the power to:

- compel the production of documents, records or things (s. 69)
- enter and search public premises and to inspect, copy, seize or remove any record or thing relevant to the investigation (s. 70)

and, with the authority of a judge of the Supreme Court,

- enter premises and search, copy and seize documents, records or things relevant to the investigation of an offence (s. 71)
- use a listening device (s. 82).

In addition, if a person does not comply with a summons to attend and give evidence, the CJC may apply to the Supreme Court for an order that a warrant be issued compelling that person's detention and attendance before the CJC. [Sections 74, 76, 79 and 80 Criminal Justice Act 1989 .] (In practice, the more intrusive of these powers are most likely to be used in the investigation of serious official misconduct and major or organised crime, rather than in investigating standard complaints against police.)

By comparison with the Police Complaints Tribunal the CJC is well resourced. The Fitzgerald Inquiry report documented severe under-resourcing of the Internal Investigations Section of the QPS (1989, p. 289). The Police Complaints Tribunal was in a similar position, apart from the last year or so of its operation when a belated effort was made to improve its performance and public standing. Usually, matters were referred to the Internal Investigations Section for investigation because the

Tribunal lacked the resources to investigate such matters itself. Practically, therefore, the investigation of police was still largely in the hands of other police. The CJC's investigative arm, the Official Misconduct Division, on the other hand, has a staff establishment of 131 positions and a budget of about \$10m, of which approximately half is devoted to the police oversight function. [It should be stressed that the work of the Division is not restricted to investigating police misconduct; it also deals with allegations of official misconduct made against other public sector employees and officials, and undertakes investigations into organised and major crime in certain instances.] In addition, the Division on occasions uses resources of other parts of the CJC, such as the Intelligence and Research and Coordination Divisions.

Another key difference from the pre-Fitzgerald Inquiry arrangements is that seconded police work under the supervision of civilian lawyers and are answerable to the CJC, not the QPS. The use of seconded police was recommended by the Fitzgerald Inquiry report (1989), which argued that it was necessary for investigators to be aware of police practices and attitudes. Officers employed as investigators in the CJC's Complaints Section usually have had at least ten years' investigative experience. They usually spend two to three years at the CJC, before returning to positions within the QPS. Some other complaints-investigation bodies in Australia make use of seconded police as investigators, but the CJC is currently the only organisation that does this on a large scale.

Finally, a key feature of the CJC model is the fact that the organisation has the legal capacity and resources to act proactively as well as in response to specific complaints. [Pursuant to section 8(c) of the Police Complaints Tribunal Act 1982, the Police Complaints Tribunal could of its own initiative 'consider matters of public knowledge' that involved allegations of misconduct, improper conduct or neglect of duty by a member of the Police Service. However, it was not until 1985 that the Tribunal exercised its right to undertake an investigation on its own initiative. The matter investigated concerned suspected police involvement in child pornography.] In accordance with the recommendations of the Fitzgerald Inquiry, section 29(2) of the *Criminal Justice Act* empowers the CJC to operate on its own initiative. Investigations can be triggered, therefore, in response to information obtained in the process of investigating other matters, or as a result of proactive intelligence-gathering. Examples of investigations initiated by this means include the matters before the Criminal Justice Commission Inquiry into Police and Drugs (the Carter Inquiry).

Misconduct Tribunals

The *Criminal Justice Act 1989* also established the Misconduct Tribunals, which hear and determine charges of official misconduct and impose sanctions in its original jurisdiction, and hear appeals against findings made in disciplinary proceedings for misconduct under the *Police Service Administration Act 1990*. Table 2.2 sets out the numbers of police officers who have appeared as a party before a Misconduct Tribunal in both the original and appellate jurisdiction of the Tribunals, since 1990–91, that being the year in which the Tribunals commenced operating.

Table 2.2 — Sworn police officers appearing as a party in matters heard by Misconduct Tribunals (1990–91 to 1995–96)

Year	Original jurisdiction	Appellate jurisdiction
1990–91	1	2
1991–92	12	9
1992–93	2	4
1993–94	6	5
1994–95	4	5
1995–96	5	6

Source: CJC Misconduct Tribunals data.

Notes:

1. Matters heard in the Misconduct Tribunals' original jurisdiction are those where a charge of official misconduct has been brought against an officer, following a CJC investigation. Matters heard in the Misconduct Tribunals' appellate jurisdiction involve the seeking of a review of a decision by a person 'aggrieved' in respect of a disciplinary charge which has been determined at departmental level.
2. The figures for each financial year are for those matters where there was a hearing on the substantive issues (and not merely a directions hearing). Matters shown as having been heard include those awaiting the Tribunal's decision at the end of the relevant financial year.

Changes to QPS rules and processes

The more significant changes to QPS internal discipline processes introduced following the Fitzgerald Inquiry are discussed below under the following headings:

the framework of rules
 processes for handling complaints
 initiatives to encourage the reporting of misconduct
 new organisational arrangements.

Many of these changes were a direct consequence of Fitzgerald Inquiry recommendations. However, some significant initiatives have been introduced by the QPS of its own volition, or in conjunction with the CJC (such as the introduction of informal resolution). Table 2.3 summarises the actions which have been taken to implement the relevant recommendations of the Inquiry.

Table 2.3 – Fitzgerald Inquiry recommendations for police discipline

Fitzgerald Inquiry Recommendation C.II.	Action taken
1. The Police Department Internal Investigations Section be abolished.	Implemented. Operations of the Internal Investigations Section ceased as from 23 April 1990.

<p>2. The Police Complaints Tribunal be abolished.</p>	<p>Implemented. The Police Complaints Tribunal was abolished on 2 June 1990.</p>
<p>3. The Police Rules be revised generally to include, but not limited to the following:</p> <p>(a)to oblige every police officer to report any complaint of misconduct or any reasonable basis of suspicion of misconduct to the CJC on a confidential basis</p> <p>(b)to remove any discretion by any police officer not to refer any allegation of police misconduct, other than of purely disciplinary significance, for investigation by the CJC</p>	<p>(a)The PSA Act (see note to table on p. 17) contains provisions largely consistent with the recommendation. Section 7.2(2) (c) of the PSA Act imposes a duty on a police officer or staff member who knows or reasonably suspects that relevant conduct is misconduct, to report the occurrence of the conduct to the Commissioner and to the Complaints Section of the Official Misconduct Division at the CJC.</p> <p>(b)Section 7.2(2)(d) of the PSA Act imposes a duty on a police officer or staff member in the case of conduct that is misconduct or a breach of discipline, to take all action prescribed by the regulations.</p>
<p>(c)to remove unnecessary obligations of secrecy on police officers [This recommendation was made in the context of the now repealed Police Rules which prevented a police officer from making any public statement or giving any information to the media about Government or QPS policy or which may involve public controversy.]</p>	<p>(c) Implemented, subject to conditions: see section 4 of the QPS Code of Conduct, which states that officers have a right to make public comment and enter into public debate on political and social issues, except in circumstances where public comment or debate by officers is not acceptable. Examples are included in clause 7.4.1 of the Code of Conduct. Section 10.1(1) of the PSA Act creates an offence for the disclosure of information that has come to the knowledge of the officer through his or her employment in the Service, unless certain conditions are met.</p>
<p>(d)to introduce ‘stand down’ provisions, whereby police officers under investigation for suspected misconduct may:</p> <p>(i)have their warrant cards withdrawn and their right to exercise powers of arrest and ancillary powers of investigation, detention, search, and seizure</p>	<p>(d) Implemented in part. Part 6 of the PSA Act deals with standing down and suspension of police officers. Section 6.1(1) empowers the Commissioner ‘on reasonable grounds’ to stand down or suspend an officer from duty if the officer is liable to be dealt with for official misconduct or by disciplinary action under section 7.4 (misconduct or</p>

<p>suspended</p> <p>(ii) be employed in uniform on non-controversial police work which does not involve officers dealing with the public, being armed, or using special powers.</p>	<p>breach of discipline). The Commissioner may direct a person stood down to perform certain duties. Section 6.4 provides that while an officer remains stood down or suspended under section 6.1, the officer is relieved of the powers and duties of a Constable at common law or under any Act or law and is not bound by the oath or affirmation referred to in section 3.3 of the PSA Act, taken or made by the officer.</p>
<p>4. The Queensland Police Union revise its Rules to preclude any concern with police disciplinary matters other than as relevant to industrial relations.</p>	<p>No action taken to the knowledge of the CJC.</p>
<p>5. The Police Department implement adequate procedures to protect officers who make reports against other police from any form of retribution.</p>	<p>Legislative protection consistent with this recommendation may be found in s. 7.3 of the PSA Act, which creates an offence of victimisation. Similarly, ss. 131 and 103 of the <i>Criminal Justice Act 1989</i> create a related offence in respect of persons who have assisted the CJC by furnishing information. The offence provisions of the <i>Whistleblowers Protection Act 1994</i> may also be relevant in some instances, where there has been a 'public interest disclosure' within the meaning of that Act. Commissioner's Circular 11/96 nominates the officer in charge of the PSU as the person responsible for assessing the needs of members of the QPS for protection against reprisals and recommending measures to prevent reprisals.</p>
<p>6. In dealing with disciplinary offences within the Police Force:</p> <p>(a) the present adversarial process be abolished [This recommendation and recommendations 6(d) and 6(e) overlap.]</p> <p>(b) privilege against self-incrimination be abolished</p>	<p>Disciplinary proceedings involving members of the Police Service are handled both within the QPS (which includes the review process by a Commissioner for Police Service Review) [See Part 9 of the Police Service Administration Act 1990. A police officer aggrieved by a decision about action against the officer for breach of discipline or suspension or standing down from office, may seek</p>

a review from a Commissioner for Police Service Reviews: s 9.3.] and by the Misconduct Tribunals.

(a) The only parties present at a disciplinary hearing are the officer the subject of the disciplinary charge (possibly accompanied by a legal representative or union representative) and the Prescribed Officer. Clause 18.6.4 of the QPS Human Resource Management (HRM) Manual [QPS HRM Manual, Section 18 — Discipline, February 1995.] provides that disciplinary hearings are administrative, not judicial, in nature; there is no automatic exclusion of a legal representative present at an interview or a disciplinary hearing; the interviewer or Prescribed Officer is required to exercise his or her discretion to permit or exclude a legal representative. [See *R v Blizzard, ex parte Downs* [1993] 1 Qd.R. 151.] Clause 18.8.8 requires the Prescribed Officer to ‘act independently, impartially and fairly as an adjudicator, not act as a prosecutor’. Investigative hearings conducted by the Misconduct Tribunals are inquisitorial, rather than adversarial.

(b) Implemented in relation to disciplinary matters, but not in relation to potential criminal charges. The Order contained in clause 18.4.3 of the QPS HRM Manual directing police officers, staff members and recruits to answer questions, ‘is not intended to apply where investigations are initially being conducted with a view to preferring criminal charges, where the member may claim privilege against self incrimination’. (See ss. 4.9(1) and 2.5 of the PSA Act for the power of the Commissioner to give directions.)

<p>6. (continued)</p> <p>In dealing with disciplinary offences within the Police Force:</p> <p>(c) investigations be conducted by commissioned officers</p> <p>(d) the process be inquisitorial</p> <p>(e) the Rules of Evidence not apply</p>	<p>(c) Investigations may be, but are not necessarily, carried out by commissioned officers, although a commissioned officer is involved in the assessment of complaints received by QPS: see clause 18.3 of the QPS HRM Manual. A Commissioned Officer is also responsible for determining the appropriate rank of the Prescribed Officer who is to conduct the disciplinary hearing: clause 18.7.1. In CJC investigations, the practice is to have an officer senior to the most senior person under investigation, so that if necessary a direction to answer questions may be given. [See the discussion in relation to recommendation 6(f).]</p> <p>(d) Implemented in part. See comments in relation to recommendation 6(a).</p> <p>(e) Implemented. The procedures in clause 18.8.8 of the QPS HRM Manual applicable to a Prescribed Officer conducting a disciplinary hearing requires that the Prescribed Officer is 'to allow written or oral submissions, normally inadmissible in a criminal matter, e.g. hearsay. However, such submission/s shall not be given the same weight as direct evidence'. In a CJC investigative hearing, the Commission is not bound by rules or practice about evidence: see section 92)(1)(b) of the <i>Criminal Justice Act 1989</i>.</p>
<p>(f) the police officer concerned be obliged and required to answer questions and provide information, including whether or not the officer disputes the validity of the complaint, with any denials being provided in the form of a statutory declaration</p> <p>(g) other police officers able to provide relevant information also</p>	<p>(f) In the conduct of an investigation into a complaint, police officers, staff members and recruits may be instructed to truthfully, completely and promptly answer all questions directed to them by a member who is responsible for conducting an inquiry or investigation into any matter including an administrative or disciplinary complaint. The order only applies in respect of</p>

<p>be required to answer questions and provide information</p> <p>(h)investigating officers be empowered to determine whether a disciplinary offence has been committed, and to administer summary punishment</p>	<p>administrative and disciplinary matters. See sections 4.9(1) and 2.5 of PSA Act re Commissioner's directions; and the Order in the QPS HRM Manual at clause 18.4.3.</p> <p>(g)Implemented. Refer to (f) above.</p> <p>(h)Not implemented. The QPS HRM Manual at clause 18.4.1 provides that an investigating officer should not take disciplinary action where the conduct identified relates specifically to the circumstances of the complaint. Clause 18.8.8 orders that a 'prescribed officer' conducting a disciplinary hearing will be a member other than the investigating member. [Refer to the Police Service (Discipline) Regulation 1990 for the grounds, disciplinary powers of different ranks of officer, and disciplines which may be imposed.]</p>
<p>7. A police officer aggrieved at disciplinary determination or penalty be able to appeal to the Misconduct Tribunal [Division 6 of Part 2 of the Criminal Justice Act 1989 establishes Misconduct Tribunals. Section 49(1) provides that a person aggrieved by a decision in respect of a disciplinary charge of misconduct against a police officer may seek a review of the decision by the Misconduct Tribunal.] which will:</p> <p>(a)proceed by an inquisitorial administrative process not bound by the Rules of Evidence</p> <p>(b)hear the issues afresh and exercise the investigating officer's power to determine and punish as appropriate</p> <p>(c)not itself be subject to any further appeal from or review of</p>	<p>(a)Implemented. See section. 54(1) of the <i>Criminal Justice Act 1989</i>.</p> <p>(b)Implemented. See section 49(2) and 55(3) of the <i>Criminal Justice Act 1989</i>.</p> <p>(c)Implemented. See section 49(3) of the <i>Criminal Justice Act 1989</i>.</p>

its purely disciplinary review function	
8. The Misconduct Tribunal also make original administrative decisions in relation to the more serious allegations of official misconduct by police officers, such original decisions in this case to be open to judicial administrative review on the basis of want of natural justice or error of law.	Implemented. See sections 46(1)(a) and 48 of the <i>Criminal Justice Act 1989</i> .
9. Disciplinary procedures and administrative action as recommended against official misconduct proceed quite independently, and not be deferred pending the outcome of any criminal proceedings arising from or connected with the same activities.	Not implemented in practice. A charge of 'official misconduct' is dealt with by a Misconduct Tribunal. In relation to a hearing brought before a Misconduct Tribunal where both criminal and disciplinary charges were pending against a person, it has been the practice of the Misconduct Tribunal hearing to adjourn the disciplinary charges hearing to a date to be fixed.
10. Regional police commanders (or equivalent) be empowered to dismiss out of hand vexatious or mischievous complaints against police, provided that a record of the complaint and action taken is kept and notice of it is given to the CJC.	Implemented in relation to complaints of a 'trivial nature'. In the procedure outlined in clause 18.3.6 of the QPS HRM Manual, a commissioned officer may, after assessing a complaint as a breach of discipline, decide that there needs to be no further action in respect of a complaint 'where the matter of complaint is, for example, of a trivial nature' and in the assessment of the commissioned officer, an investigation is not warranted. A notice of the decision is given to the CJC.
11. All complainants against police be informed of any action taken upon, and the outcome of their complaints.	Implemented. It is QPS policy that complainants be informed at the finalisation of a complaint of a breach of discipline that the complaint was either substantiated and the disciplinary action taken, or unsubstantiated and the reasons for the decision: see clauses 18.9.5 and 18.9.6 of the QPS HRM Manual.

	<p>Additionally, section 33(4) of the <i>Criminal Justice Act 1989</i> requires the Director of the Official Misconduct Division of the CJC to give a response to a complainant as to whether any, and what, action is taken (and if not, the reason for the inaction), the reasons for the appropriateness of that, and the results of the action, as then known.</p>
<p>12. A record be kept of allegations of misconduct made against investigating police in the courts, so that such records may be analysed to observe trends and patterns of involvement by particular officers or groups</p>	<p>Implemented in part. The QPS has sought the cooperation of relevant non-judicial agencies in notifying the QPS or CJC where comments of alleged misconduct by police are made by judges and magistrates in judgments. The PSU complaints database is used to record those notifications. [The Director of Public Prosecutions and some magistrates have referred such matters to the CJC.]</p>

Note: PSA Act means *Police Service Administration Act 1990*.

The framework of rules

In accordance with the recommendations of the Fitzgerald Inquiry, the rules relating to police behaviour and discipline have been comprehensively re-written. These rules are now set down in:

the *Police Service Administration Act 1990*
 the *Police Service (Discipline) Regulation 1990*
 the *Police Service (Review of Decisions) Regulation 1990*
 the QPS Code of Conduct
 the Code of Dress and Appearance
 various Commissioner's Directions and QPS policies, orders and procedures,
 including the QPS HRM Manual, Section 18: Discipline
 the *Criminal Justice Act 1989*.

Processes for handling complaints

Some progress has also been made in addressing the Fitzgerald Inquiry's criticisms of internal police disciplinary processes as unnecessarily complex and adversarial, and as being weighted too much in favour of the accused officer. Supervisors may now deal with minor breaches of discipline by issuing a written direction to the subject officer to rectify conduct. Where such a direction is ignored, the matter must then be reported as a breach of discipline.

For administrative and disciplinary matters, police officers (including officers who are the subject of an investigation) may be instructed to answer truthfully completely and promptly all questions directed to them by a person conducting an inquiry or investigation. The current system allows for formal hearings of disciplinary charges where the adjudicating officer exercises a discretion to determine whether the subject officer's legal representative may attend. That hearing is not adversarial and the normal rules of evidence are relaxed. Privilege against self-incrimination has been abolished for disciplinary charges. The officer conducting the hearing is required to act fairly as an adjudicator and not as a prosecutor.

An important initiative since the Fitzgerald Inquiry is the introduction by the QPS, in July 1993, of informal complaints resolution procedures for resolving minor complaints, such as rudeness and duty failure. This initiative was developed in conjunction with the CJC. Table 2.4 summarises the main differences between this process, the formal investigation process and mediation.

The task of the officer who conducts the resolution — the authorised member — is to ensure that the complainant is satisfied with how the complaint is handled, rather than to decide whether disciplinary or criminal offences have occurred. Taking on the role of a conciliator rather than an investigator, the authorised member relays the views of each party — the complainant and the officer — to the other.

Disciplinary sanctions are not imposed following the process. The possible outcomes are:

- the complainant accepts the explanation offered where it is lawful and reasonable
- the officer apologises to the complainant or the authorised member apologises on the officer's behalf or on behalf of the QPS
- the complainant agrees to differ where there is no corroboration of either version.

If the process fails, the complainant has the option of referring the complaint to the CJC or the QPS to consider dealing with the matter according to the formal investigative process. In some cases, the officer may also be given direction or guidance.

Table 2.4 — Comparison of formal investigation, mediation and informal resolution

	Formal Investigation	Mediation	Informal Resolution
Purpose	To decide if a disciplinary or criminal offence has committed	To resolve conflict to parties' mutual satisfaction	To ensure complainant is satisfied that complaint has been handled properly
Used for	Any allegations	Minor allegations only	Minor allegations only

Conducted by	CJC, or in QPS: Commissioned Officers; Senior Sergeants; Sergeants and selected staff members	Neutral mediators	Authorised members (Commissioned Officers and Senior Sergeants) and delegated officers under supervision of authorised member
Methods used	Standard investigative techniques	Mediation	Conciliation and explanation
Outcome	Complaint substantiated or not substantiated	If mediation is successful, a written or oral agreement is reached	Flexibility allowed, but mainly an apology, 'explanation accepted', or 'agree to differ'
Sanction if complaint proved	Various disciplinary sanctions, depending on seriousness of matter	None	None, although authorised member may give officer advice and guidance
Implications for Promotions	Details of case recorded on officer's file	No details recorded on officer's file, except central record at PSU	No details recorded on officer's file, except central record at PSU
Involvement of officer subject of complaint	Officer interviewed usually after all other avenues investigated	Consent required for meeting with complainant	Officer involved from start of the process; consent not required
Complainant involvement	Complainant gives initial statement and then has very little further involvement	Consent required for meeting with officer subject to complaint	Consent required. Several written, telephone, or face-to-face contacts with authorised/delegated member usually necessary
Paperwork involved	All aspects of case to be rigorously documented	Minimal paperwork	As procedures have developed, minimal paperwork involving standard documentation

Source: Based on CJC 1994b, p. 13.

Several hundred complaints a year are now resolved informally. Evaluations by the CJC have shown that the process is considerably cheaper, quicker and more satisfying for complainants than the process of formal investigation, although there is still considerable scope for reducing the time involved (1994b, 1996a). Mediation is only rarely used as an option.

Initiatives to encourage the reporting of misconduct

As discussed in chapter 7, the Fitzgerald Inquiry was highly critical of the 'police code', under which it was considered impermissible for an officer to report misconduct by a fellow officer. Officers who were prepared to complain against a fellow officer received little, if any, support from the Service.

The message to honest police was clear. If they made an allegation, they would be required to provide evidence, while a legal shield would be erected around the accused, usually with legal representation paid for by the Police Union. Meanwhile the police brotherhood would punish the 'whistleblower'. The rules could be turned against the complainant who would often become the subject of false complaints, fabricated evidence and punitive transfer. Fellow officers would shun and mock the 'whistleblower' who would be given the worst rosters and duties. (Fitzgerald Inquiry 1989, p. 286)

According to the Fitzgerald Inquiry, the Police Rules contributed to this problem in a variety of ways:

Rule 81, which concerned the obligation of police to report misconduct, was couched in unduly restrictive terms:

That Rule only requires police to report knowledge, not suspicion, or what they have been told or overheard. That limitation has been exploited by police, who, when asked why they did not report their suspicions, have taken refuge in the excuse that they have no proof of misconduct, only suspicion. (1989, p. 285)

Under another rule, honest officers who did make a complaint risked being accused of making a false statement 'affecting the character of any other member'.

Complaints had to be made to another police officer, either the commissioned officer immediately above the rank of the complainant, or to the Commissioner. There was no scope for matters to be referred to an independent body.

The Fitzgerald Inquiry was also critical of the Queensland Police Union Rules which required any member making a charge against any other member to provide notice in writing to the Union (1989, p. 287).

In accordance with the recommendations of the Inquiry, section 7.2 of the *Police Service Administration Act 1990* now requires any sworn or unsworn member of the QPS who knows *or reasonably suspects* that misconduct has occurred to report that misconduct to the Commissioner of Police and the CJC. It is also the duty of all police officers to take appropriate action under the regulations when a breach of discipline or misconduct is suspected. A scan of QPS and CJC complaints databases identified eight incidents in the period 1992–1995 where there has been a documented failure to

comply with section 7.2. The penalties were correction by way of guidance, an official caution or a reprimand.

Section 7.3 of the *Police Service Administration Act* makes it an offence for anyone to take any form of retribution against a person who has made a report under section 7.2. The *Criminal Justice Act* (s. 131) contains a similar provision. However, it appears that there have not been any charges brought based on these provisions.

The *Whistleblowers Protection Act 1994* seeks to protect people who disclose unlawful, negligent or improper conduct affecting the public sector and to encourage the making of such disclosures. [See ss. 3, 7, 41, 42 and 43 *Whistleblowers Protection Act 1994* .] That Act also applies to the QPS. The Officer in Charge of the Professional Standards Unit (discussed below) is the officer to whom public interest disclosures (within the meaning of the *Whistleblowers Protection Act*) received by officers of the QPS are to be notified. [Circular of Commissioner of Police (11/96, 3 May 1996).] The legislation makes it an offence to cause, attempt to cause, or conspire to cause detriment to a person, because that person made or may make a public interest disclosure. The whistleblower in certain circumstances may also be entitled to claim damages. However, these provisions have been rarely used to date. During 1994–95, there were no disclosures as defined by the *Whistleblowers Protection Act* (Department of the Premier, Economic and Trade Development 1995, p. 50). During 1995–96, there was one public interest disclosure received which was under investigation as at 30 June 1996 (Department of Police 1996, p. 39).

The Project Honour report to the Commissioner of Police on Ethics in the Queensland Police Service recommended enhancement of the support and protection of officers who report other officers (Project Honour Team 1996, p. 96). In 1994, the CJC established a Whistleblower Support Program to provide support to people who bring cases of suspected misconduct to the attention of the CJC. However, of the 72 referrals to the program in 1995–96, only two were police officers.

A further recommendation of the Fitzgerald Inquiry relevant to encouraging the reporting of misconduct by police related to judicial comments concerning inappropriate conduct by investigating police. Recommendation C.II.12 (Fitzgerald Inquiry 1989) proposed that ‘a record be kept of allegations of misconduct made against investigating police in the courts, so that such records may be analysed to observe trends and patterns of involvement by particular officers or groups’ (p. 386). That recommendation is capable of differing constructions. The more practical interpretation would involve a record being made where the presiding judge or magistrate refers in his or her formal findings or judgment (rather than during a trial) to inappropriate conduct by investigating officers.

The CJC understands that the QPS has sought the cooperation of relevant non-judicial agencies to have those circumstances where remarks adverse to an investigating officer are made by a judge or magistrate notified to the QPS or the CJC. Further, the Professional Standards Unit (PSU) complaints database records those notifications and enables the monitoring of any complaints trends and patterns of individual members or groups.

Organisational arrangements

In the aftermath of the Fitzgerald Inquiry, two organisational units were established within the QPS to oversee the disciplinary process and promote compliance with organisational policies and procedures—the PSU and the Inspectorate.

Professional Standards Unit

Principally, the PSU seeks to ensure that organisational policies and procedures are being followed and the system is working effectively. It does this by coordinating and overseeing investigations conducted within the QPS and ensuring that complaints are referred to the CJC and that the CJC is kept properly briefed on disciplinary investigations conducted by the QPS.

As part of its role, the PSU annually reviews the disciplinary process and makes recommendations to the Executive Director, Operations (the Deputy Commissioner) for referral to the Commissioner of Police. Although based in Brisbane, the PSU has a statewide role. It is headed by a Chief Superintendent who reports directly to the Deputy Commissioner. The Unit is divided into three sections — administration; training, policy and review; and investigations. It is staffed by senior personnel, mostly commissioned officers or Senior Sergeants. There are nine Inspectors, six Senior Sergeants, four Sergeants, two Senior Constables and four civilian support staff presently in the Unit.

Inspectorate

The Inspectorate was established to ensure that all officers follow QPS policies and procedures. It seeks to do this by conducting inspections, audits, reviews, and evaluations of QPS activities throughout the State. The Inspectorate is headed by a Chief Superintendent who keeps the Commissioner of Police and QPS management informed of the adequacy of the organisation's controls and systems. The Deputy Commissioner and the relevant regional Assistant Commissioner are responsible for acting on the Chief Superintendent's reports. The Inspectorate has a staff of about 20, all of whom are based in Brisbane.

Increasingly, the Inspectorate is concerning itself with improving the training of QPS officers by identifying deficiencies in knowledge of policies, procedures and requirements under the law. The inspection and the subsequent report provides instructions on the deficiencies identified and allows the Inspectorate to compare its recommendations with the training plans prepared by the QPS. The Inspectorate has also undertaken a survey of some commissioned officers to find out their level of knowledge concerning QPS policies and the sources from which they gained their information.

Proposed ethical standards command

In May 1997, the QPS released a proposal to amalgamate the PSU and Inspectorate into a new Ethical Standards Command, headed by an Assistant Commissioner. In addition to carrying out the existing functions of the PSU and Inspectorate, it is envisaged that this new command will have responsibility for overseeing ethics training within the QPS. The main rationale for creating the new command is to facilitate a more proactive approach to the prevention and detection of police

misconduct. At the time of writing this report, work was underway on the development of a more detailed proposal, with a view to implementation prior to the end of 1997.

Conclusion

Most of the Fitzgerald Inquiry recommendations relating to the police complaints and discipline process have been implemented wholly, or with some modification. Key changes have involved:

- the creation of the CJC — an independent civilian-controlled organisation with substantial powers and resources to investigate suspected misconduct by police and a broad statutory responsibility to monitor and promote reform within the QPS

- re-writing of the Police Rules

- implementation of some measures to make the disciplinary process less adversarial
- strengthening of the statutory obligation on police to report suspected misconduct by fellow officers and greater statutory protection of officers who report misconduct.

Other important procedural and structural changes which have occurred in this area since the completion of the Fitzgerald Inquiry have been:

- the implementation of informal resolution as an alternative method for dealing with minor complaints against police

- the creation of two new organisational units — the PSU and the Inspectorate — to oversee the disciplinary process and promote compliance with organisational policies and procedures. The QPS has recently announced a proposal to incorporate these two units into a new Ethical Standards Command.

CHAPTER 3

THE ORGANISATIONAL CONTEXT

The Fitzgerald Inquiry report (1989) argued that organisational features such as recruitment practices, inadequate training programs and poor management styles had all contributed to the development of a police force that was insulated from the community which it served, and that felt threatened by external criticism (pp. 208–212). A recurring theme of the Inquiry was that it is not sufficient simply to change the way in which complaints are handled; the organisational climate of the QPS had also to support and reward proper behaviour.

This chapter examines the progress made by the QPS towards creating an organisational climate more conducive to ethical conduct. The particular focus is on describing and assessing developments in the areas of:

- recruitment, particularly changes to the profile of recruit intakes
- ethics education

- organisational management and supervision practices, including the selection and training of police managers.

The assessment provided in this chapter relies extensively on two previous reports which have analysed QPS organisational arrangements and operations in considerable depth: the *Implementation of Reform Within the Queensland Police Service: The Response of the Queensland Police Service to the Fitzgerald Inquiry Recommendations Report* (CJC 1994a), and *Report on the Review of the Queensland Police Service* (QPS Review 1996). Much of the information and analysis contained in this latter publication was based on material provided by the CJC.

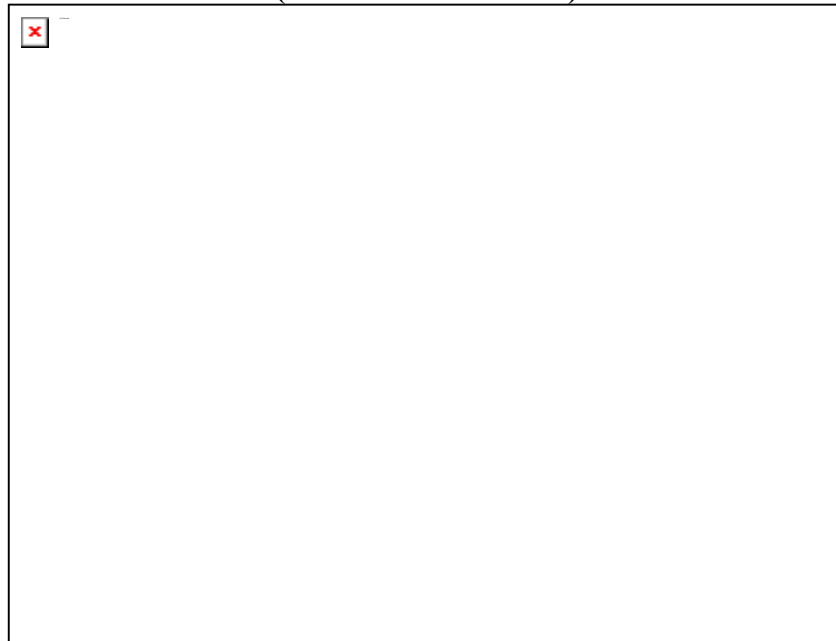
Recruitment initiatives

The Fitzgerald Inquiry argued that an important strategy for achieving cultural change in the QPS was to recruit older, better educated people from a more diverse range of backgrounds, who had some exposure to ‘life’s experiences’ and had developed social networks outside of policing (1989, pp. 245–247). Consistent with these recommendations, the character of recruit intakes has changed substantially in relation to gender, education and age.

Gender composition of recruit intakes

As shown by figure 3.1, women now account for around one-third of the annual recruit intake into the QPS, compared with only 10 per cent in the mid-1980s. However, despite the increasing proportion of females in recruit intakes, the overall gender profile of the QPS is changing only slowly. The QPS Review noted that in 1996 women constituted 14 per cent of total police numbers; this was predicted to rise to only 17 per cent by the year 2000 (1996, p. 123). In addition, women remain concentrated in the lower ranks. As of 1 May 1997 there were only two female superintendents, compared with 57 men holding this rank or above. There were only nine female Inspectors, compared with 221 men of that rank.

**Figure 3.1 — QPS recruits: Proportion of females in intakes
(1985–86 to 1995–96)**



Source: Queensland Police Department *Annual Reports* 1988 and 1989; QPS *Statistical Review* 1990–91 and unpublished data provided by Recruiting Section, Human Resource Management Branch, QPS.

Notes:

1. For 1985–86 to 1990–91, the figure shows the proportion of cadets and probationaries appointed during the financial year who were female.

2 For 1991–92 onwards, proportions are based on the number of recruits appointed during the financial year, excluding lateral recruits.

The gains made by the QPS in increasing the proportion of females in the recruit intake have been undermined to some extent by the increased emphasis given to lateral recruitment at Constable level of officers who have served with a police service in another jurisdiction, or who are re-entering the QPS after an intervening period. In 1995–96, for example, lateral recruits accounted for 34 per cent of the total intake of new officers — a proportion which the QPS is planning to maintain for the next few years. Only 9.7 per cent of lateral recruits in this intake were female. The QPS Review reported that of 132 then current serving lateral recruits, only nine, or 6.8 per cent, were women (1996, pp. 98–99).

Increasing the number of women police is important not only because the QPS should be more representative of the wider community, but also because this is one means of changing police culture and working style. Recent CJC research indicates that, while female police may not be inherently more ethical than their male counterparts (1996c), female officers tend to approach their work differently. For example, the CJC report on *Reducing Police–Civilian Conflict: An Analysis of Assault Complaints against Queensland Police* (1997a), found that male police officers were significantly more likely than females to be the subject of complaints of assault. These findings were consistent with previous research indicating that female police officers are generally less confrontational in their manner and more adept at handling conflict than males (see CJC 1997a, pp. 21–22).

The QPS Review identified a number of managerial strategies, including significant enhancement of the QPS Equal Employment Opportunity Management Plan, as necessary to overcome problems confronting women in the Service, and emphasised the need to deal with the high level of sexual harassment complaints of female officers and staff members within the QPS (1996, pp. 123–125). The Review supported a review of the physical competency test and other recruit selection criteria, and recommended that lateral recruits be subject to the same entry criteria as general recruits (pp. 98–100). These recommendations are currently being addressed by the QPS as part of the QPS Review implementation process.

The QPS Review also emphasised the importance of developing and implementing strategies directed specifically at improving retention rates for female police. Strategies proposed by the Review for improving the retention of female officers included:

- more systematic use of exit interviews and their feedback into the development of policy and practices
- consideration of the impact of re-joining policies
- considering the impact of shift work and the lack of child care
- refining the sexual harassment procedures
- creating a workplace ‘culture’ through training and education, that recognises the contribution of women police officers
- more flexible leave arrangements
- developing work and family policy (1996, p. 123).

A particular problem identified by the Review was that, until recently, the staffing model used to allocate operational police throughout Queensland treated all part-time positions as full-time, creating a disincentive for managers to encourage or assist those officers wanting to work on a part-time basis (1996, p. 84). [The proposed review of the Staff Allocation Model is on hold, pending the results of continuing negotiations on funding with the Minister and Treasury.]

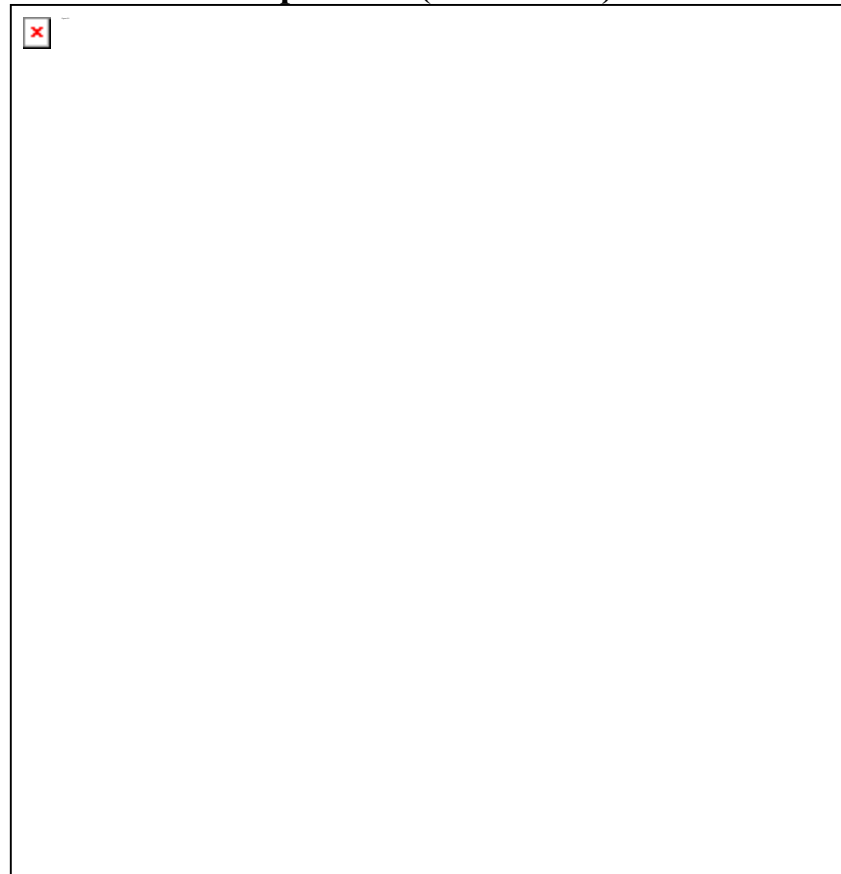
Educational profiles of recruit intakes

Most officers recruited since 1991 have been educated beyond secondary school and many have also had work experience, whereas this was true for less than 10 per cent of recruits in the pre-Fitzgerald Inquiry era (see figure 3.2). Since 1993, applicants to the QPS have been *required* to have some post-secondary education or relevant work experience. Maintenance of these pre-entry standards for recruits was supported by the QPS Review, which noted the benefits of tertiary education in exposing recruits to ‘broader experiences, different ways of thinking and the role of research’ (1996, p. 97).

The QPS Review expressed concern that QPS lateral recruitment policies could affect the educational profile of recruits, because of the generally lower formal education levels of lateral recruits (1996, p. 99). The Review recommended that: entry criteria for lateral recruits be the same as for other applicants; lateral recruitment to general duties be on the basis of competitive assessment; advancement for such recruits be on the same basis as for other recruits; and, lateral recruits be included in the overall

recruit intake for the purposes of measuring recruiting targets (p. 100). These issues are to be considered as part of the overall review of recruitment and selection currently being conducted by the Police Education Advisory Council.

Figure 3.2 — QPS recruits with completed higher education or previous work experience (1985 –1996)



Source: Unpublished data provided by Recruiting Section, Human Resource Management Branch, QPS.
Note: Excludes lateral recruits.

Age composition of recruit intakes

Changes to entry prerequisites introduced in response to Fitzgerald Inquiry recommendations have also contributed to an increase in the age of recruits. In the last five years, the proportion of recruits under the age of 21 has fallen from more than 50 per cent to less than 10 per cent (see figure 3.3). For the May 1997 intake, the average age of recruits was 25.6 years.

The average age of lateral recruits is about 34 years for males and 31 years for females. However, this statistic is somewhat misleading as many lateral recruits, despite being older on re-entry, entered policing work at a relatively young age. The average length of prior service for lateral recruits is 10 years for males and six years for females (QPS Review 1996, p. 99).

Figure 3.3 — Proportion of QPS recruits under 21 years of age (1991 – 1996)



Source: Unpublished data provided by Recruiting Section, Human Resource Management Branch, QPS.
Note: Excludes lateral recruits.

Impact of changes to gender, education and age profile of recruit intakes

It has taken considerable time for changed recruitment policies to affect significantly the make up of the QPS. As illustrated by figure 3.4, in 1995–96 — nine years after the commencement of the Fitzgerald Inquiry — officers recruited prior to 1987 still accounted for about two-thirds of the total complement of the QPS. This comparatively low rate of turnover has made it difficult to achieve a ‘critical mass’ necessary to breakdown the pre-existing police culture. Also, because of the length of service necessary to attain the rank of Sergeant and Senior Sergeant and beyond, many police officers who still hold management and supervisory positions initially had their attitudes to policing tasks, styles and discipline shaped in the period prior to the Fitzgerald Inquiry.

Figure 3.4 — Estimated proportion of QPS officers who had commenced service before the Fitzgerald Inquiry (1988 –89 to 1995 –96)



Source: Estimations based upon figures presented in Queensland Police Department *Annual Report* 1989, QPS *Annual Report* 1989–90 and QPS *Statistical Reviews* 1990–91 to 1995–96.

Lateral recruitment at senior levels

The Fitzgerald Inquiry report urged the adoption of policies which would facilitate lateral entry from other organisations into more senior positions within the Police Service, and give a greater role to civilians in senior and management positions. These recommendations have only been implemented to a limited extent (CJC 1993b, pp. 24–26; QPS Review 1996, pp. 78–80, 99–100).

For senior executive (Superintendent upwards) and specialist positions, the QPS Review fully supported open lateral recruitment, and said:

Given the importance of having skilled managers, attracting the best applicants should be a priority. The ability to laterally recruit at this level would make better use of the skills and experience of senior officers wishing to join the QPS than the current policy of lateral recruitment does. The advent of national competencies may enable the categories for which lateral recruitment is appropriate to be widened (1996, p. 100).

Lack of progress in this area is in part due, no doubt, to concerns about the impact on morale of existing QPS members if large numbers of external appointments were made, as opposed to internal promotions. However, the policy proposed by the QPS Review would apply only for positions of Superintendent and above, which represents a very small proportion of QPS numbers. Furthermore, such appointments would be

made strictly on the basis of merit, thus ensuring that local applicants have at least equal opportunity to succeed, and probably some advantage arising out of their knowledge and experience of local conditions.

Civilianisation

The ratio of civilians to police improved from 1:6.1 to 1:4.4 between 1989 and 1996. However, most civilian positions in the QPS are still administrative or clerical and relatively junior (CJC 1994a, p. 113). In recognition of the persistent ‘suspicion’ towards the placement of civilians in supervisory roles, the QPS Review recommended ‘that the Commissioner develop strategies to extend the QPS civilianisation program to senior positions’ (1996, rec. 32, p. 80). The Review noted a number of ongoing concerns arising from the QPS civilianisation policy, including the need to target positions to be civilianised and to ensure that police released to operational duties do in fact return to that role, rather than being assigned to other administrative tasks.

The QPS Review also recommended that the QPS develop strategies to extend the civilianisation program to more senior positions, acknowledging the benefits brought by persons with external experience, and of a multi-disciplinary approach. The Review referred to the dangers of well qualified persons being excluded from senior positions because of prejudice or the perception that only sworn officers can learn about the intricacies of policing and be loyal to the QPS (1996, p. 80).

Ethics education and training

The Fitzgerald Inquiry reported (1989) that recruits received ‘inadequate instruction in public ethics’ (p. 211) and that in the future ‘training must include an ethical component as an integrated aspect of all matters taught’ (p. 249). This view conforms with the view widely expressed in the policing literature that it is essential for all police officers, from recruits to senior officers, to be trained in ethics. [See, for example, reference list in Project Honour Team (1996).] *Directions in Australasian Policing*, recently released by the Australian Police Minister’s Council, has also emphasised the importance of enhancing ethics education in all police training (1997, p. 8).

The QPS Review (1996) emphasised the need to enhance the disciplinary system of the QPS by instituting a framework of ethical decision making. To this end, the Review recommended that ‘ethics education becomes a core component in all police education and training and that Project Honour, [see below] remain a continuing high priority’ (1996, rec. 183, p. 258).

Project Honour

Project Honour was an initiative of the Commissioner of the QPS in early 1996 aimed at identifying strategies which would promote and maintain organisational integrity within the QPS, enhance responsible decision making by all QPS staff, and ensure acceptance of the challenge of ethical policing. The project was initiated in response to CJC research indicating a marked change in the ethical perspectives of new police after they had been working ‘in the field’ for a few months (1995a).

Project Honour:

- conducted research within the QPS, evaluated previous research findings and developed recommendations to adopt any relevant findings for implementation within the QPS

- developed a new Code of Conduct and a Statement of Ethics

- formulated systems of corruption prevention, with a particular focus on finding ways to use complaints data more proactively

- overviewed the current ethics education and training within the Service

- determined the recommended role, structure and location of a permanent unit responsible for the implementation and coordination of project recommendations.

The project produced the *Final Report to the Commissioner of Police on Matters Pertaining to Ethics and Organisational Integrity*, in November 1996. As a result of the work of the project, a new Code of Conduct and Statement of Ethics has been adopted. At the time of finalisation of this report the proposed Unit had not yet been established. However, as discussed in chapter 2, the QPS has recently formulated a proposal to create a new Ethical Standards Command which should ensure that there is a permanent organisational unit in place to address the issues identified by Project Honour.

Current ethics education and training

The QPS Project Honour report (Project Honour Team 1996) found that there were approximately 120 training courses, sessions and workshops conducted within the QPS. The project team observed that a 'number of these require the learner to consider or discuss problems which may involve ethics issues, however most do not' (1996, p. 89). The main courses and their ethics components, as identified by Project Honour, were as follows:

The Police Recruit Operational Vocational Education (PROVE) Program is a six-month residential course for all new recruits, characterised by 'problem-based learning'. Recruits are presented with operational situations and assisted to gain the knowledge, skills and attitudes consistent with 'best police practice'. The course does not contain a specific learning unit on ethics, but ethical issues and the discussion of ethical dilemmas are integrated throughout the course. The CJC's Police Service Liaison and Training Officer conducts a two-hour critical decision-making workshop with all new recruits and contributes to the assessment in each six-day simulated policing exercise.

The First Year Constable Program is a 12-month period of supervised probation. The program currently has only a limited ethics content, and there is no requirement for ethics issues to be considered as part of the assessment of the program. Given that this is the time when new police first become exposed to the existing police culture, reinforcement at this stage of the ethical decision making education received during the PROVE program would assist to counteract any negative aspects of that culture (see chapter 7).

The Constable Development Program is a voluntary three-year program aimed at enhancing the performance of Constables and preparing them for the rank of Senior Constable. Training is conducted through distance education with week-long

workshops at the end of the first and third years. Ethics education is incorporated into all aspects of the course. The facilitators of the program have attended an ethics workshop conducted by the Corruption Prevention Division of the CJC. The CJC's Police Service Liaison and Training Officer also conducts a one- or two-hour training session during the workshop phase of the course.

The Detective Training Program is a four-week prerequisite course for appointment as a detective. The program currently has no identifiable ethics content even though, as the Fitzgerald Inquiry identified, plain-clothes investigation has proven to be an area where there is a high risk of unethical and corrupt practices developing. (The QPS has recently initiated a review to consider how ethics education could be incorporated into the Detective Training Program.)

The Competency Acquisition Program contains approximately 70 units that are distributed as individual booklets or on computer disk. These units are linked to the pay structure and, although undertaken on a voluntary basis, must be successfully completed if officers are to progress to the next pay scale. One unit is solely devoted to the subject of ethics. The remainder only indirectly raise ethical issues, or do not deal with them at all.

The QPS has developed a Professional Development Program, the aim of which is to serve the needs of officers seeking promotion to the next ranks of Sergeant, Senior Sergeant and Inspector. It is intended that the program will include components from both internal and external providers. The Project Honour report states that consultation with the course providers has indicated an integrated ethics approach similar to that used in the Constable Development Program will be used (Project Honour Team 1996, p. 82).

As of mid-1997 there were no courses devoted to facilitator training in respect of the specialised teaching of ethics.

The Staff Member training program available to unsworn QPS employees has no course available which covers the standard of professional ethics expected of such employees.

In summary, the Project Honour report (Project Honour Team 1996) documented that although there have been valuable initiatives in some areas, ethical decision making has not yet been consistently included in QPS education and training programs. As identified above, the basic recruit training course, and the major courses undertaken by officers pursuing promotions (the Constable Development Program and the Professional Development Program), all incorporate an integrated approach to ethics education which conforms with the spirit of the recommendations of both the Fitzgerald Inquiry and QPS Review. It may be relevant in this regard that all three courses have been recently designed and have benefited from considerable external input, both into the program design and curriculum and, in the case of the Professional Development Program, from the involvement of universities as providers of parts of the course. The design of these courses has also been subject to the supervision of the Police Education Advisory Council. By contrast, the programs aimed at practical skills or specialist policing have tended to overlook ethics education. Neither the First Year Constable Program nor the Detective Training Program as yet have significant ethics components, despite the particular ethical problems likely to arise in those areas. Although the Competency Acquisition Program has a stand alone ethics subject, the teaching of ethics in isolation from individual policing contexts does not

conform with the integrated approach adopted elsewhere. Similar deficiencies exist in staff member training,

More generally, as indicated by the Project Honour report (Project Honour Team 1996), there has been a lack of coordination of course content throughout the QPS. The project found no centralised database that records training undertaken by members, which ‘adds to the difficulty of ensuring that all officers have undergone ethics/anti-corruption training and any ongoing evaluation of the effectiveness of such training’ (Project Honour Team 1996, p. 86). [In 1997 work commenced on developing a database for the Human Resource Development Branch which will enable such information to be recorded in the future.] This finding echoes that of the QPS Review, which referred to the fragmentation of, and lack of responsibility for, the planning of education and training within the QPS. To this end, the Review recommended that the position of Manager of the Human Resource Development Branch be refocussed to give to that officer major responsibility for planning and prioritising education and training needs in the QPS (1996, pp. 133–137). (This recommendation has now been implemented.)

Management and supervision

As discussed above, ethical education in itself is not sufficient to ensure appropriate standards of police behaviour. Both the Fitzgerald Inquiry (1989) and QPS Review (1996) reports suggested that improved standards of police conduct need to be entrenched by a supportive system of management and supervision. A number of strategies for achieving this have been identified. The following discussion focuses on three areas:

- selection and training of middle-level managers
- proactive management strategies
- policing styles.

Selection and training of middle managers

Until recently, the training needs of middle-level managers (Sergeants, Senior Sergeants, Inspectors) — many of whom were recruited in the pre-Fitzgerald Inquiry era — were not a high priority for the QPS (CJC 1993b). Rather, most of the effort was focused on improving the training of new entrants into the Service. However, as indicated, the QPS is now designing and implementing a new training and promotion program, the Professional Development Program, for officers of the rank of Sergeant and above, which should help redress this imbalance in the longer term. The QPS Review endorsed ‘these initiatives aimed at providing tertiary accredited management training at all levels of the QPS’ (1996, p. 159). The Review also emphasised the need for training in management to be provided by persons with relevant skills and qualifications including formal qualifications in management (p. 142).

Those middle ranking officers who seek further advancement will be required to participate in the ethical and management education aspects of the Professional Development Program, but there is no requirement that other officers do so, and many may not. Some officers recruited and trained in the pre-Fitzgerald Inquiry era who are

disgruntled and see no promotional path for themselves will continue to have a negative influence on new recruits and junior officers in their introduction to operational policing. There is therefore a need to develop strategies aimed specifically at these officers to ensure that they do receive proper ethical and management education, or alternatively, that their departure from the Service is facilitated. To this end, the QPS Review (1996) recommended that the Government introduce and fund a more flexible early retirement scheme for officers who have completed 25 years of service or are within five years of retirement and who have satisfied certain other criteria. The proposal is aimed at:

... recognising long serving officers whose goals and aspirations no longer match those of the new organisation ... The Committee is concerned that not enough has been done to recognise the effects that the changes since 1989 have had on the careers of many long serving officers. (QPS Review 1996, pp. 121–122)

This recommendation has not yet been implemented.

Proactive management strategies

Many disciplinary problems, especially minor ones, are manifestations of inadequate management and supervisory processes, rather than deep-seated disciplinary failures. In this context, the Australian Law Reform Commission, in its recent review of complaints processes for the Australian Federal Police and the National Crime Authority, commented that:

... complaints can identify shortfalls in the lines of supervisory responsibility for street level policing. Instead of a focus on punishment or deterrence of the individual law enforcement officer after the event, the primary objective is systemic *ex ante* review to improve practice and procedures before systematic problems emerge. (1996, pp. 61–62)

The QPS Review also considered that responses needed to be developed to deal with discipline as a managerial and not just a complaints-based problem. Strategies suggested included:

- guidelines, including legislation, manuals and codes of conduct which broadly define acceptable standards;
- adequate training to ensure a reasonable level of awareness and competence;
- leadership which demonstrates that discipline is integrated through the hierarchy, not merely imposed upon junior ranks;
- facility to acknowledge and reward commendable conduct, not merely acts of heroism, numbers of arrests or time served;
- capacity and preparedness to identify and respond to systemic shortcomings

effective monitoring system. (1996, p. 256)

In line with this approach, the PSU has developed a methodology for identifying officers who have been subject to multiple misconduct complaints. Since this procedure was instituted in August 1996, 78 officers (as of May 1997) have been

identified and this information provided to the relevant regions. Regions are requested to review the complaints and work histories of the officers concerned and to consider various management responses, such as provision of guidance, or re-deployment. It is too early to assess the effectiveness of this strategy, although one obvious problem is the lack of re-training options.

The PSU has also undertaken some preliminary work on developing a Commissioner's Accountability Panel, following a New South Wales Police Service model, which would profile policing Districts on matters including:

- responses to incidents of, or attitudes to, misconduct and measures taken to prevent, detect and report them

- whether adequate levels of support and assistance have been provided to personnel to enable them to respond properly to complaints

- trends in complaints, areas of concern and remedial action

- officers with an unsatisfactory complaints history and appropriate action against them

- recommendations for the Commissioner where there has been inadequate acceptance of personal accountability

- the identification of District Officers and Supervisors who have performed diligently, or poorly, in this area.

In addition to the above initiatives, the QPS, via the PSU and the Inspectorate, is developing some further procedures aimed at promoting proper supervision and the application of management principles. For instance, under the new Station Assessment Procedure, breaches of discipline which are minor administrative failures or errors may be dealt with as managerial rather than disciplinary issues, subject to various guidelines laid down by the Inspectorate. In this way, managers will assume responsibility for setting standards of behaviour and performance of professional duties by staff under their supervision, rather than deflecting problems onto the complaints system.

The QPS has also implemented a risk management process which is premised on 'proactive management' principles (chapter 15, *QPS Operational Procedures Manual*). The process is designed to improve accountability at all levels of management and to ensure effective and professional police operations (at section 15.6). Through this process, managers are expected to work towards minimising the risk of misbehaviour of officers under their control. The Inspectorate has been delegated responsibility for training on risk management procedures. A Competency Acquisition Program module on the risk management process has also been developed to meet the training needs of officers. In addition, presentations by the CJC's Corruption Prevention Division on the practical application of risk management strategies are regularly included in QPS training programs.

The QPS Review supported the principles of the risk management process, but saw a need for more appropriate education and training about this process for senior managers and operational managers (see 1996, rec. 185, p. 267). The Review found several problems with the implementation of the risk management process which were mainly attributable to a lack of understanding about how the policies should be

applied. In particular, the Review pointed to the traditional QPS 'risk avoidance' approach which attempted a 100 per cent checking of all processes, rather than the identification of sample systems for detailed analysis on a regular basis (pp. 264–266).

The Review found that:

[I]mplementation of risk management in the QPS appears to have resulted in a focus on the procedures and forms to be completed, rather than the principles which underpin the process, thus rendering the process ineffective. (QPS Review 1996, p. 265)

In response to these concerns, the QPS undertook to revise the section of the *Operational Procedures Manual* dealing with risk management, and to develop educational strategies for all levels of the QPS. The CJC, through its Corruption Prevention Division, is assisting in this process and has made a presentation to the QPS Senior Executive Group on the functions of risk management.

Another QPS initiative requires all officers investigating complaints to examine and report on whether the supervision exercised over the officer the subject of a complaint may have contributed to the alleged breach of discipline or misconduct. [See s. 18.4.2 QPS HRM Manual, February 1995.] The investigating officer is asked to outline any deficiencies in QPS policy or procedural matters which he or she considers may have contributed to the conduct. [See s. 18.5.1 QPS HRM Manual, February 1995.]

Policing styles

Although there have been many significant developments in the QPS in the post-Fitzgerald Inquiry era, the day-to-day work environment in which Queensland police operate is, in some key respects, not very different from that described in the Fitzgerald Inquiry's report (1989). The report of the Fitzgerald Inquiry contained ambitious proposals to shift from a reactive mode of policing to one where community policing would 'be adopted as the primary policing strategy, with policing again becoming a neighbourhood affair' (p. 381). This was to be accompanied by a devolution of authority and responsibility to the local level and management changes which would result in preventive policing strategies being 'an integral part of the normal activities of every police officer' (p. 381).

As detailed in the CJC's 1994 report *Implementation of Reform Within the Queensland Police Service: The Response of the Queensland Police Service to the Fitzgerald Inquiry Recommendations*, the QPS has, to date, made only limited progress in implementing this alternative model of policing (1994a, pp. 67–72). Reactive patrolling remains the dominant service-delivery format. There has been little change to the basic hierarchical authority structure of the QPS, and efforts to promote greater interaction with the community, through such means as the establishment of Community Consultative Committees, have met with only limited success. [The CJC's review of the operation of Community Consultative Committees reinforces this assessment (1997b).]

The QPS Review also concluded that the QPS had continued to operate largely on a reactive basis (1996, p. 193). The lack of progress in this area was attributed to the absence of overt support by management for community policing strategies, coupled with misunderstandings about what the concept entails. As a result, the Review recommended that the Commissioner develop a clear policy statement about policing in partnership with the community, as well as devise strategies to implement such a policy (see QPS Review 1996, rec. 133 and 134, pp. 198–199). The Review did not support the call for additional funding as ‘this would serve to reinforce the misconception that community policing is something supplementary to the core business of policing’ (1996, p. 198). These and related recommendations are currently being addressed as part of the implementation process for the QPS Review and there are some positive indications of a greater emphasis being given to community policing approaches. [An important recent initiative here is the Policing in Partnership concept announced by the Police Minister in May 1997.]

Conclusion

This chapter has focused on describing those reforms undertaken since the Fitzgerald Inquiry which have impacted on the organisational climate of the QPS. The chapter has also identified areas where further action is required. Key findings are as follows:

There have been substantial changes to the gender, educational and age profile of recruit intakes, broadly in the directions recommended by the Fitzgerald Inquiry. However, there are still several barriers to the recruitment and retention of female police officers. In addition, as reported by the QPS Review, current lateral recruitment policies aimed at former or serving police from other jurisdictions are diluting the gains achieved in other areas.

Although the QPS has made some progress in both lateral recruitment and civilianisation, policies in both areas have been targeted principally at lower ranks or administrative or clerical positions. There has been only limited opening up of senior QPS positions to civilians or former officers from other police services.

The importance of an integrated approach to achieving ethical decision-making within the QPS has been recognised in the Project Honour report. Ethics education has been incorporated into the PROVE, Constable Development and Professional Development programs, but the delivery of training is still inconsistent and uncoordinated. Key areas where further attention needs to be given to ethics education are the First Year Constable program including the training of Field Training Officers, and training for detectives.

The QPS has taken some steps towards utilising more proactive management strategies to deal with complaints and discipline issues. For example: the PSU has developed strategies to identify officers with lengthy complaint histories; processes are now in place to ensure that minor errors are dealt with managerially, rather than being diverted to the complaints system; complaints investigators are encouraged to include suggestions for remedial action in their reports; and a risk management policy has been introduced (although implementation has been hampered by a lack of training).

Until recently, the middle management ranks of Sergeant, Senior Sergeant and Inspector received little or no training in either ethics or management. Some officers who are disgruntled because of perceived blocking of their promotional paths,

continue to have significant negative input into the operational training and supervision of recruits. The recently instituted Professional Development Program will address deficiencies at this level in the longer term, but there is no requirement on officers currently holding middle management positions to undergo this training, unless they are seeking further promotion.

Relatively little concrete progress has yet been made in implementing alternative models of policing in the QPS, particularly community policing, although this situation may change once relevant recommendations of the QPS Review are implemented. This has meant that the actual task environment of operational police remains similar in some significant respects to that criticised by the Fitzgerald Inquiry as contributing to a closed organisational culture.

CHAPTER 4

PUBLIC CONFIDENCE IN THE QPS AND THE COMPLAINTS INVESTIGATION PROCESS

One of the objectives of the Fitzgerald Inquiry was to restore public confidence in the QPS and, more specifically, in the complaints investigation process. The Inquiry reported that the failure by successive governments to face the problem of police misconduct had undermined the community's confidence in public institutions (Fitzgerald Inquiry 1989, p. 30). The Fitzgerald Inquiry report also noted:

... the community has unfavourable perceptions of police behaviour, attitudes, efficiency and competence. (p. 210)

In Queensland there [was] a lack of public confidence in the Police Force, partly caused by instances of misconduct and inefficiency. (p. 218)

This chapter reviews survey data on public perceptions of the QPS and the complaints process, and summarises relevant findings from public opinion surveys conducted in the 1970s and 1980s. Key questions addressed are:

How were Queensland Police regarded by the public prior to the Fitzgerald Inquiry?

In what ways have public attitudes towards police changed since the completion of the Fitzgerald Inquiry?

How does the image of Queensland police now compare to that of police in other jurisdictions?

How much public support is there for the present complaints investigation process?

How willing are people to make use of the complaints process?

Public perceptions of the QPS

Pre-Fitzgerald Inquiry perceptions

The main sources of data on public perceptions of Queensland police in the years before the Fitzgerald Inquiry are:

two series of national surveys — McNair Anderson polls conducted in 1973, 1976, 1979 and 1982 and Morgan Gallup Polls in 1967 and 1978 — which contained questions on:

- * police effectiveness
- * honesty and ethical standards in comparison to other occupations
- * public respect for police

* police standing and image (Swanton, Hannigan & Psaila 1985). [Details of methodology and sample sizes of these surveys were not reported in this publication.]

a national survey undertaken by the Australian Institute of Criminology (AIC) in July 1987 which contained questions on:

- * respect for police
- * police performance
- * police honesty
- * the politeness and helpfulness of police
- * frequencies of stopped/questioned contacts with police
- * requests for assistance
- * respondent satisfaction with the assistance received (Swanton, Wilson, Walker & Mukherjee 1988; Swanton, Walker & Wilson 1988).

The above surveys found fairly high levels of support for police overall, but also indicated that people in Queensland generally had a less favourable view of their police than did people in other States. According to the McNair Anderson Polls, in 1976 and 1982 Queensland had the lowest proportion of respondents stating that the police service did a 'good' or 'fair' job, was equal lowest in 1973 with New South Wales, and tied for second lowest with Western Australia (NSW being the lowest) in 1979. Similarly, in each of the 1967 and 1978 Gallup polls and the 1987 AIC surveys, the proportion of Queensland respondents stating they had 'great' respect for the police was below the national average.

Table 4.1 compares findings from the 1987 AIC survey on the level of public respect for police in Queensland relative to the rest of Australia. The table indicates that, at that time, Queensland respondents had a much less positive view of their police than respondents in the rest of Australia. However, these responses may have been affected by the controversy and negative reporting of police which accompanied the commencement of the Fitzgerald Inquiry; the Inquiry officially began on the 26 May 1987 and the survey was conducted in July 1987.

**Table 4.1 — Public respect for the police
(Queensland and rest of Australia, July 1987)**

	Qld (n=317) %	Rest of Australia¹ (n=2,097) %
Great respect	37.8	58.3
Little respect	7.8	4.3
Mixed feelings	51.3	34.5

No opinion/answer	3.0	2.8
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Source: Swanton, Wilson, Walker & Mukherjee 1988.

Notes:

1. 'Rest of Australia' figures are based on responses from New South Wales, Victoria, Western Australia, South Australia and Tasmania.

2. $\chi^2 = 49.2$, df 3, $p < 0.01$.

3. Due to rounding, percentages may not add up to 100.

Queensland respondents to the 1987 survey had a slightly less positive perception of police honesty than did respondents in the rest of Australia (see table 4.2). In addition, a slightly higher proportion of the Queensland sample indicated that they or a close relative or friend had personally experienced police misconduct, although the differences were not statistically significant (see table 4.3).

**Table 4.2 — Public perceptions of police honesty
(Queensland and rest of Australia, July 1987)**

	Qld (n=317) %	Rest of Australia¹ (n=2,097) %
More honest than most people	5.6	9.9
About the same as most people	79.2	80.3
Less honest than most people	9.9	6.2
No opinion/answer	5.3	3.7

Source: Swanton, Wilson, Walker & Mukherjee 1988.

Notes:

1. 'Rest of Australia' figures are based on responses from New South Wales, Victoria, Western Australia, South Australia, and Tasmania. 2. $\chi^2 = 12.6$, df 3, $p < 0.01$. 3. Due to rounding, percentages may not add up to 100.

**Table 4.3 — Personal knowledge or experience of police misconduct
(Queensland and rest of Australia, July 1987)**

	Qld (n=317) %	Rest of Australia¹ (n=2,097) %
Undue use of force	17.5	13.6
Corruption/malpractice	11.5	8.3
Wrongful arrest	10.8	8.3
False accusations	18.7	15.1
Harassment	19.3	15.5

Source: Swanton, Walker & Wilson 1988.

Notes:

1. 'Rest of Australia' figures are based on responses from New South Wales, Victoria, Western Australia, South Australia, and Tasmania.
2. χ^2 revealed no statistically significant differences.
3. Question wording was 'Have you or a close relative or friend, personally experienced any of the following: (1) undue use of force by police; (2) corruption/malpractice by police; (3) wrongful arrest; (4) false accusation by police; (5) harassment by police'. Response options offered were: (1) Yes; (2) No; (3) Don't know.

The only other pre-Fitzgerald Inquiry public opinion data which could be located was a survey conducted in 1983 by the Queensland Police Department Education Working Committee. This exercise involved the distribution of 6,645 questionnaires throughout Queensland, of which 1,925 were returned, giving a response rate of 29 per cent. One of the items in the survey asked respondents to indicate what they perceived to be the public image of the Queensland Police 'at the present time'. As indicated by table 4.4, less than a third of the respondents described that image as 'not satisfactory' or 'poor'. This was ostensibly a more favourable response than obtained from a broadly similar question in the 1991 and 1993 Attitudes to QPS Surveys (CJC 1991 and 1993c) (see table 4.5). However, the reliability of the 1983 study is doubtful, given the relatively low response rate and the fact that the questionnaires do not appear to have been randomly distributed. In addition, the survey was conducted well before police corruption and misconduct had become major issues in Queensland; conversely, the 1991 and 1993 surveys were held in the aftermath of the Fitzgerald Inquiry when the image of the QPS had been tarnished considerably.

Table 4.4 — Public image of the police (Queensland 1983)

	Percentage responding (n = 1,911)
Very good	6
Good	27
Satisfactory	36
Not satisfactory	20
Poor	11

Source: QPD Education Working Committee 1983.

Post-Fitzgerald Inquiry trends: Findings from the Attitudes to QPS Surveys

Because of differences in question wording it is not possible to directly compare public views of the police in the pre- and post-Fitzgerald Inquiry periods. However, findings from surveys undertaken by REARK Research for the CJC in 1991, 1993 and 1995 can be used to map post-Inquiry trends.

These surveys have included questions on the QPS, the complaints process, the CJC and public perceptions of crime in Queensland. A core set of identical questions about the QPS were asked in each of the three surveys. For each survey, about 900 adult residents throughout Queensland were interviewed by telephone. A quota sample of households was selected within defined geographical areas from telephone listings and one respondent per household contacted was then interviewed. A 50–50 male/female quota was placed on the selection of respondents. An examination of data on the personal characteristics of respondents shows that each survey sample had a very similar socio-demographic profile.

Table 4.5 summarises responses to a series of questions on public perceptions of police standards and the quality of service provided. Key points to note are:

The surveys show a marked improvement in the public perception of the image of the QPS between 1991 and 1995. In the 1991 survey (CJC 1991), 61 per cent of respondents agreed that ‘the police have a bad image in Queensland’; this had fallen to 29 per cent by 1995 (CJC 1995b). Also, between 1991 and 1993 there was a statistically significant reduction in the proportion of respondents agreeing with the proposition that ‘the public have little respect for the police’ (see CJC 1991 and 1993c).

There was little change over the four years in the proportion of respondents who agreed that ‘most police are honest’. This was mainly because there was a very high level of agreement with this proposition even in 1991 (CJC 1991). However, between 1993 and 1995 there was a statistically significant increase in the proportion of respondents who agreed that ‘you will always get some corruption in the Police Service’ (CJC 1993c and 1995b).

The proportion of respondents who declared themselves to be ‘very satisfied’ or ‘satisfied’ with the level of service provided by police in the local community stayed at a constant 76 per cent.

**Table 4.5 — Trends in public perceptions of the Queensland Police Service
(1991, 1993, 1995)**

	Percentage of respondents agreeing strongly or agreeing		
	1991 (n=901)	1993 (n=900)	1995 (n=900)
The police have a bad image in Queensland.	61	50*	29**
The public have little respect for the police.	56	45*	46
Most police are honest.	83	87	88
You will always get some corruption in the Police Service.	84	86	93**

	Percentage of respondents satisfied or very satisfied		
How satisfied are you with the level of service provided by the police in your local community?	76	76	76

Source:CJC 1991, 1993c and 1995b.

Notes:

1.Respondents were asked in each survey: 'Could you tell me whether you agree or disagree with these statements'. The response scale ranged from 'agree strongly', 'agree', 'neither agree nor disagree', 'disagree', 'disagree strongly', to 'don't know'.

2.*represents a statistically significant change at the 0.05 level from 1991 to 1993.

**represents a statistically significant change at the 0.05 level from 1993 to 1995.

The 1995 survey also included some questions designed to collect additional information about public views on the standard of police behaviour (CJC 1995b). Most respondents said that the behaviour of police officers over the last few years had either 'changed for the better' (46%) or 'stayed about the same' (42%). Only 6 per cent said that police behaviour had 'changed for the worse' (see figure 4.1). More generally, around 88 per cent of respondents in the 1995 survey expressed the view that most members of the QPS 'generally behave well' and only 1 per cent of the sample felt that most officers behaved badly (see table 4.6).

Figure 4.1 — Public perception of change in police behaviour over the previous few years (Queensland, June 1995)



Source:CJC 1995b.

Note: n=900.

**Table 4.6 — Public perception of police behaviour
(Queensland, June 1995)**

	Percentage responding (n=900)
Most behave well, a minority behave badly	46.9
Generally well	40.6
Roughly equal numbers good and bad	10.6
Most behave badly, a minority behave well	1.0
Generally behave badly	0.3
Don't know	0.7

Source:CJC 1995b.

Note:Due to rounding, percentages may not add up to 100.

The 1995 survey also indicated that most respondents were resigned to there always being some police corruption and that many were prepared to tolerate some ‘rule breaking’ by police. In addition, the survey included a question that asked respondents whether they agreed or disagreed with the proposition that ‘sometimes police need to break the rules to get the job done’. Table 4.7 shows that a clear majority of respondents agreed or strongly agreed with this proposition. [Chapter 7 presents data from a series of surveys of recruits, First Year Constables (FYC), and experienced officers. Of these groups, 40% of the recruits, 61% of the FYCs, and 59% of the experienced officers agreed to some extent that ‘expecting officers to always follow the rules is incompatible with getting the job done ’.] However, to place these responses in perspective, 60 per cent of respondents who expressed this view also agreed that ‘the police don’t have enough powers to be able to do the job properly’. Hence it is *possible* that tolerance of rule breaking by police would decline if perceived shortcomings in police powers were remedied.

Table 4.7 — Public’s views on whether police sometimes need to break the rules to get the job done (Queensland, June 1995)

	Percentage responding (n=900)
Agree strongly	13.2
Agree	49.9
Neither agree nor disagree	4.2
Disagree	21.6
Disagree strongly	9.1
Don’t know	2.0

Source: CJC 1995b.

Finally, the 1995 survey asked respondents whether they had ever had cause to be annoyed or dissatisfied about the way a Queensland police officer had behaved, or about the way the Queensland police had handled a matter which affected them or someone they knew. Twelve per cent of the sample said that they had some cause to be dissatisfied in the previous 12 months. Figure 4.2 shows the reasons which respondents gave for feeling dissatisfied. The key findings were that:

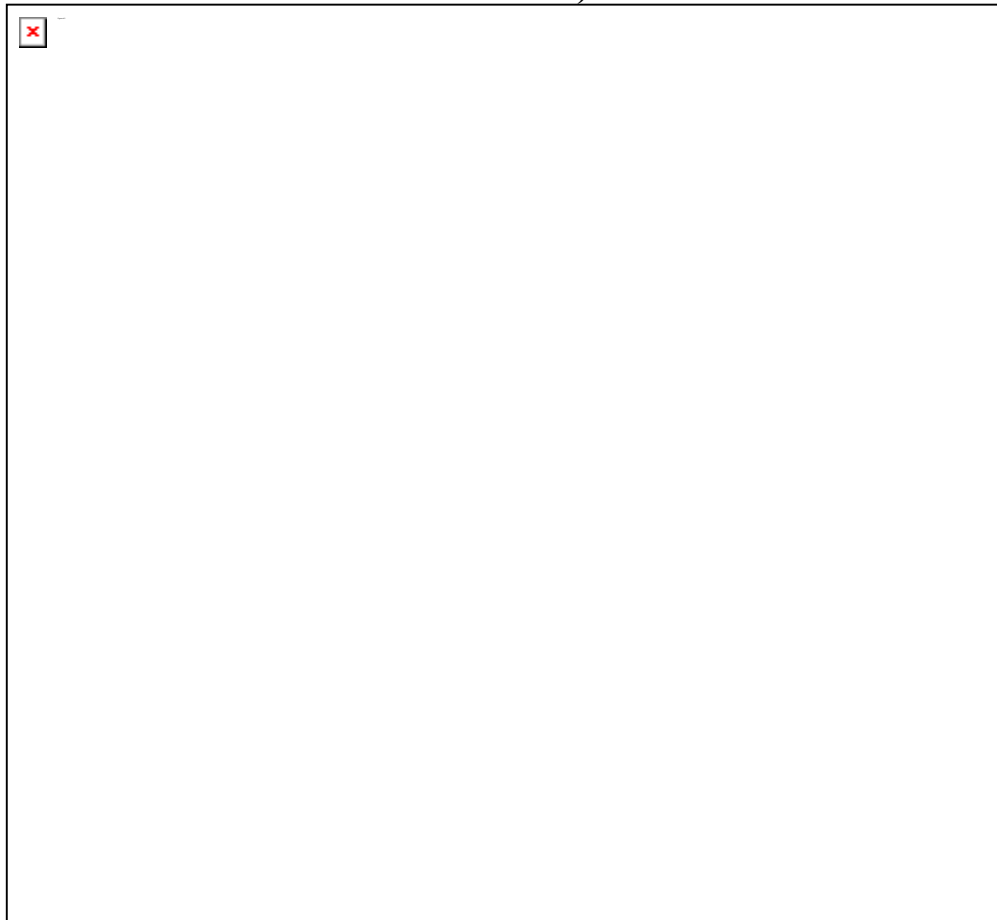
57 per cent of the dissatisfied respondents (7% of all respondents) mentioned that they were dissatisfied with the manner of the police

43 per cent (5% of all respondents) mentioned that the police had not been responsive to the incident (e.g. by failing to provide feedback or appearing not to do anything about the incident).

around 10 per cent of dissatisfied respondents (1% of the total sample) indicated that the police had used undue force or behaved illegally in handling the incident.

These data would seem to indicate a reasonable level of satisfaction with police performance, but no trend or comparative data are available to put these findings in perspective.

Figure 4.2 — Respondents' reasons for dissatisfaction (Queensland, June 1995)



Source: CJC 1995b.

Notes:

1. Respondents were asked: 'Thinking about that time, what was the reason you were annoyed or dissatisfied?'. Multiple responses were given by respondents.
2. Responses are shown only for respondents who indicated that they had been annoyed or dissatisfied in the previous 12 months.
3. 'Police not responsive' includes comments such as: slow to arrive, offenders not caught, incompetent, did nothing, did not keep the person informed. 'Dissatisfied with manner' includes: the police officer behaved unreasonably or unfairly, used racist language or behaviour, or was rude, over-casual or arrogant. 'Other' includes one respondent who answered 'don't know'.
4. n = 900.

Interstate comparisons

Some recent cross-jurisdictional comparative data on attitudes to police are available from the Australian Bureau of Statistics *Population Survey Monitor* (unpub.), conducted in three waves during February, May and September 1996. Eight questions from the survey were particularly relevant for current purposes.

Table 4.8 shows that the proportion of Queensland respondents who agreed with the two questions relating to ‘tolerance of corruption’ was slightly above the national average, whereas the proportion who said that they trusted their local police and were satisfied with the services provided by the police was below average. However, while the differences were statistically significant they were quite small. On the other four questions, relating to the perceived honesty and professionalism of police, there were no statistically significant differences between Queensland and the rest of Australia.

**Table 4.8 — Measures of the public’s attitude to the police
(Queensland and rest of Australia, 1996)**

	Qld (n=1,160)	Rest of Australia¹ (n=8,316)
	% stating ‘strongly agree’ or ‘agree’	
Sometimes police have to break the rules to get the job done.	56.1	52.1 ²
There will always be some police corruption.	88.0	84.0 ³
I do not have confidence in the police.	10.6	9.5
I trust my local police.	73.8	76.7 ⁴
I think the police perform their job professionally.	72.3	73.2
Police treat people fairly and equally.	49.8	51.0
Most police are honest.	70.3	69.4
	% stating ‘very satisfied’ or ‘satisfied’	
Satisfaction with services provided by police	67.0	70.8 ⁵

Source: Australian Bureau of Statistics (unpublished data). Notes:

1. ‘Rest of Australia’ figures are based on responses from New South Wales, Victoria, South Australia, Western Australia, Tasmania, Northern Territory, and the Australian Capital Territory.

2. $\chi^2 = 6.59$, df 1, $p < .05$.

3. $\chi^2 = 12.57$, df 1, $p < .01$.

4. $\chi^2 = 4.75$, df 1, $p < .05$.

5. $\chi^2 = 7.12$, df 1, $p < .01$.

Impact of the Fitzgerald Inquiry on public perceptions of police: An assessment

It is not possible to quantify the impact of the Fitzgerald Inquiry reforms on public confidence in the police, given that comparable survey data from before and after the Inquiry are not available. However, the limited data available support the following conclusions:

in the period leading up to, and following the establishment of, the Fitzgerald Inquiry, Queensland police generally had a less favourable public image than did police in the rest of Australia

overall, public perceptions of the QPS became more favourable between 1991 and 1995

recent national survey data show that in some respects Queensland police are regarded slightly less favourably than police elsewhere in Australia, but the differences are small and restricted to a few survey items.

Although these shifts in opinion appear to be relatively slight, this is not an area where major changes should have been expected. There has always been a high 'base' level of public support for police in Australia, and therefore only limited scope for initiatives such as the Fitzgerald Inquiry to 'make a difference'. In addition, public attitudes towards police are shaped by a range of socio-demographic and personal factors; once attitudes are formed, they are likely to be resistant to change, especially in the shorter term.

Public perceptions of the complaints system

General views of the complaints investigation process

No survey data are available on public perceptions of the police complaints process in the pre-Fitzgerald Inquiry era. However, the Fitzgerald Inquiry concluded from the evidence before it that the Police Complaints Tribunal had been largely discredited in the eyes of the public (1989, pp. 292–293). This assessment can be contrasted with findings from the CJC's 1995 Attitudes to QPS Survey (CJC 1995b), which for the first time included several questions on the role of the CJC in the investigation of complaints against police.

The 1995 survey (CJC 1995b) found that 87 per cent of respondents agreed with the general proposition that complaints against the police should be investigated by an independent body, not by the police themselves (see figure 4.3). More specifically, the survey showed considerable public confidence in the CJC as a complaints investigation and police oversight body. Of the 832 respondents who had heard of the CJC, 59 per cent said that they saw the CJC as independent from the police and only 22 per cent described it as not independent (see figure 4.4). Similarly, 60 per cent of respondents said that the CJC had achieved at least some success in improving police conduct and only 14 per cent said that it had not been successful (see figure 4.5).

Figure 4.3 — Public views of need for independent investigation of complaints against police (Queensland, June 1995)



Source: CJC 1995b.

Notes:

1. Respondents were presented with the statement 'complaints against police should be investigated by an independent body, not by the police themselves'.
2. n=900.

**Figure 4.4 — Public perception of the CJC's independence from the police
(Queensland, June 1995)**

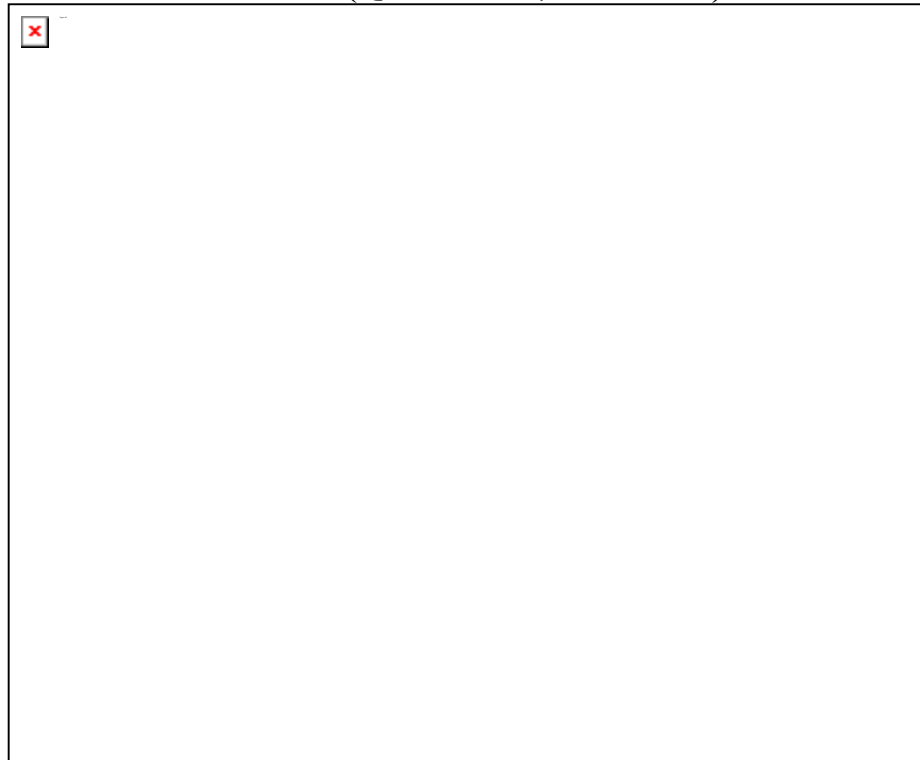


Source:CJC 1995b.

Notes:

1. Respondents were asked: 'how independent would you say the CJC was from the police?'.
2. n=832; 68 respondents had not heard of the CJC.

Figure 4.5 — Public perception of the CJC's success in improving police conduct (Queensland, June 1995)



Source:CJC 1995b.

Notes:

1. Respondents were asked: 'how successful would you say the CJC has been in improving police conduct?'.
2. n=832; 68 respondents had not heard of the CJC.

Willingness to complain

An important indicator of the level of public confidence in the complaints process is the extent to which people who feel dissatisfied with some police action or inaction are willing to complain about it. However, such data need to be carefully interpreted because people may be reluctant to complain for reasons which are not related to their level of confidence in the complaints investigation system. For example, they may consider the matter 'too trivial' to warrant a complaint or may simply be too apathetic to be bothered. In addition, perceptions about the efficacy of complaining will be influenced not only by a person's knowledge or experience of the complaints process, but their general outlook on life, past experiences with police or other institutions, and so on.

In the 1995 Attitudes to QPS Survey (CJC 1995b), respondents were presented with a series of scenarios describing police misconduct and asked if they would report such

behaviour if it came to their attention. For each scenario, the majority of respondents indicated that, in principle, they would be willing to complain if they saw the misconduct described (table 4.9). Only a small minority gave ‘would not be believed’ and/or ‘concern about repercussions’ as reasons for not complaining.

Table 4.9 — Likelihood of complaining in response to various forms of police behaviour (Queensland, June 1995)

Scenario	Percentage reporting: (n=900)			Major reasons for not complaining	
	Very likely or fairly likely to complain	Don't know	Very unlikely or fairly unlikely to complain		Percentage of respondents who said they were unlikely to complain
You call for the police but they are very slow to arrive. When they come, they don't bother to explain why they are late.	53	11	36	Not serious enough Not do any good/not be believed Officer did nothing wrong Police are short staffed/over-worked Too much trouble	25 24 21 9 8 (n=328)
You are stopped in your car for a routine registration check. The police officer who makes the check is quite rude to you.	65	6	29	Not do any good/not be believed Not serious enough Too much trouble Officer did nothing wrong Fear of repercussions	34 28 14 12 6 (n=258)
You see a police officer punch someone whom he has just arrested.	54	19	27	None of my business Probably deserved it Depends if I saw everything/need to know for certain Officer did nothing wrong Not do any good/not be believed Fear of repercussions	30 18 17 15 10 6 (n=275)

You see a police officer taking what seems to be a bribe from someone.	73	8	18	None of my business	36
				Not do any good/not be believed	24
				Fear of repercussions	21
				Have to know for certain	17
					(n=186)

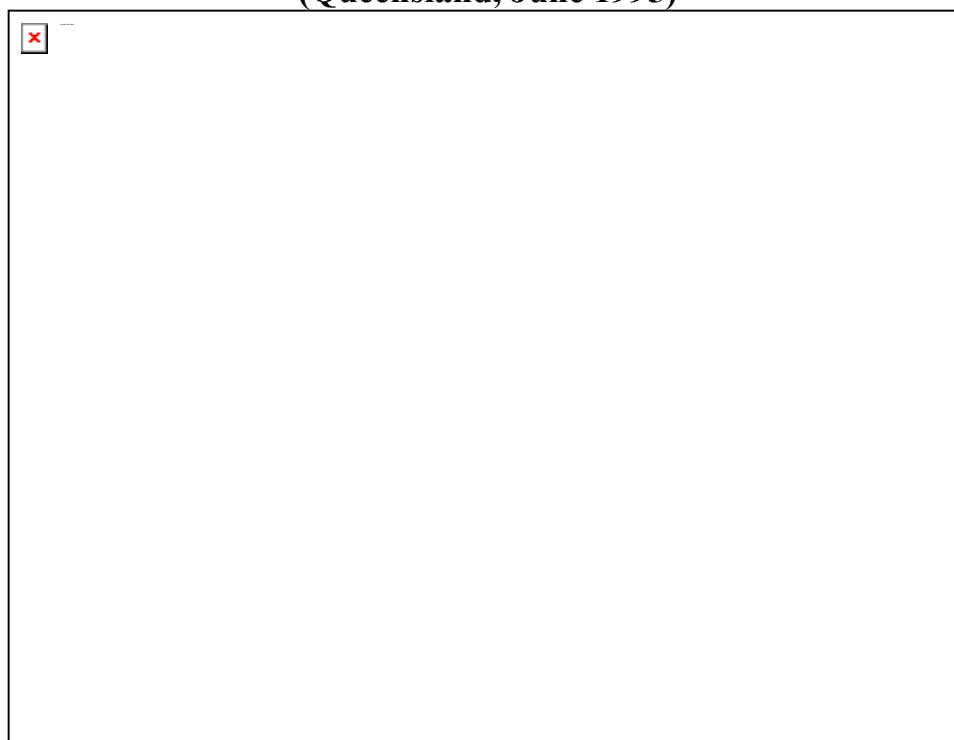
Source:CJC 1995b.

Notes:

1. The first question asked was: 'How likely would you be to complain?' The response scale ranged from 'very likely' to 'very unlikely'. The second question was: 'Why wouldn't you complain?' Multiple responses were given.
2. Only reasons provided by more than 5% of respondents are reported in the table.
3. Due to rounding, percentages may not add up to 100.

Although many respondents indicated a willingness to complain in response to these hypothetical scenarios, a different pattern of responses was obtained when people were asked if they had ever actually made an official complaint against the police. Of the 7 per cent of respondents who reported that in the 12 months preceding the survey they had felt like complaining about the way the police had handled an incident which affected them personally or someone they knew, only 38 per cent (3% of the total sample) said that they had actually made a complaint, or tried to make a complaint (see figure 4.6).

**Figure 4.6 — Action taken in response to dissatisfaction with police action
(Queensland, June 1995)**



Source:CJC 1995b.

Notes:

1. Respondents were asked: 'Have you ever been annoyed or dissatisfied about the way a Queensland police officer behaved, or about the way the Queensland police have handled a matter, which affected

you or someone you know?'; 'When was the last time you felt this way?'; 'Did you feel like making an official complaint to someone about the way the police behaved on this occasion?'; 'Did you actually make, or try to make, an official complaint?'; 'Overall, how satisfied were you with the way your complaint was handled? Would you say you were very satisfied, fairly satisfied, neither satisfied nor dissatisfied, fairly dissatisfied, very dissatisfied?'

2. Responses are shown only for respondents who indicated that they had been annoyed or dissatisfied in the last 12 months.

3. n = 900.

Respondents who said that they had been dissatisfied, but had not complained, were asked to specify their reasons for not doing so. As shown by table 4.10, the most frequent responses were:

making a complaint would 'not do any good' or the person would 'not be believed' (42% of respondents who had not complained but had felt like it)

the incident was 'not serious enough' (19%)

making a complaint was 'too much trouble' (13%).

Lack of knowledge about how to make a complaint did not appear to be a major factor. Only 7 per cent of the respondents who had not made a complaint mentioned that they 'did not know how to make a complaint'. It is also notable that few respondents reported not making a complaint because the police 'advised against it'.

**Table 4.10 — Reasons for not complaining about police
(Queensland, June 1995)**

	Percentage of dissatisfied respondents (n=83)	Percentage of total respondents (n=900)
Not do any good/Not be believed	42	4
Not serious enough	19	2
Too much trouble/apathy	13	1
Not directly involved	7	1
Did not know how to make a complaint	7	1
Didn't think of it	4	>1
Fear of repercussions	2	>1
Advised against it by police	2	>1
Other	14	1

Source: CJC 1995b.

Notes:

1. Respondents were asked: 'What was the reason you didn't make an official complaint?' As multiple responses were given, the percentages do not add to 100%.
2. Responses are shown only for respondents who indicated that they had been annoyed or dissatisfied in the last 12 months.

Another source of data about complaining behaviour is a survey of defendants undertaken by the CJC in mid-1996 (CJC 1996b). The questionnaire for this survey was administered in face-to-face interviews with people appearing for the first time before Brisbane, Southport, Beenleigh, Ipswich, Maroochydore, Rockhampton or Cairns Magistrates Courts after having been charged. The sample frame consisted of all defendants appearing before the seven Magistrates Courts selected for the study, except for those defendants remanded in custody and those charged with less serious driving matters. [Charges such as drink-driving and unlicensed driving were not included because of the routine nature of the procedure associated with these offences.] The questionnaire canvassed the experiences of defendants with police during and immediately after being apprehended. The survey also included juvenile defendants. Interviewers identified themselves as employees of the CJC, proceeded to explain the nature of the study being conducted, and assured respondents of anonymity and confidentiality. A response rate of 75 per cent was achieved and information collected from a sample of 489 respondents. [A number of incomplete questionnaires were discarded.] Given the high response rate, it is likely that the survey results broadly reflect the views and experiences of the total population of defendants appearing in the courts concerned.

Not surprisingly, the levels of dissatisfaction with police actions was much higher among this group than in the general population survey, with almost half of the sample stating that they were unhappy with one or more aspects of their treatment by police.

The most common criticism of police was that they were impolite, rude or verbally abusive (10%). A substantial proportion of respondents also said that they had been assaulted (9%), intimidated (6%) or generally treated roughly (5%) by police. Other relatively common criticisms of police behaviour related to the failure to inform suspects of their rights, and to the manner in which searches were conducted.

Of the 229 respondents who stated that they were unhappy about some aspect of their treatment by police, only 29 per cent said that they had complained to someone else (such as the police or a legal representative). The most common explanations were that: 'It wouldn't do any good' (43% of those who said they did not complain) and 'too much trouble' or 'not serious enough' (a combined total of 19%). Lack of knowledge about how to make a complaint was a relatively minor factor, being cited by only 9 per cent of those respondents who had not complained. Also, only 9 per cent of this group cited fear of possible repercussions as a reason for not complaining. This pattern of responses aligns quite closely with the reasons for not complaining given by respondents to the 1995 Attitudes to QPS Survey (see table 4.10).

Willingness to complain: Findings from other jurisdictions

To place these survey findings on willingness to complain in a broader perspective, the Queensland findings were compared with those from recent British Crime Surveys, which have asked similar questions.

The 1988 British Crime Survey (England and Wales) found that 20 per cent of respondents reported annoyance at police behaviour in the previous five years (Maguire & Corbett 1991). Of these, half stated they felt strongly enough to make an official complaint, but only one-fifth had attempted to do so. [The 1995 Attitudes to QPS Survey does not allow us to present results for a five-year sample, but a four-year sample can be obtained which should be fairly comparable to the overseas studies mentioned. Of the respondents to the 1995 survey, 21% reported annoyance at police behaviour in the previous four years. Of these, 49% stated they felt strongly enough to make an official complaint, but only 31% actually did so and a further 6% attempted to make a complaint but failed. The main reason for not complaining was that it would be ineffective, mentioned by 49% of those who did not complain. The main reason for complaining was dissatisfaction with police attitudes, mentioned by 83% of those who complained.] The main reason for not complaining was that it would be ineffective; a factor mentioned by 31 per cent of those who did not complain.

A paper presenting the findings from the 1988 Scottish Crime Survey reported that 19 per cent of respondents had felt annoyance at police behaviour in the previous five years (Allen & Payne 1991). Of these, 55 per cent stated they felt strongly enough to make an official complaint, but only 25 per cent actually did so.

The 1992 British Crime Survey (England and Wales) reported that 21 per cent of respondents had felt annoyance at police behaviour, either towards themselves or someone they knew, in the previous five years (Skogan 1994). Of these, 45 per cent stated they felt strongly enough to make an official complaint, but only 19 per cent attempted to do so.

As discussed above, the 1995 Attitudes to QPS Survey (CJC 1995b), which used similarly worded questions, found that in the previous 12 months 38 per cent of those respondents who said they had felt like complaining about police behaviour had actually complained. The CJC's defendants' survey (1996b), which covered a more sceptical population, found a reporting rate of 28 per cent. These findings suggest that there may actually be a higher 'complaining rate' in Queensland than in the United Kingdom, but the survey sample sizes are very small by comparison with the British surveys and the samples may not be comparable in terms of the types of experiences which motivate people to complain. Also, it is not possible to ascertain whether the results are unique to Queensland or indicate a more general Australian tendency.

Conclusion

The focus of this chapter has been on examining measures of the public's perceptions of the QPS and the complaints process. It is not possible to quantify the impact of the Fitzgerald Inquiry reforms on public confidence in the police, given that comparable pre- and post-Fitzgerald Inquiry survey data are not available. However, the available data support the following conclusions:

In the pre-Fitzgerald Inquiry period, Queensland police generally had a less favourable public image than their counterparts in other Australian jurisdictions.

Recent surveys show that the Queensland public is generally supportive of the police. Surveys of the general public in the period 1991–1995 indicate that most members of the public are satisfied with the service provided by the police. The surveys also show a marked improvement in the public perception of the image of the QPS between 1991 and 1995.

According to a recent national survey, conducted in 1996, in some respects Queensland police had a less favourable public image than police in the rest of Australia, but the differences were small and restricted to a few survey items.

The Fitzgerald Inquiry (1989) reported that public confidence in the pre-Inquiry process was low. Due to unavailability of data, it is not possible to measure the extent to which public confidence in the complaints process increased following the implementation of Fitzgerald Inquiry reforms. However, the 1995 Attitudes to QPS Survey (CJC 1995b) found that respondents generally agreed that complaints against the police should be investigated by an independent body, not by the police. The survey also found that most respondents saw the CJC as independent from the police and as having had at least some success in improving police conduct. It is reasonable to infer from these findings that public confidence in the complaints process has increased as a consequence of the Fitzgerald Inquiry reform process. There still appears to be considerable reluctance on the part of some members of the community to make complaints against police, but the reasons for this are complex. To the extent that comparisons are possible, complaint rates in Queensland appear to compare fairly favourably with those in other jurisdictions.

CHAPTER 5

THE PROCESSING OF COMPLAINTS

This chapter assesses the impact of the Fitzgerald Inquiry reforms on the way in which complaints against Queensland police are processed. Specific questions addressed are:

To what extent have the reforms been responsible for an increase in recorded complaints against police?

Are complaints more likely to be substantiated now than in the past?

Is the QPS more responsive to CJC recommendations than it was to those of the Police Complaints Tribunal?

Has the process for administering sanctions against police been improved?

The chapter utilises three main sources of statistical data — the Query Personnel system (QPE) for the period 1984–85 to 1993–94, the CJC complaints database for the period 1991–92, to 1995–96, and the CJC Charges Register for the same period (see appendix A). The chapter also draws upon data contained in the Fitzgerald Inquiry report (1989), interviews with middle level officers recruited into the QPS before the Fitzgerald Inquiry, and interviews with representatives of senior management in the regions and at QPS headquarters (see chapter 6 for more details concerning these interviews).

Impact on recorded complaints

Key findings

The available data indicate that there was a dramatic increase in recorded complaints against police in the first few years after the completion of the Fitzgerald Inquiry. Complaints have now levelled off, but remain well above pre-Fitzgerald Inquiry levels.

Figure 5.1 presents data on trends in the total number of recorded complaints (both misconduct *and* breach of discipline matters [See p. for an explanation of the distinction between misconduct and breach of discipline.]) for the period 1978–79 to 1993–94. The data are expressed in terms of complaints per 1,000 officers, rather than as raw numbers, to control for the impact of the growth in police numbers on total complaints received. The figure combines data from two sources: the Fitzgerald Inquiry report (1989, p. 292) for the period from July 1978 to June 1984, and the QPE system for July 1984 to June 1994. The Inquiry did not specify the source of the complaints statistics which it quoted, but for the two years for which there is an overlap between these data and the QPE data — 1984–85 and 1985–86 — the numbers are almost identical. This close correspondence indicates that there is a reasonable degree of continuity in the two data series.

Figure 5.1 shows a steep rise in the number of recorded complaints following the completion of the Fitzgerald Inquiry and, more particularly, the establishment of the

CJC in 1990, with the number of complaints per 1,000 officers in 1993–94 being around 200 per cent above the level of 1985–86.

Figure 5.1 — Complaint allegations per 1,000 officers (1978–79 to 1993–94)



Source: Data for 1984–85 onwards are from the QPE system (see appendix B for QPE data). Prior data are derived from the Fitzgerald Inquiry report (1989, p. 292).

Notes:

1. Only finalised complaints are included in the QPE data.
2. See appendix C for number of sworn officers in QPS for each financial year.

Figure 5.2, which is based on CJC data, presents data for the period 1991–92 to 1995–96. (Data from 1990–91 are not included because comparability is affected by factors associated with the start-up of the new database.) The figure shows that there was some drop-off in recorded complaints per 1,000 police after 1993–94, but the rate has remained well above pre-Fitzgerald Inquiry levels. It is evident from figure 5.2 that the fall in recorded complaints was due almost entirely to a substantial decline in breach of discipline complaints. This was most likely a consequence of the QPS implementing procedures to deal with minor breaches as managerial, rather than disciplinary, matters (see chapter 3).

Figure 5.2 — Number of misconduct and breach of discipline complaints recorded by the CJC per 1,000 officers (1991–92 to 1995–96)



Source: CJC complaints database.

Note: See appendix C for number of sworn officers in QPS for each financial year.

Contributing factors

The marked increase in recorded complaints in the post-Fitzgerald Inquiry era partly reflects increased public confidence in — and access to — the system for dealing with police complaints (see chapter 4), but there have also been other contributing factors, such as stricter complaints recording procedures, increased police–civilian contact and, possibly, a general increase in the community’s willingness to complain. The contribution of each of these factors is briefly discussed below.

Stricter complaints recording procedures

We were told in our interviews with experienced police officers (see chapter 6) that it was quite common before the Fitzgerald Inquiry for ‘minor’ complaints, or those which were seen as lacking credibility, to be dealt with informally at the police station counter, without any paperwork being generated. It was generally acknowledged in these interviews that the procedures for recording complaints were tightened-up considerably following the establishment of the CJC, although this was not always seen as a favourable development. (For instance, one senior officer expressed concern about officers rushing to put in a QP307 complaint form to ‘cover themselves’; others complained of being expected to record complaints which, in their view, should have been dismissed out of hand.)

Increased contact between police and civilians

Most complaints against police arise from contacts with members of the public. It follows that, if there is more contact between police and civilians then, all other things being equal, more complaints are likely to be made. As a hypothetical example, if an average of one in every 100 incidents when a police officer stops a motor vehicle produces a complaint of rudeness, and the number of cars stopped by police in a year increases from 50,000 to a 100,000, then the number of rudeness complaints can be expected to increase by a commensurate amount.

It is not possible to measure the total number of police–civilian contacts in any given year, but a rough indication of whether such contacts are becoming more frequent can be obtained by examining trends in the total number of criminal offences recorded by police, expressed as a rate per 1,000 officers. The assumption here is that an increase in the number of offences will bring the police into contact with more members of the public: both those who report offences and those who are apprehended in relation to suspected offences.

Figure 5.3, which is based on QPE data, compares trends in total complaints per 1,000 officers and reported offences per 1,000 officers for the period 1984–85 to 1993–94. The figure shows that, in the immediate post-Fitzgerald Inquiry period from 1989–90 to 1991–92, complaints rose much more rapidly than reported offences. However, from 1991–92 onwards the two measures showed a similar trend. This finding provides some *prima facie* evidence that increased policing activity levels in the post-Fitzgerald Inquiry era have also contributed to the higher level of complaints. As discussed in detail in chapter 6, the relationship between the number of complaints and police activity is particularly close for some types of complaints, such as allegations of assault and complaints relating to searches.

Figure 5.3 — Total complaints per 1,000 sworn officers and total number of offences reported per 1,000 officers (1984–85 to 1993–94)



Sources: QPE database; Queensland Police Department *Annual Reports* 1987, 1988, 1989; and QPS *Statistical Reviews* 1990–91 to 1993–94.

Note:

1. $r = 0.87$, $p < 0.01$.
2. See appendix B for QPE data.
3. See appendix C for number of sworn officers in QPS for each financial year.

General cultural change

The increase in the number of complaints against police may also have been partly due to a general increase in the willingness of members of the public to complain about matters of concern to them. For example, between 1990–91 and 1995–96 the number of complaints received by the Queensland Ombudsman — who deals with complaints relating to administrative matters in public agencies other than the police — increased by 46 per cent (Parliamentary Commissioner for Administrative Investigations 1991, 1996). In New South Wales over the same period, the number of complaints against police received by that State's Ombudsman's Office rose by 65 per cent (Ombudsman NSW 1991, 1996). There may have been particular factors in each case which helped account for these increases, but these data provide some evidence of a general trend within Australia towards the public making greater use of complaints mechanisms.

Summary: Trends in the volume of complaints

In summary, the Fitzgerald Inquiry reforms appear to have contributed to a substantial rise in recorded complaints against police; both by increasing public confidence in, and access to, the police complaints system, and by prompting police to be much more diligent in the recording of complaints. However, it is not possible, with the

information available, to quantify the impact of these factors relative to the contribution of other, extraneous, factors, such as greater police–civilian contact and an increase in the public’s general willingness to complain.

The substantiation of complaints

The Fitzgerald Inquiry report expressed dissatisfaction with the fact that only three in 17 complaints (18%) were sustained by the Police Complaints Tribunal, with less than one complaint in 17 (6%) actually resulting in the laying of criminal charges or charges under the Police Rules (1989, p. 291).

As a consequence of the Fitzgerald Inquiry reforms, the investigative capacity of the complaints system has been expanded in several ways:

- the current process is much better resourced and is independent of police
- investigators have acquired enhanced coercive powers which can be used, where necessary, to require police to cooperate in investigations
- the influence of the police ‘code of silence’ has diminished to some extent (see chapter 7), thereby making it somewhat easier to investigate complaints in which there were police witnesses.

The following discussion examines trends in substantiation *rates* and the total number of substantiated matters per 1,000 officers, in an endeavour to assess the impact of these changes to the complaints system on complaint outcomes. However, because of problems with data availability and comparability, these findings should be regarded as tentative only.

Substantiation rates

A commonly used — although problematic — measure of investigative effectiveness is the substantiation rate; that is, the proportion of official complaints which result in disciplinary or criminal sanctions being recommended or imposed.

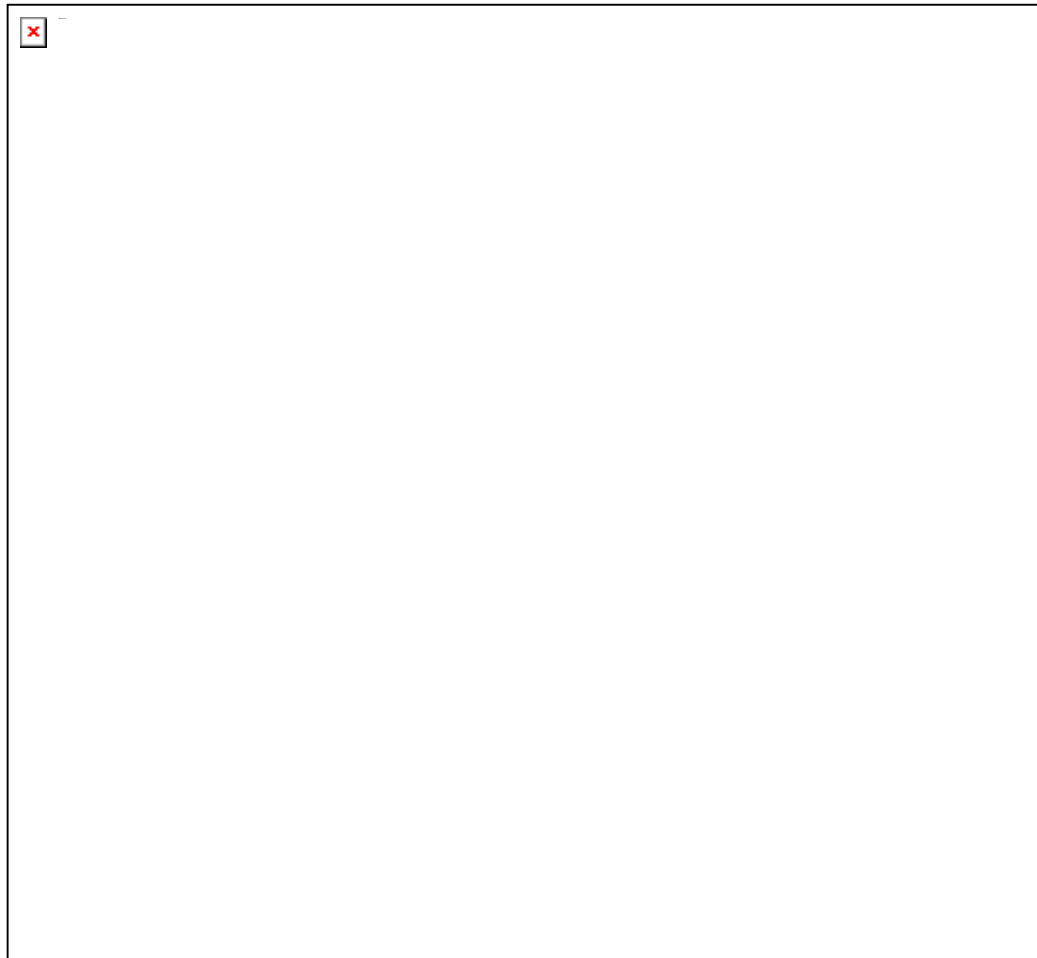
For the purposes of analysing the QPE data we defined a complaint as ‘substantiated’ only if disciplinary or criminal charges had been *proved* against the officer concerned, whereas allegations recorded in the CJC complaints database were defined as ‘substantiated’ if the CJC had *recommended* disciplinary or criminal charges. It obviously would have been preferable to have used only the one definition, but this was not possible given the different structure of the two databases.

QPE data

In the case of the QPE data, which covers the period from 1984–85 to 1993–94, the structure of the database did not allow us to ascertain the outcome of the individual complaints which were recorded. However, a reasonable approximation of the substantiation rate was obtained by calculating, for each year, the total number of ‘proven’ criminal or departmental charges recorded as a proportion of all complaints recorded.

Figure 5.4 indicates that the substantiation rate, using this definition, increased in the pre-Fitzgerald Inquiry era from 8.6 per cent in 1984–5 to 20.4 per cent in 1986–87, held reasonably steady during the years of the Inquiry and thereafter declined, such that the rate in 1991–92 and subsequent years was below that of 1984–85.

Figure 5.4 — Proven charges as a proportion of total recorded complaints (1984–85 to 1993–94)



Source: QPE database (see appendix B for QPE data).

At face value, this trend would seem to indicate a decline, rather than the predicted improvement, in investigative effectiveness, in the period following the conclusion of the Fitzgerald Inquiry. However, it needs to be emphasised that these data are not comparable over time.

Measures of substantiation rates are very sensitive to the degree of filtering which takes place at the complaint recording stage. If the police only record complaints which they think have a good chance of being proved, the rate will appear to be much higher than if police assiduously record all complaints, no matter how weak the supporting evidence. This is a particularly important consideration when comparing pre- and post-Fitzgerald Inquiry data given that, as discussed above, one outcome of the Fitzgerald Inquiry was a significant tightening of complaints recording procedures in the QPS.

Substantiation rate measures are also sensitive to changes in the types of complaints which are received. Some types of complaints, such as allegations of assault, improper arrest and improper searches, have substantiation rates well below the norm. If these allegations increase relative to other types of complaints — as occurred in Queensland between 1990–91 and 1993–94 — the result will be some lowering of the overall rate, even though there may have been no decline in the quality of specific investigations.

Another consideration is that the introduction of informal complaint resolution in 1993 led to a reduction in the use of the formal investigation process to deal with minor matters (CJC 1994b, 1996a). This meant that some matters which might once have resulted in disciplinary charges were instead dealt with by different means which are not counted in the database as substantiated outcomes, such as when the officer or the QPS makes an apology as a result of an informal resolution.

CJC data

As discussed above, in analysing the CJC complaints we used a somewhat broader definition of ‘substantiated’, to include any allegations in relation to which criminal or disciplinary charges had been *recommended*. Another difference is that the CJC data relates only to misconduct complaints, whereas the QPE also includes breach of discipline matters.

Table 5.1 shows the outcomes for all allegations received by the CJC in a given year. The ‘substantiated’ category shows the proportion of misconduct allegations [One complaint file may contain multiple discrete allegations.] recorded by the CJC in each year from 1991–92 to 1995–96 in which disciplinary or criminal charges were recommended. The table indicates that the substantiation rate for allegations *received* increased gradually from 8.6 per cent in 1991–92 to 10.4 per cent in 1994–95 (a 21% rise) before dropping back to 6.4 per cent in 1995–96.

Table 5.1 — Outcomes of allegations of police misconduct reported to the CJC (1991–92 to 1995–96)

Percentage of allegations:	1991–92 (n=3,402) %	1992–93 (n=3,428) %	1993–94 (n=3,522) %	1994–95 (n=3,919) %	1995–96 (n=3,820) %
Substantiated	8.6	8.7	9.3	10.4	6.4
Not substantiated	43.8	31.4	21.0	21.4	20.1
Not investigated	24.4	29.4	27.7	26.3	31.0
Referred to QPS or other agency for investigation or informal resolution	17.5	27.7	36.3	38.2	35.2
Other (including withdrawn)	5.7	2.7	5.7	3.3	4.5
Unfinished	0.0	0.0	0.0	0.3	2.9
TOTAL	100.0	100.0	100.0	100.0	100.0
Substantiation rate for matters investigated by CJC	16.4	21.7	30.6	32.8	24.1

(%)					
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Source: CJC complaints database.

Notes:

1. 'Substantiated' means that a criminal or disciplinary charge was *recommended* by the CJC.
2. The substantiation rate for the 1995–96 year is likely to increase slightly as the unfinished matters are finalised.
3. Due to rounding, percentages may not add up to 100.

Table 5.1 also shows the substantiation rate for allegations which were actually *investigated* by the CJC, as opposed to simply being received by it. This rate doubled between 1991–92 and 1994–95 from 16.4 per cent to 32.8 per cent. There was some drop-off in 1995–96, but the rate still remained well above the 1991–92 level and, more particularly, above the equivalent rate of 17 per cent quoted by the Fitzgerald Inquiry report for the Police Complaints Tribunal (1989, p. 291).

This sharp increase in the substantiation rate for investigated matters may have been partly due to a change in the types of matters being investigated. Specifically:

As a result of an amendment to the *Criminal Justice Act* in 1992, the CJC was given a greater discretion not to investigate complaints which it sees as lacking substance. As shown by table 5.1, the proportion of misconduct allegations which were not investigated increased from 24.4 per cent in 1991–92 to 29.4 per cent in 1992–93 and then to 31 per cent in 1995–96.

In 1995–96, more than a third of allegations were referred back to the QPS for investigation or informal resolution, compared with only 17.5 per cent of allegations in 1991–92. The primary consideration in determining whether to refer a matter back to the QPS is the seriousness of the allegation, but it is possible that less serious matters may also be more difficult to substantiate.

However, it is unlikely, that these factors alone could explain all of the observed trend. On the data available, it is reasonable to conclude that there was a 'real' increase between 1991–92 and 1994–95 in the capacity of the CJC to substantiate those allegations which it investigated. [A change in the criteria used by the CJC to determine whether to recommend charges would have had a similar effect. However, no such change occurred over the period under examination.]

Trends in the number of matters substantiated

An alternative measure of investigative effectiveness is simply the *number* (rather than proportion) of complaints against police which have been substantiated. An argument for using this measure is that the effectiveness of the investigative process should be judged not by its ability to substantiate any one complaint (as this is likely to depend largely on extraneous factors, such as the availability of corroborative evidence), but by reference to the system's *overall capacity* to investigate and substantiate charges.

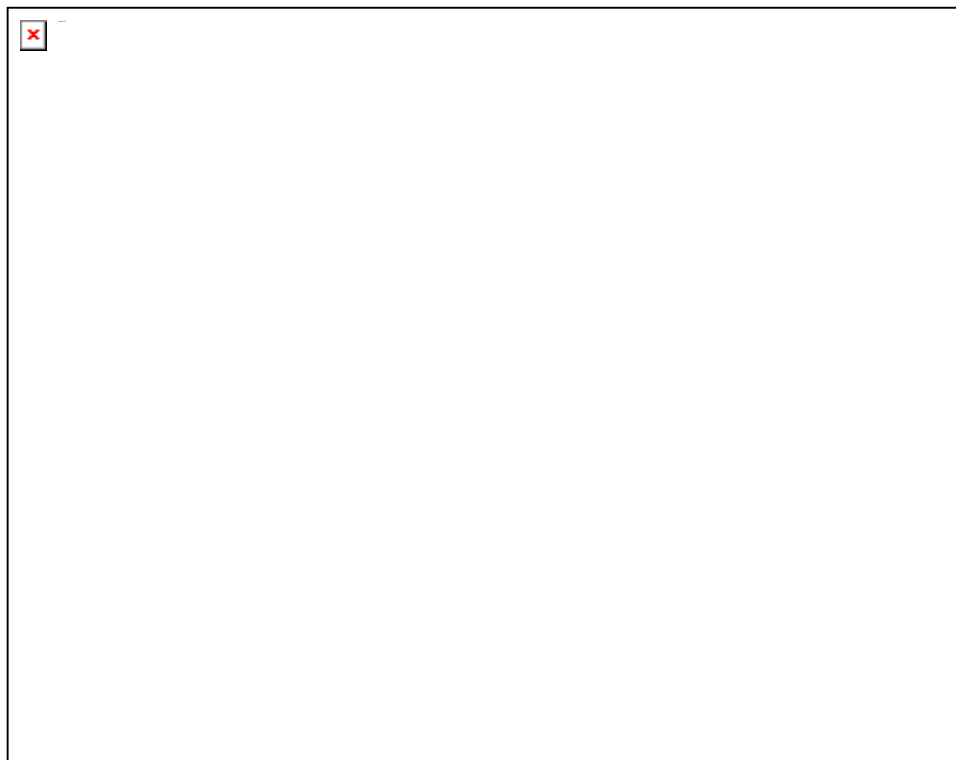
This measure also avoids some of the methodological difficulties associated with interpreting substantiation rates; in particular, the problems caused by changes in police recording practices. However, this indicator still needs to be interpreted

cautiously because a rise or fall in the number of substantiated complaints could indicate *either* a change in the system's effectiveness in investigating complaints, or a shift in standards of police behaviour. Without independent measures of behaviour it is very difficult to distinguish empirically between these competing interpretations. In addition, trends in the number of substantiated complaints can be affected by changes in the complaints mix and changes in procedures for dealing with complaints (see above).

QPE data

Figure 5.5 shows the number of charges (both departmental and criminal) proved per 1,000 officers each year for the period 1984–85 to 1993–94, as recorded in the QPE database. The figure indicates that, allowing for the unexplained drop in 1989–90, the number of charges per 1,000 officers in the post-Fitzgerald Inquiry period was well above that of the pre-Fitzgerald Inquiry period, despite considerable evidence (see chapter 6) of an improvement in police standards of behaviour over the same time frame. [As noted above, the rate for 1993–94 is affected by the introduction of informal resolution in 1993, which reduced the use of disciplinary charges for dealing with minor infractions.]

**Figure 5.5 — Number of charges proved per 1,000 officers
(1984–85 to 1993–94)**



Source: QPE database (see appendix B for QPE data).

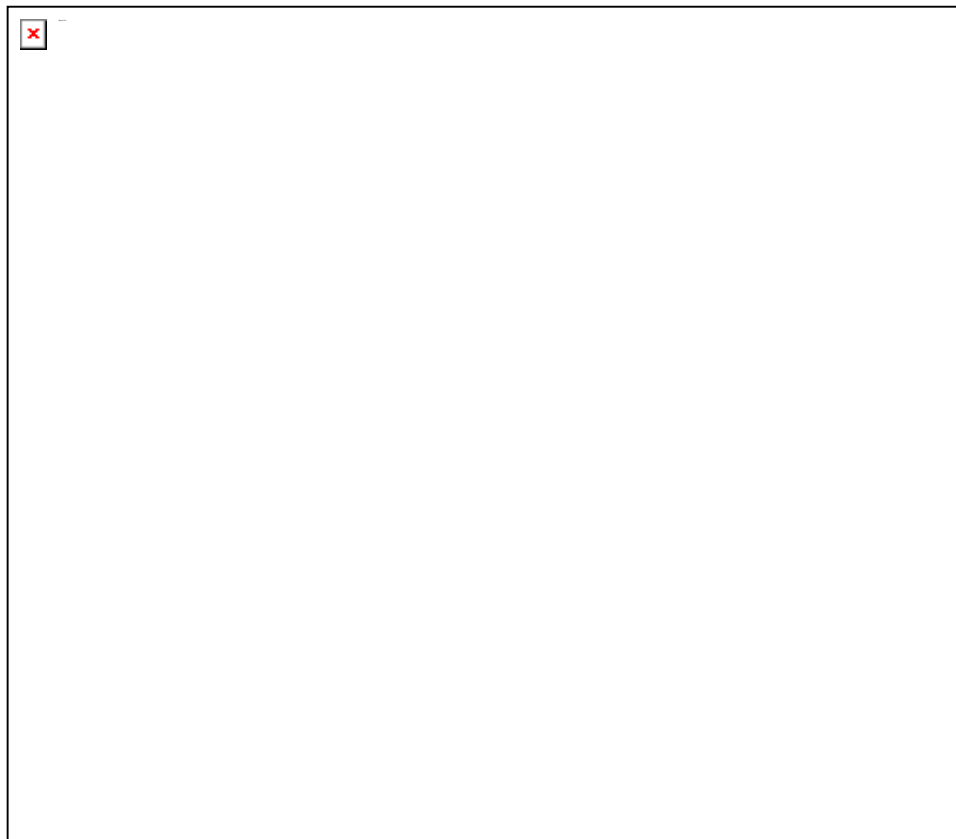
Notes:

1. Includes disciplinary and criminal charges.
2. See appendix C for number of sworn officers in QPS for each financial year.

CJC data

Figure 5.6 shows for the five years 1991–92 to 1995–96, the number of misconduct allegations where the CJC *recommended* disciplinary or criminal charges, expressed as a rate per 1,000 officers. (Note that, again, these data are not comparable with the QPE data in figure 5.5 which show *sustained* or *proved* charges and encompass breach of discipline as well as misconduct matters.) Figure 5.6 indicates a clear upward trend in the number of substantiated allegations between 1991–92 and 1994–95, which is consistent with the evidence presented above concerning the improvement in the CJC substantiation rate over the same period. The sharp fall in 1995–96 cannot be easily explained, although there were no changes in CJC internal processes or resource allocation arrangements during this period which should have impacted on investigative effectiveness.

Figure 5.6 — Number of police misconduct allegations substantiated by the CJC per 1,000 officers (1991–92 to 1995–96)



Source: CJC complaints database.

Note:

1. 'Substantiated' indicates that a criminal or disciplinary charge was *recommended* by the CJC.
2. See appendix C for number of sworn officers in QPS for each financial year.

Summary: Capacity to substantiate complaints

The preceding analysis supports the following conclusions:

Pre- and post-Fitzgerald Inquiry data on complaint substantiation rates are not comparable; hence, QPE data showing a fall in the rate should be disregarded.

The substantiation rate for misconduct matters investigated by the CJC has been well above the level achieved by the Police Complaints Tribunal. In addition, the rate increased between 1991–92 and 1994–95. This is a reasonably strong indication that the CJC enhanced its investigative effectiveness over this period.

QPE data show that the number of proved charges per 1,000 officers in the post-Fitzgerald Inquiry period was well above pre-Inquiry levels. CJC data show a steady increase in substantiated allegations per 1,000 officers between 1991–92 and 1994–95. Both findings are indicative of an increase in investigative effectiveness.

However, the data are also consistent with the experience of other complaints investigation bodies which have found that many complaints against police are inherently difficult to substantiate because of the absence of independent corroborating evidence (Goldsmith 1991; see also Brereton and Burgess 1997). These findings suggest that new complaints investigation processes can be effective in increasing the number of matters that are investigated, and in raising the general standard of investigations, but cannot be expected to overcome basic evidentiary barriers, such as a lack of corroborative evidence.

QPS response to recommendations to charge

The Fitzgerald Inquiry observed that far ‘from cooperating with the [Police Complaints] Tribunal the Police Force has used a range of devious techniques to avoid the Tribunal’s recommendations for action against some police’ (1989, p. 290). According to the Inquiry, only one in three matters found to be substantiated by the Police Complaints Tribunal resulted in the laying of charges (p. 291). This situation, as described, contrasts markedly with the response of the QPS to CJC recommendations.

Table 5.2 presents data from the CJC charges register (also see appendix D). The register records the final outcome of matters where the CJC has recommended that some sort of disciplinary or criminal charge be brought against the officer(s) involved. If an officer was subject to more than one type of charge, then only data on the more serious charge/s are presented. The types of charges are listed in the table according to their level of seriousness, with criminal charges being the most serious and disciplinary charges the least serious. For example, if an officer resigned after being charged with both criminal and misconduct offences, the officer would only be counted in the table under the criminal charge category, irrespective of the outcome of the misconduct charge. However, if an officer has more than one outcome in the highest level of charges recommended, then the officer will be counted once for each outcome. For example, an officer found guilty on one criminal charge and not guilty on another would be counted once as ‘guilty’ and once as ‘not guilty’.

Table 5.2 shows that over the five year period 1991–92 to 1995–96 only 73 of 1,080 recommendations (6.7%) were not proceeded with by the QPS. Moreover, in excess of 70 per cent of officers whom the CJC recommended to be charged with misconduct or a breach of discipline were found guilty or resigned before disciplinary action was taken. This compares very favourably with the one-case-in-three success rate reported

for the Police Complaints Tribunal. The high success rate for disciplinary matters is attributable to two factors — the good response by the QPS to CJC recommendations, and the lower civil standard of proof required in disciplinary hearings.

Table 5.2 also indicates that where criminal charges were laid, subject officers were found guilty or resigned in only 35 per cent of cases. This is because of the very high standard of proof required in court proceedings (beyond a reasonable doubt) and the fact that police officers rarely plead guilty in criminal matters. For the relatively few matters dealt with by the Misconduct Tribunals, the officer was found guilty in around 50 per cent of the cases.

**Table 5.2 — Number of officers by final outcome of recommended charge
(1991–92 to 1995–96)**

Type of charge recommended	Final outcome							Total	% of completed cases where officer found guilty or resigned
	Guilty	Officer resigned	Nolle prosequi	Not guilty	Not proceeded with by QPS	Withdrawn by CJC	Unfinished		
<i>Criminal</i>	43	-	33	35	-	13	8	132	35
<i>Official misconduct</i>	12	3	-	13	-	2	1	31	50
<i>Misconduct</i>	192	40	-	53	27	1	2	315	74
<i>Breach of discipline</i>	436	25	-	79	46	7	9	602	78
Total	683	68	33	180	73	23	20	1,080	71

Source: CJC charges register.

Notes:

1. Officers the subject of more than one type of charge are only reported in category of most serious charge brought against them.
2. 'Not guilty' includes a small number of criminal matters that were 'not committed' and a small number of breach of discipline matters that were 'not substantiated'.
3. 'Unfinished' includes disciplinary matters that may have been approved by the QPS for action but have not reached a final outcome and criminal matters awaiting trial.

4. Figures correct as at 28 August 1997.
5. See appendix D which presents these data for each financial year.

Administration of sanctions

The Fitzgerald Inquiry noted that inconsistencies in the use of sanctions resulted in ‘many minor matters receiving the same penalties as more serious ones’ (1989, p. 366).

... Police Rules lack proper definition of the relative importance of different activities. For example, a police officer’s ill-treatment of a police horse or a police dog is put on the same plane as accepting or soliciting a bribe!

That problem is compounded by the Police Rules addressing both purely disciplinary and criminal matters. (Fitzgerald Inquiry 1989, p. 293)

Another issue to consider, therefore, is whether the reforms introduced as a result of the Fitzgerald Inquiry have led to greater consistency in the types of sanctions being imposed for similar offences, and to the use of appropriately substantial sanctions for more serious matters.

Table 5.3 uses the QPE database to show trends for the period 1984–85 to 1993–94 in the types of disciplinary sanctions imposed. The table focuses on sanctions imposed in relation to departmental charges, as criminal sanctions are not within the control of the QPS.

It is evident from the table that the use of the most severe sanctions such as dismissals, demotions, reductions in pay, and salary increase deferments, increased after the Fitzgerald Inquiry, although they still only accounted for a small proportion of total sanctions in 1993–94. The use of transfers as a formal disciplinary measure ceased entirely after 1990–91, in line with a recommendation of the Fitzgerald Inquiry; on the other hand, the use of suspended sanctions increased substantially.

Table 5.3 — Disciplinary outcomes for proven complaints per 1,000 officers (1984–85 to 1993–94)

Outcome	Per 1,000 officers									
	84–85	85–86	86–87	87–88	88–89	89–90	90–91	91–92	92–93	93–94
Officer dismissed/ discharged/resigned/retired	0	0	0.6	1.4	1.5	0.2	1.5	0.5	1.3	1.0
Demoted/reduction in pay/salary increase deferred	0	0	0	0	0.4	0.9	2.2	1.8	1.4	1.3
Transferred	2.1	14.6	1.0	0	0.8	0.4	0.2	0	0	0
Fined	2.9	2.9	4.1	2.9	1.3	0.7	3.4	5.7	4.7	5.0

Formal reprimand/caution/ warning/counselled/instruct ed	7.5	1.0	32. 3	30. 3	32. 6	10. 0	26. 5	21. 0	22. 0	16. 5
Suspended sanction	0	0	0	0	0.2	0	1.0	4.0	3.1	4.9
Other sanction or sanction unknown	0.6	0.6	4.3	0	0.6	0	0	0.2	0.6	0.5
Departmental charges total	13. 1	19. 1	42. 3	34. 6	37. 4	12. 2	34. 8	33. 2	33. 1	29. 2

Source: QPE database.

Notes:

1. Only finalised complaints are included in the table.
2. The information in this table was based upon the 1,613 substantiated disciplinary charges recorded on the database. Not shown are a further 195 charges that were entered on the database without the outcome being recorded.
3. See appendix C for number of sworn officers in QPS for each financial year.
4. See appendix B for QPE data.

From the statistical data, it is not possible to assess whether there has been an increase in consistency in the types of sanctions imposed for similar offences. However, complaints about perceived inconsistencies are still common among police. In addition, the CJC continues to have concerns about the adequacy and consistency of sanctions.

In June 1996, an independent review commissioned by the CJC and conducted by a former judge of the Supreme Court, the Honourable W.J. Carter QC, examined 73 files in which a disciplinary charge had been laid and substantiated (Carter, unpub.). While Mr Carter found the quality of investigations and determinations to be very good, he was critical of the sanctions imposed in 31 cases. In two cases, he suggested that formal action was not warranted and that guidance under section 11 of the *Police Service (Discipline) Regulation 1990* would have been sufficient. In the other 29 cases, he suggested that the sanctions imposed were either inadequate or inappropriate. In particular, Mr Carter was most concerned with the ‘habitual practice of suspending sanctions’ and attaching ‘limited life’ to sanctions (p. 21):

The widespread misuse of suspending sanctions under Regulation 12(1), taken with the legal effect of Regulation 12(2), means that in respect of most disciplinary sanctions imposed there is in substance no penalty imposed at all (except a requirement to perform some community service) and even though the breach might objectively have warranted dismissal, that sanction ‘is to be taken as never having been imposed’, once the community service is performed. (Carter, unpub., p. 18)

In regard to the practice of attaching a limited life to a sanction, Mr Carter stated that:

Perhaps the ‘limited life’ practice is designed only for the appropriate circumstances where there is some mitigating circumstance which can justify limiting the effect of the sanction upon the officer’s record. (Carter, unpub., p. 20)

The QPS Review (1996) agreed with Mr Carter and recommended that the Commissioner ‘ensure that disciplinary sanctions be suspended only after a proper exercise of discretion and in exceptional circumstances’ (p. 245) and ‘that the position be clarified with respect to the predetermined life of disciplinary sanctions’ (p. 246). The CJC understands that these QPS practices have now been discontinued.

Conclusion

The key findings reported in this chapter are:

The number of complaints per 1,000 police officers rose sharply following the establishment of the new complaints and discipline system. This increase was partly due to improved processes within the QPS for recording complaints, and to enhanced public confidence in the complaints process — both of which can be attributed to the Fitzgerald Inquiry reforms. However, extraneous factors have also contributed to the growth in complaints, such as an increase in police–public interactions and a possible general cultural change in relation to complaining.

For a variety of reasons, pre- and post-Fitzgerald Inquiry complaint substantiation rates are not comparable. However, the available data indicate that: (a) the substantiation rate for matters investigated by the CJC is well above the rate for the Police Complaints Tribunal; and (b) the number of charges substantiated per 1,000 officers increased significantly in the post-Fitzgerald Inquiry period. These findings indicate improved investigative effectiveness.

In most cases, the QPS acts upon CJC recommendations that disciplinary charges be brought against officers. This is in marked contrast to the situation which applied when the Police Complaints Tribunal was operating and very few recommendations of the Police Complaints Tribunal were adopted.

It is not possible to measure the extent to which there have been changes in the way in which sanctions are administered, but the CJC continues to have some concerns regarding the adequacy and consistency of sanctions being imposed by the QPS.

Overall, these findings support the conclusion that the implementation of the Fitzgerald Inquiry reforms has significantly improved the operation of the police complaints and discipline system in Queensland, particularly in regard to: the number of complaints recorded and investigated; the number of complaints which are substantiated; and the QPS response to external oversight recommendations. However, as discussed, it has been difficult to increase the likelihood of any given allegation being substantiated because of the evidentiary requirements that must be satisfied. In addition, there is still scope to improve the way in which sanctions are administered within the QPS.

CHAPTER 6

STANDARDS OF BEHAVIOUR IN THE QPS

This chapter considers the crucial question of whether the reforms introduced in the aftermath of the Fitzgerald Inquiry have improved police discipline and reduced misconduct in the Service. Specific questions addressed are as follows:

What conclusions did the Fitzgerald Inquiry draw concerning the extent and nature of police misconduct in Queensland?

What do police themselves see as the impact of the Fitzgerald Inquiry on police behaviour?

What do complaints data show concerning the extent and nature of police misconduct in the post-Fitzgerald Inquiry era?

Has there been a reduction in the forms of misconduct which were of particular concern to the Fitzgerald Inquiry; that is, ‘verballing’ and corruption?

The chapter primarily draws upon quantitative data taken from the CJC and PSU complaints databases (see appendix A for a description of these databases), and qualitative data obtained from interviews with serving police officers who were recruited prior to the commencement of the Fitzgerald Inquiry.

Police misconduct in Queensland: The Fitzgerald Inquiry’s findings

The Fitzgerald Inquiry concluded that:

The Queensland Police Force is debilitated by misconduct, inefficiency, incompetence and deficient leadership ... Lack of discipline, cynicism, disinterest, frustration, anger and low self-esteem are the result. The culture which shares responsibility for and is supported by this grossly unsatisfactory situation includes contempt for the criminal justice system, disdain for the law and rejection of its application to police, disregard for the truth, and abuse of authority. (1989, p. 200)

One of the specific forms of misconduct highlighted by the Inquiry was ‘verballing’.

Verballing, or the fabrication with (*sic*) or tampering with evidence, arises out of frustration and contempt for the criminal justice system. It is common, and engaged in by many officers who are otherwise honest. (1989, p. 363)

In the view of the Inquiry, there was ‘virtually no risk involved for police in misconduct such as verballing and the chances of success are excellent’ (1989, p. 207). Where evidence was disputed the police version would almost invariably prevail, because the accused often lacked credibility whereas police would generally support and corroborate each other.

The Fitzgerald Inquiry also focused on the problem of corruption, which it defined as police taking ‘advantage of opportunities which arise in the course of their duties to obtain personal benefits’ (1989, p. 207). Examples of corrupt activity identified in the report included:

- theft of seized or forfeited property
- acquiring seized or forfeited property at less than its true value upon its official disposal
- use of informants and other criminal associates to dispose of illegally acquired property
- acceptance of money, property and sexual favours in return for police providing benefits such as warnings about law enforcement activities, and exercising their discretion in a way favourable to the provider of the benefit (1989, p. 207).

The Fitzgerald Inquiry acknowledged that many officers ‘retain their integrity and provide meritorious and usually unrecognized service’ (1989, p. 200) but also stressed that corrupt behaviour was not restricted to a few ‘rotten apples’. According to the Inquiry, ‘most police come into contact with local police misconduct throughout their careers, although many have no direct exposure to major police misconduct’ (p. 208). Particular concentrations of misconduct identified in the report were the Licensing Branch (pp. 63, 209) tourist areas such as the Gold Coast (p. 63) and offences such as motor vehicle theft (p. 63).

In the view of the Fitzgerald Inquiry:

The lack of any clear definition of what is permissible and ambivalent community attitudes have the general effect of blurring the distinction between proper and improper conduct for police in relation to some activities. Some matters are relatively easy to cloak in self-justification in various circumstances; for example, the acceptance of gifts or discounts can be rationalized on bases which, in theory, create no obligations upon the recipient police. Other conduct engaged in by police is blatantly improper. Participation is made easier by involvement in more ambiguous activities, the example of colleagues, and sometimes the delusion that corruption is acceptable because particular laws lack universal community support or the offences are consensual and ‘victimless’. (1989, p. 208)

The following discussion utilises both quantitative and qualitative data in order to assess the *extent* to which the situation in the QPS has changed since the Fitzgerald Inquiry provided this assessment. As discussed below, each type of data has limitations but, in combination, these data provide valuable insights into the impact of the Inquiry and associated reforms on the level of police misconduct in Queensland.

Interview findings

The qualitative data utilised in this chapter were obtained from two sets of interviews conducted with serving QPS officers in 1995.

The first study — referred to here as the ‘experienced officers’ interviews — was undertaken for the CJC by two researchers from Griffith University’s Centre for Crime Policy and Public Safety. These researchers were contracted to interview a selection of police officers who had joined the QPS before the commencement of the Fitzgerald Inquiry. Twenty-seven interviewees were chosen at random from the three largest centres of population in Queensland — Brisbane, Townsville and the Gold Coast — although some had also served in the most remote parts of the north and west of the State. The officers who were interviewed had between 11 and 30 years’ experience in the QPS and included Senior Constables, Sergeants, Senior Sergeants and Inspectors, uniformed and plain-clothed officers, men and women. Some officers were from general duties backgrounds; others from specialised duties backgrounds, including the Queensland Police Academy, the PSU and the CJC. All of those interviewed stated that they were familiar with the pre- and post-Fitzgerald Inquiry complaints and discipline systems.

The primary purpose of these interviews was to obtain the officers’ views about the current state of discipline within the QPS and the impact of the Fitzgerald Inquiry on police attitudes and behaviour. The main reason for using independent university researchers, rather than CJC staff, to conduct the interviews was to encourage police to talk frankly about their perceptions of the old and new disciplinary systems. An additional consideration was that the university researchers were former members of the QPS with extensive contacts within the Service. The semi-structured, confidential interviews were designed to allow sufficient flexibility for interviewees to respond in their own words. A checklist was used to ensure that the central topic remained the focus of discussion and that issues were considered systematically. Most interviews were conducted away from police premises at a mutually agreed time, usually at a private residence or university premises. Respondents were guaranteed anonymity and none of the material provided to the CJC by the researchers contained any identifying information.

The second set of interviews — the ‘senior officers study’ — was undertaken by CJC research staff who interviewed the Assistant Commissioners of each of the eight police regions, as well as senior officers from QPS Headquarters. On some occasions, especially in the regions, several other officers also took part in the discussions. All of those interviewed were informed that they would not be identified in any public material prepared by the CJC. It is impossible to say whether this assurance had the desired effect in all cases, although most of those who participated gave the impression that they were speaking frankly.

Interviews with police are, in some respects, a much ‘richer’ source of data than are complaints statistics. However, potential pitfalls in using this type of data are that interviewees:

- may not always be entirely frank and their responses may be influenced by the desire to make a good impression

- have a poor recall of events, leading to possible exaggerations or underestimations of the extent of change

- may have had direct exposure to only small parts of the organisation and therefore not be in a position to talk authoritatively about overall changes.

We endeavoured to minimise the impact of these factors by ensuring that interviews were conducted with a broad cross-section of officers and (in the case of the experienced officers group) at 'arms length' from the CJC, and that the anonymity of interviewees was assured. These procedures may not have had the desired effect in every case, but there was sufficient commonality in the responses to enable some broad conclusions to be drawn.

Experienced officers study

The experienced officers were asked by the researchers if they thought that the QPS was 'cleaner' than in the pre-Fitzgerald Inquiry era. All but one officer agreed with this proposition. Typical responses were:

You really can't deny that it's made police look over their shoulder or consider the public perception of them more than they would have under the old system ... Certainly the police force to me appears to be better, to answer the question. It appears to be better as far as the wide scale of corruption was concerned.

Definitely. I definitely believe that people are more inclined to think to do the right thing than before because there is more education and obviously there is more checking these days too. So people are definitely more inclined to be seen to do the right thing.

What I would say is, in my belief, is that there has been since Fitzgerald a breaking down of ... hard core misconduct. I don't think it's as institutional as it was. I don't think police officers are doing things or admitting to doing things in the line of hard-core corruption. It would be silly of me to say that we are free of misconduct; what I would say is, it's not to the extent it was.

However, eight officers also expressed reservations about the extent of the change. For example:

Overall I think it's cleaner than what it was before Fitzgerald ... but there is still corruption on a lesser scale and police still generally believe their police badge is a discount card for any retailing stores or outlets where you can purchase things.

I think that there are still some larrikins around, whether those larrikins are taking the chance of accepting graft as they did pre-Fitzgerald, I don't know, but it probably is a little bit cleaner ... but it's by no means squeaky clean after Fitzgerald and that is for sure.

My opinion, yes, I believe there is a cleaner Service ... We would find misconduct, individual misconduct but we wouldn't find, in my opinion, systematic corruption.

That's difficult because I didn't perceive the extent of the misconduct before. I could say yes, I don't think there is as much, but I might be completely wrong.

Coppers being coppers, they're pretty good at getting around things. But yes, I guess I do perceive that the more serious corruption has lessened.

Twenty-two of the experienced officers who were interviewed were asked whether they thought there was greater compliance with QPS rules and regulations under the new system. Of these, 19 felt that there was much greater compliance:

I think they are certainly thinking twice before they are doing anything. I have to say overall, yes, they are more prepared, more confident with the rules and regulations.

I think there is a greater compliance with it because again it is documented — everyone knows where they stand.

Yes, I'd say so. Mainly due to the fact that police are now aware that if they do something that is wrong, whether it be a breach of our discipline or our regulations, or whether it be a breach of a criminal law, or whatever ... the public will more readily complain.

I think that there would tend to be, because there is more concern about being investigated, more concern about doing the right thing, making sure that you try to do the right thing because you don't want to be investigated by the CJC.

Oh, I'm sure of that ... the discipline system that we have has certainly changed a lot of attitudes and also there is a lot more documented on what is required. The people that are coming into the system seem to be, maybe in their education at the Academy or something like that, but they certainly have greater knowledge of what is required and their responsibilities.

Much. The junior people tend to be a bit more blasé about things. But that's because of their youthful exuberance, I guess. There is a depth of responsibility right from the bottom to the top. Now we have these people being sworn in to the police force with some uni education etc., they're more aware of their responsibilities and it's pushed home to everybody that if they did deviate, they will suffer the penalties. That is accepted, whereas in the past the police knew that they could deviate and virtually nothing would be done about it.

I think they are, grudgingly they are ... people don't now go head first into situations. They stand back and assess it. They'll still go in and act if something needs to be done, but they assess the situation first. Again I don't think it's from a moral point of view; I think it's from the fear of discipline.

It was generally considered by this group of interviewees that there was now a greater propensity for officers to report other officers (see next chapter) and more likelihood that misconduct by officers would be detected. Only two interviewees considered that there was no greater likelihood of misconduct or improper behaviour being detected now than prior to the Fitzgerald Inquiry. The remainder thought there had been definite improvements:

Yes, certainly. I think any police officer who thought about it would think twice because there is a great likelihood that any police officer who is guilty of any misconduct is detected. I would suspect that they would be. Whereas in the past I think they would be too, but nothing would happen. They know now that it will be detected and something will happen about it.

Yes, I suppose so ... I would hope so with the CJC and the internal investigations mob. And with the CJC being dedicated to investigating misconduct, yes I guess there is a greater likelihood that it's going to be detected.

Yes, for no other reason than that the public are very aware that they can complain and something will be done about it.

Yes, I think that the people in the supervisory type of roles these days are a lot more responsible people. I worked at a city station some years ago, and the people that were in the supervisory roles in those days just couldn't care less about what the troops were doing and certainly these days it's totally different, a different place, and right across the board the supervisors and those sort of people have taken on a lot more responsibility.

Yes, because there are more formal processes ... accountability is everywhere, in every aspect of what we do. And police, well it's a lot more difficult for police to take short cuts and like [sic] cross that misconduct line. The opportunities really aren't there anymore. We've advanced in technology to the stage where those windows of opportunities aren't there anymore, plus the fact we are much busier now. I believe that police officers have a reasonable and professional attitude and are more willing to report things because I suppose they take the job more seriously. I'm disappointed in those that don't reform or those that cross the line ... the Service has now drawn the line here and this is what we must comply with. And we know now that if we breach the law we are liable to be punished ... the CJC have a big influence and are a big brother; they will be there. If something goes wrong or the police have done some offence, then we know that they're just there ... we know that there just won't be some Inspector coming; it will be the CJC.

Twenty-four of the interviewees were asked if there were any practices that were condoned before the Fitzgerald Inquiry that are no longer considered acceptable. Only three officers said that nothing had changed. One officer observed that:

... I am a lot more responsible in the way I approach work. A lot more professional, and I think this is due to the fact that the Service has improved its image. And since Fitzgerald we have got a more professional image and the Service has, to a greater extent, looked after us in that respect, and we more or less say 'Hey, this is a good organisation to work for'. Probably not while the change is happening; it was very unpleasant, and but now it's excellent, it's a lot better. My behaviour is, or my perceptions and my behaviour as a police officer have changed dramatically.

Fourteen mentioned that drinking on duty had almost been eliminated. For example:

The one that sticks out in my mind is drinking on duty. I did see a lot of that before Fitzgerald. It was quite common, more so in the plain-clothes area of policing, but it happened in uniform as well.

Yer, probably ten years' ago nearly everybody had a drink on duty. Very rarely now that you smell alcohol on anybody's breath who is on duty ... Well, I guess conduct in general has changed and people are more aware of what their responsibilities are as police officers.

I think liquor-related offences, like drinking on duty, drunkenness or coming to work drunk, that type of behaviour I believe was condoned somewhat. There was a lot of harbouring of drunkenness once upon a time ... I think that it is quite rare today. I'm not saying for one minute that it does not still happen somewhere, someplace, but, compared to pre-Fitzgerald, it's extremely minimal today.

I had to work with police officers who couldn't even walk up the front stairs of a police station, they were so drunk ... that doesn't happen anymore and that's good. But now if it did happen, most of us wouldn't condone it anymore; most of us would say, 'you know, get rid of him, I won't work the shift with him'. I mean you would actually go and report it.

However, one officer felt that the drinking practices had only changed form:

I don't know about any uniformed sections, but certainly in the CIB that hasn't changed. The only thing I guess that has changed is they're not drinking so much now in public places; drinking more so now in private places but still during working hours.

Five officers stated that there had been a definite decrease in the use of force:

... using physical force to obtain information; that is definitely gone. Well, anyone that does that this day and age needs their head read, it's as simple as that ... Pre-Fitzgerald, you never taught it, well not officially, but I mean — let's face it — it was an accepted practice.

Okay, use assault in prisons as an example ... the more serious stuff that you possibly could have brushed under the carpet and got rid of pre-Fitzgerald can't be done anymore.

... well, certainly the intimidation or physical abuse or threats of some suspects was probably more acceptable in the past than it is in the present.

... if people are getting obviously mistreated on the side of the road or whatever by police officers, these days, rather than stand back and say nothing, something would be said; maybe not necessarily to the CJC. I mean we still have this inbuilt thing of not racing out to fill out the form, but it would certainly be well known, 'hey, keep him out of my patch I'm not working with him anymore'.

Criminals don't fall down as much as they used to.

Comments were also made to the effect that officers were less likely to 'let other officers off' for traffic offences, were generally better mannered when dealing with the public, were less likely to be absent without reason and no longer practised 'verballing'. For example:

My behaviour and attitude have changed. However, I tend now to be more careful of what I say to members of the public. You've got to be careful not to offend members of the public.

Possibly the main one from my point of view would be being absent without senior officers knowing where exactly you were or being told where you were. Going back years ago, I know that some police would disappear for lengthy periods of time.

Pre-Fitzgerald, we could go to jobs without wearing our caps. Today we must have our caps on at all times. A bit of offensive and abusive language towards some of the radicals around the place before Fitzgerald was more or less tolerated. Today you mention one word to somebody, he's down at the police station as quick as his legs can carry him to make that complaint.

I'd say in the past some police tended to manufacture pieces of evidence where there was a failure to attain the evidence by other means. Now police will go out and obtain the evidence, and won't tend to manufacture evidence for the court.

... hard-core people, you could say, who used to bend the rules have been eliminated.

Senior officers study

The senior officers interviewed by CJC researchers generally expressed similar views to the experienced officers regarding the extent of misconduct in the QPS. Most of the senior officers agreed that there was now a genuine concern on the part of the Service to combat misconduct, an increase in accountability, integrity and professionalism and an overall increase in the willingness to report other officers.

One Assistant Commissioner was very positive about the reforms that had occurred:

There's no comparison to where we are today but we haven't fully reached there either. There is now a greater acceptance of accountability at all levels ... The culture now is that if you do the wrong thing there is a fair chance it will be identified and complained against. For instance an officer today would accept the fact that he or she was caught for RBT and required to undergo further tests. In the old days, they would have just laughed and driven off. More people have a genuine concern to address misconduct.

Other positive comments included:

There is more professionalism — an awareness of what are the acceptable limits.

The new system will have a long-term benefit for the Police Service and will uplift standards.

There has been a reduction in the level of misconduct mainly because there is more apprehension about the process, who they will front, and the penalty.

Senior officers are more accountable and professional. All officers work and conduct themselves with the knowledge that if they do something wrong, something will happen to them.

It was also felt that there were fewer opportunities for misbehaviour, and that this was assisted by the age and maturity of recruits as well as the new training system.

On the other hand, some of the senior officers who were interviewed felt that the Fitzgerald Inquiry had ‘painted a blacker picture of misconduct than was the reality’. For example, one Assistant Commissioner did not believe that the Drug Squad or general CIB was involved in corruption, only the Licensing Branch.

Pre-Fitzgerald, most people were not involved in serious corruption and didn’t go looking for it.

In the old days, there were plenty of officers trying to do the right thing, but they were forced to work in a confined environment ... corruption was around the minority, but it impacted widely. A junior officer had to go with the flow when his senior officers were involved in corruption.

The extent of verballing pre-Fitzgerald has been blown out of proportion; only a small number of officers had this reputation but everyone has been tarred with the same brush. There was far less serious bribery and corruption pre-Fitzgerald. Most of the problems were in the Licensing Branch.

This last-quoted officer noted that the Fitzgerald Inquiry investigators ‘had gone over the Drug Squad with a fine-tooth comb and found nothing’.

According to one Assistant Commissioner, under the current system ‘all’ officers are subject to the complaints and disciplinary process whereas ‘the old view was that once you got to a certain rank such as Senior Sergeant or Inspector you were exonerated from the discipline system’. This was verified by another senior officer who commented:

Pre-Fitzgerald, the rule was, ‘shut your mouth and toe the line’. Now NCOs and Commanders will report other officers.

Another Assistant Commissioner agreed that ‘misguided loyalty’ was a lot less than it had been, while conceding that management ‘will never be able to stop the situation where officers get together to agree on the same story or to cover-up’.

A number of officers were concerned about the negative effects that CJC investigations had upon police who were the subject of complaints. For example:

The time involved in investigations can be very stressful to the police officer involved and his or her family. Police officers today aren't able to handle the stress and end up on stress leave. Even when police officers just think the CJC is investigating them, they expect the worst and practically stop working.

The average officer is more concerned about what the CJC will do to them than they are about the QPS Command.

Despite these comments, most officers expressed support for the concept of the CJC:

If the external watchdog is removed, the situation will revert back to the old ways. The CJC should always keep the official misconduct function.

The new system has improved integrity and established a barometer and clear standards against which to measure performance, but it is very cumbersome and leaves people in limbo for too long.

However, one Assistant Commissioner doubted whether any complaints and disciplinary system could have a significant impact upon major corruption. This officer saw a need for more proactive anti-corruption strategies to deal with these forms of consensual corruption. Another senior officer warned that:

... there is still some way to go. It's a continuing process. We can't drop our guard and think everything is fine now.

Summary of interview findings

In summary, the two sets of interviews conducted during 1995 indicated that officers generally perceived an improvement in the behaviour and conduct of police as a result of the Fitzgerald Inquiry reforms. The main changes identified by interviewees were:

- a 'cleaner' Service with greater compliance with the rules and regulations governing the conduct and behaviour of police
- less misconduct, particularly involving drinking alcohol on duty and unlawful assaults on persons being interviewed by police
- a greater likelihood of misconduct or improper behaviour being detected and a greater willingness on the part of police officers to report other officers for misconduct (see chapter 7).

Complaints data

Methodological issues

Police misconduct which is observable (such as being drunk in public) or which arises in the context of an interaction between a police officer and a civilian (such as an assault, or an unlawful search) often leads to a complaint being made against the

officer concerned. Therefore, analysis of complaints data is another strategy for gauging the extent of some forms of police misconduct, and for monitoring changes over time in standards of police conduct. At the same time, however, these data need to be treated with considerable caution:

Not all complaints against police are indicative of inappropriate behaviour by the officers concerned. Some complaints arise because the complainant does not understand the police role or powers, or misinterprets the actions of police. Some complaints are deliberately fabricated or exaggerated and many concern matters (such as police failure to attend a call more quickly, or to solve a crime) which relate more to the quality of service delivery than to misconduct on the part of individual officers. Conversely, as discussed in chapter 4, not all inappropriate police behaviour generates a complaint. As shown by the CJC's Attitudes to Police Survey (1995b) and the Defendants' Survey (1996b), many people who feel aggrieved by some police action or inaction do not make a formal complaint for one reason or another.

As documented in chapter 5, the number of complaints made against police can vary over time not only because of changes in the level of police misconduct, but also because of changes in such variables as the propensity of members of the public — and other police — to make complaints, complaint recording practices and the level of police–civilian interaction. Hence, a rise in complaints does not necessarily indicate a deterioration in police standards of behaviour and conversely, a fall in complaints may not equate to an improvement in behaviour.

Some forms of serious police misconduct, such as the taking of bribes or participation in illegal activities, are conducted covertly and rarely come to public attention. Consequently, complaints statistics are very unlikely to provide an accurate picture of the frequency of such behaviour.

Focusing only on substantiated allegations almost certainly leads to an understating of the extent of police misconduct, because complaints categorised as 'unsubstantiated' include many matters where it is *possible* that the police behaved improperly, but insufficient evidence was available to support a criminal or disciplinary charge. In addition, the number of substantiated complaints recorded in any given year is sensitive to changes in reporting and recording practices, as well as to changes in the way in which complaints are dealt with (for example, greater use of informal resolution will result in fewer matters being recorded as substantiated) and the efficacy of the complaints investigation process.

In the longer term, the problems with interpreting complaints data can be redressed by utilising a wider range of measures to monitor changes in police behaviour, such as periodic surveys of members of the public and defendants, surveys of serving police and, possibly, direct observation. As can be seen from other chapters of this report the CJC is currently developing a range of such measures. However, for the purposes of the present exercise it was necessary to rely largely on complaints data. Unavoidably, this has required some 'creativity' in the interpretation of trends and has required some conclusions to be expressed fairly tentatively.

The following discussion is restricted to an analysis of CJC complaints data for the period 1991–92 to 1995–96. Data on complaints in the pre-Fitzgerald Inquiry period are available from the QPE database (see appendix B), but major changes in reporting behaviour and complaints recording practices resulting from the Inquiry render these

data of little value for comparing standards of police behaviour in the pre- and post-Fitzgerald Inquiry periods (see chapter 5).

The main limitation of the CJC complaints database is that it does not give a complete picture of the range of police behaviours which give rise to complaints. This is because the database only records details about complaints of alleged misconduct and excludes minor breach of discipline matters (whereas the QPE database records both types of complaints). The operational definition of misconduct used by the CJC has also tended to narrow over the years, as discussed in chapter 5, which may have contributed to an ‘artificial’ drop in some types of complaints (see below).

Types of misconduct allegations

Overview

Table 6.1 breaks down, for the period 1991–92 to 1995–96, the number of allegations per 1,000 officers reported to the CJC, according to the type of misconduct which was alleged. It should be noted that the number of allegations is considerably greater than the number of discrete complaints because a single complaint may involve several allegations of similar or different types of behaviour.

An examination of the five year average shows the following:

The most common forms of misconduct alleged over this period were assaults and improper arrests or misuse of powers by police. Other commonly reported matters involved allegations relating to behaviour and duty failure. These findings reflect the fact that most complaints arise out of contact between police and members of the public.

Over the same period, there was an average of only 16.7 allegations of corruption or favouritism per 1,000 officers. However, allegations of criminal conduct — a broader category which includes alleged involvement in drugs, organised crime and prostitution — averaged 67.5 per 1,000 officers (see below for a more detailed analysis of this category).

Allegations relating to the fabrication or destruction of evidence — a major concern of the Fitzgerald Inquiry — were relatively uncommon, averaging 20.8 per 1,000 officers per year.

Table 6.1 — Types of misconduct allegations made to the CJC per 1,000 sworn officers (1991–92 to 1995–96)

Type of allegation	1991–92 (n=3,402)	1992–93 (n=3,428)	1993–94 (n=3,522)	1994–95 (n=3,919)	1995–96 (n=3,820)	Overall average (n=3,618)
Assault	63.9	78.9	104.2	110.5	113.6	94.2
Improper arrest/detention/misuse of powers	62.3	87.7	89.1	114.6	105.2	91.9
Failure to perform	99.8	70.9	62.4	70.8	62.6	73.3

duties						
Criminal conduct ¹	59.3	50.8	78.6	77.8	71.5	67.5
Behaviour	72.1	56.3	46.4	49.9	52.5	55.4
Harassment/victimisation	47.4	41.6	36.2	37.6	35.1	39.6
Information breaches	24.7	27.9	36.2	37.9	34.8	32.3
Searches	15.8	24.5	26.4	25.2	29.7	24.3
Evidence ²	22.6	19.8	17.6	23.5	20.3	20.8
Goods and property ³	20.1	22.3	17.1	25.7	17.0	20.4
Corruption/favouritism	19.6	18.7	16.0	12.7	16.7	16.7
Traffic/vehicles	16.7	15.5	10.5	9.7	9.7	12.4
Major incident ⁴	0.2	9.1	18.4	14.6	15.3	11.5
Miscellaneous ⁵	14.7	7.5	3.2	4.6	4.7	6.9
Firearms	3.2	6.3	7.1	7.0	7.6	6.2
Total	542.4	537.8	569.4	622.1	596.3	573.4

Source: CJC complaints database.

Notes:

1. Includes criminal act or omission, drug, organised crime and prostitution related allegations.
2. Includes the fabrication of, unlawfully obtaining, destruction of or tampering with evidence.
3. Includes the wrongful seizure of, failure to return, damage to and improper use of goods and property.
4. Includes high-speed chases resulting in injury, any discharge of firearms not already the subject of a complaint, and attempted or actual suicides by prisoners or detainees.
5. Includes allegations of failure to properly present prosecution or malicious prosecution and warrant of commitment or apprehension allegations.
6. See appendix C for number of sworn officers in QPS for each financial year.

Table 6.1 shows that the overall rate of allegations per 1,000 officers increased by only a modest 10 per cent between 1991–92 and 1995–96, but this aggregate stability disguised some significant movements within specific categories.

The main declines in the number of allegations per 1,000 officers were in:

- behaviour allegations, which fell by 37 per cent
- duty failure allegations, which declined by 59 per cent.

The main increases in allegations per 1,000 officers were in:

- assault allegations, which rose by 78 per cent
- allegations relating to ‘arrest/detention/misuse of powers’, which increased by 69 per cent
- allegations relating to the conduct of searches, which increased by 88 per cent
- allegations of criminal conduct, which increased by 31 per cent between 1991–92 and 1994–95, before declining by 8 per cent in 1995–96 .

The following discussion examines these trends in more detail. [The increase in ‘major incidents’ reflects a change in recording practices (see chapter 5). Consequently, trends in this category will not be considered in this discussion.] There is also an analysis of trends in verbalising-related complaints: an area of police misconduct which was of particular concern to the Fitzgerald Inquiry.

Behaviour and duty failure

Taken at face value, the decline in allegations relating to inappropriate behaviour and duty failure points to greater police professionalism in dealing with members of the public. However, an alternative explanation is that, over time, more of these types may have been classified as breach of discipline rather than misconduct matters, and, as such, no longer show up in the CJC complaints database.

In order to test this hypothesis, we examined trends in equivalent types of complaints recorded in the PSU complaints database. (This database records breach of discipline as well as misconduct matters, but covers a more limited time frame than the CJC complaints database — see appendix A.) The PSU provided the Research and Coordination Division with a download of its database on 2 May 1996, to assist in preparation of this report. The database showed a fairly constant level of ‘behaviour’ allegations over the period January 1992 to May 1996, supporting the hypothesis that for these types of complaints the downward trend shown by the CJC data may have been due to an increased tendency to classify such complaints as breach of discipline rather than misconduct matters. However, both the CJC and PSU complaints databases showed a decrease over this period in allegations of ‘failure to perform duties’, which would appear to indicate a positive change in the way in which police interact with members of the public. This downward trend is particularly significant given that there was a corresponding 17 per cent increase in the demand for police services as measured by the number of crimes reported per 1,000 sworn officers between 1991–92 and 1995–96.

Assaults, misuse of powers and searches

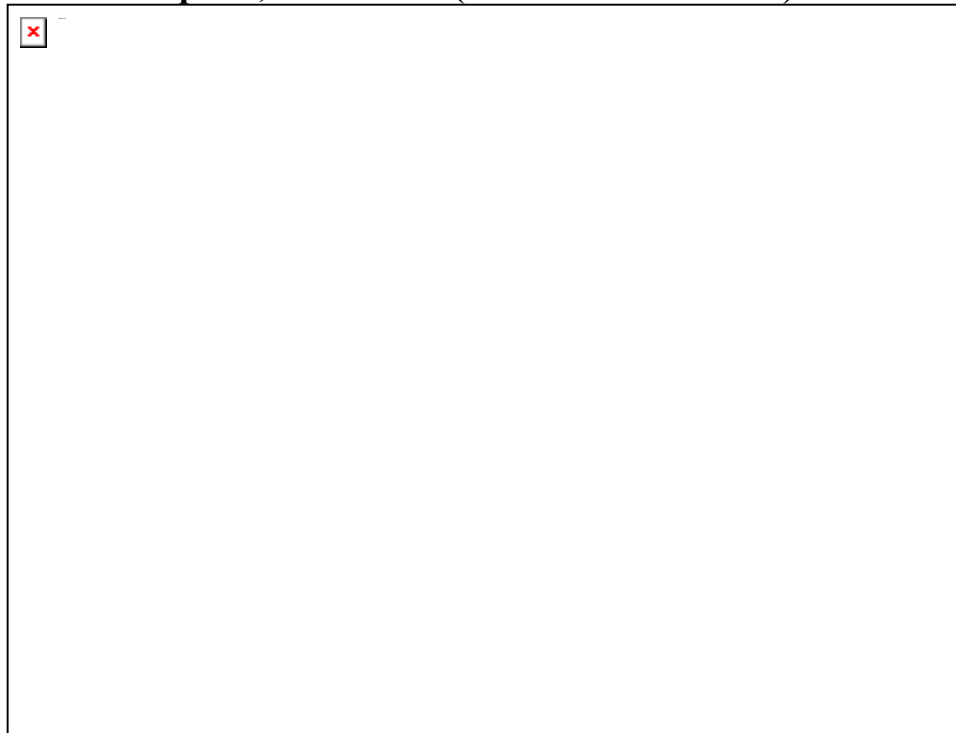
There are two possible explanations for the large increase between 1991–92 and 1995–96 in assault allegations and allegations relating to misuse of powers and improper searches. The first is that police became more aggressive in their dealings with members of the public over this period (which, if true, would indicate a decline in standards of behaviour.) The second possibility is that the trend simply reflects a greater number of police–civilian contacts; that is, while the likelihood of police behaving improperly in any one encounter did not change, the number of such encounters increased.

In order to test these competing hypotheses, we mapped trends in these particular complaints categories against relevant measures of police activity. The results of this analysis are presented in a series of graphs below.

In the case of allegations of ‘improper arrest/detention/misuse of powers’, the most appropriate available police activity measure is the number of offences cleared by arrest, as such complaints are most likely to arise in the context of a person being arrested or detained by police. Figure 6.1 shows a fairly close relationship between

these two indicators. For the first four years the increase in allegations outstripped the growth in the number of arrests, but this was corrected for in 1995–96 when allegations fell while the number of arrests continued to rise.

**Figure 6.1 — Comparison of improper arrest/detention/misuse of powers
allegations received by the CJC with number of offences cleared by arrest
per 1,000 officers (1991 –92 to 1995 –96)**



Sources: CJC complaints database and QPS Statistical Services' correspondence received 10 February 1997.

Note: See appendix C for number of sworn officers in QPS for each financial year.

For search allegations, the best available activity measure is the number of reported drug offences per 1,000 officers, as most police searches are conducted in the context of enforcing drug laws. As shown by figure 6.2, there is a very close correlation between the number of search allegations and the number of reported drug offences per 1,000 officers, which is a strong indication that the rise in such complaints has been due entirely to increased police activity in this area.

**Figure 6.2 — Comparison of search allegations received by the CJC
with
number of reported drug offences per 1,000 officers (1991 –92 to 1995–96)**



Sources: CJC complaints database and QPS *Statistical Reviews* 1991–92 to 1995–96.

Note: See appendix C for number of sworn officers in QPS for each financial year.

Similarly, figure 6.3 shows that the increase in assault allegations between 1991–92 and 1995–96 closely tracked the increase in reported drug and good order offences. The number of drug and good order offences is an indicator of the extent of ‘proactive enforcement’ by police, as reports of such offences are normally police-initiated, rather than the result of a complaint from a member of the public. Furthermore, other research undertaken by the CJC (see below) indicates that many assault complaints against police arise from ‘street policing’ situations, where the suspect has initially been stopped and questioned for relatively minor offences.

**Figure 6.3 — Comparison of assault allegations received by the CJC
with
number of reported drug and good order offences per 1,000 officers
(1991–92 to 1995–96)**



Sources: CJC complaints database and QPS *Statistical Reviews* 1991–92 to 1995–96.

Notes:

1. 'Good order' offences exclude 'fare evasion' offences and include 'indecent behaviour', 'language' offences, 'disorderly conduct', and 'resist/hinder' etc.
2. 'Drug' offences exclude 'trafficking', 'producing', and 'supplying' offences.
3. See appendix C for number of sworn officers in QPS for each financial year.

Also relevant in this context are the findings of a detailed analysis undertaken by the CJC of a representative sample of assault complaints against police from the four years 1990–91 to 1993–94 (CJC 1997a). This study found a decline in the proportion of assaults where the complainant suffered injuries (table 6.2) although the differences were not quite statistically significant at the .05 level. This finding suggests that the severity, if not frequency, of assaults attributed to police may have declined over this period. Anecdotal evidence from experienced police also suggests that the incidence of serious, premeditated, assaults by police has decreased (see above).

**Table 6.2 — Seriousness of injuries in assault complaints reported to CJC
(1990–91 to 1993–94)**

Type of injury	Complaints			
	1990– 91 (n=39) %	1991– 92 (n=69) %	1992– 93 (n=77) %	1993– 94 (n=60) %
Internal injuries	0.0	1.4	2.6	1.7
Loss of consciousness	2.6	2.9	3.9	3.3

Fractures	10.3	10.1	6.5	8.3
Lacerations	23.1	13.0	16.9	11.7
Bruising	43.6	39.1	33.8	30.0
No evidence of injury*	20.5	33.3	36.4	45.0
Total	100	100	100	100

Source: Assault Complaints Against Police Project database; see CJC 1997a.

Note:

1. The table shows the most serious injury recorded for each complaint.
2. $\chi^2 = 6.37$, $df = 3$, $p = .09$.
3. Due to rounding, percentages may not add up to 100.

In summary, the large increase between 1991–92 and 1995–96 in assault allegations and in allegations relating to improper arrests, misuse of powers and improper searches appears to have been driven largely, if not entirely, by increased police enforcement activity. It follows that the upsurge in such complaints should not be seen as indicative of declining standards of police behaviour, although there are some issues about policing enforcement strategies which may need to be addressed.

Criminal conduct and corruption

Table 6.1 also shows an upward trend in the number of ‘criminal conduct’ allegations per 1,000 officers. Although this increase is not as large as for the other complaints categories discussed above, it requires some further examination given that the category encompasses some of the more serious forms of police misconduct.

Criminal conduct, as defined in the CJC complaints database, covers criminal acts or omissions, involvement in using or dealing in drugs, and participation in organised crime and prostitution-related activities. As shown by table 6.3, the most common criminal conduct allegations consist of stealing and other dishonesty complaints (around 40% of the category), followed by drug-related allegations such as protection of persons involved in illegal drug activities, dealing or trafficking in illegal drugs and using illicit drugs (35% of the category). Organised crime and prostitution-related allegations, in total, comprised less than 9 per cent of criminal conduct allegations.

Table 6.3 indicates that the rise in criminal conduct allegations in 1993–94 was due to an increase in stealing and other dishonesty complaints and, to a lesser degree, an increase in drug-related allegations. The 1994–95 rise was solely due to the upsurge in allegations of stealing and other forms of dishonesty. The reasons for the increase in this sub-category cannot be determined with any precision, but a large proportion of such allegations are related to property or money going missing from watchhouses or police property rooms, at the point of arrest, during searches, or at the scene of a crime. Therefore, it is possible that at least part of the rise in the number of these allegations can again be attributed to increased policing activity (see above). However, further analysis of the circumstances in which these complaints arise would be required to confirm this interpretation.

**Table 6.3 — Criminal conduct allegations per 1,000 officers received by
CJC
(1991–92 to 1995–96)**

Type of allegation	1991– 92	1992– 93	1993– 94	1994– 95	1995– 96
Criminal act or omission					
Stealing	15.2	14.0	19.4	24.1	19.5
Other dishonesty offences	5.9	5.8	10.5	11.6	10.0
Sexual offences	1.3	2.5	5.3	3.0	1.5
Leading to death	1.4	0.6	2.3	1.9	0.5
Other	3.5	5.3	7.6	9.1	7.5
Total	27.3	28.2	45.1	49.7	39.0
Drugs					
Protection of persons involved	8.0	6.9	11.3	7.1	10.8
Cultivation/manufacturing	1.4	0.2	1.1	1.1	2.0
Using	3.7	2.4	5.5	4.1	4.1
Dealing including trafficking	5.7	3.9	4.2	5.7	6.7
Planting of persons/property	1.4	2.0	1.8	0.6	1.4
Misappropriating seized drugs	1.6	0.6	4.0	2.4	1.1
Other	1.8	0.6	1.3	0.5	2.3
Total	23.6	16.6	29.2	21.5	28.4
Organised crime					
Gaming/gambling	0.5	0.2	0.0	0.6	0.1
Drugs	1.7	0.6	0.5	1.6	0.1
Prostitution	1.1	0.0	0.2	0.9	0.0
Money laundering	0.0	0.0	0.0	0.0	0.1
Racing/trotting/coursing	0.0	0.0	0.0	0.0	0.0
SP	0.5	0.0	0.2	0.0	0.0
Other	0.8	1.6	0.2	1.3	0.5
Total	4.6	2.4	1.1	4.4	0.8
Prostitution					
Protection of	1.4	2.0	1.6	0.8	2.0
Not being policed	0.3	0.2	0.0	0.0	0.0
Conorting with prostitutes	1.8	1.2	0.8	0.5	0.6
Other	0.3	0.2	0.8	0.8	0.5

Total	3.8	3.6	3.2	2.1	3.1
Total	59.3	50.8	78.6	77.7	71.3

Source: CJC complaints database.

Note: See appendix QPS for number of sworn officers in QPS for each financial year.

Table 6.3 also shows that over the period 1991–92 to 1995–96 a number of allegations were made to the CJC which, if proven, would have amounted to serious corruption (for example, protecting persons involved in drugs, participating in drug dealing or drug cultivation, involvement with organised crime). However, it must be emphasised that very few of these allegations were substantiated.

The difficulties involved in interpreting data on corruption-related complaints are illustrated by an analysis that we undertook of complaints made in the 1994–1995 financial year alleging police use of position for personal gain. This analysis indicated that very few of these complaints appeared to have substance. There were 101 cases identified, of which 93 were finalised. These cases consisted of sub-types of the categories of ‘corruption/favouritism’ and ‘criminal conduct’ categories presented in table 6.3. [Specifically, they were allegations of ‘Receipt of Benefits (excluding Zoning/Development)’, ‘Giving Favours/Bias (excluding Zoning/Development)’, ‘Protection of Persons involved in Drugs’, ‘Cultivation/Manufacturing of Drugs’, ‘Dealing including Trafficking in Drugs’, ‘Misappropriating Seized Drugs’, any ‘Organised Crime’ allegation (e.g. Gaming/Gambling, Drugs, Prostitution, Money Laundering, Racing/Trotting/Coursing, SP) and ‘Protection of Prostitution’.] Of the 93 finalised complaints, 56 (60%) were drug related and 37 (40%) related to other matters. Sixty per cent of the finalised complaints were not investigated either because the circumstances did not raise a suspicion of misconduct, the information provided was inadequate, or the complaint was frivolous, vexatious or anonymous and without substance. All but two of the remaining 35 cases, when investigated, were not substantiated. One case was withdrawn and, in the other case, the officer involved retired.

Some data on possible corrupt activity by police is also recorded in CJC intelligence holdings. The contents of these holdings cannot be discussed in any detail in this report, because of the confidential nature of the information and the fact that much of it cannot be independently verified. However, it can be said that while the CJC, through its intelligence gathering activities, has identified some pockets of corrupt activity in the QPS, this has not been on the scale documented by the Fitzgerald Inquiry.

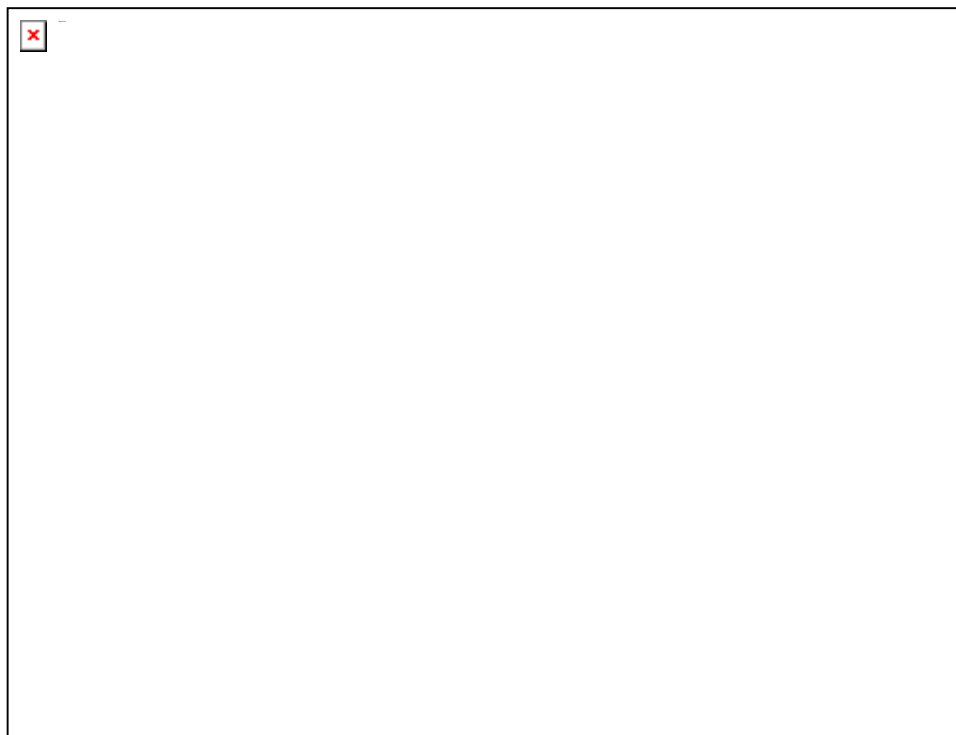
Also of relevance here is the current inquiry into police and drugs being conducted on behalf of the CJC by The Honourable W. J. Carter QC. It is evident from the public hearings that the inquiry has succeeded in identifying some individually corrupt police and corrupt connections between some small groups of officers, but it will be necessary to await the final report to determine how extensive this corruption is and the extent, if any, to which it may have penetrated the upper levels of the Service.

‘Verballing’

As discussed earlier in this chapter, the Fitzgerald Inquiry report paid particular attention to the practice of ‘verballing’ and, generally, the fabrication and misrepresentation of evidence against suspects.

Table 6.1 above shows little change between 1991–92 and 1995–96 in the total number of evidence-related allegations per 1,000 officers. However, as shown by figure 6.4 a clear downward trend is evident in the sub-set of allegations categorised as ‘fabrication of evidence (including verballing, perjury etc.)’. This trend is of particular significance when compared to the increase over the same period in the total number of offences cleared by arrest per 1,000 officers. (All other things being equal, we would expect there to be more ‘verballing’ allegations if more people are being arrested and processed by the police).

Figure 6.4 — Comparison of police ‘fabrication of evidence’ allegations received by the CJC with total number of offences cleared by arrest (1991–92 to 1995–96)



Sources: CJC complaints database and QPS Statistical Services’ correspondence received 10 February 1997.

Note: See appendix C for number of sworn officers in QPS for each financial year.

These quantitative data are consistent with the opinions expressed by police who were interviewed for this study (see above) that the practice of ‘verballing’ has become much less common as a result of the Fitzgerald Inquiry reforms and the introduction of mandatory recording of interviews with suspects.

Analysis of complaints data: Summary

Complaints data from the pre- and post-Fitzgerald Inquiry eras are not comparable. Consequently, our analysis of complaints trends deals only with the post-Fitzgerald Inquiry period. In addition, the focus was restricted to misconduct allegations rather than breach of discipline matters.

The main conclusions which can be drawn from this analysis are as follows:

Allegations of duty failure became less frequent between 1991–92 and 1995–96, which supports the conclusion that police became more professional in their dealings with the public over this period.

There was a significant increase in the number of allegations per 1,000 officers pertaining to assaults, arrests and searches, but this was most likely the result of greater police activity levels, rather than indicative of any decline in standards of behaviour. There is some evidence that the severity of alleged assaults reduced between 1990–91 and 1993–94, which indicates a possible reduction in the underlying level of serious misconduct.

There was some increase in allegations of criminal conduct, mainly in relation to allegations of stealing. This may also be explicable in terms of increased police activity levels, but more research is required to confirm this.

A number of corruption-related allegations were made over this period, but very few of these matters were substantiated. Other information sources indicate that there are still some pockets of corrupt activity in the QPS, but not on the scale identified by the Fitzgerald Inquiry.

There was a marked drop in allegations relating to the fabrication of evidence, despite a significant increase in the number of arrests. Viewed in conjunction with the qualitative interview data, this trend is strong evidence that the underlying incidence of ‘verballing’ has diminished.

In summary, the complaints data indicate that, since the conclusion of the Fitzgerald Inquiry and the implementation of associated reforms, there has been an overall improvement in standards of police behaviour in Queensland. However, the pace of change has been uneven and there is clearly scope for more to be achieved.

Conclusion

This chapter has utilised a mix of qualitative interview data and quantitative complaints data to assess whether the Fitzgerald Inquiry and associated reforms have improved police discipline and reduced misconduct within the QPS.

The interviews conducted with middle level and senior officers during 1995 reflected broad agreement that there had been an overall improvement in the behaviour and conduct of police officers. The main changes identified were:

- a ‘cleaner’, less corrupt, police service with greater compliance with the rules and regulations governing the conduct and behaviour of police

- less misconduct, particularly involving drinking alcohol on duty, verballing and unlawful assaults on people being interviewed by police

a greater likelihood of misconduct or improper behaviour being detected and a greater propensity for police officers to report other officers for misconduct (see chapter 7).

Analysis of the CJC complaints data indicates that there has been a reduction in police behaviour giving rise to allegations of 'duty failure' and 'verballing', and that the severity of alleged assaults may have diminished. There have been increases in some complaints categories, but this appears to have been due largely to increased police enforcement activity, rather than to any deterioration in standards of behaviour. However, while these findings are reasonably positive overall, there is clearly scope for further improvement in police standards of behaviour. Also, there is a need to review police enforcement strategies to ascertain if they are contributing unnecessarily to the increase in complaints in these areas.

As far as the specific issue of corruption in the QPS is concerned, it is difficult to draw firm conclusions from existing data sources. The weight of the available evidence is clearly that such conduct is less pervasive and occurs at lower levels than was the case in the pre-Fitzgerald Inquiry QPS, but some problem areas remain. It is extremely unlikely that corruption could ever be eliminated altogether given the size and diversity of the QPS, the opportunities available to officers to act improperly, and the difficulty of detecting and investigating police involvement in corruption. The threat can be contained, but it is probably unrealistic to assume that it can be removed completely.

CHAPTER 7

THE POLICE CODE

The Fitzgerald Inquiry reported that the majority of Queensland police officers had for many years adhered to an unwritten code under which:

- loyalty to fellow officers was paramount
- it was considered impermissible to criticise fellow police, particularly to outsiders
- critical activities of police, including contact with informants, were exempt from scrutiny
- police did not enforce the law against, or carry out surveillance on, other police
- those who breached the code would be punished and ostracised (1989, p. 362).

The Fitzgerald Inquiry described the code as an integral element of the police culture and as 'a critical factor in the deterioration of the Police Force' (1989, p. 202). According to the Inquiry, the code virtually guaranteed mutual loyalty and support, thus eliminating any concern about apprehension and punishment for misconduct; it encouraged police not to enforce the law against other police, 'nor co-operate in any attempt to do so, and perhaps even obstruct any such attempt' (p. 203). The Inquiry also observed that an elite of influential and senior officers helped to impose and perpetuate the code, and manipulate it to its own ends (p. 362).

This chapter focuses on three main questions:

- has the influence of the police code diminished in the post-Inquiry period?
- in what areas, and at what levels of the QPS, has the change been greatest and, conversely, least?
- to the extent that police remain reluctant to report misconduct by fellow officers, or assist in the investigation of such matters, what factors account for this?

These questions are addressed using data from the following sources:

- interviews conducted during 1995 with a small sample of experienced officers recruited into the QPS before the Fitzgerald Inquiry, and with representatives of senior management both in the regions and at QPS Headquarters (see chapter 6)
- surveys of police recruits, First Year Constables (FYCs), and experienced officers about their perspectives on ethical conduct (see CJC 1995a for a more detailed account of these surveys)
- a statistical analysis of police-against-police complaints received by the CJC's Complaints Section in the years 1991–92 and 1994–95.

Interview findings

There was fairly broad agreement among the experienced officers interviewed by Griffith University researchers (see chapter 6) that police are now more likely to report a fellow officer than they were in the pre-Fitzgerald Inquiry era. However, several interviewees suggested that this change in behaviour was not so much due to

attitudinal change as to increased apprehension about what would happen to them if they did not report suspected misconduct. For example, one interviewee stated:

I wouldn't call it willingness, but if you don't report them, and it comes to their [senior management's] notice that you didn't, then you're in deeper trouble than the bloke who you were supposed to report on.

Some of those interviewed said there was a belief among some operational police that reporting other officers could be used as a means of discrediting, albeit temporarily, competitors for particular positions, and of enhancing one's résumé for promotional panels. According to one of the interviewees:

I have seen it or suspected it in the past that police officers have reported other officers purely with a view to reducing that other police officer's merit for promotion.

Some officers cited the overriding need for solidarity with one's peers as a reason for not reporting questionable conduct, but even among these officers there was substantial agreement that an officer's obligations to colleagues did not extend to covering up 'serious' matters:

I think that there's a reluctance always for police to report police for minor matters. For major matters I think there wouldn't be, most police officers wouldn't hesitate. It depends if it was a criminal act — yes, whereas if it was more a breach thing I would deal with it myself.

Even the people with the old attitudes still look over their shoulder and say 'alright this has happened. I can't deal with this beyond a certain point, I will have to report it'.

According to most interviewees, the attitude of police to colleagues who had made complaints about other officers depended largely on the nature of the complaint made:

It has to be something fairly serious before other police officers accept another police officer informing on them.

Reporting a colleague was seen to be a legitimate act if the matter involved an offence that could not be justified by invoking values of comradeship. There also appeared to be grudging acceptance that officers may have to report suspicions of misconduct to avoid being the subject of disciplinary action.

Finally, some interviewees suggested that younger officers were more likely than their more experienced counterparts to report misconduct by other police. For example:

I have heard many, many instances where people who have been out in the field for a few years ... have been working with trainees [and] have found themselves a subject of a report that has been generated by that junior trainee.

However, as noted, most of those interviewed were older and of more senior rank, and so were not necessarily in a position to give an informed assessment of the attitudes and behaviour of their more junior colleagues.

The senior officers who were interviewed by CJC staff (see chapter 6) had somewhat divergent views about the influence of the code of silence within the QPS. For example, in one region we were told by a senior officer that ‘you’ll never crack the code’, whereas another officer present at the same meeting declared that ‘it’s not a problem in this region’. However, most of those interviewed considered that police were now more likely than in the past to make formal complaints against other officers:

They won’t report one another for minor infractions, but if it is something substantial and interferes with operational effectiveness, they will.

The ‘culture’ now is that if you do the wrong thing there is a fair chance it will be identified and complained against.

This change in behaviour was attributed by several senior officers to the additional support and protection from corrupt officers provided by the new system.

In the old days people were concerned that if you squealed you were finished; now there is more support. Once police wouldn’t report something unless they were certain about it; now you can report and you will be covered.

One Assistant Commissioner commented that:

Under the old system it was foreign to officers to take action against other officers. They didn’t cover-up misconduct; their attitude was if someone did play up, so what? There was an almost total unwillingness or inability amongst Commissioned Officers to make important decisions or take action.

This officer also reported that ‘there were plenty of officers trying to do the right thing but they were forced to work in a confined environment’.

Another Assistant Commissioner reported that:

There has been a marked increase in the willingness of police officers to report complaints made against other officers. There is much less inclination to protect an officer engaged in significant misconduct as officers do not want to get caught out.

Similar comments were made by other senior officers:

Officers will look after each other where the minor stuff is concerned, but not if there is something serious. That is something which has changed since Fitzgerald — officers won’t put their jobs on the line to cover up for someone else. There has been a new breed of officer coming into the Service.

However, another senior officer felt that in his region there had never been a resistance to reporting misconduct, although he did concede that officers were generally not inclined to report a breach of discipline.

The view was expressed by several officers that ‘a lot of minor matters which should be treated as management problems were being reported’ because of concern about the consequences of not making a report because of the requirements of section 7.2 of the *Police Service Administration Act*.

The senior officers in one region agreed that police will no longer put up with serious misconduct, but suggested that junior officers were still nervous about reporting senior officers. Other officers agreed that the lower level ranks would be more inclined to report misconduct informally to a supervisor rather than put in the complaint themselves.

One Assistant Commissioner felt that an education program was required to inform officers that they must report suspicious behaviour, because police are affected by their loyalty to each other. He also felt that the inexperience of new recruits meant they would probably be shocked to see misconduct and would report it as a consequence, whereas in the past ‘recruits were rough and not of high standards and so were not as shocked by misbehaviour’.

In accordance with the views expressed by middle level officers, the senior officers acknowledged that an important consideration for many officers was fear of what would happen to them if they were found to have turned a blind eye to misconduct by another officer.

They know that if they don’t report and it comes to light later they will be in trouble.

One senior officer asserted that the majority of police will now report another’s misconduct because of the statutory requirement to report. However, this officer conceded that there were some isolated pockets where misbehaviour was not reported.

Summary

In summary, experienced middle ranking officers and senior police generally agreed that the Fitzgerald Inquiry reforms have led to a weakening of the police code within the QPS, although there was some divergence of opinion as to the extent of the change and the reasons for it.

Findings from ethics surveys

In the first half of 1995, the CJC conducted a series of surveys (CJC 1995a) which focused on the attitudes of QPS officers towards ethical issues and the discipline process. Self-completed questionnaires were administered to three groups: recruits, FYCs, and officers with several years’ experience. The recruit sub-sample was re-surveyed in March 1996 after the recruits had completed their academy training and had been in the field as FYCs for eight months. [To facilitate presentation of

statistical data, results for the first FYC sample are not reported here. However, there were parallels with the findings for the re-survey group (see CJC 1995a).] The purpose of this re-survey was to clarify whether differences found between the groups in the first round of surveys were due to innate differences between the groups (a *cohort* effect), or to the varying amount of time each group had been exposed to the cultural, organisational and task environment of the QPS (a *socialisation* effect).

The surveys were designed to address the following questions:

How willing were officers to report misconduct to the QPS or the CJC?

How seriously did police officers regard various types of misconduct and to what extent did they perceive a difference between their own views and those of QPS management and the general public?

To what extent did recruits change their views on ethical issues once they had been exposed to the police 'culture' and day-to-day policing work?

How did police rank and file regard the complaints and disciplinary process and, in particular, the approach of QPS management to disciplinary issues?

Because no comparable data are available for earlier years, the results of these surveys do not bear directly on the issue of whether there has been a *change* in prevailing police attitudes towards the reporting of misconduct as a result of the Fitzgerald Inquiry. However, the surveys are useful for determining the extent to which, and reasons why, police remain reluctant to report misconduct by their peers. The surveys also provide a valuable baseline for monitoring future cultural change within the QPS.

Methodology

The following discussion refers to three sub-samples:

The recruit sub-sample. This group consisted of 59 recruits, representing three squads from the January 1995 intake. The survey was administered a few weeks after the recruits had commenced their training at the Academy.

The re-survey (FYC) sub-sample. This group consisted of 84 officers, being all of the January 1995 recruit intake remaining in the Service as at March 1996. [The re-survey sample is larger than the original sample because the recruit survey could initially only be administered to three of the four squads in the January 1995 intake.] This group was surveyed while attending a training course at the Academy after approximately eight months in the field as FYCs.

The experienced officer sub-sample. This sample of 65 officers was obtained by surveying two groups of officers who attended detective training and investigative skills courses held in March and April 1995. These officers had between three and 12 years' policing experience, with an average of 5.6 years. [By surveying officers who attended these courses, we were able to obtain a relatively large number of responses — and a very high response rate — with only a minimal outlay of resources. The main disadvantage of this sampling strategy is that those who attended the courses were not necessarily representative of the QPS rank and file. For instance, there were relatively few females in the group and a very large number of plain-clothes detectives (59% of all respondents). However, our sampling technique does not appear to have greatly affected the results obtained, as few differences were found in

the responses given by plain-clothes and uniformed officers, or between males and females.]

The survey was administered to each group during class time by a CJC research officer. Respondents were asked for their cooperation but were told that participation was not compulsory. (Only one officer chose not to complete the questionnaire.) Respondents were not required to identify themselves on the questionnaire and were told that all responses would be treated confidentially.

The survey comprised three main sections. The largest section contained a series of scenarios based on situations that police might find themselves in. The scenarios described conduct by police which, if proven, would generally result in some form of disciplinary action being taken against the officer(s) concerned. These scenarios were broadly modelled on questions used in a 1992 National Police Research Unit survey (Huon et al. 1995).

Respondents were asked to identify what action they might take if they became aware from a 'very reliable non-police source' that another officer had engaged in conduct described in the various scenarios. The options were to: do nothing; raise the matter directly with the officer concerned; bring the matter informally to the attention of a senior officer; make a formal report to the QPS; and, report the officer to the CJC. Respondents were also asked to rate the seriousness of the conduct described in each scenario on a scale of 1 to 10 according to how it would be scored by themselves, a typical officer, the QPS 'hierarchy' and the public (see appendix E).

The scenarios to which the officers were asked to respond were as follows:

Scenario 1 — Off-duty officer tries to avoid RBT

An off-duty police officer who has drunk a little too much is stopped for an RBT by police officers he doesn't know. The off-duty officer is obviously a bit under the weather. He identifies himself as a fellow police officer in an effort to avoid blowing in the bag.

Scenario 2 — Officer at bottle shop pockets cigarettes

The local bottle shop has been broken into for the third time in so many weeks. The responding patrol enters the premises to wait for the owner to arrive and sort out the mess of cigarettes and liquor lying all over the floor. One of the officers bends down, picks up a torn pack of cigarettes from the shattered window display, and puts the pack in his pocket.

Scenario 3 — Officer retaliates against youth who assaulted female officer

In a pub brawl a young female First Year Constable responding with her partner to a 'disturbance' call, receives a nasty black eye from a tattooed youth wielding a billiard cue. As the arrested youth is led into the cells, the male team member gives him a savage kidney punch saying, 'hurts, doesn't it'.

Scenario 4 — Accident by police misrepresented in report

During a quiet period on patrol, two officers decided to test how the rear of the police vehicle would slide on the deserted, wet car park. Their attempts resulted in a minor collision with a shopping trolley. Rather than go into full

details about the scrape when reporting the damage, the driver stated the car was ‘sideswiped’ by an unidentified vehicle while they were attending to an inquiry.

Scenario 5 — Words added to suspected rapist’s statement

An offender is picked up for a particularly nasty rape/assault in a local park. There’s no doubt he’s the culprit. There’s an excellent I.D. but the offender who is ‘streetwise’ says nothing. To make matters certain, the arresting officer attributes the words, ‘OK I was in the park but I didn’t touch the bitch’ to the offender in his notebook.

Scenario 6 — Pick-up outside of patrol area

On a quiet Saturday afternoon an officer decides to travel well outside his area to get some equipment for his Sunday building job. In radio contact all the time he picks up the gear and returns to his patrol area.

Scenario 7 — Registration check to get details of attractive woman

The young lady in the Mazda sports car is very attractive and smiles at the young officer in the patrol car alongside at the traffic lights. The officer, following a couple of lengths behind, radios for a vehicle registration check to find out her address.

Scenario 8 — Officers accept free beer at Christmas time

The publican of a local tavern requests some extra police patrols as he is experiencing some problems with troublesome patrons. The officers at the station accept a couple of cartons of beer sent by the publican to the station’s Christmas party in appreciation of the officers’ service during the year.

In hindsight, a limitation of this study is that it did not include a scenario of very serious corruption, which could have been used to ascertain whether there was a greater willingness to report such behaviour. Scenarios addressing this issue will be incorporated into future versions of the survey.

In another section of the survey, officers were asked to indicate the extent to which they agreed or disagreed with a number of statements concerning the incidence of misconduct within the QPS, the management style of the organisation, and the level of support provided to whistleblowers.

Characteristics of survey groups

Table 7.1 provides age and gender data for each sub-sample.

Table 7.1 — Gender and age characteristics of survey groups

Group	Number	Gender (%)			Age (%)						
		Male	Fmle	U/K	<21	21–25	26–30	31–35	36–40	41+	U/K
Recruits	59	61.0	39.0	–	11.9	64.4	13.6	3.4	3.4	3.4	–
Re-survey	84	56.0	34.5	9.5	–	52.4	23.8	8.3	2.4	–	13.1

(FYCs)											
Experienced Officers	65	78.5	18.5	3.1	–	–	49.2	35.4	13.8	–	1.5

Source: CJC 1995a.

Note:

1. 'U/K' refers to the percentage of respondents who chose not to answer these questions.
2. Due to rounding, percentages may not add up to 100.

The table shows that the majority of respondents in each survey group were male, with the experienced officers' group containing the smallest proportion of women. Responses for males and females are not presented separately in the following discussion, given that gender proved not to be a significant determinant of how officers responded to the scenarios (CJC 1996c).

Stated willingness to report

As previously discussed, section 7.2 of the *Police Service Administration Act 1990* requires any member of the QPS who knows or reasonably suspects that misconduct has occurred to report the misconduct to the Commissioner of Police and the CJC.

Six of the scenarios described behaviour clearly amounting to misconduct under the *Police Service Administration Act 1990*. The possible exceptions were scenario 6 (pick-up outside patrol area) which would most probably constitute a breach of discipline and scenario 8 (free beer at Christmas time) which currently might not attract any disciplinary action from the QPS.

Figures 7.1 to 7.8 show the proportion of respondents who indicated a willingness to bring the behaviour described in the various scenarios to 'official notice', by either formally reporting the officer to the QPS or CJC, or informally bringing the matter to the attention of a senior officer.

Figure 7.1 — Off-duty officer tries to avoid RBT (Scenario 1)

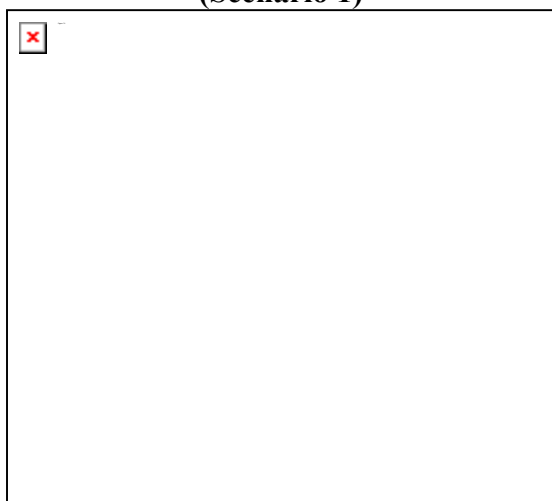


Figure 7.2 — Officer at bottle shop pockets cigarettes (Scenario 2)

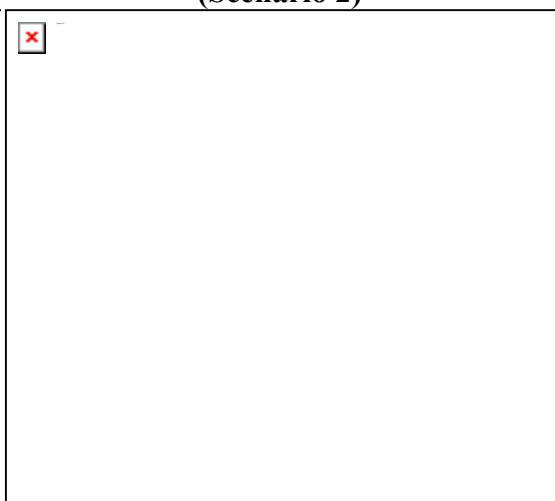


Figure 7.3 — Officer retaliates against

Figure 7.4 — Accident by police

**youth who assaulted female officer
(Scenario 3)**



**misrepresented in report
(Scenario 4)**



**Figure 7.5 — Words added to suspected
rapist's statement
(Scenario 5)**



**Figure 7.6 — Pick-up outside of patrol
area
(Scenario 6)**



**Figure 7.7 — Registration check to get
details of attractive woman
(Scenario 7)**



**Figure 7.8 — Officers accept free beer
at Christmas time
(Scenario 8)**



Source: CJC 1996c (see appendix F for data).

Key findings from the above graphs are as follows:

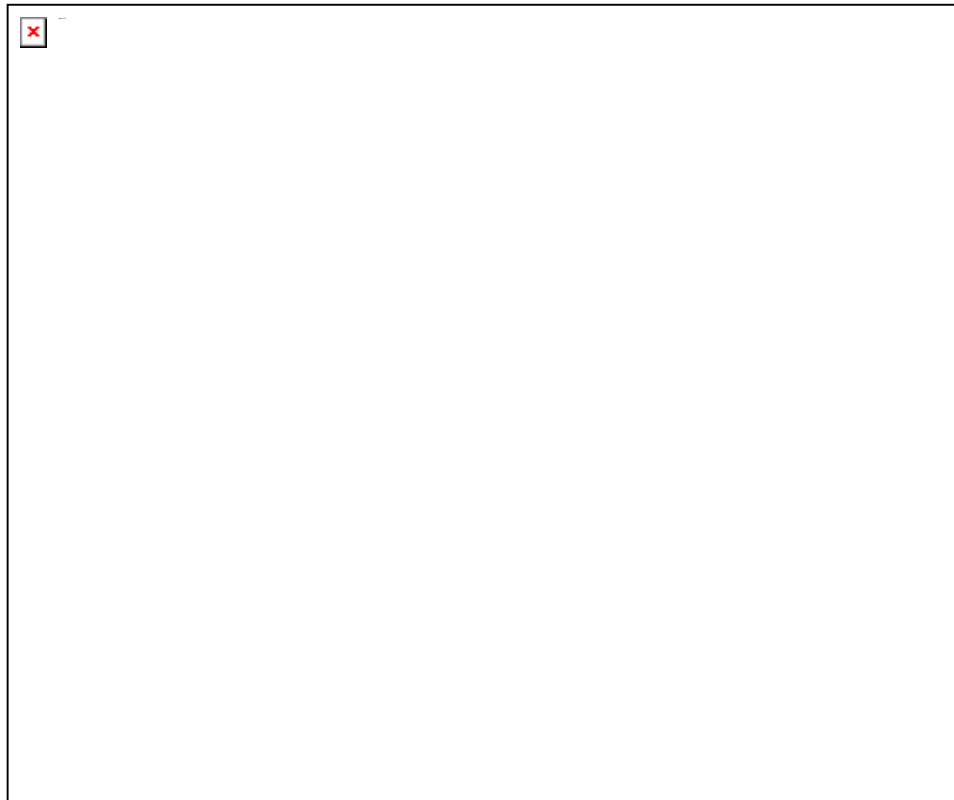
For all scenarios, the recruit sub-sample expressed the greatest willingness to take action against the offending officer. Over a period of 13 months, the willingness of this group to report dropped noticeably for all scenarios except scenario 2 (officer at bottle shop pockets cigarettes). The re-survey (FYC) group was generally very close to the experienced officer sub-sample in their responses.

There was only one scenario — relating to ‘verballing’ — where more than 10 per cent of respondents from the re-survey (FYC) and experienced officer sub-samples said they would be prepared to report the offending officer directly to the QPS or CJC. Respondents expressed a greater willingness to ‘informally raise the matter with a senior officer’, but by far the most common response was to do nothing or raise the matter directly with the officer concerned.

The types of behaviour most likely to be formally or informally reported by the re-survey (FYC) and experienced officer groups were stealing cigarettes from a break and enter scene (scenario 3) and verballing (scenario 5). The actions least likely to be reported were accepting free beer at Christmas time (scenario 8), doing a pick-up outside of one’s patrol area (scenario 6), and making an unauthorised registration check (scenario 7).

A comparison was also made of the proportion of respondents who indicated that they would take ‘no action’ if they knew of a police officer engaging in the behaviours outlined in the scenarios. As shown by figure 7.9, for all scenarios except scenario 2 (officer at bottle shop pockets cigarettes), the proportion of respondents in the re-survey and experienced officer samples who said that they would take ‘no action’ was significantly greater than in the recruit sample. [Data were analysed using χ^2 tests.] There were no statistically significant differences between the re-survey (FYC) and experienced officer samples for any scenario.

Figure 7.9 — Percentage of respondents who chose to take ‘No Action’ for each scenario



Source: CJC 1996c (see appendix F for data).

Perceptions of QPS management and discipline

Respondents in each sub-sample were also asked to record, on a seven-point scale ranging from ‘strongly disagree’ (1) to ‘strongly agree’ (7), their level of agreement with a series of statements relating to the QPS management and discipline process. Table 7.2 presents the responses of the re-survey (FYC) and experienced officer sub-samples to the most relevant of these items.

Table 7.2 — Respondents’ perceptions of the QPS management and discipline process

Statement	Average score (1 = Strongly disagree; 7 = Strongly agree)	
	<i>Re- surveys (FYCs) (n=84)</i>	<i>Experienced officers (n=65)</i>
1.The QPS rules for proper conduct have been made clear to me.	5.4	4.6
2.The QPS takes a very tough line on improper behaviour by police.	5.8	5.5

3.The QPS concentrates on what we do wrong rather than what we do right.	6.1	6.3
4.It is not unusual for a typical officer to turn a blind eye to improper conduct by other officers.	4.9	4.6
5.Sometimes you have to break the rules if you want to get on with other officers.	2.9	3.4
6.The QPS recognises and rewards proper behaviour by police.	2.9	2.2
7.There is little incidence of improper conduct in the QPS.	4.5	4.7
8.Expecting officers to always follow the rules is incompatible with getting the job done.	4.7	4.8
9.Whistleblowing is not worth it.	4.6	4.6
10.It is understandable if officers behave improperly after the QPS has let them down.	3.9	4.3
11.An officer who reports another officer's misconduct shouldn't expect much support from the police hierarchy.	3.5	3.9
12.An officer who reports another officer's misconduct is likely to be given the 'cold shoulder' by his or her fellow officers.	5.7	5.7

Source:CJC 1996c.

Note: Officers not responding to the question were excluded from this table.

The table shows that:

There was very little divergence of opinion between respondents who had been in the Service for only a few months and officers with several years experience.

The majority of respondents agreed that it was 'not unusual for a typical officer to turn a blind eye to improper conduct by fellow officers'.

There was a very high level of agreement with the proposition that officers who report misconduct by other police were likely to be ostracised by their fellow officers.

The QPS was seen as reasonably supportive of officers who report misconduct by their fellow officers, but the majority of respondents agreed that 'whistleblowing is not worth it'.

QPS management was seen as punitive, rather than supportive, in its approach to promoting proper conduct by police. A substantial majority of respondents from the FYC and experienced officer sub-samples agreed with the proposition that the QPS 'concentrates on what we do wrong rather than what we do right', and disagreed that 'the QPS recognises and rewards proper behaviour by police'.

Summary

The ethics surveys indicate that there is still considerable reluctance among rank and file police to report misconduct by fellow police where that behaviour is not seen as serious, although there is a greater stated willingness to report actions such as

verballing and stealing. In addition, many rank and file police still regard the organisational climate within the QPS as not very conducive to the reporting of misconduct by fellow officers.

More generally, the surveys highlight the powerful — and not always positive — influence which the occupational culture has on new entrants to the Service.

Analysis of police against police complaints

The third component of our research consisted of an analysis of complaints received by the CJC in 1991–92 and 1994–95 which related to allegations of misconduct made by police against other police. [The QPS is required to notify the CJC of all allegations of misconduct made against police officers, regardless of whether these complaints are made by a member of the public or emanate from within the Service.] Our aims in undertaking this research were to ascertain:

- how many complaints made by police against other police were initiated by junior officers rather than by officers holding management or supervisory positions (an indication of whether ‘the code’ exerts a stronger influence at the rank and file level of the QPS than at more senior levels)

- how frequently officers made allegations against someone more senior than themselves

- the types of matters which were most likely to be the subject of police-initiated complaints

- the extent to which such complaints were prompted by ‘personal’ motives, rather than by genuine concern about possible police misconduct.

This study enabled us to collect some behavioural data to compare with the findings of the interviews with police and the results of the ethics surveys. Data for 1991–92 and 1994–95 were compared to determine if there had been any significant changes in reporting behaviour over this period.

Data collection

Using the database maintained by the CJC’s Complaints Section, 183 files were initially identified from 1991–92 [1991–92 was selected as the starting point for the study as this was the first full year of reliable complaints data captured in the database.] and 310 files from 1994–95 where the subject officer was recorded as an employee of the QPS and the complainant was recorded as ‘police’ or ‘Commissioner of QPS’. To maintain comparability between the two years and ensure that the study was restricted to cases that met the strict definition of a ‘police against police complaint’, we then excluded:

- files where the complainant or subject of the complaint was a non-sworn member of the QPS (such as a Police Liaison Officer) or a member of another policing organisation (such as the Australian Federal Police)

- files which did not relate specifically to an allegation of misconduct (such as proforma reports of high speed pursuits, firearm discharges and attempted suicides by

prisoners or detainees [Since January 1992 these matters have had to be reported to the CJC regardless of whether the reporting officer suspects misconduct.])

complaints which had been passed on by a police officer from a non-police source, and therefore could not strictly be characterised as having been police-initiated [There were 39 such complaints in 1991–92 and 69 in 1994–95. An example of such a complaint would be where a person contacted the Sergeant at a local station to provide information about an officer, and the Sergeant then submitted a complaint form under his or her name.]

notifications that an officer had appeared in court or was the subject of a Domestic Violence Order

a small number of matters which had been incorrectly classified.

A further 16 files from 1991–92 and 13 from 1994–95 could not be accessed for confidentiality reasons. This left a sample of 95 complaints involving 112 subject officers in 1991–92 and 102 complaints involving 135 subject officers in 1994–95.

Findings

Rank of the complainant and informing officers

For the purposes of this analysis we distinguished between the officer who was the formal complainant (that is, whose name appeared on the QP307 form used by the QPS to record complaints) and the informing officer—the actual source of the information on which the complaint was based. Often the formal complainant and the informing officer were the same person, but not necessarily. For example, a junior officer might tell a supervisor about suspected misconduct about another officer, but not want his or her name to go on the QP307 as the complainant.

Table 7.3 shows the rank of the formal complainant in the complaints examined for 1991–92 and 1994–95. Officers were categorised into three groups: management (Inspectors and upwards), supervisory ranks (Sergeants and Senior Sergeants) and non-supervisory ranks (recruits to Senior Constables). The table indicates that the largest number of complaints in each year were formally initiated by officers with management responsibilities. The table also shows that complaints from non-supervisory officers declined between 1991–92 and 1994–95, while the number and proportion of complaints from officers in management and supervisory ranks increased.

Table 7.3 — Rank of formal complainant in police against police complaints (1991–92 and 1994–95)

Rank of formal complainants	1991–92 complaints		1994–95 complaints	
	Number	Per cent	Number	Per cent
Non-supervisory	23	24.5	14	13.7
Supervisor	31	33.0	39	38.2
Management	40	42.6	49	48.0

Source: CJC complaints database.

Note:

1. In 1991–92 the rank of one complainant was unknown and one complaint involved two complainants. For this study, only the rank of the first complainant will be used.
2. Due to rounding, percentages may not add up to 100.

A somewhat different picture is obtained when we focus on the rank of the informing officer, rather than the formal complainant. Table 7.4 shows that the largest number of complaints *originated* from supervisory and non-supervisory ranks rather than from management. This is a positive sign that some cultural change occurred in the aftermath of the Fitzgerald Inquiry, given the Inquiry's finding that it was extremely rare for 'rank and file' police to report another officer. However, table 7.4 also shows little change between 1991–92 and 1994–95 in the number of complaints initiated by non-supervisory officers.

**Table 7.4 — Rank of informing officer in police against police complaints
(1991–92 and 1994–95)**

Rank of informing officer	1991–92 complaints		1994–95 complaints	
	Number (n=94)	Per cent	Number (n=102)	Per cent
Non-supervisory	37	39.4	35	34.3
Supervisor	39	41.5	37	36.3
Management	18	19.1	30	29.4

Source: CJC complaints database.

Note: In 1991–92 the rank of one informing officer was unknown.

Personal motives

It was suggested by some police interviewees (see above) that many police-initiated complaints are made by officers who are motivated by a desire to settle 'personal scores', rather than by a genuine concern to ensure that their peers behave appropriately. In order to test these claims, complaints files were examined to ascertain if there was any indication that the complaint related to a personal matter between the officers concerned or if there appeared to be some other personal motive behind the complaint.

A complaint was defined as personally motivated if the complaint was not substantiated and: it related to an allegation of bias in the promotion system where the informing officer was an applicant; it involved claims of attempts to discredit or intimidate, or allegations of personal harassment; there was evidence of a personality conflict between the officers concerned; or, the matters related to personal relationships or associations between the subject officer and the complainant.

Applying these criteria, 21 per cent of the informing officers in police against police complaints in 1991–92 and 19 per cent in 1994–95 appeared to have been influenced, at least in part, by some personal motive. There was very little difference in the proportions of non-supervisory, supervisory and management officers who may possibly have complained for personal motives. On the basis of these findings, it would seem that most of the police against police complaints examined were made in good faith, consistently with officers' statutory obligations. Claims made by some police concerning the role of personal motives therefore appear to have been exaggerated.

Types of matters reported by police officers

Table 7.5 presents, for 1991–92 and 1994–95 combined, data on the types of misconduct which were the focus of police-initiated complaints and provides a comparison with total complaints against police received by the CJC in these years.

Table 7.5 shows that only a small proportion of police-initiated complaints related to assaults, improper arrests and misuse of powers matters, whereas such allegations accounted for 34 per cent of total complaints against police in these two years. Conversely, a relatively high number of police-initiated complaints related to alleged criminal acts and omissions (defined as including drug-related offences, involvement with prostitution, stealing and other dishonesty offences). Allegations of duty failure — mostly initiated by officers with supervisory responsibilities — also accounted for a sizeable proportion of police-initiated complaints.

**Table 7.5 — Types of misconduct reported against police officers
(1991–92 and 1994–95 combined)**

Major allegation	Police complaints against police (%) (n=247)	Total complaints against police (%) (n=3,375)
Assault	6.9	18.9
Improper arrest/detention/misuse of powers/searches	4.4	15.0
Behaviour	6.5	8.0
Corruption/Favouritism/Evidence	10.1	7.3
Criminal Act or Omission	30.4	14.3
Firearms	3.6	0.6
Goods and Property	4.9	2.0
Harassment/Victimisation	6.1	6.7
Information Breaches	10.5	7.0
Failure to Perform Duties	14.6	14.5
Traffic/Vehicles	1.6	2.6
Miscellaneous/Unknown	0.4	3.2

Source: CJC complaints database.

Notes:

1. Only one allegation was recorded per complaint.
2. Due to rounding, percentages may not add up to 100.

The small number of police-initiated complaints relating to assault and misuse of powers is consistent with the findings of the ethics surveys, which suggest that many police consider it acceptable to use a substantial degree of force in the course of carrying out their duties. Significantly, most of the police-initiated complaints of assault concerned off-duty officers, whose behaviour could not be justified by invoking the demands of 'the job'. On the other hand, police appeared more willing to report an officer who has engaged in criminal conduct unrelated to the performance of his or her duties, or is seen to have been derelict in the discharge of those duties. This finding is also broadly consistent with the survey findings.

Summary

Our analysis of police-initiated complaints of misconduct indicates that most of these complaints are formally made by officers with supervisory or management responsibilities. However, a considerable number of such complaints are based on information provided by more junior officers. Complaints initiated by police managers increased between 1991–92 and 1994–95, but there was no change in the number of complaints made by 'rank and file' officers. The analysis basically supports the findings of the ethics surveys concerning the types of misconduct which police are most likely to report. The data also indicate that, contrary to claims by some officers, most police-initiated complaints do not appear to be personally motivated.

Conclusion

This chapter has focused on assessing the extent to which the influence of the code of silence within the QPS has diminished as a consequence of the Fitzgerald Inquiry reforms. There are substantial methodological difficulties involved in measuring the present strength of 'the code' and in making comparisons with the pre-Inquiry era, but the weight of the available evidence supports the following conclusions:

Overall, the Fitzgerald Inquiry reforms have resulted in a weakening of the police code of silence within the QPS. This is supported by evidence indicating that:

- * officers in managerial and supervisory positions have become more conscientious in discharging their obligations to initiate action against police officers suspected of misconduct
- * junior officers are still generally reluctant to formally complain against other officers, but there appears to be a greater willingness to bring suspected misconduct to the attention of more senior officers on an informal basis
- * rank and file police now generally see the QPS as an organisation which takes a tough line on misconduct by police.

Although there has been a weakening of 'the code', particularly in the upper levels of the Service, there is still considerable resistance among rank and file police to the idea that they should have to report misconduct by fellow officers, especially for those forms of misbehaviour which are seen as less serious.

Factors which have presented obstacles to bringing about more substantial cultural change at the 'rank and file' level include:

- * the strength of the 'rank and file' culture, which continues to exert a powerful influence over new entrants, despite the very substantial changes in the character of recruit intakes following the Fitzgerald Inquiry
- * the organisational climate within the QPS, which is seen by 'rank and file' officers as punitive, rather than supportive, in its approach to promoting proper conduct by police
- * the widespread perception that officers who report other police for misconduct are likely to be ostracised by their peers.

These findings indicate that, while progress has undoubtedly been made in changing the undesirable elements of the police culture identified by the Fitzgerald Inquiry, there is clearly scope for more to be achieved.

A final observation is that the findings presented in this chapter are by no means unique to the QPS. Two recently published National Police Research Unit studies (Huon et al. 1995; McConkey et al. 1996) have reported very similar results in surveys of large samples of serving police officers from seven Australian jurisdictions. Overseas studies of police organisations have also reported that rank and file police frequently take a less serious view of misconduct than do police managers or the general public, and that recruits soon soften their views on ethical issues once they go into 'the field' (Ellis 1991; Niederhoffer 1967; Reiner 1985; Sherman 1982). Similar patterns have been observed in other public and private sector organisations, especially those with para-military structures (Baron & Greenberg 1989; Grabosky 1989; Hodgetts 1991). Such studies indicate that changing the culture of any large police organisation is, of necessity, a slow and difficult process.

APPENDIX F

WILLINGNESS TO REPORT: POLICE ETHICS SURVEYS

Scenario	Action officer would take (%)					
	Sample	No action	Raise directly with officer	Raise informally with senior officer	Report matter to QPS/CJC	Likely to result in official attention
Off-duty officer tries to avoid RBT. (Scenario 1)	<i>Recruits</i>	20.3	54.2	44.1	11.9	49.2~#
	<i>Re-survey (FYC)</i>	48.8	31.0	19.0	6.0	23.8^
	<i>Experienced</i>	53.8	29.2	10.8	1.5	12.3^
Officer at bottle shop pockets cigarettes. (Scenario 2)	<i>Recruits</i>	15.3	33.9	42.4	20.3	45.8
	<i>Re-survey (FYC)</i>	25.0	52.4	29.8	8.4	36.9
	<i>Experienced</i>	12.3	56.9	27.2	9.2	35.4
Officer retaliates against youth who assaulted female officer. (Scenario 3)	<i>Recruits</i>	28.8	35.6	42.4	18.6	54.2~#
	<i>Re-survey (FYC)</i>	69.0	16.7	14.3	4.8	19.0^
	<i>Experienced</i>	52.3	23.1	21.5	0.0	21.5^
Accident by police misrepresented in report. (Scenario 4)	<i>Recruits</i>	20.3	40.7	47.5	13.6	55.9~#
	<i>Re-survey (FYC)</i>	48.8	32.1	20.2	4.8	25.0^
	<i>Experienced</i>	46.2	30.8	15.4	6.2	20.0^
Words added to suspected rapist's statement. (Scenario 5)	<i>Recruits</i>	8.5	40.7	45.8	45.8	76.3~#
	<i>Re-survey (FYC)</i>	20.2	45.2	35.7	18.1	47.6^
	<i>Experienced</i>	24.6	40.0	26.2	13.8	36.9^
Pick-up outside of patrol area. (Scenario 6)	<i>Recruits</i>	39.0	42.4	28.6	6.8	33.9~#
	<i>Re-survey (FYC)</i>	82.1	8.3	4.8	3.7	8.3^
	<i>Experienced</i>	73.8	13.8	4.6	0.0	4.6^
Registration check by officer to get details of attractive woman. (Scenario 7)	<i>Recruits</i>	20.3	52.5	40.7	10.2	44.1~#
	<i>Re-survey (FYC)</i>	70.2	26.2	1.2	3.6	4.8^
	<i>Experienced</i>	64.6	23.1	4.6	0.0	4.6^
Officers accept	<i>Recruits</i>	45.8	25.4	25.4	10.2	33.9~#

free beer at Christmas time.	<i>Re-survey (FYC)</i>	84.5	4.8	8.3	4.8	11.9 [#]
(Scenario 8)	<i>Experienced</i>	84.6	4.6	3.1	0.0	3.1 [~]

Notes:

1. Recruits' n = 59; Re-survey (FYC)s' n = 84; Experienced Officers' n = 65.
Percentages can add to over 100 due to multiple responses to each question.
2. Actions 'likely to result in official attention' were reporting formally to the QPS or CJC, or informally bringing the matter to the attention of a Senior Officer.
3. ^ indicates significant difference from the Recruits' sub-sample ($p < .05$).
~ indicates significant difference from the Re-survey (FYC)s' sub-sample ($p < .05$).
indicates significant difference from the Experienced Officers' sub-sample ($p < .05$).

APPENDIX A

DESCRIPTION OF DATA SOURCES — COMPLAINTS AGAINST POLICE DATA

Data on complaints against Queensland police come from three sources:

- the Query Personnel system (QPE) database maintained by the QPS
- CJC complaints database and the associated charges register
- Professional Standards Unit (PSU) complaints database.

This report mainly relies upon data from the QPE and CJC databases. However, the PSU database is also briefly described for purposes of completeness.

The QPE database

The QPE System, which is used for personnel management, has been maintained by the QPS since 1986. The system records information on staff allocations and leave and also details from officers' personnel files, including complaints against individual officers and unfavourable mentions.

In mid-1995, details on complaints and unfavourable mentions were down loaded from the database by the QPS and provided to the CJC for the purposes of this research project. The CJC gave an undertaking that details about individual officers recorded in the database would not be identified in any publication.

The QPE database is the only source of statistical information about complaints against police and disciplinary outcomes in the pre-Inquiry period. As such, it is a valuable research resource. However, the database also has several limitations.

The database was not designed specifically for compiling complaints statistics and there appears to have been little, if any, 'quality control' over the way in which information has been entered.

There does not appear to have been any consistent rule followed in determining how details of complaints should be recorded: the data are recorded neither as complaints nor allegations, but as a combination of the two. Consequently, it is not possible to apply consistent counting rules to the data.

After the Fitzgerald Inquiry, disciplinary charges were divided into breach of discipline and misconduct matters, but before the Inquiry no such distinction existed. The QPE database therefore contains no information on how disciplinary matters might be categorised. In addition, the way in which complaint types and outcomes are classified in the QPE database is not comparable with either CJC or PSU data.

When the database was established in 1986, complaints data were retrieved from QPS files, but only for those officers who were then members of the QPS. That data included details of all complaints made in respect of then current officers, over the whole of their careers, including data relating to complaints pre-dating the establishment of the database. To provide as comprehensive a picture as possible, and given that few officers had left the QPS during 1984 and 1985, [In 1984–85, 146

police officers resigned or retired from the QPS, and a further three were discharged or dismissed (total of 149 officers). In 1985–86, 200 officers resigned or retired, and an additional seven officers were discharged or dismissed (total of 207 officers) (Queensland Police Department 1985, 1986).] the CJC decided to include data relating to complaints originating in 1984 and 1985. However, the database omits those officers who left the employ of the QPS prior to 1986, some of whom may have been the source of significant numbers of complaints. As a result, any conclusions about the number or types of complaints or outcomes in the pre-1986 period must be treated cautiously. Any allegations with unknown dates were eliminated from the analysis.

The CJC complaints database

The CJC complaints database has been in operation since the establishment of the CJC's Complaints Section in April 1990. The database captures information on all official misconduct complaints against members of units of public administration (including the QPS) and all misconduct complaints against members of the QPS. The database allows information to be retrieved about both complaints and allegations. (Note that one complaint can encompass several specific allegations, several complainants and several officers).

The database only records details about misconduct complaints. The only information which is recorded in relation to breach of discipline matters is the number of such complaints. (See chapter 2, p. 10 for a description of the distinction between misconduct and breach of discipline matters.)

The CJC charges register

An associated component of the CJC complaints database is the charges register. That register records details of all charges, both criminal and disciplinary, which have been recommended against officers in units of public administration. Where charges are proceeded with, the register also records the result of those charges.

The data presented in this report relate only to charges against members of the QPS. The charges are recorded in the categories of criminal conduct, official misconduct, misconduct and breach of discipline.

The statistics obtained from the register are subject to constant revision, as matters previously categorised as 'pending' are finalised. The data presented in this report were correct as of 28 August 1997.

PSU complaints data

In 1991, the PSU was established within the QPS to coordinate, monitor and review complaint resolutions and investigations within the Service (see chapter 2 for more details on the role of the PSU). Since January 1992, the PSU has maintained a relational database of all complaints against members of the QPS regardless of which organisation (the QPS or the CJC) has dealt with the matter. Information is available from the database about complaints, allegations, subject officers and complainants.

In some respects, the PSU data are more comprehensive than CJC data, because the PSU records details of breach of discipline as well as misconduct matters. The PSU also records substantially more information than the CJC about the members who are the subjects of complaints and the complainants. On the other hand:

The PSU database covers a shorter time frame.

Not all misconduct complaints received by the CJC come to the attention of the PSU. In cases where no action is taken by the CJC (that is, the matter is not investigated, is deemed to be not in jurisdiction, or is withdrawn) the complaint is not usually passed on to the QPS. Around 300 complaints a year fall into this category.

The CJC and PSU also use different classifications schemes to record details about the types of complaints and complaint outcomes. In addition, it would appear that the CJC records more allegations for each complaint than does the QPS.

APPENDIX B

TYPES AND OUTCOMES OF COMPLAINTS RECORDED IN THE QPE DATABASE

Table B.1 — Number and type of complaints (1984–85 to 1993–94)

Complaint type	84–85	85–86	86–87	87–88	88–89	89–90	90–91	91–92	92–93	93–94
Assault	188	227	224	199	191	163	192	280	438	451
Behaviour ¹	289	288	467	514	474	432	534	665	904	806
Lack of action	77	60	148	163	131	205	395	573	520	524
Harassment ²	81	109	82	86	51	103	205	376	361	324
Arrest-related ³	17	21	16	68	24	13	58	111	73	126
Searches ⁴	18	26	29	31	28	18	52	131	100	138
Property-related ⁵	72	55	53	69	52	36	124	192	146	161
Issuing of traffic offence notices	12	1	32	24	38	52	34	52	40	169
Reckless driving	11	4	11	26	9	16	123	177	142	130
Miscellaneous	84	47	88	243	310	152	164	181	404	290
Total	849	838	1150	1423	1308	1190	1881	2738	3128	3119

Source: QPE database.

Notes:

1. Includes poor attitude/manner/conduct, offensive/abusive/obscene language, intoxicated on duty, lack of discretion and improper behaviour.
2. Includes harassment, threats, intimidation, victimisation and unnecessary questioning.
3. Includes wrongful arrest and unnecessary/unlawful detention.
4. Includes illegal entry/trespassing and unauthorised search.
5. Includes missing money or property and destruction of property.

Table B.2 — Outcomes of substantiated complaints (1984–85 to 1993–94)

Outcome	84–85	85–86	86–87	87–88	88–89	89–90	90–91	91–92	92–93	93–94
CRIMINAL CHARGES										
Officer found guilty and dismissed/discharged/resigned/retired	1	0	1	8	0	1	3	0	2	0
Officer found guilty	3	1	10	8	20	18	14	6	13	9
Result unknown	0	2	0	2	2	0	0	1	1	0
Criminal charges sub-total	4	3	11	18	22	19	17	7	16	9
DEPARTMENTAL CHARGES										
Officer dismissed/discharged/resigned/retired	0	0	3	7	8	1	9	3	8	6
Demoted/reduced pay/salary increase deferred	0	0	0	0	2	5	13	11	9	8

Transferred	10	71	5	0	4	2	1	0	0	0
Fined	14	14	21	15	7	4	20	36	30	31
Formal reprimand/caution/ warning/counselled/instructed	36	5	164	154	170	55	156	132	140	102
Suspended sanction	0	0	0	0	1	0	6	25	20	30
Other sanction or sanction unknown	3	3	22	0	3	0	0	1	4	3
Unknown result	6	4	9	27	22	24	46	18	18	21
Departmental charges sub- total	69	97	224	203	217	91	251	226	229	201
Total substantiated	73	100	235	221	239	110	268	233	245	210

Source: QPE database.

Note: Only finalised complaints are included in the table.

APPENDIX C
NUMBER OF QPS SWORN OFFICERS
(1978–79 to 1995–96)

Financial year	Number of sworn officers
1978–79	3,902
1979–80	4,020
1980–81	4,338
1981–82	4,345
1982–83	4,514
1983–84	4,686
1984–85	4,775
1985–86	4,872
1986–87	5,072
1987–88	5,085
1988–89	5,219
1989–90	5,524
1990–91	5,895
1991–92	6,271
1992–93	6,377
1993–94	6,182
1994–95	6,298
1995–96	6,406

Source: Queensland Police Department *Annual Reports* 1978 to 1989–90, *QPS Statistical Reviews* 1990–91 to 1995–96.

APPENDIX D
NUMBER OF OFFICERS BY FINAL OUTCOME OF
RECOMMENDED CHARGE:
CJC CHARGES REGISTER

Year of charge	Type of charge recommended	Final outcome							Total
		Guilt y	Officer resigned	Nolle prosequi	Not guilty	Not proceeded with by QPS	Withdrawn by CJC	Unfinished	
1991–92	<i>Criminal</i>	2	—	4	11	—	5	0	22
	<i>Official misconduct</i>	2	0	—	8	—	0	0	10
	<i>Misconduct</i>	51	13	—	15	6	0	0	85
	<i>Breach of discipline</i>	111	2	—	21	4	3	0	141
	Total	166	15	4	55	10	8	0	258
1992–93	<i>Criminal</i>	11	—	5	7	—	2	0	25
	<i>Official misconduct</i>	1	1	—	0	—	1	0	3
	<i>Misconduct</i>	41	7	—	10	3	0	0	61
	<i>Breach of discipline</i>	97	5	—	19	3	1	0	125
	Total	150	13	5	36	6	4	0	214
1993–94	<i>Criminal</i>	12	—	14	4	—	3	5	38
	<i>Official misconduct</i>	6	1	—	3	—	1	0	11
	<i>Misconduct</i>	27	8	—	10	4	1	0	50
	<i>Breach of discipline</i>	67	5	—	20	7	2	0	101
	Total	112	14	14	37	11	7	5	200
1994–95	<i>Criminal</i>	9	—	4	9	—	2	0	24
	<i>Official misconduct</i>	1	0	—	0	—	0	0	1
	<i>Misconduct</i>	40	10	—	11	9	0	0	70
	<i>Breach of discipline</i>	80	10	—	13	16	0	2	121
	Total	130	20	4	33	25	2	2	216
1995–96	<i>Criminal</i>	9	—	6	4	—	1	3	23
	<i>Official misconduct</i>	2	1	—	2	—	0	1	6
	<i>Misconduct</i>	33	2	—	7	5	0	2	49
	<i>Breach of</i>	81	3	—	6	16	1	7	114

	<i>discipline</i>								
	Total	125	6	6	19	21	2	13	192

Notes:

1. Officers the subject of more than one type of charge are only reported in the most serious level of charge against them.
2. 'Not guilty' includes a small number of criminal matters that were 'not committed' and a small number of breach of discipline matters that were 'not substantiated'.
3. 'Unfinished' includes disciplinary matters that may have been approved by the QPS for action but have not reached a final outcome and criminal matters awaiting trial.
4. Figures correct at 28 August 1997.

APPENDIX E
PERCEIVED SERIOUSNESS OF SCENARIOS:
POLICE ETHICS SURVEYS

Scenario	Average seriousness rating: 'not at all serious' (1) – 'extremely serious' (10)				
	Sample	Typical officer view	QPS view	Public view	Personal view
Off-duty officer tries to avoid RBT. (Scenario 1)	<i>Recruits</i>	6.2~#	8.7	8.8#	7.5~#
	<i>Re-survey (FYC)</i>	5.0^	8.4	8.8#	6.6^#
	<i>Experienced</i>	4.4^	8.3	7.7^~	4.9^~
Officer at bottle shop pockets cigarettes. (Scenario 2)	<i>Recruits</i>	7.4	9.0	8.6	8.3
	<i>Re-survey (FYC)</i>	6.8	9.2	9.0	8.3
	<i>Experienced</i>	6.8	9.3	8.6	7.8
Officer retaliates against youth who assaulted female officer. (Scenario 3)	<i>Recruits</i>	5.3~#	8.3	7.6#	6.4~#
	<i>Re-survey (FYC)</i>	4.2^#	8.1	7.0#	5.1^#
	<i>Experienced</i>	3.4^~	8.0	5.4^~	3.8^~
Accident by police misrepresented in report. (Scenario 4)	<i>Recruits</i>	5.9~#	8.1	7.6#	6.9#
	<i>Re-survey (FYC)</i>	5.0^#	8.6#	7.3#	6.3#
	<i>Experienced</i>	4.0^~	7.7~	5.9^~	4.2^~
Words added to suspected rapist's statement. (Scenario 5)	<i>Recruits</i>	7.8~#	9.2	8.2	8.5#
	<i>Re-survey (FYC)</i>	6.8^	9.3#	8.0	7.8#
	<i>Experienced</i>	6.1^	8.9~	7.6	6.5^~
Pick-up outside of patrol area. (Scenario 6)	<i>Recruits</i>	5.2~#	7.6#	6.9#	6.1~#
	<i>Re-survey (FYC)</i>	3.7^#	7.5#	6.6#	4.8^#
	<i>Experienced</i>	2.4^~	6.6^~	5.3^~	2.7^~
Registration check by officer to get details of attractive woman. (Scenario 7)	<i>Recruits</i>	6.2~#	8.6#	8.2#	7.6~#
	<i>Re-survey (FYC)</i>	4.5^#	8.3#	8.1#	6.3^#
	<i>Experienced</i>	2.8^~	6.4^~	5.3^~	2.9^~

Officers accept free beer at Christmas time. (Scenario 8)	<i>Recruits</i>	4.5~#	6.5	5.9#	5.2~#
	<i>Re-survey (FYC)</i>	3.1^#	6.7#	5.5#	3.8^#
	<i>Experienced</i>	2.1^~	5.8~	4.0^~	2.2^~

Notes:

1. Recruits' n = 59; Re-survey (FYC)s' n = 84; Experienced Officers' n = 65. Officers not responding to the question were excluded from this table.

2. ^ indicates score is significantly different from the Recruits' score ($p < .05$).

~ indicates score is significantly different from the Re-survey (FYC)s' score ($p < .05$).

indicates score is significantly different from the Experienced Officers' score ($p < .05$).