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Reported use of force by Queensland police

Findings from the 1999 Queensland Defendants Survey

Key findings:

- ▶ Twenty per cent of the respondents to the 1999 Defendants Survey reported that police had used some kind of force against them.
- ▶ The most common forms of force identified were actions such as grabbing, shoving, wrestling and so on. Claims that handcuffs were put on too tight were also relatively common.
- ▶ Around 4 per cent of respondents claimed to have been punched or kicked by police and about 2 per cent reported being struck by a baton or other implement (such as a torch).
- ▶ Twenty per cent of respondents said they had been physically restrained by police, the most common form of restraint being the application of handcuffs.
- ▶ Neck restraints were allegedly used against 4 per cent of respondents.
- ▶ Of those respondents who reported that police had taken some physical action (either ‘force’ or ‘restraint’):
 - about a quarter acknowledged that they had resisted arrest, or that there had been a ‘general fight or struggle’ between themselves and police
 - more than half admitted that they had been either moderately or seriously affected by drugs or alcohol at the time.
- ▶ Physical action was most likely to be taken against respondents who were young, male and had been in conflict with police in the past.
- ▶ The proportion of respondents reporting that they had been the subject of physical action varied substantially between the survey locations, ranging from a high of 33 per cent at one centre to a low of 14 per cent at another.
- ▶ Respondents subjected to physical action were much more likely than the rest of the sample to express dissatisfaction with how they had been treated by police.

Introduction

This paper presents findings from the Defendants Survey conducted by the Criminal Justice Commission (CJC) in mid-1999. The Survey asked 1,005 defendants a range of questions about their perceptions of police behaviour. This paper focuses on those questions broadly related to police use of force. The paper also:

- explains why we chose to survey defendants about police use of force
- briefly describes the survey methodology
- outlines the legal framework governing police use of force in Queensland.

A separate paper, *Defendants' Perceptions of Police Treatment* (March 2000), presents survey findings relating to respondents' general perceptions of police treatment. A third publication will deal with issues relating to respondents' understanding and experience of arrest, questioning and search procedures, and their level of awareness of their rights and obligations.

About the Survey

Methodology

The 1999 Defendants Survey was carried out at eight magistrates courts throughout Queensland: Brisbane, Southport, Beenleigh, Ipswich, Maroochydore, Cairns, Townsville and Rockhampton. (After three weeks, we discontinued surveying in Rockhampton because only 20 surveys had been completed there.) Data were collected by trained interviewers who conducted face-to-face interviews using a standard questionnaire format. Participation was strictly on an anonymous and voluntary basis. All defendants appearing before court on the relevant days were approached to participate, excluding 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.) See *Defendants' Perceptions of Police Treatment* for more details on the methodology.

The response rate to the Survey was around 70 per cent, which is quite high for such studies. The sample also had a similar age and gender profile to the general population appearing before Queensland magistrates courts in 1998–99, and had been charged with similar types of offences. This indicates that the sample was reasonably representative, or 'typical', of the broader population of defendants in Queensland.

Limitations

The Survey did not collect information from:

- people who had been in contact with the police but had not been charged with a criminal offence
- defendants who had been remanded in custody
- defendants from country areas and small provincial centres.

The exclusion of defendants who were remanded in custody may have led to some underestimation of the extent and degree of force used.

Another limitation of the Survey is that, because of its anonymous

Why survey defendants about police use of force?

Perceived inappropriate use of force by police leads to complaints, exposes individual officers to disciplinary and criminal action, puts police departments at risk of being sued and has the potential to undermine community confidence in the police. The safety of police officers themselves can also be placed at risk, especially where force is used in volatile crowd situations.

For these reasons, it is very important to monitor the extent to which, and circumstances under which, different types of force are being employed by police. This information can be used to identify inappropriate behaviour, ensure that suitable training is being delivered, and identify areas where managerial action may be required. Regular monitoring can also assist in the evaluation of strategies for enhancing police professionalism, and provide an 'early warning' system for detecting any increased tendency by police to use force in their dealings with the public.

nature, we were not able to verify the information provided to us by interviewees. Many respondents were intoxicated or drug-affected at the time of their interaction with police, so some may not have been able to recall events accurately. It is also possible that some respondents may have deliberately provided interviewers with false or misleading information.

Even though the reliability of some responses may be open to question, this should not detract from the Survey's usefulness as a baseline for future monitoring, because levels of inaccuracy (memory failure, misunderstanding, false or misleading information) tend to remain largely the same over time.

Because of the limited information contained in the Survey, it was very difficult to assess whether the amount of force reported by respondents was excessive or if it was justified or reasonable in the circumstances. The data reported here relate simply to the *perceptions* of respondents about the level of force employed in their contact with police.

Sample characteristics

The 1999 sample had the following characteristics:

- about half were charged with a drug or theft offence
- most were male
- most were aged under 30
- 2 per cent were juveniles
- 6 per cent were Aboriginal or Torres Strait Islanders
- 9 per cent were from a non-English-speaking background
- more than half had not completed secondary school
- less than half were in the labour force
- 61 per cent said they had previously been in trouble with police, and 39 per cent said they had previously been charged with a criminal offence.

The demographic characteristics of the sample are to be more fully described in 'Police Powers in Queensland: Findings from the 1999 Defendants Survey' (forthcoming).

The Australasian Centre for Policing Research (formerly the National Police Research Unit) has recommended that police services in each jurisdiction establish a use-of-force database for recording details about all incidents where police employ some kind of force (National Police Research Unit 1998).¹ Some States, for example Victoria, already have such a system, but Queensland police are currently only required to officially record information about the more serious forms of force, such as the use of firearms or capsicum spray.

In addition to requiring police to record when they have used force, there is value in collecting data directly from those people who have been the subject of police attention. While the information provided by such people obviously should not be taken at face value, it provides a different perspective and can also be used as a crosscheck on the accuracy of police records. (For example, if it was found that the proportion of suspects reporting that they had been exposed to capsicum spray was much higher than shown by official statistics, this would raise doubts about the reliability of police-recording procedures.) In addition, defendants may be more likely than officers to disclose information about possible inappropriate use of force.

An alternative strategy for collecting data about police use of force is direct observation, but this is a very time consuming and costly process that does not necessarily give more reliable information than surveys — especially as the observer’s presence may lead police officers to modify their behaviour.

The legal framework for police use of force

The power of police to use force legitimately, including lethal force in defined circumstances, has been identified by many theorists as the key defining characteristic of policing (Bittner 1970, Shapland & Hobbs 1989, Garner et al. 1996).

The powers of Queensland police officers to use force are outlined in sections 125, 126 and 127 of the *Police Powers and Responsibilities Act 1997*. Generally, police officers can use ‘reasonably necessary force’ in the exercise of any powers under the Act (s. 125). Officers may also use reasonably necessary force (but not force likely to cause grievous bodily harm or death) against individuals to prevent them from escaping from custody (s. 126).

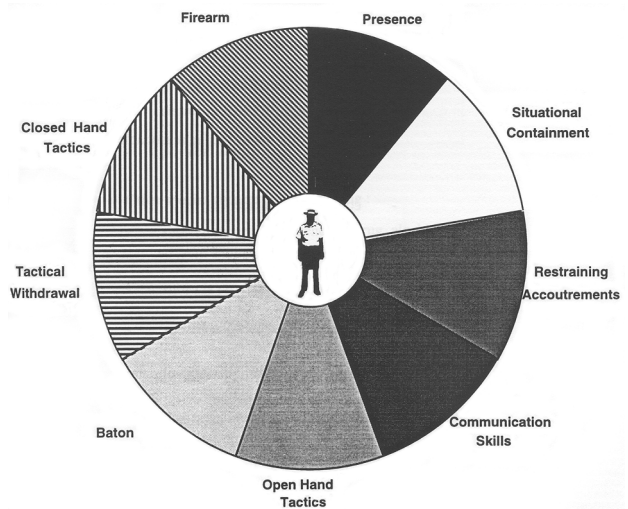
In ‘critical situations’, the power of police extends to the right to use force likely to cause grievous bodily harm or death.² These situations are where a police officer reasonably suspects a person:

- of committing or being about to commit an offence punishable by life imprisonment; or
- of committing an offence punishable by life imprisonment and of attempting to escape, or escaping from arrest or custody; or
- is causing or is about to cause grievous bodily harm to or the death of another **and** cannot prevent the harm or death other than by using the force authorised (s. 127[1] and [2]).

In such situations the officer may use force reasonably necessary to:

- prevent the commission, continuation or repetition of an offence punishable by life imprisonment
- apprehend the person
- prevent the escape of a person
- prevent an act causing grievous bodily harm to, or the death of, a third person.

The QPS Operational Procedures Manual (OPM) outlines the Situational Use of Force Model adopted by the QPS to assist officers who have found it necessary to use physical coercion. The range of force options available to officers under this model are:³



The OPM emphasises to officers that the use of force must be authorised, justified, reasonable, proportionate, appropriate, legally defensible, and tactically sound and effective. The OPM also lists the factors that should be considered when deciding on the type of force to use in the circumstances.

1 A ‘use-of-force register’ was also recommended by a joint QPS–CJC Working Group, which was established in 1997 to investigate ways of reducing assault complaints against police.

2 Where an officer believes it is necessary to use force likely to cause grievous bodily harm or death, the officer must first, if practicable, call on the person to stop doing the unlawful act.

3 This list of force options excludes capsicum spray, which was not available to officers at the time of publication of the OPM other than those in three trial areas (Brisbane City and Fortitude Valley Divisions, and Logan Police District). During the trial the use of capsicum spray was governed by a draft policy.

These are:

- the physical attributes of the person concerned (as opposed to the officer)
- the circumstances and location of the incident
- the possibility that the officer may be required to increase or decrease the initial use-of-force option as the situation changes
- the possibility of injury to the officer
- the possibility of injury to the person concerned
- the possibility of injury to other persons
- the requirement for police to act quickly and professionally to prevent an escalation of an incident.

Under the *Criminal Code* (s. 271), police, like other members of the community, are also permitted to use reasonably necessary force to defend themselves against an unprovoked assault, provided that the force used is not intended and is not likely to cause death or grievous bodily harm. Where the assault is such as to ‘cause reasonable apprehension of death or grievous bodily harm’, potentially lethal force can be used.

Survey findings

The Defendants Survey asked respondents whether police had at any stage used any force towards them and whether any restraint had been used by police. It was left to respondents to determine what was meant by the terms ‘force’ and ‘restraint’. The answers they gave were later coded by CJC research staff, using a predetermined coding format.

Use of force

Data on the types of force reported by respondents are presented in table 1. Key points to note are that:

- 20 per cent of respondents said that *some* form of force had been used against them
- the most common type of force reported by respondents was ‘general struggling’ (pushing, shoving, wrestling, holding, dragging and so on), which was cited by 11 per cent of the sample
- the second most common category was ‘tight handcuffs’ — it is not possible to ascertain whether the handcuffs were tight because of some deliberate act by police, or if this was an inadvertent result of the suspect being restrained; however, we have included this as a form of force because it was identified as such by the respondents
- around 4 per cent of respondents claimed to have been struck with a closed fist, kicked, elbowed or kneed

- around 2 per cent of respondents reported the use of a baton or ‘implement’; four respondents claimed to have been struck with a torch⁴
- capsicum spray and firearms were not used against any respondents to the Survey.⁵

TABLE 1: TYPE OF FORCE DESCRIBED BY RESPONDENTS

Type of force described	Respondents reporting force (%) (n=196)	Total sample (%) (n=1,005)
<i>None</i>	–	80
<i>Use of hands and feet:</i>		
• ‘General struggle’	55	11
• Open hand	20	4
• Twisted arm or wrist	12	2
• Closed fist, strike, or blow	12	2
• Kicked, elbowed or kneed	10	2
<i>Use of weapon:</i>		
• Implement	5	1
• Baton	3	1
• Police dogs	1	<1
• Capsicum spray	–	–
• Discharge firearm	–	–
<i>Use of tight handcuffs</i>	46	9
<i>Other</i>	4	<1

Notes:

1. Percentages in all tables have been rounded.
2. Multiple responses were permitted, so percentages will add to greater than 100%.
3. Information for one respondent who had experienced use of force was missing.
4. ‘General struggle’ includes: pushed, shoved, grabbed, wrestled, thrown, stood on, pinned, dragged.
5. ‘Use of implement’: only four respondents identified the implement used; in all cases this was a torch.
6. ‘Other’ includes: martial art techniques; fake gun being waved at defendant.

Use of restraints

Table 2 shows that 20 per cent of respondents said they had been physically restrained by police. The most common restraint used was handcuffs, followed by grabbing or holding the respondents by the arms or hands. Four per cent of respondents said that police had employed a neck restraint.

Of the 140 respondents who said police had used handcuffs to restrain them, 87 (62%) had also nominated ‘tight handcuffs’ in response to the use-of-force question.

4 The OPM does not list torches as an approved force option.

5 During the period that the Survey was conducted, capsicum spray had been distributed to police officers in the Brisbane City, Fortitude Valley and Logan Police Divisions. Each of these areas was included in the sampling frame.

TABLE 2: TYPE OF RESTRAINT DESCRIBED BY RESPONDENTS

Type of restraint described	Respondents reporting restraint (%) (n=199)	Total sample (n=1,005)
None	–	80
Handcuffs	70	14
Held or grabbed by arms or legs	51	10
Neck restraint	21	4
Grabbed, pinned, pulled or held	5	1
Other restraint	2	<1

Notes:

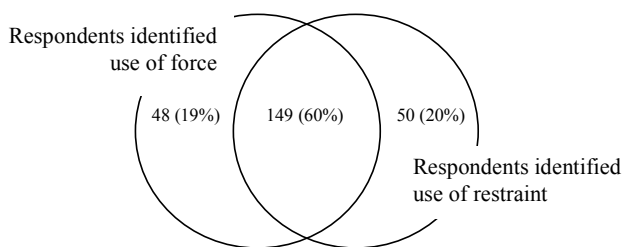
- Multiple responses were permitted, so percentages will add to greater than 100%.
- 'Neck restraint' includes: 'choke hold' or 'headlock'.
- 'Other' includes: 'forearm to the back of the head'; 'foot on throat'; 'locked up'.

Overlap between force and restraint

As is to be expected, there was a large degree of overlap between those respondents who said police had used force and those who said they had been restrained (see figure 1). In part, this is because some forms of restraint (such as neck holds) themselves involve the use of a fairly high level of force. In addition, actions such as struggling or striking often occur in the context of an attempt to physically restrain a person.

Figure 1 shows that 50 respondents (5% of the total sample) said that they had been physically restrained but that no other force had been used against them. In around 80 per cent of these cases handcuffs had been applied. In a roughly equivalent number of cases, respondents claimed that force had been used against them, but said they had not been restrained.

FIGURE 1: DEFENDANTS WHO REPORTED USE OF FORCE AND/OR RESTRAINT



Note: n=227.

Because of the substantial overlap between the concepts of 'force and restraint', the following discussion treats as a single group those respondents who reported some form of *physical action* (either force or restraint) had been taken by police. This represented around 25 per cent of the sample.

Context in which physical action taken

In most instances the physical action was taken at a fairly early stage of the contact between police and respondents, the most common times being 'first point of contact', 'while being arrested', and 'when being put in the police car' (see table 3). These findings are broadly consistent with those of a 1996 CJC study of assault-related injuries to QPS officers, which found that 66 per cent of such injuries occurred when police were arresting or restraining a person.

TABLE 3: POINT AT WHICH PHYSICAL ACTION WAS TAKEN BY POLICE

When action taken	Number	Percentage (n=245)
First contact	141	58
While being arrested	62	25
When being put in police car	61	25
While in the police car	17	7
While at the police station	47	19
Other	16	7

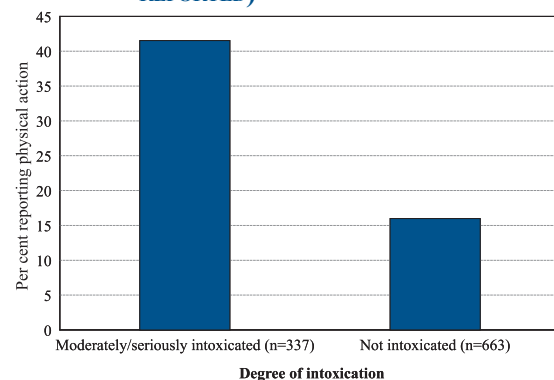
Notes:

- Multiple responses were permitted, so percentages will add to greater than 100%.
- Information for two respondents was missing.

Involvement of drugs or alcohol

Around a third of respondents said that they had been moderately or seriously affected by alcohol at the time of their contact with police. Of this proportion, more than 40 per cent said that police had taken physical action against them (see figure 2). By comparison, only around 15 per cent of non-intoxicated respondents reported that physical action had been taken.

FIGURE 2: WHETHER POLICE TOOK PHYSICAL ACTION BY INTOXICATION OF RESPONDENTS (SELF-REPORTED)



Note: Information missing for five respondents.

Resistance by defendants

About a quarter of those respondents who claimed that police had taken physical action against them stated that this had occurred either because they had resisted arrest, or because of a ‘general fight or struggle’ between themselves and police.

Offence charged

Table 4 shows the most serious offence with which respondents were charged (as identified by the respondent).

As is to be expected, those charged with public order offences were the most likely to report physical action by police — offences such as obstructing police and disorderly conduct often involve some degree of physical conflict with the arresting officer. Force was also used fairly frequently where the respondent had been charged with an offence against the person.

TABLE 4: WHETHER POLICE TOOK PHYSICAL ACTION BY MOST SERIOUS OFFENCE CHARGED

Offence category	Number reporting physical action	Percentage of all in offence category
<i>Offences against the person:</i>		
• Assault	42	40
• Other	8	32
Subtotal	50	39
<i>Offences against property:</i>		
• Theft	26	13
• Property damage	11	24
• Other	3	8
Subtotal	40	14
<i>Public order offences:</i>		
• Obstruct police/resist arrest	45	79
• Disorderly conduct	19	66
• Obscene language	14	42
• Drunk and disorderly	12	75
• Other	16	25
Subtotal	106	53
<i>Other offences:</i>		
• Drug	37	12
• Other	13	16
Subtotal	50	13

Note: Information for one respondent was missing.

Some respondents who said that they had only been charged with property, drug or ‘other’ offences also reported that physical action had been taken against them. In most of these cases, only a low level of force had been used, but there were 17 respondents (1.7% of the total) who claimed to have been punched,

kicked, or hit with a baton or other implement even though they had not been charged with any offence involving violent or unruly behaviour. *If* the information provided by these respondents was correct, this would suggest a clearly excessive use of force. (As indicated, the survey methodology has precluded us from checking on the veracity of these allegations, but it would be surprising if all of these claims were without foundation.)

Demographic characteristics

Those respondents who said the police had taken physical action against them were more likely than the rest of the sample to be young (figure 3), male (figure 4), and to have been in conflict with police in the past (figure 5).

FIGURE 3: AGE OF RESPONDENTS BY WHETHER POLICE TOOK PHYSICAL ACTION

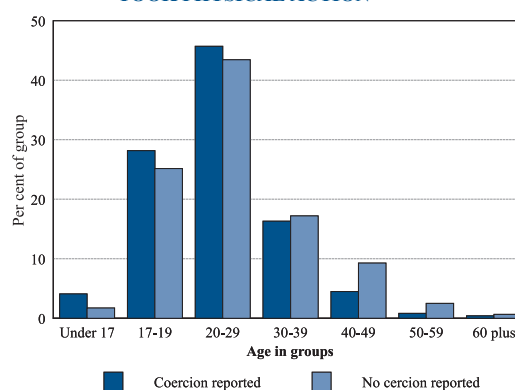


FIGURE 4: GENDER OF RESPONDENTS BY WHETHER POLICE TOOK PHYSICAL ACTION

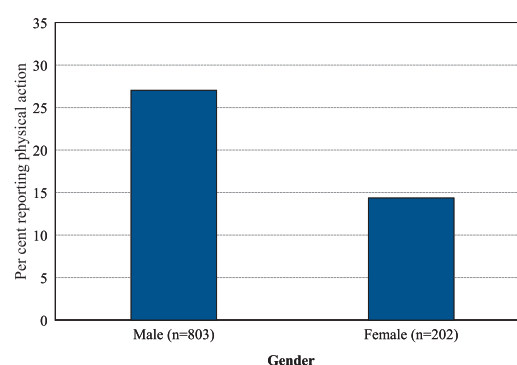
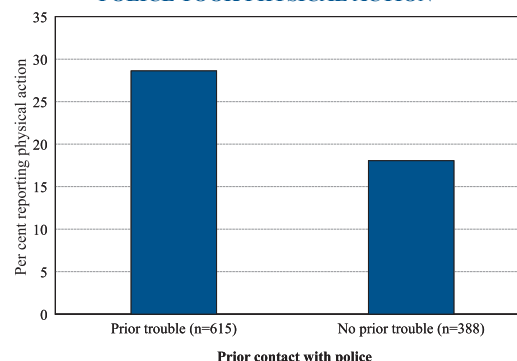


FIGURE 5: PRIOR TROUBLE WITH POLICE BY WHETHER POLICE TOOK PHYSICAL ACTION



Breakdown by survey location

Table 5 shows that there were substantial variations between survey locations in the proportion of respondents who said that police had taken physical action against them — ranging from 33 per cent at Southport to only 14 per cent at Maroochydore.

We checked to see if these variations could be attributed to differences in the ‘offence mix’ at the different locations. However, even after we controlled for offence type, substantial differences remained. For example, only 17 per cent of Maroochydore respondents who had been charged with an offence against the person reported that police had taken physical action against them, compared with 50 per cent in Southport. Similarly, physical action was reportedly taken against 15 per cent of property offenders in the Southport sample but none in Maroochydore.

TABLE 5: WHETHER POLICE TOOK PHYSICAL ACTION BY COURT LOCATION

Court location	Number of respondents	Percentage who reported physical action taken
Southport	122	33
Cairns	129	27
Brisbane	283	26
Ipswich	94	25
Beenleigh	169	21
Townsville	116	20
Maroochydore	72	14

Note: Rockhampton excluded because there were too few cases.

Satisfaction with police treatment

Respondents who had been the subject of some form of physical action by police were much more likely than others to say they were unhappy with their treatment — 82 per cent compared with 34 per cent of the rest of the sample. Similarly, only 27 per cent of respondents who had physical action taken against them made positive comments about police compared with 55 per cent of other respondents. Respondents who were unhappy with police treatment mostly nominated ‘assault’, ‘tight handcuffs’ or ‘rough treatment’ as the reason for their dissatisfaction. (See CJC research paper *Defendants’ Perceptions of Police Treatment* for more details.)

Implications

The Survey indicates that most suspects in Queensland are apprehended by police without any force being used. Where force is used, it is usually at the lower end of the scale, such ‘general struggling’, using an

open hand, or applying tight handcuffs — actions that are unlikely to result in significant physical injuries to the suspect. Only a very small proportion of respondents reported experiencing more serious forms of force, such as punching, kicking, kneeling, or being struck by a baton or other implement.

Historical benchmarks for Queensland, or comparable data from other jurisdictions, is needed to place these findings in perspective, but the overall picture they provide would appear to be fairly positive. At the same time, the Survey has highlighted some issues that warrant attention.

- There were some cases where, *if* the information provided by the respondent was correct, the force used by police was clearly excessive. It is possible that some of these respondents may have given false or misleading information to interviewers, but it would be surprising if this was true of every response. Whatever the case, it is essential that there is a proper monitoring system in place to ensure that where force is being used by police it is appropriate to the circumstances.
- More than 60 per cent of respondents who had been handcuffed complained to interviewers about the handcuffs being ‘tight’. The frequency with which this issue arose suggests that it would be timely to review police procedures and training in the area.
- Consistent with the findings of other studies (e.g. CJC 1997), many of the respondents who said that force had been used against them were intoxicated at the time. Improved training in communication skills and in the handling of drug- and alcohol-affected suspects could better equip police to deal with such situations. This, in turn, could reduce the need for police to resort to physical force to control these situations.
- The extent to which police took physical action varied substantially between survey locations. Identifying the organisational and environmental factors that impact on the police propensity to use force would assist in the development of appropriate policy and training interventions.
- Not surprisingly, respondents’ perceptions of how they had been treated by police were heavily influenced by whether force had been used against them. An obvious implication is that, if police were able to reduce the frequency with which they use force, there would be fewer complaints and improved relationships with various groups in the community.

Future monitoring

The Defendants Survey will continue to be conducted on a regular basis. Future surveys will retain questions about police use of physical force and restraint. It is to be hoped that the Survey will come to form part of a comprehensive use-of-force monitoring system in the QPS.

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Other recent titles in the Research Paper series are *A Snapshot of Crime in Queensland* (February 1999), *Police Powers in Queensland: Notices to Appear* (May 1999) and *Defendants Perceptions of Police Treatment: Findings from the 1999 Defendants Survey* (March 2000).

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