



PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE

Members present:

Dr A.R. Douglas MP (Chair)
Mr E.R. Moorhead MP
Ms G. Grace MP
Mr M.T. Ryan MP
Mr P.W. Wellington MP

Staff present:

Mr B. Hastie (Research Director)
Mr M. Gorringe (Acting Principal Research Officer)

PUBLIC HEARING—THREE YEARLY REVIEW OF THE CRIME AND MISCONDUCT COMMISSION

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 3 NOVEMBER 2011

Brisbane

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Committee met at 9.03 am

CHAIR: I would like to welcome you all and I hope you have had a good morning getting here. I am pleased to open this public hearing as part of the Parliamentary Crime and Misconduct Committee's three-yearly review of the Crime and Misconduct Commission. The Parliamentary Crime and Misconduct Committee is an all-party committee of the Legislative Assembly of Queensland. The main functions of the committee are to monitor and review the performance of the Crime and Misconduct Commission's functions and report to the Legislative Assembly. Section 292(f) of the Crime and Misconduct Act 201 requires the committee to conduct a three-yearly review of the activities of the CMC and table a report in the Legislative Assembly about any further action that should be taken in relation to the Crime and Misconduct Act or the functions, powers and operations of the CMC.

The preparation for and conduct of this three-yearly review follows a pattern established over a number of years. The hearings follow a number of actions taken by the committee. On 21 May 2011, the committee advertised in the *Courier-Mail* calling for public submissions to the review. The closing date for submissions was set at 15 July 2011. The committee also wrote to the Crime and Misconduct Commission, all ministers, directors-general and members of parliament and numerous other agencies, organisations and individuals advising of the committee's call for submissions and inviting submissions to assist it in conducting its three-yearly review of the CMC. The committee acknowledges the input provided by the CMC and the other stakeholders, including members of the public who have provided written submissions to the committee to assist it in its review. The purpose of these hearings is to hear the various viewpoints on relevant issues and to allow the committee to ask questions of representatives from a cross-section of interested organisations. The committee will consider whether to hold further public hearings as part of this review.

The proceedings over the next two days will take the following form: each invitee will have an opportunity to elaborate upon their written submission. There will be an opportunity for those persons to then answer questions from members of the committee. The hearings will commence with representatives of the CMC who are here this morning. The committee will hear from the acting CMC chairperson, Mr Warren Strange. Also from the CMC are Mrs Judith Bell, a part-time commissioner; Mr John Callanan, Assistant Commissioner, Crime; Ms Edith Mendelle, Executive General Manager; and Ms Dianne McFarlane, Director, Integrity Services. After lunch the committee will hear from Deputy Commissioner Ian Stewart, the Deputy Commissioner, Regional Operations, of the QPS; and Ian Leavers, the General President of the Queensland Police Union. We have been advised today that Rowan Lyndon, a partner in Thynne & Macartney, lawyers; Mr Rob Raschke, News Director, Channel 7 Brisbane; and Mr David Fagan, Editor-in-Chief, News Queensland are unable to attend this afternoon. We have a submission from them.

The hearings will conclude tomorrow with submissions from Ms Bronwyn Nosse and Mr Tim Dunne from the Department of Local Government and Planning; Mr Greg Hallam, the Chief Executive Officer of the Local Government Association Queensland; Mr Adrian Galea, from the corporate ethics area of Queensland Rail; and Commissioner Elizabeth Fraser, of the Commission for Children and Young People and Child Guardian. Finally, if any agency or interested member of the public wishes to forward a written submission or a supplementary submission to the committee they are most welcome to do so.

The other members of the committee who are in attendance here today are Mr Evan Moorhead, who is immediately to my left; Ms Grace Grace, the member for Brisbane Central, who is at the far end; on the other side is Mr Mark Ryan, who is the member for Morayfield; and Mr Peter Wellington, who is the member for Nicklin. I note apologies from Mr Steve Wettenhall MP, the member for Barron River, who, due to prior engagements, is unable to attend. Unfortunately, Vaughan Johnson is also an apology due to an illness. I also note apologies from the CMC chairperson, the Hon. Martin Moynihan, who, due to illness, has been unable to attend the hearings and other part-time commissioners of the CMC who are also unable to get here and they are Professor Marilyn McMeniman, Mr George Fox and the Hon. Philip Nase.

I now call on Mr Strange, accompanied by his staff who are available today.
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BELL, Mrs Judith, Part-time Commissioner, Crime and Misconduct Commission

CALLANAN, Mr John, Assistant Commissioner, Crime, Crime and Misconduct Commission

MCFARLANE, Ms Dianne, Director, Integrity Services, Crime and Misconduct Commission

MENDELLE, Ms Edith, Executive General Manager, Crime and Misconduct Commission

STRANGE, Mr Warren, Acting Chairperson and Assistant Commissioner, Misconduct, Crime and Misconduct Commission

CHAIR: I welcome you, Warren. Do I need to clarify anything that was unclear?

Mr Strange: No.

CHAIR: Thank you.

Mr Strange: Thank you, Mr Chair. Thank you for noting the apology of Mr Moynihan. While he is not here today, he obviously had significant input in directing the compilation of our written submission. He has been briefed about these hearings and he has had discussions with us about the matters that we have in our submission and which we will raise today. Could I introduce to you Dianne McFarlane. You noted that she was in attendance. Dianne was recently promoted to the position of Director, Integrity Services. That was the position that Helen Couper formerly held for many years. Could I also note for the committee that Kathryn Ellis, who is in attendance in the second row there, has recently been appointed as the Director of the Office of the Assistant Commissioner, Misconduct and will be acting for me at times when I am unavailable to act in that role.

Our submission, obviously, contains significant information about our performance and some of the issues that the CMC is facing as we move ahead. It has been nearly three years since the last of these reviews and there has been very significant change within the Crime and Misconduct Commission over that period and also within the environment that we operate in. I want to make some brief opening comments about that. Last week in parliament the Attorney-General introduced the Criminal Organisation Amendment Bill, which I know this committee has responsibility for. In introducing that bill, the Attorney-General made some comments about the threat that organised crime presents to society today through increased globalisation; the escalating cross-border movement of people, goods and money; emerging international markets; and rapidly developing and converging technologies, all of which provide a very fertile operating environment for organised crime. They are all factors that impact on our operations and they obviously have very clear relevance to our major crime functions, which Mr Callanan will address in more detail as the hearings unfold. They also are factors that are very relevant to our Misconduct functions.

We need to be very vigilant about the fact that our Police Service and public agencies remain resistant to corruption in light of the threats that organised crime presents for us and that instances of serious misconduct can be detected and investigated effectively and that we have an appropriate emphasis on preventing such conduct occurring in the future. It is also vital in that context that the public and the business sector can have confidence in the integrity of our public sector and that a level playing field exists when they are doing business with the public sector and that public money and resources are going to be used for the public benefit and not for the private gain of individuals.

Our submission notes the increasing significance of the borderless nature of many of the matters that we are dealing with. That brings a close focus on the growing importance of our relationships with our peer agencies, both within Queensland—other integrity agencies that we work with—and interstate agencies, law enforcement bodies and other integrity agencies and also overseas agencies. We have to have a continuing and increasing emphasis on working cooperatively and working in partnership to deal with the challenges. We must work with the other Queensland agencies that have a role in relation to integrity issues in order to avoid duplication of effort and get the most value for our collective resources. We must also work with the agencies that are within our jurisdiction.

Our investigative resources must be concentrated on those serious matters where public interest requires the CMC to lead the investigation and provide an investigative response, either itself or in cooperation with another agency. We know we can provide leadership and incentives for public sector agencies to improve their integrity in how they prevent and deal with misconduct, but it remains that we cannot alone undertake all the work that is needed to effectively address misconduct risks in public administration. We must continue to work with agencies through our capacity-building activities to make sure that sustained change and improvement is embedded, improving systems and culture and not just dealing with isolated incidents. We will continue to encourage all public sector officers, especially managers, to accept and take responsibility for integrity issues in their own workplaces. One of the ways we will be doing this is putting a greater focus on cooperative investigations and supporting those agencies through engaging with them in a way that best addresses their particular needs.

I refer now to some of the changes, trends and issues that we are facing. Since the last review the CMC has been given the capacity or a capability to lawfully intercept telecommunications. Mr Callanan will speak more specifically to that this morning, but it has been a significant operating change for us and a major benefit. The results are detailed in some of the examples of successful investigations that we have noted in our submission and appendix 3 specifically addresses telephone intercept capability. The advances in technology that I mentioned are changing the way that we operate. When we investigate matters now there are now many more potential sources of evidence in digital or electronic form. The volume of material that we need to access quickly and often and then assess and respond to is increasing. That places significant demands on investigative resources and the timeliness of the types of responses that we deploy. That also means that we need to stay up to date with technology and what people are using in order to be able to investigate successfully.

Our submission notes that we are seeing a marked increase in demands for the use of our major crime hearing power. Mr Callanan will speak to that and other issues in relation to Crime and Intelligence. In Misconduct we are seeing a trend now, which seems to be quite established, of rising complaint numbers. Our report speaks of an increase in the order of 10 per cent for the last financial year, which follows a significant increase from the year before that. This year we are running around six per cent to date as another increase, so it looks like a fairly established trend. That is across the public sector; it is not in the Police Service. We consider that one of the factors in play here is that, as we work more closely with public sector agencies to improve their integrity frameworks, their awareness of integrity issues is increasing and their reporting of misconduct is increasing accordingly. That volume and the rising number of complaints do place pressure on our resources. We need to deal with issues of timeliness and quality of our decision making and the results that we are producing amidst that increasing volume of workload.

Since the last review, government owned corporations have come within our jurisdiction. One of the ways that we have responded to that recently in the restructure of Misconduct was to create a separate program for local government and government owned corporations—to excise those two entities from our general public sector program in order to give them particular and specific attention. With the GOCs we have been working on building relationships and establishing clear understanding about reporting issues and closely monitoring what is going on, what has been reported to us and how we deal with that. We continue to place a key emphasis on the area of local government. We are currently developing a risk assessment project between Misconduct and Intelligence in order to identify the particular misconduct risks in local government and their prevalence. We hope that that will inform our decisions about where we target our investigative and monitoring resources in a more analytical way. Our Building Integrity program this year is focusing on local government and we are starting to work with some of the key councils there in expanding that program and rolling it out to them.

On the police side of operations, the recent government review of the police complaints misconduct and discipline system is a significant factor. Very widespread recognition emerged from that review that the current system has many and significant problems. Some of the issues that this committee has dealt with and engaged with the CMC over the years—the devolution principle, the independence of some police led investigations, timeliness, consistency of outcomes, transparency and accountability, gaps in our monitoring powers and so on—have been mentioned and examined and are the subject of recommendations in that review. Work is progressing quickly on the implementation of those recommendations. There are 50-odd recommendations with varying time frames. We have already substantially implemented some of the simpler recommendations and we have a detailed implementation plan in place for how we and the other relevant agencies are now proceeding. It is certainly the CMC's view that there are considerable opportunities in that for improving the police complaints and discipline system in our own handling of police complaints. There is certainly a will on our part to make those improvements and do what we can to support a more timely and more efficient and effective system that underpins public confidence in the Police Service. I think the successful implementation of those recommendations will go a considerable way to addressing many of the concerns that have been raised with the CMC and with the committee about how the current system deals with complaints about police.

However, the discipline recommendations will have significant impacts on how the CMC operates. There is a significant body of work in dealing with those recommendations and implementing them. There is a major recommendation about moving away from our traditional staffing model of seconded Queensland police and civilian investigators, including former Queensland police officers, on our staff dealing with police misconduct matters. There will be challenges for us in transitioning to a new civilian staffing model that does not use current or former Queensland police in police misconduct matters. We will need to work on the implementation of all of those recommendations and make those transitions while keeping pace with our other workload.

We have undertaken a review and a restructure of Misconduct that is designed to make a number of changes to how we operate. One of the key issues I wanted to mention there is the desire to better respond to the needs of the agencies that we work with. That is mentioned in some of the submissions that have been made to the committee. An example is in the Premier's submission from her department and the request to develop clearly articulated criteria as to when we may assist an agency with a cooperative investigation. That was an issue that we identified in our review and we are currently working on through a new team that has been established, which we call the operations support group, to provide some clearly

articulated criteria and a point of contact for agencies when they want to come and explore the possibilities of whether we can assist them or simply to get some tactical advice about how to progress a matter that we have asked them to investigate.

We have refocused our role on the investigation of police related deaths. We see that as a very important area in terms of public confidence in the Police Service and the CMC. Work is continuing with the State Coroner, the Queensland Police Service and ourselves nutting out the full detail of final arrangements. Again, that was an issue covered under the police discipline review. At the moment we are actively engaging in these matters and attending the scene of any such incident and providing support and oversight to ensure that the initial investigation is conducted with rigorous probity and sufficiency.

We are placing a greater emphasis on prevention, not just after the fact of an investigation. The restructure of Misconduct recognises that through the embedding of prevention officers in investigative teams. I wanted to briefly mention Operation Tesco, the police Gold Coast operation that we produced a public report on earlier this year. I think it signalled a significant change of approach in that particular matter. Tesco was an investigation that in part addressed problems of a wide-ranging and historical nature on the Gold Coast but also addressed problems that had much wider implications for policing across Queensland. We understood that the approach of simply investigating individual allegations, as had been done on numerous occasions in the past, had not been completely successful. The approach that we adopted there was, once the investigation moved to an overt phase, to engage quite openly and actively with the Queensland Police Service and identify the particular managerial and supervisory and other broader problems that the investigation had highlighted and ask the service to begin considering ways to deal with those longstanding problems. They were able to do that and implement some wide-ranging reforms which we were then able to supplement through our public hearing program in September last year. It was a move away from the traditional model of investigate, report, make recommendations and then an agency would consider and provide a response somewhere down the track.

Our research area continues to work to provide a legitimate, robust and independent evidence base for public policy and legislative change. That unit has undergone some very significant change in recent times to ensure it can deliver high-quality, timely and applied research outcomes to government and to our other stakeholders. Some of those changes include a name change, from Research to Applied Research and Evaluation to better reflect the type of work that the unit undertakes and its relevance to the primary objects of the CMC. They have restructured the area to align more closely with the primary functions of Crime and Misconduct and Witness Protection, implementing a revised communication strategy and reviewing their planning and project management processes and implementing an improved human research ethics process to ensure that all relevant research projects have appropriate ethical considerations, clearance and approvals in place. They are also working, as part of their communication strategy, to improve their consultation and relationship with key government agencies.

In relation to our witness protection function, our service in the witness protection area remains an essential component of the criminal justice system in Queensland. Given what has been said before about the dangers of organised crime, it is vital that we provide an environment that assists and protects people, their families and their close associates if they are in danger as a consequence of assisting law enforcement agencies and giving evidence at court. There is really only one key performance measure in that area and that is the fact that the CMC, and before it the Criminal Justice Commission, has now provided about 22 years of protection to witnesses and has kept 100 per cent of those witnesses safe from harm during that period.

Generally, communication is an issue that the executive leadership group of the CMC has been giving close attention to, both internally with our staff and externally with all of our stakeholders and the public. There is a recognition that we need to communicate more effectively with the public and with our stakeholders, providing information that is relevant to their needs about our role and our functions. Part of the way we are going to do that is through a redesign of our website to make it a more informative and useful tool through which people can access information about us.

We continue to face some challenges in staffing recruitment and retention. Some of those are a result of the changing workforce that all agencies and employers deal with. We need to accommodate people's expectations around workforce mobility and professional development. We are a small but unique organisation in terms of the diversity of functions that we have, but we are very committed to the welfare and the professional development of our staff, trying to identify opportunities and provide them with professional development and support and be a progressive employer.

Just on that note, I have spent the last two weeks acting in the chairperson's role. Probably for me, one of the most interesting aspects of the role is the opportunity to see at much closer quarters the breadth of the work that the commission is doing across areas that, whilst I have some knowledge of them in my usual role, I do not have day-to-day experience with. The thing that really has come home to me is the extraordinary talent and commitment of the staff that we have at the CMC, their unqualified professionalism and enthusiasm for their work and the fact that they are motivated very much by the public interest. I would like to place on the record the recognition of the commissioners and the executive managers for their considerable efforts on behalf of the organisation. That was all I wanted to say by way of opening remarks, Mr Chair.

CHAIR: Thank you, Mr Strange. I think at this point we might ask if there is anyone who would like to ask any questions of Mr Strange.

Mr MOORHEAD: I do. My questions are about your substantive position in the misconduct area. I am sure you have had a chance to read the submission of the Queensland Police Union of Employees.

Mr Strange: Yes.

Mr MOORHEAD: It has some fairly frank views about some of the matters you mentioned in your opening statement, particularly Operation Tesco. I wanted to raise two issues. I was keen to hear the CMC's response to their criticisms at pages 5 and 6 about a number of CMC investigations that did not end up with prosecutions or successful prosecutions. Are you able to respond to that and provide the CMC's view of whether that was a failing, and is that a good measure of the success of an investigation?

Mr Strange: The Police Union submission—I think somewhere on that page or thereabouts—says we have been unable to prove at any criminal trial charges against police or other public officials. That is clearly not the case. There are a number of recent convictions of police officers and others, perhaps most notably Mr Gordon Nuttall in recent times. There have been quite a number of convictions. Also, there have been many successful disciplinary proceedings against police and other officers. The original focus of Tesco was only ever on a small number of police and that is quite clear in the public report. One of those police officers, yes, he was a junior officer but his role and his influence and his conduct were addressed in our report. He was charged with criminal offences. He has been dealt with. He is no longer a member of the Police Service. A number of other civilians were charged and a number of disciplinary charges are still proceeding against several police officers. I think approximately half a dozen different police officers have either been dealt with or are being dealt with for disciplinary charges as a result of Tesco.

It is not simply about results in terms of charges against people. It would be very easy for the CMC to pick its investigations on the basis of where you are likely to be able to charge somebody with an offence. Frequently we see agencies refer to us complaints such as an incident of stealing by one of their staff. Normally we will not deal with that unless it is of a significant value or there is some systemic issue or other reason, such as us needing to use our powers to investigate it effectively. We would normally ask the agency to send that matter to the Police Service to deal with as a routine police investigation. We do not pick and choose on the basis of likely outcomes.

Tesco addressed some wide-ranging and longstanding problem behaviours, as I mentioned in my opening. On some of the outcomes of Tesco, at the moment the Police Service has developed a policy regarding inappropriate associations between its members and other people. That policy is being trialled in one command and one region. Part of the evidence about Tesco was allegedly improper associations between serving police and other persons such as criminals. Clearly that is of concern. Police will have associations with such people from time to time. They may even have family associations which they really cannot exclude themselves from.

Mr MOORHEAD: You do not choose your family, Mr Strange.

Mr Strange: Absolutely and the policy needs to be wide enough to manage that. The Queensland Police Service now has a policy and is trialling it and evaluating it and dealing with that. One of the other outcomes was the development of a policy, which is still at draft stage, for the receipt of gifts and benefits. The receipt of gratuities was a significant issue in Tesco, and not just the discounted fast food, which was very much at the lower end and tended to sidetrack some of the consideration, but the widespread acceptance of significant value of hospitality from nightclubs where police may be expected to be adopting a law enforcement role; those sorts of issues. Gifts and benefits that may comprise the independence of or the public confidence in the Police Service; a policy is being developed as a result of Operation Tesco.

Tesco looked at alleged drug use by some police. Following the public hearings and together with the police discipline review process, that has led to the consideration now of a revised drug testing policy for our Police Service. I think it is self-evident why we would all be extremely concerned about any police officer who has involvement with unlawful drugs and the inevitable compromising and other dangers that that presents to the public and to the Police Service. It is a major step forward, in my view, that that sort of an outcome has come out of Tesco.

As I said, we worked with the Police Service to advise it of the concerns. The Police Service—and probably Mr Stewart can speak to this this afternoon—has implemented a very wide-ranging platform of procedural reforms, staffing issues, changes to the complaints system, changes to the management and training and support of officers on the Gold Coast and some of our recommendations have state-wide ramifications and implementation. There has been very widespread reform coming out of Tesco. It simply was not about trying to identify and highlight only individual officers. It was a wide-ranging investigation that was trying to address, for the future, the problems that we knew had existed and had manifested on the Gold Coast from time to time across the last probably 20 years or so.

CHAIR: We would like to welcome to the hearing this morning the PCMC Commissioner, Mr Paul Favell, and legal advisor to the PCMC, Mr Mitchell Kunde. Thank you for coming.

Mr MOORHEAD: I am sure other members want to go through your submission, but I wanted to get up front some the issues raised by the QPUE in its submission and clarify some of the later matters. The QPUE raised an issue—and you have raised it as well and I think some of the news outlets have raised it as well—about how investigations are dealt with in the media spotlight while they are underway. The
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QPUE submission raises that there has been prominent leaks to the media, particularly involving public officials, and that often the leaks to the media do not end up accurately reflecting the charges at the end of the day. I have always had concerns about some of the comments by the QPUE about matters that are still under investigation as well, to the contrary, and also some of the ability of media outlets to publish reports or matters under investigation where essentially your secretive powers mean that the person is in a limited position to defend themselves against some quite significant claims. There seems to be a concern about leaking investigations from the CMC. How do we resolve that so that people are getting a fair investigative process rather than a trial by media?

Mr Strange: I have read the union's submission and concerns about that. I think they misstate some significant aspects of what has happened. Firstly, to the complaint about leaks: we certainly deal with any allegation of a leak very seriously. The committee would be well aware of our reporting obligations in relation to suspected improper conduct. If such allegations are made we will deal with them through that process. However, it is often the case that others are aware of particular information. It is an easy accusation to make that that must have come from the CMC. That is not always the case.

In relation to Tesco itself, it was before my time with the commission when the operation moved from a covert stage to an overt stage, but that did attract significant publicity. One of the ways that the CMC sought to deal with that, as I understand it, was that there was a view formed that there was a lot of inaccurate innuendo put out in the public domain about the scope of potential police misconduct and a Fitzgerald inquiry mark II. We actually issued a media release attempting to dampen down some of that speculation, shortly after or in the context when it was occurring, stating that some of the aspects of recent media reports about the investigation were exaggerated or simply inaccurate. We cannot control the media, but we do, in the public interest, try to put things on the public record where we think that is appropriate to be fair to agencies and people.

In terms of identifying officers, we do not generally do that in media releases or in public reports. Tesco is an example. The police in that report were identified by initials, although not their initials. There is a cipher used to identify those police officers, even though some had been before the courts at that stage and there is no legal impediment to identification. Again our focus was not so much on the individuals and highlighting precisely who has done what in terms of criminal conduct; it was about addressing the underlying major systemic issues. Some of our recent reports: the Palm Island report did identify some officers' names and our accompanying media release did not. I understand there was significant internal discussion about whether the report should identify the police officers who conducted the initial investigation on Palm Island. It was decided that all of those officers had been mentioned at length in public at coronial inquiries and subsequent other proceedings. Those officers who had not been mentioned in public before and who comprised the investigation review team that overlooked the QPS investigation, their names had not been made public and were not made public in our report.

As I mentioned, with Tesco and going back a couple of years to Operation Capri, which is one that the union mentions, no police were identified in those reports or in media releases. We have identified people in other reports at times if they have been mentioned at length in the public or we have held public hearings, but it is really done on a case-by-case basis. We are mindful of considerations around people's reputations and particularly mindful of the stage at which people may be seeking comments from us. As I say, we do not generally issue releases about the charging of people. The Police Service will ordinarily issue releases now about the standing down of members and obviously when people appear in court, unless they are charged with certain offences for which non-publication provisions apply, obviously they can be named. We may deal with media queries about our role and we will confirm things that are on the public record in that case. We are very mindful of those sorts of considerations. I think the union's submission significantly overstates the reality of recent events and recent years of how the CMC has approached those concerns.

Ms GRACE: Can I take you to the first changes in chapter 2 in relation to QCAT.

Mr Strange: This is our submission?

Ms GRACE: Your submission, yes. I think a lot of it flowed from the CMC's review of the Queensland Police Service's Palm Island review. I think you mentioned there that there is a number of suggestions about QCAT becoming involved in proceedings of official misconduct and police misconduct, and also the definition of the reviewable decision changing to include a decision not to commence disciplinary action. Mr Strange, I will take you through the different parts. There seems to be lots of issues around increases in workload for public service misconduct, should that now be put on the GOCs and there are additional kinds of things. I am going to be a little out there, in a way, because after reading all this and from discussions we have had as a committee in the past about other issues, I am wondering whether QCAT is the appropriate tribunal.

Where it is more of an employment related issue—and you mentioned in Tesco that you have come down with changes to policies about how police should, in employment, conduct themselves about whether they take various gifts, social stuff or whatever—have you thought about involving the industrial relations tribunal under its auspices? It is a lot quicker and you could identify that this is more in relation to an employment issue rather than a police investigative thing. Maybe we should look at some legislative amendment to give the CMC the ability to go to a tribunal, other than QCAT, that is quick and has a fast turnaround. I think the member for Waterford pointed out the two-year duration of the Tesco operation and

how it was really drawn out and that type of thing. Maybe you could seek assistance in some of those areas as to whether an investigation should even happen and the commission could make a recommendation to assist you. Has the CMC thought about those areas? I am sorry to throw all that at you. After reading it all, it came to my mind that maybe there is a tribunal sitting there that is not as busy as it was and it could be put to good use helping the CMC with some of the employment related activities if it is an expert in that area.

Mr Strange: I do know that when QCAT was proposed there was significant consideration given to what tribunals should be absorbed into the supertribunal function, for want of a better term. I know that some specific existing tribunals were not included such as the Mental Health Review Tribunal, as I understand, because of the particular specialist nature of the matters that it deals with. I am sorry, but I am not aware, not having been at the commission at the time, of whether the CMC made any specific submissions about what would have been the inclusion of the former misconduct tribunal within the QCAT jurisdiction. That is something that we can probably take on notice and speak to our Legal Services Unit about and see whether we did make a submission and what the commission's position was and whether we considered any of those sorts of issues.

I think there is a tension in any disciplinary tribunal of how you resolve aspects having regard to the purpose of disciplinary proceedings and looking at those sorts of employment considerations. I know that is an issue for the Queensland Police Service. When matters are taken on review, some of their decisions by the affected police member—they have made decisions in some cases. There are some recent cases relating to the conviction of officers for reasonably serious drink-driving offences. Some time ago the Police Commissioner made a statement about his expectations of his people, his concern and the likely outcomes if they transgressed and committed such an offence. Many of those matters have been taken and reviewed successfully by the member before QCAT. So there is a competing tension in some ways between the purpose of disciplinary proceedings and simply looking at matters with a more employment—

Ms GRACE: I also think with devolution sometimes there is a lack of public confidence in that it is going back to the agency where the complaints came from. I do not expect you to answer today, but it may be that if it is under the auspice of a tribunal in some of these cases they can very quickly identify the issues, assist the parties and be able to say, 'This is something you should be doing,' or, 'Look, we agree you do not need to do it.' That was something in my mind that could bring about a very quick, expert turnaround on some issues that sometimes the public do not have confidence about, particularly when you devolve back to the agency in relation to some of these issues. I am hearing that there is such an increase in these complaints coming from public servants. If you can identify them and quickly refer them and have that confidence of a quick turnaround, that is an idea on which I would like some further comments.

Mr MOORHEAD: Particularly when some of the lower level matters are things that are not uncommon to a whole range of workplaces, whether they be public or private. Issues such as stealing from a workplace can occur in the local welding workshop or in the police force.

Ms GRACE: Also, there are things like whether it is appropriate that you develop policies around what you should or should not be able to accept in your employment and having them sanctioned. It was just an idea. Like I said, I do not expect you to respond comprehensively today, but there is a theme running through a lot of these papers and I am wondering whether there is a more expert, better way of handling them.

Mr Strange: Many of the themes that you mentioned were addressed in the police disciplinary review, at least in the police context. An overriding theme in the whole exercise that led to the final government response and recommendations was that there should be a disciplinary system that encourages people to admit responsibility so that they can be dealt with quickly. Probably many of the people you will hear from were all on the same page in saying that it can be very cumbersome, very legalistic and adversarial.

Ms GRACE: And time-consuming.

Mr Strange: You want people to be able to put their hand up and say, 'Yes, I have done the wrong thing,' to have some understanding of an indicative range of sanctions, of where that will take them in terms of a consequence for discipline and their employment, and to be able to be dealt with quickly. It is better for the individual, it is much better for the Police Service and it sends a much better message that if somebody has transgressed they are dealt with quickly and that efficient and effective action is taken. We are hopeful in that sphere that some of the recommendations and the implementation work will implement a system that has that aim: that people understand how their matter is likely to proceed and what the indicative outcome is likely to be, that the union will advise them accordingly and participate in that process. We can develop the culture where it is not everybody squaring off at 10 paces and fighting it out till the bitter end with very adversarial outcomes.

Ms GRACE: In a lay tribunal like the Industrial Relations Commission.

Mr Strange: Just on those other QCAT matters and those particular requests or recommendations on page 7 of our submission, can I just say that the majority of those have now been picked up in the police discipline review. In relation to the one about abrogating self-incrimination privilege and use immunity, there is a specific recommendation in the police discipline review which I think is No. 27. The Attorney-
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General is to conduct a review of those privilege related issues and report. Recommendation No. 9 addresses that issue about what is a reviewable decision for the purposes of the CMC being able to cover off on that gap that has been identified.

We have sought in our submission a lengthening of the time in which we can make a review application from 14 to 28 days. We are seeing some abatement at the moment. For the last couple of years or so we have seen a significant increase in the number of reviewable decisions coming to us. We have a 14-day period to, in effect, make an informed decision about whether we should apply for a review in QCAT. That is really to overturn a finding where a charge has not been proved against a police officer or to seek a heavier sanction than the one imposed. So it has significant consequences for the individual member concerned. The 14 days runs from the time we get notification of the decision. That may simply be the summary of the decision that the charge is proved and 'this is the sanction imposed'. We need to consider all of the supporting material, and under the current system that can be voluminous in some cases. We need to access that and obtain that from the Queensland Police Service.

The 14-day period has meant that we have really had to concentrate on those sorts of matters to the exclusion of other priorities to meet that time frame, because we do not want to be in a position of second-guessing whether we should be going to QCAT or not. As I said, it is a significant decision in terms of the implications for the individual officer and the Police Service as well as our resources to run a review and QCAT's limited resources. We only want to go there on cases in which we think we have reasonable prospects of success and we have had adequate time to make that consideration.

Mr WELLINGTON: My question also is to Mr Strange and it relates to chapter 4 on the issue of combating major crime. I note that in your presentation this morning you spoke about the importance of the new phone-tapping powers that you have and the need to work across boundaries with other agencies interstate and also intrastate. I understand that there are significant differences in the processes the various agencies in Australia have to go through in getting their approvals for phone tapping. Earlier you spoke about initial discipline, that sometimes it is a bit cumbersome and time-consuming. When an agency—be it the Queensland Police Service, yourselves or whoever—believes there is a need for phone tapping, it is my understanding that time is of the essence. You cannot sit there and fill out pages and pages of these applications. Have you considered the need for a review of the process that the Queensland Police Service has to go through when an officer or a unit believes it is important for a phone-tapping application to be made, bearing in mind the imperative of getting the matter before the appropriate authority for a decision as soon as possible? Is there a need for review by way of comparison with other agencies interstate?

Mr Strange: I can give a perspective on that from Misconduct. Would you mind if Mr Callanan perhaps gave some comments from the Crime and law enforcement perspective?

Mr WELLINGTON: No, whoever wishes to.

Mr Callanan: My understanding is that under the national regime all the state based law enforcement agencies and the federal law enforcement agencies are required to adhere to the same processes. What distinguishes Queensland, of course, is the role of the Public Interest Monitor in respect of applications for telecommunications interception warrants. We have got quite good at it. We feel that, from the moment of identification of a line or a suspect, ordinarily it is a matter of days; it is certainly not a matter of weeks. There are, not surprisingly, criteria that need to be met. We, as the Queensland Police Service or any of the other agencies that are participants in the regime, need to provide to the issuing officer affidavit material and supporting documentation.

I am aware that there is a fairly significant review being undertaken by the Commonwealth Attorney-General's Department of the TI regime in Australia. I cannot really say much more than that about it. One of the issues to be addressed is whether it is possible to streamline things a little more. Many agencies, from our own experience, are able to secure telecommunications interception warrants within a matter of hours if need be.

Mr WELLINGTON: Following on, I would hate it to be the case that Queensland police officers feel the need to go to your agency or an interstate agency to try to get those approvals because of the process they have to go through and the time and resources they have to allocate in order for a decision on the matter to be made.

Mr Callanan: I can speak for the CMC. It is not a major issue. Sometimes perhaps the need to go through the proper processes and the time that takes is a little frustrating. I have not heard it suggested by the Queensland Police Service that they are significantly delayed in their investigative strategies by the need to comply with all of the relevant accountabilities. Telephone interception is an extremely intrusive law enforcement power. The CMC's view is that it is only right that standards have to be met and evidentiary basis has to be provided. In Queensland, the role of the PIM adds significantly to the safeguards and the accountabilities. If we thought there was such a problem that perhaps we needed emergent telephone interception powers so that we could proceed to intercept and seek authority later, we would seek that.

Mr MOORHEAD: Good luck with that.

Ms GRACE: Good luck with that.

Mr Callanan: Exactly, because it is part of a national regime for one thing. I have not heard, in my various engagements with law enforcement authorities all over Australia, that there are any significant issues about delays to investigative strategies because of the need to comply with the procedural requirements.

CHAIR: Could I extend that and ask: when we are talking about telephone interception powers, are we including other electronics as well?

Mr Callanan: Yes.

CHAIR: In your submission you talked about emerging issues, but it does include all of those things, does it not?

Mr Callanan: The power at the moment includes data interception, which is generally that range of technologies you are talking about. The power is there. You would understand that talking about TI is a little difficult in a public forum.

CHAIR: In your submission you talked about it as an emerging issue, but it does include that?

Mr Callanan: Yes.

Mr MOORHEAD: There were media reports this morning that there is limited ability for telephone intercept powers to cover text messages. The ABC were running a story about the fact that Canadian police have a capacity that other police do not have.

Mrs Bell: I thought that they were saying that they had a capacity to retrieve—

Mr MOORHEAD: Deleted text messages.

Mrs Bell:—deleted emails.

Mr Callanan: Hand in hand with telephone interception is stored communications accessibility under appropriate authorities and so on. I would have thought that text messages, including deleted text messages, would be covered under stored coms. Data interception gives you the capacity to do it in real time. Stored communications gives you the capacity to do it once it has happened. Also with stored communications is what we call proactive stored communications, so you can identify a person and then continue to access communications as time goes by.

Mr RYAN: Can I take you back to the chapter 2 recommendations and the recommendations about expanding the jurisdiction of the CMC for commencing proceedings in QCAT? I just want to get your view about what that means for the devolution principle. Do you envisage any problems from those units which have had matters devolved to them shirking their responsibility to make decisions about disciplinary proceedings because they know that the CMC now has a broader jurisdiction to commence proceedings in QCAT, to have a decision or a non-decision reviewed reviewed by QCAT?

Mr Strange: It is difficult to predict. We obviously monitor a wide range of matters that we refer to agencies. We do that in a number of ways, looking at how they deal with individual cases at times and at how they deal with classes of matters.

Mr RYAN: Ultimately the devolution principle is about those devolved units taking responsibility for discipline within their unit.

Mr Strange: Yes, very much.

Mr RYAN: I wonder whether or not those units who would prefer not to make a decision about a colleague in respect of a disciplinary matter will just say, 'I don't want to make a decision,' because they now know that the fallback position, the safety net, is the CMC because it has the broader jurisdiction. I wonder whether or not those recommendations, if implemented, will have an adverse affect on how successful the devolution project is.

Mr Strange: I would be surprised if an agency deliberately adopted that sort of strategy. They may make decisions not to commence proceedings—

Mr RYAN: Although there may be a recent example where that happened.

Mr Strange: We will have the option then of proceeding, as you note. In any situation like that we would look for a clearly articulated basis for the action to be taken or not taken by the agency and the reasons for that. As I say, we monitor agencies at a number of levels, and we would certainly be concerned if there was any emerging trend in an agency as to why they were proceeding in that regard. I suppose I can only say that we can keep an open mind about that and look for examples.

Our experience generally with the majority of agencies is that for matters that come into the more serious end of the disciplinary spectrum public sector agencies will often seek some advice about the conduct of those proceedings, including from Crown Law. Our experience is that those more serious matters are given quite close and senior consideration within departments, often at the level of director-general or immediately below—whoever has ultimate reporting responsibility for integrity issues in a department. We certainly encourage that senior involvement and leadership. I think that is a significant factor that might guard against potential misuse of that change.

Mr RYAN: While we are talking about the devolution process, are you seeing a growing trend for units that have had a matter devolved back to them to engage external investigators to investigate those matters? I have two points. Firstly, do you see that that has an impact on the effectiveness of devolution, where effectively it is not the unit investigating itself and taking responsibility for that discipline but rather it is a professional organisation that specialises in disciplinary investigations? Secondly, is there any impact of the government's position to not have serving or former police officers involved in misconduct matters when those misconduct matters may be investigated by an external body which may have former or current Queensland police officers employed within that body?

Mr Strange: Ms McFarlane can probably add to this in terms of the actual trend. She is probably closer to the monitoring work to advise on that. The discipline review recommendation relates only to our investigation of police misconduct. It does not, in effect, prohibit the engagement of current and former police to investigate or deal with public sector misconduct. So we need to consider what sort of staffing model we want so that we have flexibility to swap resources according to priorities as they arise.

One way it will impact on us is that many of the agencies that have established integrity units and have an in-house investigative capacity want to employ experienced investigators. The best investigators in this type of area are experienced detectives—ex-police officers. If you are recruiting in Queensland then current and former police are interested in those positions. It does have implications for us moving ahead with the recommendations. There are also recommendations about a more flexible staffing model and greater engagement and secondment of officers from other agencies. That will place limitations on exchange or secondment arrangements. There will be a pool of people who will not be able to come into the CMC because they will be former Queensland police officers. There is no time limit on that. It does not matter whether they have been out for five years or 15 years. In the case of one of our officers who was once a police officer, he is now a lawyer but he is still, in effect, caught by the recommendation.

Agencies do use external investigators from time to time. I guess there are issues around how they engage with those investigators and what they learn from the outcome of those investigations. We would like to see that investigations cover not just who did what but systemic and preventative procedural issues and that there are appropriate learnings from agencies in that regard. There are undoubtedly resource pressures here. There are also knowledge gaps. The latter aspect was something we identified in the misconduct review.

One of the things I spoke about was the establishment of an operational support group to better engage with agencies, particularly smaller agencies that do not have the size to justify an internal integrity or ethical standards unit. Often their integrity functions there are dealt with by HR or by an internal audit or by a senior officer. They may lack a lot of experience in actually investigating. We provide a lot of guidance through our manual *Facing the facts*, which we are going to update in the next year hopefully. The operational support group will be a contact point for an agency to come and talk about a tactical issue: 'How do we progress this? Can you assist us or can you give us some advice?'

As I said, there are resourcing issues for some departments. They have to make a decision about whether they employ their staff to investigate a complex matter or whether it is more cost efficient to engage an external agency. I will ask Ms McFarlane to comment on any trends and what we are seeing in the integrity services area.

Ms McFarlane: There are two points to make about external investigations. A couple of years ago we did see a bit of a trend. That is probably now on the decline. It is probably as a result of a lot of work we have been doing in relation to the building integrity process. We have what is called an integrity index. We look at the integrity framework of particularly public sector agencies. There are three elements that we look at. The first element is the complaints management process—how they manage the process, what people know about the complaints management process. The second element is misconduct prevention which looks at internal controls such as fraud and corruption, gifts and benefits policies and the like.

The third element is institutional integrity. In the institutional integrity element we look to see whether there is a unit within a department that can deal with investigations in relation to misconduct. We look to see that they have policies in relation to what they investigate and what they will not investigate so there is no overcooking of matters. We look to see whether they have a policy in relation to the engagement of external investigators and their knowledge of the public sector and what we expect in relation to official misconduct. So when we are doing that it is building the capacity of the unit itself to deal with the matter. It also allows us some flexibility because there are times when an external investigator is required either from a resourcing point of view or from a public perception point of view. But, in terms of a trend, I think it is a decreasing trend, if anything, and we are tending to build the capacity of those agencies to deal with it themselves as a preference.

Mr RYAN: I am pleased to hear you say that. The final question I have on this topic is: is the devolution principle still relevant and is it still working?

Mr Strange: Before I answer that, I just want to add one more thing. I spoke before about working with other integrity agencies to avoid duplication. When we work with agencies specifically in training, I think there is a real role for CMC Misconduct engaging at a level where we really have the expertise and the ownership, and that is in conducting investigations. There are other agencies such as the Public Sector Brisbane

Commission, which can train the public sector agencies about how they deal with whistleblowers and who has primary responsibility in that regard. The Ombudsman is excellent at helping agencies establish complaints management processes and dealing with service delivery issues.

But I think for us our expertise, in large part, is at the sharp end of investigations in how they are conducted. I think we can work with agencies to build their capacity by upskilling their staff through training or through conducting cooperative investigations with them. They run perhaps the majority of an investigation and we come in for a specific purpose to undertake a line of inquiry that might require our expertise such as forensic computing, financial analysis, a hearing—those sorts of things. That is an opportunity for internal investigators to work with our staff. I think there are benefits in knowledge exchange in that.

In terms of devolution, I have always had the view that it is a fundamentally different principle in terms of its application with the Police Service and its application with public sector agencies. I think the problems in the application of the principle in practice in the Police Service have been identified often quite starkly in the police discipline review. We now have, as I said, a fairly clear roadmap forward as to how to try to address those issues and I think considerable will on the part of all of the relevant agencies to change the culture and do that.

I think in the public sector the principle is effective and is a success. We have invested significant resources in working with agencies. As I said, the trend in complaint numbers and expectations of members of the public that they have somewhere to go to raise their concerns I think will only continue to increase. We must help agencies by working with them to build their capacity. We have had a concerted program with the early adopter agencies and in the last financial year with the core Public Service departments. Now we are looking at working with the agencies in the local government sector to improve their integrity systems. The results from our initial reviews at the agencies that we have worked with over the last year are quite encouraging.

There is I think significant leadership across the departments on integrity issues. They need to have the commitment to making it work, not just paying lip-service to it but backing it up with resources and training and support, and I think we are seeing that across the agencies. There are many positive signs there in how matters are being dealt with.

Ms GRACE: Mr Strange, just continuing on from that, on page 42 in your graph there is a big, marked increase in the complaints for 'misappropriation' and then there is a huge one for 'other'. I think they are the next two biggest categories once you take out 'official conduct'. Could you give us an idea about what 'other' includes and what 'misappropriation' includes? They seem incredibly large numbers even compared to the QPS figures. I would like some clarification on the kinds of things they include, particularly if the agencies are to gear up to handle a lot of these complaints. Are they identifying these and gearing up to handle them?

Mr Strange: I might ask Ms McFarlane to explain those in a little more detail. In that context, one of the things we are looking at is making more effective use of the data we collect from our complaints processes and engaging more effectively with agencies about the particular issues that we are seeing in that agency and getting down into the detail of the particular matters that have been reported. That is another thing we are looking at.

Ms McFarlane: To answer the question on misappropriation, 'misappropriation' looks at things like misappropriation of seized drugs, official property such as firearms, cash, opportunistic theft, property held in trust—those sorts of things. 'Other' is a large catch all of things which could be political complaints or could relate to regulatory complaints that we do not see very often and do not fall within our allegation types, but they are certainly difficult to put within our other categories such as 'corruption and favouritism', 'control of information' and the more general ones. You are right: it is getting to be—particularly with police—a larger section.

Ms GRACE: With police and with public servants, both have had marked increases.

CHAIR: Can I continue along that theme and extend it a little. You highlighted in your report that the GOCs are back under your jurisdiction and that there is an obligation on those GOCs about the issues of reported misconduct, albeit they are larger organisations which, you raised the point, would normally go back to HR. You also alluded to the fact that there may be some potential issues there. Can you tell us what efforts you have made or you are making to resolve some of these outstanding issues? Do you think it is a large problem?

Mr Strange: The GOCs have only come back into our jurisdiction relatively recently. I think one of the challenges in that area is the interface between the aspects of being a public agency and having a private business focus in some regard.

CHAIR: Exactly.

Mr Strange: Our approach has been very much one of working with the sector to ensure they understand their reporting obligations and establishing a relationship. We are giving close attention to any allegation that comes to us about a GOC. The newness of them coming back to our jurisdiction and the wish on our part to ensure things are operating effectively and appropriately means that we perhaps apply a lower threshold if we determine to take on an investigation for a GOC at the moment than we might for

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another agency. Because we want to have a look at what is going on in the agency and how they are dealing with matters, we might more closely monitor a matter—those sorts of things. We have had a very active engagement and information exchange program with them to try to facilitate an effective working relationship. We are certainly not aware of any widespread misconduct issues. We have had matters reported to us obviously, but at this stage we are working through those.

Mr MOORHEAD: I want to follow on from the questions about devolution, particularly in relation to local government. I think the devolution principle is important, but I think there is one example where it goes a bit far and that is the chapter 7 powers in the City of Brisbane Act, which gives the City of Brisbane investigators coercive powers to conduct their own internal investigations. Do you think that devolution requires those significant powers, particularly at such a lower level? The notion that you would devolve a power to the agency but then give it significant powers—your agency is pretty much the only one that has those powers—seems a bit inconsistent to me.

Mr Strange: I recently had a look at those powers. I do note that they retain the privilege against self-incrimination for those who are implicated in that way or affected by an inquiry. I think it is a very interesting legal policy issue. I probably have not engaged with the Brisbane City Council to understand what its perspective would be if it was not able to apply those powers and how that might impact in a practical sense. The council would no doubt have a view in relation to the exercise of its functions and what the downside would be if it was not able to do it.

Mr MOORHEAD: Do you have any other public sector agency that has those powers?

Mr Strange: There are certain powers that derive from an employer-employee relationship in terms of being able to expect people to provide information—

Mr MOORHEAD: But the consequence of that is a contractual one, not a disciplinary one.

Mr Strange: Yes, that is employment and it is not based in a specific legislative provision. The Police Service is obviously very different: in effect it is a quasi-military hierarchy structure of rank and there are statutory provisions around that. Other regulatory agencies have similar powers. Whether they apply them for internal investigation—

Mr MOORHEAD: It is quite an unusual provision.

Mr Strange: Yes. I am sorry, I have not actively engaged with the council in terms of what its perspective would be on that.

CHAIR: I would like to raise the issues that you spoke about in your opening address, particularly referring to operations Capri and Tesco. At chapter 6 on page 54, several recommendations were made with regard to the sensitive nature. Subsequently the Commissioner of Police was quoted as saying that the fallout from Operation Tesco was worthwhile and this triggered positive change. That was in the *Courier-Mail*. Are you content that the QPS has fully supported these recommendations to enhance policing on the Gold Coast?

Mr Strange: Speaking for Mr Moynihan and from my own perspective, we have been impressed with the response of the Police Service. I think there was a fundamental realisation that major change had to be effected, that the issues which the Tesco investigation exposed were not just a few bad apples; there were wider systemic problems that significantly affected the Gold Coast region and policing but that also had state-wide implications in some respects.

To the credit of the Police Service, it did give very considered attention and had backed that with a wide-ranging platform of reforms. I do not have all of that detail with me today, but I expect Mr Stewart would be able to go through the detail. They are not just reforms on paper; they have put more resources into the Gold Coast into supervisory roles, support, complaints handling and those sorts of things. So they have moved ahead in developing the policies that I spoke about for managing risky or improper associations, and gifts and benefits. The latter ones are a work in progress, and we are consulting with the Queensland Police Service about its draft policy at the moment. Certainly there have been some very significant service-wide actions taken. It is a pleasing outcome to see that sort of reform generated from an investigation and an acceptance that a new approach was needed.

CHAIR: Do you see any further things that need to be done as an outcome of that?

Mr Strange: We will continue to closely monitor the reforms that the QPS is implementing. As I said, at the moment we are reviewing a draft of the gifts and benefits policy and we will be going back to the Police Service with some issues we have about that. The drug-testing regime is under development at the moment. As I said, we view that as a very important component in ensuring the integrity of the Police Service. It is a contentious one. There are a lot of employment issues around that, but the Police Commissioner has publicly stated the need for that. They are all things that we will continue to monitor. We will continue to keep a close eye on the Gold Coast in terms of misconduct, risks, intelligence and complaints information.

Mr RYAN: Can I take you to chapter 5 of your submission, which is about proceeds of crime. I particularly want to ask a question about money laundering. There are some provisions under Queensland legislation for prosecutions to be carried out in the Queensland jurisdiction for money laundering which may flow from the products of laundering drug money and other proceeds of crime. I wonder whether or not any thought has been given to strengthening the money-laundering principles within Queensland

legislation and whether or not that will assist your Proceeds of Crime team. From my understanding, the recent prosecutions have only been under the federal legislation rather than under the Queensland legislation. I understand there are a number of hurdles and obstacles within the Queensland legislation. Has any thought been given to how that may assist your Proceeds of Crime team?

Mr Callanan: You are probably aware that over the last four or five years there have been at least two fairly thoroughgoing reviews of the relevant legislation. The CMC has made submissions to those reviews. I do not have the detail of that with me, but I would be able to get it over the lunch break if that is going to assist—or perhaps more likely overnight, given that we will be back here tomorrow.

Generally, my understanding is that we have no issues with the strength of the provisions. There are deeming provisions built into the legislation so that certain evidentiary presumptions arise depending on the character of the property and things of that nature. With regard to the very serious offence of money laundering—as opposed to possession of property suspected of being tainted—my recollection at the moment is that, once it is established that the proceeds involved were the product of criminal activity, it falls on the balance of probability to an accused to establish that he was not aware. There is a gradation of knowingly and deliberately laundering money down to almost carelessly laundering ill-gotten gains. I will take the opportunity overnight, if you do not mind, to get hold of those submissions to the reviews and refresh my memory.

Mr RYAN: That would be good, thank you.

Mr Callanan: I certainly do not recall that we have made any recommendations for strengthening of those provisions. There are different regimes both at the federal and at other state levels.

Mr MOORHEAD: I have two questions on chapter 4, the major crime area. Mr Callanan, I understand that we are at the end of your term and it might be a good time for reflection on the challenges coming up. One question is what you see as being the challenges in that major crime area over the next couple of years. The second is that I think I recall in the opening statement that Mr Strange said there was an increasing request for the CMC's coercive powers to be used. Can you provide the committee with some information about the trend and why you think that is the case? Do you think that increase will be a continuing year-upon-year increase?

Mr Callanan: I will answer the particular question at the end and go back to the general one perhaps. Statistically, the growth in our hearings activity, going back to 2006-07, is as follows: 81 days of hearings, and then over the following years 151, 157 and 162, with 114 last year, which is obviously a drop. That is accounted for by the commitment of police, particularly the State Crime Operations Command, to the fallout of the natural disasters. We have discussed this at very high levels with the police. It seems a bit strange to talk about a whole lot of detectives being involved, but there were of course inquests and statements needed to be gathered for a whole range of things.

The state of play as at now is that nearly 30 hearings have been held so far this year, with a commitment at the moment that takes us right through conducting hearings until the week of Christmas. We expect the trend that is being demonstrated over time towards a consistently high use of the hearings to assist in police investigations will continue. I think at the last review Mr Needham identified the emergence of a trend with police to come to us sooner rather than later, particularly in relation to offences of murder and things of that ilk. That trend I think has continued.

What has emerged though more in the last couple of years is a tendency on the part of the police to come to us in respect of organised crime investigations. So they will have taken an investigation as far as they can using conventional powers and they will be interested in the full nature and extent of the network—where the money has gone, where the drugs have come from, who has been producing the drugs that have been trafficked by the network. That has become a significant part of what we do with hearings. As was recently publicised, we have put in place now a weapons related organised crime referral, and that has already been utilised. The utility of it is the streamlined way in which we can bring to bear the coercive hearings power. We do not see those trends slowing down too much.

Generally, as to the picture of organised crime, one can always go to the excellent work of the Australian Crime Commission for the national picture. Queensland of course has some specific issues. One of them no doubt is the Gold Coast because of the I will not say peculiarities but aspects of that part of the state which it would seem make it particularly attractive to organised crime elements.

When we talk about major crime, to me we are talking about the range of things that are defined as major crime in the Crime and Misconduct Act, so we are talking about organised crime, criminal paedophilia, terrorism and offences that carry 14 years or more imprisonment, which we have fallen into describing as serious crime. Other agencies talk about serious organised crime, whereas for us organised crime is one limb of major crime and serious crime is another limb of it.

In relation to serious crime, the kinds of matters we get involved in are I suspect the sorts of things that serious crime has always been about—murders for a whole range of reasons, extortion, kidnapping, non-organised robberies, things of that kind—so it is a bit hard to kind of identify any trends in relation to that. Certainly, in relation to terrorism, it has been some years since we have been engaged in any counterterrorist activity. We had one occasion some years back where we were rapidly engaged by the police in circumstances relating to the presence of a person with a huge sum of cash on his person at the transit centre down at Southport. We were able to respond to a police request on a Sunday morning and

we had hearings running on Sunday afternoon, with the assistance of a Supreme Court judge who was prepared to approve the issue of an immediate attendance notice. With terrorism, that is where we see our role—being at a high state of readiness to respond to requests from other agencies.

In relation to organised crime, I think the trends are well identified by organisations like the Australian Crime Commission. We have problems with the so-called outlaw motorcycle gangs; that is why we have our Hydra referral in place. There are issues around money laundering; that is why we have our gatekeeper referral. The trend towards the use of firearms is recognised, as I say, by our putting in place the weapons related organised crime referral. I think that is an emerging issue, whether it is going to continue to be a trend—that is, the use of firearms in organised criminal activity and the commission of firearms related offences, like trafficking in firearms itself as a form of organised crime.

I think it has long been recognised now by law enforcement both in Australia and globally that we had the old pictures of silos of organised crime around groupings like the Mafia, the Yakuza and so on—they are still there, there is no doubt there is an element of that—but what most characterises organised crime now is its fluidity, the way people will cross over, their preparedness to go wherever the opportunities present themselves. That makes it a little hard for law enforcement because it is easier to attack something you can see that is standing there and is sort of proud of itself. We do not see that so much anymore, except perhaps with the outlaw motorcycle gangs. Even then, recent investigations suggest that groupings thought to have been rivals in the past have proven themselves to be more than happy to cooperate if there is a dollar to be made or there are drugs to be had. That is an ongoing challenge and it is one of those challenges that telephone interception, particularly, helps us address.

The other element is criminal paedophilia. We have long maintained a presence in the law enforcement response to criminal paedophilia in a couple of niche areas. Those are areas in which we have built up special expertise. You will see in the submission that even our research has moved a little away from drugs and left that to other academic institutions which are very well positioned to conduct that sort of research, and we have had a focus in crime research recently around criminal paedophilia. I am happy to say that, out of a total of eight proposed law enforcement in confidence research papers, six have now been completed.

My own view is that it is adequate to have a high state of readiness to respond to terrorism, because all the indications are it is not a huge problem at the moment; however, where it is well known and well acknowledged that there are problems, we need to have an investigative presence as well. That is why we have it in organised crime and that is why we have it, in my opinion quite appropriately, in relation to paedophilia. We are able to work in partnership with Task Force Argos and the regional child protection investigation units. It is acknowledged by Task Force Argos that we are well positioned to contribute not in duplicating their effort but in value-adding to the overall law enforcement response. There is no doubt the advent of the internet has seen an absolute burgeoning of child sex related offences. Networks these days are something quite different to what networks were even four or five years ago, so those are the challenges. The person in the trench coat standing outside the schoolyard with a bag of lollies in their pocket does not represent the face of criminal paedophilia in Queensland, Australia or internationally.

CHAIR: Thank you. We will go to chapter 7 about witness protection. There are a number of proposed legislative changes to the Witness Protection Act 2000 that are outlined in chapter 2 of your submission. Can you comment in greater detail on those proposed changes and how they would enhance the witness protection program? Do you think the CMC is well placed to carry out the witness protection functions, alluding to the fact that the QPS have submitted that they think it should be a function of theirs?

Mr Strange: I think that was the Queensland Police Union submission, was it?

CHAIR: Yes, QPU, sorry.

Mr Strange: On that general point, I mentioned in my opening remarks the great track record that the CMC and its predecessor organisation has in witness protection. The committee would well understand of the historical reasons that function was vested in the CJC, the integrity agency going back to the Fitzgerald inquiry days. The fact was that some of those who needed protection were police officers who needed protection from other police officers, so the function could not be located in the Police Service at that time, and hence it was given to the integrity agency. We are unique in that respect, but I think we are extremely well regarded in the national law enforcement landscape for our witness protection work, and certainly other agencies look to benchmark against the CMC and to work with us in relevant operational areas.

The function is performed extremely well by our team, led by Assistant Commissioner Peter Barron. They are extremely professional and extremely competent and the results speak for themselves. The system works very well. I do not see a need to change it and perhaps undermine the consistency, the good results, the systems that are in place, the levels of trust and the relationships that have been established. It works very well from our perspective. It works very well from a law enforcement perspective in Queensland and the results speak for themselves.

In terms of the particular amendments, I do not know if I can add a lot to what has been set out in our submission. They are identified more as incidental issues relating to the day-to-day operations of the act, rather than any major fundamental legislative gaps. If the committee has any particular questions, I can perhaps take those on notice and seek further explanation or examples of why the particular issues are perceived to be problematic.

Ms GRACE: I have a quick question—it may not be too quick—for Mr Strange or Ms Mendelle in relation to the tenure issues, the 15 years in the senior officers, the CMC's succession planning and that type of stuff. Are there issues that we may need to look at to review? I know you have indicated that you are happy with the current tenure provisions. Are there processes in place? Is there adequate succession planning? Is it causing a concern? A constant theme throughout your submission seems to be resources, staffing, an increase in numbers and the ability to attract. How are we going with all of that? Is there a need for us to consider any changes to these things?

Ms Mendelle: The Crime and Misconduct Commission has 15 positions with specified tenure under section 247(3A) and that includes the chairperson, the part-time commissioners, the assistant commissioners and the senior officers as defined under section 247(5). In 2006, the CMC Act was amended to extend the tenure and we are of the view that that is desirable. We certainly welcome the opportunity to extend relevant officers should there be an operational requirement.

Ms GRACE: From the current period? To extend it even further?

Ms Mendelle: No, not further. I think the current period sort of covers it. At the moment we can extend to 10 years, but then we can also extend to an additional five years should there be an operational requirement to do so. We welcome that. At the moment I think it is working quite well. Although there have been no section 247(3) appointments that have exceeded that maximum threshold, we find it actually quite useful to retain that capacity should we require that.

In terms of succession planning initiatives, yes, you are quite right: we always look at ways that we can attract and retain staff. We are quite a progressive employer in the sense that, as Mr Strange has already alluded to, we do proactively seek to develop staff, give them opportunities to attend conferences or to present at conferences and be in a position to share and exchange information and skills. Further, we provide opportunities for mobility within the CMC to add and extend expertise and experience, and that has also been very useful because we have given opportunities for staff to act in different positions and relieve in different positions. So we recognise that we are making our staff far more marketable in a sense, but we recognise that our staff do look for other opportunities elsewhere. Our organisation is quite small and perhaps progression opportunities are somewhat limited, but we encourage renewal, especially as we are a small organisation, and we look for fresh opportunities and fresh ideas to augment what we have already learned.

In terms of succession-planning initiatives, we have identified critical positions, such as our financial investigators to identify one particular critical group, and we actively monitor resource levels. In addition, we monitor tenure positions to see where we can extend where there is an organisational need. We have just recently introduced a transition-to-retirement policy, which seeks to I guess have a corporate knowledge transfer to other staff. This particular policy is targeted at our more mature staff—that is, 55 and over—and trying to sort of capture that corporate knowledge and transfer that corporate knowledge to other staff, and this is possible in that environment of mobility. In addition, we have quite aggressive recruitment strategies in place and we are quite pleased that at a recent recruitment drive in our research area we have received a large number of high-calibre applicants. I think that demonstrates that we are regarded as a progressive employer—someone that is well regarded, especially in our research area. We have addressed some of those concerns.

You are also aware that we have engaged KPMG to review our resourcing model and our resource-planning approach and to develop a supply/demand scenario model to assist our future resource planning, and by that we mean that we recognise that there is increased demand on our services across the whole organisation and so we want to be able to understand what that means for our resource requirements. In particular as we transition across to a more civilian investigation model in the police misconduct area, we want to be able to model the implications of that shift. So having the capability to determine what resources we really require, not only in terms of numbers but also in terms of level and seniority, means that we can meet that demand more proactively. So I think we have put in place not only aggressive recruitment strategies but also some retention strategies, giving staff opportunities to develop and improve and develop new skills. But we also have in place certain policies that help us to capture that corporate knowledge, and now we have a resourcing model that will help us to plan in going forward.

CHAIR: Thank you very much.

Mr Strange: I just wanted to perhaps say in summary on that point that we think the current provisions are an appropriate balance between the accepted need for renewal at a senior level in the CMC and an appropriate level of stability. We are recruiting in anticipation of Mr Callanan's imminent departure, and that process does emphasise that the skill set you are looking for in that role is not—

Ms GRACE: Easily found.

Mr Strange: It is quite unique and, in terms of finding a person who is prepared to come and devote their career to working in the public interest with an organisation like the CMC, you are not recruiting from a wide pool in that respect.

Mr MOORHEAD: It is both imminent and eminent.

Mr Strange: True. I think we need to have that balance of stability and renewal, and I think the current provisions work well in that respect.

Mr Callanan: Can I perhaps just add to that in the sense that this has really kind of applied directly to me over the past little while. The way the Act is framed, the potential for a senior officer to go past the 10 years depends on organisational necessity or operational necessity. It is always going to be a call for the commission whether it is time for renewal or there is such an array of circumstances that an individual becomes kind of indispensable. As Napoleon said, the graveyards are full of indispensable men. I do not rank myself at that level. It is always a call for the commission. If you go to the statutory example offered in the legislation, it talks about the situation where you have someone appointed to a senior officer level—that is, an SES level position—and is then appointed assistant commissioner. You are not going to get the true value of that officer unless there is potential for that officer to sit in the chair as assistant commissioner for longer than the 10 years. You may have a very competent director who is there for seven years. You want to put him in for five years, and that cannot happen if the 10 years cuts out. I have been very lucky; I have had 10 years in the position at the CMC.

The other challenge around all of this is if you were to put your hand up, in a sense, and say, 'Look, I'm operationally necessary,' you are kind of ignoring your own endeavours to put proper succession planning in place over the time of your tenure. The other thing with succession planning—and I think it is rather well illustrated in the current situation—is that it does not matter how much succession planning you do; ultimately, you have to engage in a proper merit based selection process. So you may have been bringing someone along thinking, 'This is the way to the future,' but it is a competitive world out there and often—

Ms GRACE: It does not always work.

Mr Callanan: Yes. Better people emerge.

CHAIR: I am aware of the time, so I think we should consider adjourning and recommencing the hearing again at a quarter past 11. I want to thank you for your contribution so far. Thank you.

Proceedings suspended from 10.53 am to 11.21 am

CHAIR: We will recommence. Thank you for your very good answers to questions so far. We still have a few more questions. I might refer our first questions to the member for Waterford, the deputy chair.

Mr MOORHEAD: I am sure you have had the chance to see the submission by Queensland Newspapers through Thynne & McCartney, lawyers, about shield laws. I would not mind asking you a few questions about that, if you do not mind. There were some comments from the previous commissioner, Mr Needham, that he was not worried if there were shield laws as the CMC would not try to compel a journalist. Are you able to advise whether that is still the case now? Is that a standing policy of the CMC or is it just an understood practice?

Mr Strange: No, it is not. I think in this sort of area you would have to judge matters on a case-by-case basis. I have read the various submissions and I think the issue that the lawyers raise on behalf of their clients is a very relevant one. I know that moves are afoot in other jurisdictions at the moment, particularly in Western Australia, to introduce shield laws for journalists. It is an issue that has been around and has been debated by lawyers for some time. Obviously, in any sort of an issue like this—whether evidence that would otherwise be available should be excluded or prevented from being accessed—there are competing public policy considerations and I understand they well articulate the public policy considerations that favour the protection of confidential sources. The other competing public policy considerations are the need at times to get to the truth of what has happened and establish the truth or the integrity of an investigation of a serious matter.

I probably do not have a fundamental problem with what they are proposing in terms of a qualified privilege. I would not support a blanket privilege. I think that is a difficult thing—to excise any potential source of evidence from a proceeding or an investigation. There are other debates about what is broadly referred to as professional relationship privileges, such as confidential communications with a counsellor. There has been consideration in recent times in a number of jurisdictions about protecting from disclosure under subpoena or other form of inquiry or questioning in court confidential communications that alleged victims of sex offences have made with counsellors. There are competing policy considerations there around protecting confidentiality and wanting to promote the openness of that communication as opposed to understanding the truth of what happened and potentially having relevant information available for the defence of a person. Those sorts of issues loom large in any consideration of any potential privilege.

My fundamental position on this is probably that, at the end of the day, there is an option for a court to adjudicate if there is a dispute and a court can balance those relevant public interest policy considerations. In this case, the process would probably work that the CMC would itself do a balancing exercise and if it wanted to persist with a claim then there would be a mechanism of taking a matter to, say, the Supreme Court for an adjudication on whether privilege should be upheld or not.

Mr MOORHEAD: In what circumstances do you see that there would be a public interest in requiring a journalist to provide information on their sources or their information?

Mr Strange: It would depend on the seriousness of the matter under investigation. If it was disclosure of confidential operational information about a police matter that may jeopardise an operation or someone's safety—those sorts of things—it is hard. I mean, you would have to look at it on a case-by-case basis and it certainly would not be something that I would imagine any agency would seek to broach lightly.

Mr MOORHEAD: I suppose you would also hope that media outlets would also be mindful in the publication of that information about those security implications that you are referring to. That might justify the public interest in those circumstances.

Mr Strange: Yes, obviously, you would hope that the reporting of any sensitive issues like that would be sensitive to those sorts of considerations. I would be troubled, I guess, by an absolute blanket—under no circumstances can any agency or court access those communications—because there may well be situations where the public interest would require disclosure. If a court was able to effectively make the call then that is probably a satisfactory position.

Ms GRACE: Are there any practical concerns at the moment that you experience in relation to this whole issue? Is it messy? Is it grey? Does it need clarification? If we were to do anything, should we be moving on this in terms of what WA is doing?

Mr Strange: My own view on that—and I probably speak more from the perspective of a lawyer than an officer of the CMC—is that I think this issue is similar and has connections with other privilege claims. I just mentioned one about confidential relationships, counselling, confessions to religiously ordained officials—that has come up from time to time—and other professional communications. It is an area of the law where similar considerations apply. It has been looked at at times by law reform commissions. It is probably really an area that, if Queensland is ever going to look at adopting the uniform evidence laws of the Commonwealth, as some of the other states adopted, that might be one way of giving this more consideration.

Mr Callanan: Can I just mention this. The coercive nature of the hearings and the questioning at hearings relates to failures to answer questions without reasonable excuse. The circumstances in which we have had, for example, spousal privilege raised in crime hearings at least is not the issue—‘There’s a common law spousal privilege.’ It is raised as a matter of a reasonable excuse. I would have thought that if a journalist does not wish to answer the question, he would say that he has a reasonable excuse for not answering. A decision then by a presiding officer that no reasonable excuse has been made out is able to be appealed to the Supreme Court.

Mr MOORHEAD: That would be a jurisdictional element of any contempt charge, I suppose, too?

Mr Callanan: Yes, and we have been through it several times where people have gone off to the courts and a finding has been made on the reasonable excuse issue. They are asked again and they refuse to answer. They raise the same excuse sometimes or try to raise another one but, fortunately, there is an authority that you get only one bite at that particular cherry.

Mr MOORHEAD: That seems a fairly flexible way of dealing with it. My experience with whistleblowers protection is that there is a lack of public understanding. It is quite a narrow regime to comply with and you only get that protection if you follow the steps in there. We recently expanded the Act to include members of parliament as an agency as well, but even to disclose it to a member of parliament you have to go through those processes. In terms of that disclosure, the whistleblowers protection regime is quite narrow and strict. I have a concern that if you put it in that regime, you might actually reduce the flexibility given to journalists now under your, I suppose, considerations and practices that you have mentioned. Do you think that would be the case?

Mr Strange: I think there are probably some complex issues in that that I would have to think through. I agree with what Mr Callanan has said in the sense of a process that would enable the issue to be raised if there was an attempt to compel the production of information about a source and then a second stage where that could be elevated if the commission was determined to press ahead.

Mr MOORHEAD: Do you think that some of those concerns might be allayed with a better and maybe inclusive definition of ‘reasonable excuse’? I am just worried about creating an entirely new regime when you are saying that there might be an existing flexibility that could be used for the protection of journalists.

Mr Callanan: The definition we have—I should remember the authority, but I do not—is built around balancing the public interest on the one hand in not forcing people to disclose, for example, personal matters or things of that kind as against the public interest in the thorough investigation of the crime or criminal activity. Our experience in Crime, and it has only happened a couple of times, is that journalists can actually be quite good facilitators of the investigative process so long as they feel they still have a grip on the story. Journalists can be approached, not on the basis of ‘Tell us who told you this’, but ‘Can you be the go between, between us and your source?’, and a couple of times we have had some success with that approach.

Mr MOORHEAD: In that regard you are saying that the implied protection that there is currently in some ways gives that degree of separation and comfort to informers to provide that information?

Mr Callanan: Yes. You can get a much fuller picture than perhaps is emerging in the media.

Mr MOORHEAD: In the submissions by the media outlets there is also some referral to the New South Wales legislation and the WA bill. Have you had a chance to look at that and does that raise any concerns for you? I know that you said you were not concerned about the concept, but are there any concerns in those particular legislative provisions?

Mr Strange: I have not looked at the WA bill. I have had a look at the New South Wales provision that was attached to the submission. My only comment on that would be that I think it would be a piecemeal approach to apply such legislation simply to the CMC. I think there are broader policy issues in play here as to the recognition by the law of that privilege. It relates to other court proceedings as well. I think from a law reform point of view it should be looked at in the broader context of whether our law wants to recognise a particular privilege for confidential journalism sources. If so, it would apply for criminal proceedings and perhaps CMC inquiries.

Mr MOORHEAD: What about in terms of telecommunication interception powers? I suppose there are two elements to it. First, would you consider using those powers for a media agency and, second, I am sure there are examples where people who are being intercepted use those phones to contact a media agency. How do you deal with those two arms of TI powers?

Mr Strange: To answer generally, we obviously give very close consideration to when we may bring an application for access to our telephone intercept powers. All of those matters are given very close consideration. If there was the context of contact with a journalist, that would be a very relevant factor that we would have to look at.

Mr MOORHEAD: I suppose I am thinking of recent media reports from Victoria of a ministerial adviser who I understand had his phone conversations recorded and that involved conversations with the *Herald Sun* newspaper, members of the Police Service, and former members of the Police Service. The OPI report raises some concerns about that as an inappropriate relationship between a public servant and a media outlet. Do you think something similar to that would happen in Queensland and do you think that is a reasonable use of TI powers?

Mr Strange: I know that some aspects of the Office of Police Integrity report are contentious in Victoria so I do not perhaps want to pass judgement on what they have reported on. I have not read the report in great detail; I have read the summary. I think one of the fundamental factors in that situation was the engagement of a serving police officer in that ministerial adviser capacity. We do not have any arrangements like that and have not, on my understanding, had any arrangements like that in Queensland for a number of years. I think the OPI report itself speaks to the fact that such a relationship can be problematic.

Mr MOORHEAD: I am not sure that it is the case at the moment, but I understand that often the QPS have a departmental liaison officer who works directly with the minister's office. I was concerned about that element of the report that deals with connections with the media. I am sure that would, probably rightly, cause concern for some media outlets and probably has caused some concern in the *Herald Sun*.

Mr Strange: Going back to the point about TI, our interest is in terms of people who are within our jurisdiction. We would be looking at those people as our targets.

Mr Callanan: It is not every minor transgression that will see an issuing officer permit telephone interception to happen. As I mentioned earlier, here in Queensland we have the role of the PIM.

Mr MOORHEAD: I accept that you are probably not going to go out of your way to get telephone interception powers for communications with a journalist, but I would suspect that, like the OPI case, there are probably many cases where that is a small element of a larger investigation. Do you automatically exclude those conversations, or what happens with that?

Mr Callanan: I can only speak from the Crime experience. One is not entitled to intercept conversations, either telephonic or being held in a house where there is a listening device, for example, when the topic is a matter which is the subject of legal professional privilege. What occurs is that the listening ceases. If the material being listened to is being recorded, say, overnight, that is identified and quarantined. I would not think an indication that someone has rung a journalist would cause those monitoring it to cease monitoring. There is no legal obligation on them to cease. Until you get enough to know what the topic of the conversation is, criminality or something else, I would have thought standard operational procedure would be to continue to monitor.

CHAIR: Are there any further issues that come out of these deliberations that you feel we need to consider? These were issues that were going to be raised by Queensland Newspapers. We are somewhat uncertain as to what you feel. Is it a case of 'watch this space'? Is that what we are hearing?

Mr Strange: I suppose I can just reiterate that I think it is a broader policy issue for decision. I think it should be looked at in the context of perhaps whether Queensland should be adopting a professional relationship privilege or a journalist confidential source privilege as part of our law—not just in application to CMC investigations but also disclosure of sources in court when a charge is being heard against a person or there is a civil claim for damages or something like that. Given the competing public policy interests, I think it merits a wider approach of consideration of those issues as a potential law reform project, perhaps. I have not checked the history of when both the Australian Law Reform Commission or the Queensland Law Reform Commission last looked at privilege issues. I know the ALRC has operated in that space quite often.

Mr Callanan: What would be of great assistance, of course, is to have some judicial commentary on it, perhaps in the context of a claim of reasonable excuse, but I cannot see us being in the business of calling in a journalist just to get up a test case.

Mr MOORHEAD: Do you see these types of privileges, qualified or otherwise, as impinging on your investigatory processes, whether in Crime or in Misconduct?

Mr Strange: I suppose potentially you may be excluded from getting some information, but there are other privileges that apply at the moment—legal professional privilege, which John just mentioned. The policy rationale for that is well articulated and well understood and accepted as part of our landscape. I could not see it being a huge area, just based on past events.

Mr Callanan: We have consistently made submissions around the abrogation of spousal privilege. It is a significant impediment to the point that we have people, after the service of notices, running off and getting married.

Mr MOORHEAD: They might be able to get civil unions soon, too, John.

Mr Callanan: Spousal privilege is spousal. We often have to remind people who think that because they have been in a 30-year de facto relationship they are married. To be serious, if, for example, there was a media report published which purported to give an expose on the basis of a confession by an offender in respect of a murder we were investigating, the issue would squarely raise itself and we would have to, I suspect, deal with it in the way I have been talking about.

CHAIR: You are sort of saying that we should be reactionary in some respects?

Mr Strange: I think it is an issue that, again without direct knowledge of when the law reform commissions may have last looked and made recommendations about it, is a topical issue. It is on the agenda in Western Australia. New South Wales has enacted those laws. We are tending to see a greater harmonisation of evidence law across Australia so it is potentially one that I think would be ripe for review and consultation with all of the stakeholders that might have an interest in it.

CHAIR: Thank you for that.

Mr Strange: I wanted to add to something Mr Callanan said. It is a similar position in Misconduct. We may approach journalists at times and endeavour to secure some assistance. Often the source for the journalist is motivated by the public interest and will want to assist in some way once they become aware that we are conducting an investigation. There are ways of progressing our interests without necessarily transgressing on that relationship. We do have regard to those sorts of realities and can ask the question.

CHAIR: There have been some changes to the Local Government Act 2009. It brought in significant changes to the way the CMC would be participating and monitoring local government councillors. We would like some advice from you about how long you envisage the joint complaint assessment process with the department of local government and planning would continue for and what might come of that.

Ms McFarlane: I think there will always be a need for some discussion and involvement, particularly in the more complex area of local government, Indigenous councils and the like. We will always do that. I suppose it is not a major part of what we do in relation to the assessments. It really tends to deal with the very complex issues, particularly ones where there is difficulty in resolving them. I think there will always be a process for that joint assessment to go on. It is not the only assessment that we do. We will have day-to-day assessments of issues as well.

CHAIR: On this topic, you give local governments advice. They may come back and say what they are wanting from you and in that process what has transpired or what may well transpire is an area that is raised almost continuously in the press. That does not necessarily mean that it is the most important thing on the agenda, but it certainly gets a lot of notoriety.

Ms McFarlane: At the moment we are trying to scope out exactly what it is that is required. We are looking at our Building Integrity program and introducing that into local government to see exactly the extent to which it can be introduced. Certainly we have had submissions from them in relation to how they investigate matters and we are working with them and the LGAQ as to how we might be able to assist them better. As Mr Strange has said, we now have a local government program that specifically prioritises matters in relation to local government. As far as assessments are concerned, something like 60 per cent of complaints about local government are generated from the local governments themselves. They will come forward. They can deal with a lot of those matters themselves. Complaints against councillor issues are probably the most problematic. It is difficult for CEOs at local government level to be able to deal with that, hence the changes to the Local Government Act in relation to the department's intervention. That is probably the area where we have the most difficulty, because it is difficult for local governments to deal with. It is not a sector where we have high volumes and a lot of issues raised in relation to what we can do for them.

Mr Strange: We are working closely with the sector in terms of our prevention resources. In the coming week our prevention team is heading out to St George, Bollon and those areas on a prevention trip to meet with councillors and officers of councils to do some presentations and talk to them. That is an active part of our engagement.

Mr MOORHEAD: I have some queries, particularly about smaller local councils. Sometimes the costs of compliance require a critical mass to make it cost effective. Some of those smaller councils have part-time councillors, small workforces and a CEO who lives and breathes with the councillors every day.

How does a CEO in that position effectively run an independent investigation process? Secondly, the resourcing that is required for a council of a small size to maintain an independent integrity process seems to be extraordinary. It might be better if they could find an independent investigator to come in. It might be more cost effective than having the local CEO do it.

Ms GRACE: And also the public confidence in that process. Would the average person in the street really believe that that is an independent assessment?

Mr MOORHEAD: Is there a point where the devolution process might go too far in terms of those little councils where actually it may be more cost effective and have greater public support if there was an external investigation from a body like the CMC or even a contracted agency?

Mr Strange: It is a difficult area. I think there is a difficult balancing exercise. Many of those complaints will fall short of official misconduct. Because of the limited definition, official misconduct for an elected official such as a councillor must involve a criminal offence. It may be conduct that falls short of that. What technically could amount to the release of confidential information perhaps was just an unwise comment that does not require the big stick of a CMC criminal focused investigation. On the other side of the argument, often there is not that pressing public interest requirement that the CMC itself devotes its resources to investigating. There are a couple of factors that I think are relevant, particularly for the smaller councils. One is the appointment of the new local government integrity commissioner, the Hon. Joan Sheldon, who came along to a commission meeting some months ago and we had a meeting with her about her role.

Mrs Bell: That role is of interest because it has been appointed within the local government organisations. It does not have a statutory basis. Therefore, it was necessary and Joan herself requested that she come and talk to us to really just see that we were all singing off the same page, I suppose. I have not heard a great deal more about how that role has developed, but it was an interesting initiative on behalf of the local government organisation itself.

Mr MOORHEAD: I suppose my view is that Queensland has some of the largest councils in the country and some of those large councils—Brisbane, Logan, Gold Coast—are large enough to have their own investigatory processes involving people who are relatively at arm's length from councillors and from other staff who may be connected. I would be interested to see whether that might be of particular assistance to smaller councils. The towns you are visiting next week are the sorts of towns that have smaller councils and there is not that arm's length relationship. There is not the degrees of separation; I think six may be an overestimate.

Ms McFarlane: I would make the point that, having been through the issue of the Building Integrity program in relation to the public sector, we are very conscious that it is not a one size fits all for local government. In doing that, as I said, we are scoping it. As part of that scoping we are talking to the LGAQ, the LGMA, the Ombudsman, the Queensland Audit Office—all of those offices—to say how best do we introduce that while allowing councils to take some responsibility for the integrity of their council. Organisations such as the Brisbane City Council actually are providing an investigative service to other councils to assist them in doing that. I think with some of the larger councils perhaps that will be part of that ongoing process. When I spoke earlier about institutional integrity, whether we would say that a small council in regional Queensland should have a dedicated integrity unit is probably questionable. I would say we would not. Would the Gold Coast or Brisbane City Council? Perhaps yes. Part of the process that we are going through at the moment is to try to work out what is the size that fits the integrity processes within local government.

Ms GRACE: Are you speaking with the local government authority, the LGAQ or someone like that to talk about how much the smaller councils would take up the offers from larger councils such as the BCC or the Gold Coast council to conduct an investigation? Are you getting a feel for whether that is a feasible proposition?

Ms McFarlane: We have not got any feel for it at the moment. We know the questions we need to ask, but some of the councils are a little sidetracked still with the events of earlier in the year. The local government elections impact on a lot of the time you will get in relation to some of these things. We are moving forward in a reasonably slow process, but certainly we will be taking it up with all those other organisations, particularly the LGAQ which has a lot of resources in those areas as well.

Mr Strange: In that context, I spoke earlier about conducting a risk assessment of the local government sector. Part of that is aimed at identifying the different issues that might present for the different sized and located councils. We recognise, as Ms McFarlane said, it is not a one-size-fits-all environment.

CHAIR: I would like to cross to the Indigenous issues. The most significant one that occurred, of course, and that was completed this year was the Palm Island matter. I do not really want to get into the specific details. We are seeking some reassurance. Can you tell us the steps that have been taken by the commission to restore public confidence in the process of investigating deaths in custody, so that possibly we can reassure people that things have been considered and steps taken and that the issue has been considered in depth?

Mr Strange: Yes. The current position is that the State Coroner has ultimate responsibility for the investigation of those deaths that happen in actual custody or result from a police event or operation or police contact. There is ongoing dialogue between the CMC, the State Coroner and the Queensland Police
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Service and more recently government in the context of the police disciplinary review. That has been about working towards new arrangements and a new model for investigating those deaths. At the present time we are acting under agreed interim arrangements that see the CMC taking a much more active role. What happens now if there is a police related death such as a death in custody or a death that might happen as a result of a police pursuit or an alleged police pursuit—there was a matter quite recently where it appears that a fellow suicided but did so some hours after being spoken to by police who were called because of his mental health state—those sorts of matters all fall within the definition or consideration of a police related death.

What happens now when an event like that occurs the police immediately notify the Coroner and they immediately notify the CMC through Ms McFarlane's area during the day or through our on-call superintendent after hours. We have officers on call, which is usually an experienced police officer and one of our more senior civilian investigators. We will go and attend at the scene of the death, either with one or two officers depending on what we know about the matter. Our role is to turn out and ensure the probity and sufficiency of the initial investigative response, which at the present time will be carried out by officers of the Ethical Standards Command reporting under the direction of the Coroner.

Some of the issues that were identified as having plagued the Palm Island investigation from day one such as conflicts of interest, degrees of nonseparation between the investigative staff and the subject officers or officer and witnesses, preservation of the scene, separation of witnesses and those sorts of issues, we oversight that things are happening properly there. We will engage and we will stay engaged in the early stage of the investigation in an oversight role. We will monitor all of the information that is gathered to ensure that all the proper inquiries are being undertaken. We may attend an autopsy or follow through with the matter.

In appropriate cases we have liaised with family members to explain what our role is and to promote confidence in the process. In one particular case—I will not go into the details—where the father of the deceased was quite hostile towards the police, but upon speaking with our officer he understood his role and our independence. He regained some confidence in the investigative process and then provided a statement as a result of our liaison with him. Those are the sorts of things we attend to.

The capacity is obviously there for us to take a lead role in an investigation if it looks as if there is police misconduct. We will stay engaged until we make a decision, in conjunction with the investigators and the Coroner, about any police misconduct issues. Thankfully, the overwhelming majority of these matters do not involve police misconduct. There may be some minor procedural issues occasionally identified, but the vast majority do not involve suspicions of serious misconduct. If a matter did, if Palm Island happened again, we would be in a position where we could lead on the investigation, working together at the Coroner's direction from the outset. We would be able to put the necessary resources into that investigation.

Ms GRACE: Do you have adequate resources to be able to do it now and are there other areas that may suffer because of it?

Mr Strange: We have deployed resources to this area.

Ms GRACE: I think it is a good point. I just want to add that my question relates particularly to the remote locations—the ability to get to some of these communities.

Mr MOORHEAD: Watch-houses in regional communities.

Mr Strange: That is a very relevant factor. I was at a forum that the OPI in Victoria held about the best practice for investigating police related deaths. They have been looking at their model there. We had a speaker from the English Independent Police Complaints Commission. They investigate police related deaths. They do very little else by way of serious investigations. They do not really do corruption or drug-trafficking investigations—very rarely. They spend nearly all of their resources on investigating police related deaths. They made the point that they get there and take over the investigation immediately. We are never going to have that luxury in Queensland. We can be two days away from the scene during the wet season in North Queensland. We will have to rely on local police in that area working, subject to the direction of the coroner and with input from ourselves and the Ethical Standards Command, to attend to those immediate steps such as preservation of the scene, protection of evidence and those sorts of things. We need to recognise the reality of that.

I think we turned out to 11 deaths in the last financial year. That is either one or two officers. About two-thirds of those were in regional Queensland. The rest were in the south-east corner, or metropolitan Brisbane, the Gold Coast and Sunshine Coast. That is a significant resource commitment. We think these matters are at the most serious end of the spectrum and public confidence is paramount.

Ms GRACE: Definitely.

Mr Strange: This organisation must have a role and must have a leading role in ensuring that the public can have confidence that, when those events occur, a rigorous, independent oversight of the investigation is occurring.

Ms GRACE: Do you feel like you need any further assistance from this review with regard to the CMC's involvement? Are there any impediments that need to be removed? Is there anything that you feel needs to be done in relation to what I think is a crucial role for your organisation in these kinds of cases?

Mr Strange: One issue will be if we transition to the civilian staffing model, that we have adequate powers to undertake these investigations. That would basically require the full array of police powers. If we became the lead agency on an investigation of a death that looked as if it involved serious misconduct, we would need crime scene powers and all of those sorts of police powers that our officers do not have at this stage. Beyond that, at the moment there is a memorandum of understanding in draft form between the coroner, the Queensland Police Service and the CMC. There are some issues to work through just in terms of practicalities of how the proposed investigative model and roles will operate, but that is a work in progress at the moment.

Ms GRACE: Just in general, can you expand on the strategies that the commission has put in place that provide greater emphasis on the needs of Indigenous Australians in relation to the work carried out by the CMC? I think that relationship is important. I know that you have addressed it at page 52 of your submission. Can you just expand on the work that has been done in relation to that?

Mr Strange: One of the key strategic initiatives that we want to undertake in the coming six months—the first part of next year—is to develop an integrated Indigenous engagement strategy. We have significant contact with Indigenous people.

Ms GRACE: Throughout the state?

Mr Strange: We do, yes. We all know about the gross overrepresentation of Indigenous people in the criminal justice system at both the adult and the juvenile levels. That has reflected that the number of Indigenous complainants to us is higher than the Indigenous population. We recognise that we have key relationships with agencies such as the Aboriginal and Torres Strait Islander Legal Service, that they play a really significant and important role in facilitating their clients bringing forward concerns that they may not individually feel comfortable sending to an agency like the CMC. We do a great deal of work with Indigenous councils, which we have touched on in talking about local government. We are working with them to ensure they have appropriate integrity frameworks and we deal with complaints about misconduct appropriately. We work with a lot of other Aboriginal and Islander organisations.

What we want to do is draw together an integrated strategy of how we engage with those organisations, councils and communities. We do a lot of research work in that area as well, such as the Restoring Order research project and follow-on work relating to policing in remote Indigenous communities. We want to have an integrated program that gives appropriate coordination to how we engage and that ensures that we deal with all of the relevant issues, that we engage appropriately and that we are addressing the needs of Indigenous people, Indigenous communities and stakeholders throughout Queensland. Some of the nuts and bolts of that will be steps taken to improve the number of commission officers who identify as Indigenous. We have a small number at the moment. We do have some dedicated positions such as two Indigenous liaison officers who work in my area and an Indigenous complaints liaison position. Something that we commenced last year is an Indigenous cadetship under the federal government scheme for supporting the employment of young Indigenous students. We have taken on a young law student, which has been a really successful and positive exercise. We are looking at those sorts of initiatives to increase our staffing base as well.

Ms GRACE: Thank you. That is great. I was going to ask about the numbers of Indigenous staff on the CMC payroll.

Mr Strange: It is a small number at the moment. In a percentage term it would be slightly below the population percentage, but we are definitely seeking to increase that. We have targeted employment strategies including secondments of suitable officers from throughout the public sector.

Mr RYAN: Can I take you to your comments about the Setting the Standard report and, of course, the independent panel's response. You make particular note about recommendation No. 11 being an important recommendation, in your view, and no comment was provided by the independent panel. I was wondering whether or not you had any other comments about those recommendations which were not supported or taken up by the independent panel and how important they are to maintaining integrity in the QPS.

Mr Strange: I think both of those recommendations have now been taken up by government outside of the actual review panel's report and both are moving forward, I understand. They are the recommendations for an enhanced transfer power for the Commissioner of the Police Service and a recommendation for a commissioner's loss-of-confidence provision. We saw them both as important for the reasons articulated in that report, particularly the commissioner's loss-of-confidence provision. I imagine Deputy Commissioner Stewart could speak about that this afternoon. We think it is a key aspect of powers that the Commissioner of Police needs to properly manage his organisation.

At times the disciplinary system may not be the answer to dealing with some problem behaviours. There is often significant crossover between the performance management issues relating to an officer who is problematic and discipline issues. The commissioner, who is responsible for the Police Service, needs to be able to look at the whole of an officer's behaviour, history and service and make a decision about whether he retains confidence in that officer discharging the unique duties of a police officer. So we strongly support giving the commissioner that power. There are similar powers vested in many other state police commissioners throughout Australia which operate with varying degrees of success. I think we did some analysis in the report about that, but we think it is a key power that the Police Commissioner should have.

Mr RYAN: There has been a draft—I believe it is still in draft stage—policy released by the commissioner about discounts for police at fast-food restaurants and other incentives that they may receive for attending certain venues. I understand that, while it is in draft stage, there is some application of that policy already amongst serving and operational police officers. Have you had any feedback at all about how well received that draft has been and the process now for perhaps finalising or amending that policy?

Mr Strange: We are considering the draft at the moment. Queensland Police Service has sought our comments on it. I think I have a draft responding to the draft sitting somewhere on a desktop at the moment to look at. Certainly we have looked at it thoroughly from the perspective of our prevention officers, Misconduct and Research; we have all been involved in this phase and we will provide our comments on that draft. QPS is working towards the end of the year as the date for having it finalised and going live. I am not quite sure about the dates.

Mr RYAN: Have you had any anecdotal evidence at all about how the community is responding to that draft and how also the Police Union has responded?

Mr Strange: Not beyond what has been said publicly, I think. At the time of the Tesco hearings there was quite a lot of public comment about where the line should be drawn and whether police should accept anything for free. I understand from what it has said publicly that the union has been quite strident in its opposition to removing the access to discounted fast food. Beyond that, I am not aware of the detail.

Mr RYAN: It would be interesting to see if it does move to a position where there is some community input into that process, because the anecdotal evidence that I have is that, to some extent, the serving police officers understand the motivation behind the draft policy; it is more the community who is saying, 'If we're going to give them half-price Macca's, that is a way of us saying thank you to them for serving their community.' I think there is a broader conversation around how we educate the community about why this policy is important, should this policy be finalised by the commissioner.

Mr Strange: I think that is very true in terms of the expectations of the Police Service among the general community and particular business owners or vendors.

Mr RYAN: While I have this opportunity, Judith, you have been around for a little while—not long, but a little while. Were you around for the last three-year review or did you come in just after?

Mrs Bell: I do not remember being here for it previously.

Mr RYAN: You were not summonsed?

Mrs Bell: No.

Mr RYAN: We did not use our summons powers?

Mrs Bell: I do not think so. I can remember the preparation for it, but I do not think I was actually here.

Mr RYAN: As the only part-time commissioner here today, is there anything you want to contribute above and beyond what we have already heard?

Mrs Bell: It was going through my mind when Grace was asking, 'Are we equipped to do various things?'—and it is in this paper—that the implications for our not being able to use police are considerable, particularly as we may have to train non-police just for procedural correctness in things, and that is expensive. I know that it is pointless standing here whining about how we need more money because there is not a lot of money. The implications of that decision are more than just the personnel; they impact quite a deal on our expenses and also our relationship with the QPS because that was also a very fruitful relationship. I regret that decision. I can understand what motivated it, but I regret that decision.

The only other thing that I think I would say as a part-time commissioner and a non-lawyer and a non-police person, which makes me fairly unique, is that the timeliness of appointments to the commission matter enormously. I do not know whether that is of interest to you or that goes through departments. It certainly is a thing that impacts a great deal on us as an organisation, and I would just draw your attention to that. We have been really remarkably lucky in the people who have been appointed—and I have spoken about this before—and the quality of the contributions is extraordinary. I was reminded of that when we were talking about John's departure, because there are very few people standing around waiting to put their hands up to come and work at the commission and do the sort of work that he has done in such an exemplary fashion for so long.

I did not like the idea that we needed to get rid of him. But it seems that we are a victim of our own policies. I could have put up with him, even though he is very curmudgeonly. We could have done with retaining that kind of astonishing ability and corporate knowledge. However, I am sure someone else will step up and that will be to the advantage of the organisation.

Apart from that, there is the ongoing matter of certain staffing such as our financial investigators et cetera. We have talked about that before. I do not think there is anything else that I particularly wanted to say to you. I have been very impressed with what my colleagues have been saying.

CHAIR: Judith, are you saying that we have been tardy in the appointment process, that it has been too slow?

Mrs Bell: Yes. In the past we have been waiting a great deal of time for a replacement for various part-time commissioners.

CHAIR: Should we put a time limit on it?

Mrs Bell: I do not know.

CHAIR: It is a difficult thing.

Mrs Bell: It is a difficult thing because finding the right people is difficult. But it seems to me that these sorts of appointments should be taken more seriously because the commission is at a disadvantage without its staff. Particularly, for example, as Martin has had very serious health issues, we really have needed all of our part-time commissioners to be in place.

CHAIR: So we should consider that as a recommendation.

Mrs Bell: I would personally like to see that as a very strong recommendation.

CHAIR: The second issue with regard to Mr Callanan, although he did give a very elegant explanation as to why there is a time limit, or a time expired limit, as to whether people are actually time expired by virtue of their capacity or by change—although his argument was that change is good and being merit based is good.

Mrs Bell: Yes and he is right. It is just that you do not find a lot of candidates.

CHAIR: We agree. We see that with regard to the proceeds of crime and the financial investigators.

Mrs Bell: That is a real worry.

CHAIR: That is a real concern and we obviously have to approach that very seriously. We took that on board earlier. Whilst we have not specifically asked questions too much today, it has been alluded to.

Ms GRACE: I think your recommendation is to expand the types of properties that can be confiscated. I think you talked about wood harvesting or water resources and white collar crime in your submission in relation to obtaining proceeds from crime and expanding your ability in relation to those areas. If you do that, you want to be sure you have the resources to be able to enforce it when the opportunity arises.

Mrs Bell: I have said before that for the public nothing speaks more eloquently than the message that crime does not pay.

Ms GRACE: Yes.

Mrs Bell: It is very reassuring for the citizenry to see that that is happening and that we are doing our bit to see that it does happen.

Ms GRACE: I note from your chart, too, that you actually retrieved more with less staff this year. I am only joking but it does not work that way, does it? It is a very important area, isn't it?

Mr Callanan: There is a balance there. There has been an increase with fewer staff in the actual settlements and forfeiture, if you like, but there has been a drop off in the restraining actions that have been able to be taken. So we have a waitlist building up.

Ms Mendelle: If I may add to that, earlier we spoke about the CMC adopting a much more aggressive stance in recruiting quality people and implementing strategies to try to retain those staff. I think that we also have to consider at some point our competitiveness to retain specialist staff such as financial investigators because the reality is that we do need to compete.

Ms GRACE: Yes.

CHAIR: We have taken that on board. Also, we should not be fearful about training people, because just because they are not retained within the organisation they then dissipate into other areas and that is actually good for us possibly in the longer term. You do not necessarily need to have all of those people within the organisation. We will take that on board, and what you have also said, Edith, we will strongly consider and we hope that that comes out of the inquiry. That probably leads into another question with regard to research.

Mr Strange: I just make one point before we move away. It relates to the appointment of the part-time commissioners. One of the problems if there is a delay in recruitment is that the statutory requirement for a quorum for the commission to have a meeting is three commissioners but to adopt a report is four commissioners. If we are one down on the fighting weight of five, it can present problems that there is not a quorum to adopt a report if someone is away. Given that four of the commissioners are only part-time appointments, they have other obligations and commitments at times. That can lead to a delay in the adoption of a research report or an investigation public report.

CHAIR: Are you flagging that we should consider the issue of co-opting? In view of the fact that we cannot set a fixed time, is co-opting something that you are flagging?

Mr Strange: Probably the best way to approach it is early intervention. We know that the part-time commissioners are on fixed terms. So we should ensure that the process starts and runs to milestones so that it is completed with ample opportunity for progression or transition. We have seen some processes start too late where we know we are never going to get an appointment made by the time the incumbent must retire from the role. So I think that is the position that we have adopted before.

CHAIR: That is a good point. We have made some recent changes to allow our commissioner to be out of the state. Those sorts of minor technical things have to be addressed and they are as important as anything else, because if you do not do some steps right you can make a fatal error. Having said that, I will go to the issue of research. I know that this is an area that has been much discussed in our discussions prior to this. Research is an important part of the function of the organisation. Are you confident with the changes that you have made to your structure with regard to research to the extent that the CMC will be able to still engage in this area and deliver reports—the report is very good with regard to this—and that we can reassure the public and the parliament to some extent that that function will be retained and going forward maybe improved and enhanced?

Mr Strange: I am confident. All the signs are there that our research area is producing much more timely outcomes now and realising that the work that it undertakes has to be relevant to our functions and the needs of government and the other stakeholders that we engage with. We recognise the need to communicate with those stakeholders to ensure that we engage effectively.

In the area itself, as Ms Mendelle mentioned before, some recent recruitment processes have seen some really positive application pools of significant numbers of applicants of high calibre. That is a significant change. Going back some time we were not seeing that. So we have been able to fill vacancies as they arise. That helps obviously with the timeliness and the quality of the product. In terms of what Mr Callanan mentioned about the production of the criminal paedophilia digest reports, again I think that is a very positive sign of health that a very relevant piece of work has been delivered on.

The restructure is designed to ensure that our research area engages more closely with our key functions. We are looking at potential research opportunities in the witness protection area, which is not something that has been given close attention by our research area before. But it is a key function for the CMC. We are exploring potential opportunities in that regard.

I really do see very many positive signs. I should acknowledge the leadership shown by the acting director, Rebecca Denning, in that regard. Certainly the staffing numbers are good, the outputs are good and all of the objective signs from my perspective are very positive at the moment. So I do have that confidence.

Mr Callanan: Perhaps I can add to that. I am more an external stakeholder to applied research and evaluation.

Mr MOORHEAD: Because you are the one being evaluated, is that right, John?

Mr Callanan: No. We are trying to evaluate them. I have noticed a real change, I have to say, just in perhaps the last 12 months. There were always a lot of distractions for research from crime research, as I had always envisaged it—which was more in the way of, as it says, applied research in particular with an operational focus. I think we are getting there. I think the distractions that have been around have dissipated. It is one thing to talk about those papers. But just within the last couple of months I have found AR&E to be responsive to requests we are getting from government. The Sentencing Advisory Council has been commissioned to look at the level of sentences in Queensland for child sex offences. We want to contribute to that. I am able to speak to my colleagues in research, and we have one of their researchers helping us put together a contribution to that process.

Similarly there is a Commonwealth government cyber white paper on what issues will be likely to arise in the next 20 years. Somewhat surprisingly at least to me, their paper identified young people as an issue but in the context of harassment and bullying. Nothing was said about the use by paedophiles of the internet to groom children, to use it as a way to further proliferate child exploitation material. So again we were able to engage with research and there will be a crime and research response to that. I might say that when we got on to the Commonwealth officials they were very glad to hear from us because they recognised that it was a dimension to it that they really had not identified.

CHAIR: I have one final matter on the research issue just to complete that area. Are you happy with the changes that have been made? Are you happy that the problems have been dealt with comprehensively? I heard the point about recruitment. I am pleased to hear that we have people applying for jobs and that we have high-quality people coming on. Have all of those things been dealt with and can we be reasonably reassured that we have actually learnt something from it and that the organisation is stronger because of it?

Mr Strange: Yes, I think that is definitely the case. To take the example I raised before about the development of human research ethics processes, there have been clear learnings in that respect. There is a particular project to identify and address those issues to ensure that we have that covered for all future matters.

Ms GRACE: Just on that, too, I know you did some research about the public perceptions of the Queensland Police Service, which is very important. I think the commission identified that the perceptions of police treatment of Indigenous persons, their interaction with young people and misunderstanding about the complaints process could be improved. Could you give us some details about how you are monitoring these matters and how the commission is dealing with them?

Mr Strange: Ms McFarlane could probably address this in more detail than I—

Ms GRACE: It is at page 59 that you made the comments in the submission.

Mr Strange:—in relation to some of the factors that we take into account when dealing with particular complaints from some of those groups.

Ms McFarlane: We have a process of categorising our complaints to ensure we have the right level of people dealing with issues. One of the issues we are very conscious of is Indigenous people's interactions with police. We ensure that is addressed at our assistant director level so we identify that as an issue of concern to us. We engage quite often with the police about them engaging with ATSILS and other representative bodies coming forward. On a case-by-case basis we relate to ATSILS quite a bit. They facilitate a lot of information coming to us from people, but certainly from identifying whether it is an Indigenous person who has a complaint with police we make sure that is a priority for us in our assessment process and our dealing with process as well.

Mr Strange: Through our monitoring and our audit work we detected an issue with police compliance with statutory provisions around questioning of juveniles. I think we have addressed that in our submission. It may not be in this submission; I think it was in our annual report. But we did some work with the Police Service to improve awareness and understanding of those sorts of specific provisions relating to how they deal with young people.

CHAIR: This is a general question. I think we have exhausted all the other things so we are getting towards the end. Sometimes there are questions or recommendations that you feel you would like to state to us that relate to many things. In terms of priorities, what would you like as outcomes of this process or recommendations that you feel we need to take on board that may encompass a whole series of things? Just straight off the top of your heads, if you could state something that you would like to come out of this process. It does not have to be heavily based on research. You are right at the coalface and we would like to hear what you feel. You are departing, John, so we would definitely like to hear anything you have to say on this issue.

Mr Callanan: I will let Warren start.

Ms GRACE: If you had one thing, what would it be? Do not answer it straightaway.

Mr Callanan: I can answer it straightaway because it has been the major bugbear of my tenure, and that has been the difficulties and the challenges we have had around Proceeds and staff recruitment and retention into that area. As Judith has said, it sends a strong message to the criminal element that crime does not pay, but it also has the unique aspect to it that it is actually income positive for the state of Queensland.

Ms GRACE: Is there any legislative change or other changes that we could make to make that easier, or is it merely the difficulty of getting people who are experienced in that area to carry out that function?

Mr Callanan: It is the latter, not the former. Given the reviews that have occurred over the last several years, I do not know that the legislation requires any further tweaking. The civil confiscation of proceeds of crime is sometimes described as being draconian. I think the balance in the legislation at the moment is right.

Ms GRACE: There is talk about expanding what you can actually confiscate, and I think that is something that seriously needs to be looked at. But then the other part about having the unit adequately resourced is one that I think you are indicating, John, we really do need to keep our eye on.

Mr Callanan: My view is that once something is in legislation you are mandated to do the best you can in respect of it. If we create wider categories of property that are susceptible of restraint and forfeiture, what are we going to do about it? It is the same with our major crime work. We have responses which vary according to what intel tells us constitute the risk. We are responsive in terrorism. We are proactive in organised crime and criminal paedophilia. I do not know what the solution is. We have discussed it up hill and down dale. This is one thing law enforcement elsewhere pushes: the notion that the CMC administers the Act; it should get a return from the forfeited property. The difficulty with that is the old issue of revenue raising—

Mr MOORHEAD: Incentive.

Mr Callanan: Yes, the suggestion that deals are being made. That is why I personally have always taken the view that it is better that it is forfeited to the state and goes into consolidated revenue or perhaps there is a confiscated assets trust which has a number of objectives.

Ms GRACE: Has it been considered that maybe this is a function that could be outsourced? Rather than it being done inside, you could contract an expert body, organisation or company to carry out the function for the CMC. Of course, you would have to have all your checks and balances in place. Is that an option the CMC has looked at? Are there any barriers to pursuing that option?

Mr Callanan: We seem to be able to do it at the moment on the smell of an oily rag, so to speak, so the notion of outsourcing it is not appealing. I think the costs would maybe not skyrocket but they would be considerably more.

Ms GRACE: It could be based on a percentage of what they bring in!

Mr Callanan: Then you have the same questions: are you doing deals to get the big bucks?

Ms GRACE: I better for the record say that I said that in jest.

Mr Callanan: We will note that.

Mr Strange: There are probably two things from me. One relates to the reforms to the police discipline misconduct and complaints system. You will probably hear a similar theme with this afternoon's witnesses. All of us recognise there are significant problems in the current system that need to be addressed. We are hopeful that the outcomes of the review process will do that, but the agencies involved will need to be supported to implement those reforms. There will be some resourcing consequences for us and for the Police Service. Improvements will come at a cost. That is a key issue. I think there is considerable will to effect change and there is a clear need to do it, but it will come with some resourcing implications which the review very openly recognised.

The other thing is, I guess, legislative change and, going back to the last review, the issues that were identified in chapters 3 and 4 of our Act. I know that the government through the Department of Justice and Attorney-General is progressing that, but it has taken considerable time. This is about the harmonisation of provisions, the different regimes that exist across Crime and Misconduct and our other functions for claiming privilege. It comes about because of the bringing together of two pieces of legislation rather than drafting from a starting point of one Act. It is confusing for our staff. It is very confusing for external parties and there are a number of issues that we would like to see resolved that we have raised before.

Ms GRACE: Mr Strange, I think those recommendations are pretty clear in your submission, are they not?

Mr Strange: Yes, they have all been canvassed before.

Ms GRACE: There is nothing new that you would want to add?

Mr Strange: No, not beyond what we have addressed in our material. We are happy to be engaged in the process of amendment and any potential change, but we would like to see that taken forward.

Mr Callanan: The same applies to me. What I said is all captured rather more articulately in the submission itself.

Ms McFarlane: I would like to raise a minor issue. One of the issues that I think one of the submissions from the Children's Commission raised as well is the reasons given to complainants. There is a legislative obligation under our Act for all parties to give reasons to complainants. It is always quite unclear as to what that means, what the relationship is with privacy considerations, freedom of information and the like. It is an area we will embark upon with the Ombudsman and the Information Commissioner to get some clarity around what that means. It is an issue that raises itself a lot with police about the quality or the extent of information that you do give. It is an issue in juvenile detention centres, in prisons and the like. Some clarity is needed around what is expected and the relationship between that, because there is a legislative obligation on all of us to provide that. It is one thing that I think might assist us in some way.

CHAIR: I would like to thank the commissioners and the directors here today. The submission given to us was very comprehensive. It was transparent, I thought. It gave hope to a lot of people for the future. Many people were suggesting that they were very anxious about a variety of things and we were expecting originally quite a lot of intense activity, but a lot of that dissipated both by what subsequently was submitted and by what transpired. That augurs very well for the future. I congratulate you for doing so. It is sometimes what you are seen to do rather than what you do—it is the perception issue again—that delivers results for people. I think that has occurred on this occasion. Whilst you may not intentionally have said it in that way—I am sure you did in part—it has had the desired result. I congratulate you for coming forward and participating in what was a very open process this morning.

We would also like to congratulate all your staff who obviously participated in the wider process. I am sure there was a lot of work that went into it. Individually they are to be congratulated for what they put into the submission and also the responses back to the other participants. That made our job a lot easier, framing up how we would ask questions. Sometimes the questions that you think you might have to ask you do not have to ask because both the submission and subsequent responses, as time evolves, make the questions largely irrelevant. I felt that very strongly, and I think the members of our committee felt the same way.

We would like to thank you. We are adjourning a little early, but I think we have covered all the points we felt we needed to cover. We would like to thank you for coming along to the hearings today. We would like to reassure you that we will take on board what has been discussed. We will make recommendations. We will endeavour to see those recommendations at least listened to, and one would hope that the government considers them very closely.

I take on board what you have mentioned, Warren, with regard to the fact that from the last inquiry there has been a little bit of tardiness in reviewing those things. We will highlight those points. I am concerned hearing about the issue of the commissioners and the need of the quorum. We will make sure that is very much highlighted. We will make sure that the proceeds issue, which is a very big issue, is highlighted as well. Thank you very much for coming today.

Proceedings suspended from 12.43 pm to 2.05 pm

DOYLE, Mr Paul, Assistant Commissioner, Ethical Standards Command, Queensland Police Service

STEWART, Mr Ian, Deputy Commissioner, Queensland Police Service

CHAIR: I welcome Deputy Commissioner Ian Stewart from the Queensland Police Service and the Assistant Commissioner of the Ethical Standards Command, Paul Doyle. Thank you very much for coming to the hearings of the PCMC. I also thank the QPS for their submission and responses to the submissions. The deputy chair, Evan Moorhead, the member for Waterford, unfortunately is not here yet and is probably doing a few electoral duties. I am sure he will be joining us later. This morning we heard from the CMC. We had an extended morning with them and covered their submission as well. Would you like to make some opening statements, Deputy Commissioner?

Deputy Commissioner Stewart: With your indulgence, thank you, I do appreciate you allowing us to have Assistant Commissioner Doyle at the table as well. That is a great help to me. I would like to make a preparatory statement to the committee and then hopefully I will be able to answer your questions.

CHAIR: Thank you.

Deputy Commissioner Stewart: The Queensland Police Service recognises the importance of the Crime and Misconduct Commission, Queensland's independent statutory agency, as an accountable oversight agency for both the QPS and the public sector generally. Working together and maintaining an effective relationship between the QPS and the CMC builds on our core values, including providing quality policing services and accountability for outcomes. The Queensland Police Service provides significant resources and input to assist and work in partnership with the CMC to combat major crime, investigate allegations of misconduct, promote public sector integrity and provide the state's witness protection service. The Queensland Police Service continues to welcome opportunities to improve professionalism and ethical standards and has jointly assisted the CMC in a number of operations over the past years.

In my view, the QPS appropriately responds to recommendations made by the CMC in relation to often complex and difficult issues. Some examples include the development and current trial of a draft declarable association policy stemming from Project Grinspoon, Operation Capri and Operation Tesco; the development of a draft gratuities policy following the Tesco hearings into allegations of Surfers Paradise police taking drugs at licensed premises and receiving free alcohol; and the progression of initiatives addressing performance management, supervision, alcohol and drug testing, and human source management arising from Project Grinspoon and later within the initiatives stemming from Capri, Tesco and the CMC discipline review of the QPS. I would also at this stage mention the work that we have done in conjunction for the CMC report *Restoring Order*.

In 2009, the integrity and accountability reform processes in Queensland highlighted a range of concerns affecting the credibility of the police complaints, discipline and misconduct system. In response to these concerns, the Attorney-General requested the CMC in November 2009 to conduct a review of the police disciplinary and complaints process. On 21 December 2010, the CMC report *Setting the Standard* identified four essential characteristics of a model system: simple, effective, transparent and strong. The report contained 11 recommendations on issues surrounding police disciplinary processes which included but were not limited to reducing complexity within the system, addressing choke points and allowing the Commissioner to transfer a police officer in the public interest.

One recommendation proposed a review of the existing system, however did not recommend a specific model for implementation. Instead it recommended that the CMC and the QPS work together to develop a new discipline system. As the CMC had not recommended a model to resolve the issues identified, the Queensland government appointed an independent expert panel to consider recommendation 3 of *Setting the Standard*, the CMC report. The independent panel's terms of reference included recommending a model option, identifying the role of the CMC within that model, considering legislative and administrative reforms and considering any other relevant issues, such as a review to QCAT.

On 13 May 2011, the independent expert panel provided their report, called the review, to the Premier. The review proposed that a model police discipline system should protect the integrity of the organisation, maintain public confidence and carry out its charter. The various elements of the review's terms of reference concerned an overriding imperative to improve public confidence in both the integrity of the Police Service and the overall management of the police complaints system generally. It is arguable that public dissatisfaction in the integrity of the Queensland Police Service culminated from two major conditions: the tragic death in custody on Palm Island more than six years ago and the range of damaging accounts in media reporting of police conduct, including the CMC's operations Grinspoon, Tesco and Capri, police drink-driving matters and other reported criminal behaviour, such as the Price matter from the Whitsundays involving excessive use of force and the off-duty SERT officers who ran naked whilst in public. The review proposed some fundamental and philosophical changes, such as managing complaint resolution primarily through management action and/or remedial intervention rather than a punitive approach; applying restorative justice principles; and building and maintaining supervisor capacity to help prevent misconduct.

Another key term of reference for the review was to improve public confidence through the nature of interagency relationships. The review found the police complaints and misconduct system has been weakened by the nature of interagency relationships; processes and relationship dealings need to support efficient and effective consideration of legitimate differences of opinion. A number of the review recommendations seek to build greater collaborative effort between the CMC and the QPS including, recommendations to improve organisational direction and relationship through the exchange of formal statements of expectation and intent between the Commissioner of Police and chairperson of the CMC; an exceptional circumstance role for the Parliamentary Crime and Misconduct Commissioner to assist in resolving QPS and CMC issues; the CMC attending operational performance reviews in its capacity building role and ensuring the executive performance agreements of the commissioner and chairperson include a performance measure for meeting key benchmark time frames in the police complaints system; addressing known, contentious complaint handling practices—that is, joint assessment committee processes obtaining information for early complaint assessment and outcome advice to complainants; proposing ongoing joint training sessions between the QPS and CMC, and the commission provide a regional training program to build QPS capacity in preventing and dealing with misconduct; addressing consistency and clarity in investigations, including the respective roles of the QPS and CMC in the management of police related deaths, settling on an agreed position concerning acting in good faith and progressing a business case for targeted drug and alcohol testing; greater collaboration between the QPS and CMC in building organisational capacity through the secondment of officers for case specific matters, a review of ESC and CMC skills and resources and a business case for a dedicated CMC surveillance capability which could be available to the Ethical Standards Command; and reporting on the organisational health of the QPS through an annual joint report with the CMC.

Public confidence within the police complaints and disciplinary system will improve where complaint outcomes are timely and fair. Some of the review recommendations to enhance relationship and operational capacity between the QPS and the CMC have already been implemented. The QPS believes that, for the CMC to operate effectively, it needs to operate not only in strict accordance with its operating principles but also within the spirit and intent of the Crime and Misconduct Act, as authority given to the commission provides it with significant power and influence.

A key issue stemming from the review concerned the issue of police investigating police in CMC investigations. It is noted that the government supports adoption of a CMC staffing model which provides for genuinely independent investigation and adjudication of complaints. In supporting this recommendation, current and former QPS officers will be progressively removed from those areas of the CMC misconduct area who are directly involved in misconduct investigations.

The QPS will investigate the interest from other police jurisdictions in the progression of an interjurisdictional secondment model of police to other state integrity agencies. The QPS will work with the CMC on an options paper which will identify the cost and efficacy of staffing options of the CMC investigative model. The Queensland Police Service works collaboratively with the CMC in progressing joint projects and research into crime, the criminal justice system and misconduct. The QPS provided both resources and significant information to assist the CMC in their discipline review of the QPS and the subsequent release of the *Setting the Standard* report.

In the crime function area, the QPS works closely with the CMC, including the regular provision of specialist QPS resources to assist in the investigation of serious, major and organised crime throughout the state. These collaborative efforts include engagement in joint agency multidisciplinary investigations targeting high-level and recidivist targets who are involved in serious criminal activities including drug trafficking, outlaw motorcycle gangs, related crime, firearms trafficking, child exploitation and paedophilia activity. The conduct of CMC coercive examination greatly assists the QPS in advancing investigations through the collection of further collaborative evidence against persons suspected of committing serious crimes, including murder, extortion, serious assaults, armed robbery and also the identification of proceeds of crime.

The CMC also provides significant assistance and support to the QPS in progressing proceeds of crime and asset forfeiture matters which relate to organised and major crime syndicates. At a strategic operational level, the CMC is represented on a number of important QPS forums which identify and assess current criminal threats and also approve the targeting of high-level criminal syndicates and individuals. These forums include the Operations Management Board and Controlled Operations Committee. At a strategic organisational level, the CMC participates at senior executive level alongside the QPS and other law enforcement agencies on the Joint Manager Group, identifying appropriate joint agency responses to current and emerging criminal activity regarding organised crime which may impact upon law enforcement in Queensland. Thank you. I look forward to your questions and providing you with the QPS's views on those questions.

CHAIR: Thank you, Deputy Commissioner. How we tend to do it is we will share the questions amongst ourselves if that is all right.

Deputy Commissioner Stewart: Of course; thank you.
Brisbane

CHAIR: I would like to kick off if I could. The government recently released its response to the independent review of the Queensland police complaints, discipline and misconduct system. We do not want to go over the ground that has already been covered by the panel. However, do you have any initial observations on the recommendations, particularly on the proposal to strengthen the devolution policy in the investigation of police complaints?

Deputy Commissioner Stewart: Thank you, Chair. Certainly we are supportive of that recommendation. It is almost the Holy Grail of a discipline and complaints system. One of the challenges that we all face is that every review that I think we have ever had into police complaints and discipline has identified the need for a devolution so that issues can be rectified and can be addressed very expeditiously. I think that the context of what we do tends to be always towards the legalistic approach rather than what I would call almost the family discipline approach. By that I mean that for most matters—and I think this is generally accepted right throughout the field—a quick resolution through direct involvement of the supervisor speaking to the officer or officers about matters that have just occurred where a complaint has come in can often result in a very appropriate response for the officer, the organisation, the community as a whole and, most importantly, the complainant. In the past I am not sure that we have been able to achieve great satisfaction for any of those parties because we tend to become so constricted by that legalistic direction that the discipline process has taken.

Mr MOORHEAD: Can I just follow on from that. As you may know, the member for Brisbane Central and I come from an industrial relations background. In some of the CMC material that we have seen, in the submissions and some of the reviews of the complaint processes often things that are typical workplace problems end up going into an adversarial QCAT process. These things happen in other workplaces as well and they are dealt with at the workplace or, at worst, they are dealt with through an industrial tribunal quick process that can resolve it in a matter of days. Is there any reason police should not have those matters that are typical of any workplace dealt with through a normal industrial process rather than sent through a complicated and adversarial process?

Deputy Commissioner Stewart: The short answer is, no, there should be no barrier. I think in fact the CMC, the QPS and the independent review probably all agree that that is the best outcome. Unfortunately again I would simply state that for a range of reasons we tend to move into that black and white law area. We have a lot of precedent that we have dealt with over many years in relation to the laws surrounding the actions of police. There tends to be an almost fail-safe approach taken, and by 'fail safe' I mean you need to lock this information down absolutely and deal with the issue that you identify in that very formal process called police discipline. That has happened for a whole range of reasons stemming back over at least 20 years. I am not sure how we move out of that culture and we allow our supervisors and our managers to actually use the normal industrial processes that are available to deal with many of these very—what I think are quite often—simple issues. Whilst we would love to arrive at that, we have not been able to achieve that in all of these years.

Mr MOORHEAD: Is that a question of public confidence though that the public will not have confidence that the distinction between what needs an informal employment based process and what needs a misconduct process? Is that the issue why that delineation has not been made?

Deputy Commissioner Stewart: I think in part it is because the laws are very clear in relation to that adjunct between the criminal law, the administrative law surrounding discipline and then the employment law which goes into that industrial area, and we often get sandwiched between the two. Police are very used to dealing with black and white law. I suppose you cannot be half pregnant. It is like you cannot be half guilty; you are either guilty or you are not guilty. That is a culture we train our police in. So when it comes to discipline, there are a range of processes and procedures and the fundamental understanding that a person is innocent until proven guilty and then there is all of the administrative law around public interest tests and personal rights that come into this issue of dealing with often quite simplistic issues where it could be something as simple as an officer raising their voice at a person unreasonably at a traffic stop and we get a complaint about that and that turns into a full investigation which takes weeks. It is those sorts of things that I truly believe we should be able to resolve much more quickly. But we have such systems of check and balance in people being able to review decisions and the ability of our officers to test the process at every step, including the facts that the process is based on. So it really does create a conundrum for us.

Ms GRACE: Just continuing on, we kind of explored a little bit of this when it comes to those employment kinds of issues and seeking the assistance of maybe a lay tribunal like the industrial relations tribunal to assist in that—it is formal, but a lay kind of tribunal environment—which has a quick turnaround, people are able to give submissions, conciliation and all of that kind of stuff. Is this a way to speed up some of this without all of the legalistic black and white kinds of issues where you have a very reputable tribunal dealing with fundamentally expertise in employment issues where a quick turnaround under their auspice could be seen by the public that you are not necessarily just doing it yourselves and you have to go through those hurdles to show that it has been done properly? It being under the auspice of another tribunal may assist; I do not know. Has that ever been floated as an idea?

Deputy Commissioner Stewart: I do not remember a lay tribunal ever being utilised, but that option is one that certainly could be considered. But are we just replacing one tribunal with another, no matter whether it is lay or legalistic?

Ms GRACE: There is no doubt that that is the case, but I guess if you are looking at where would you go for employment related issues where there is expertise it is done in a fundamentally lay format and has powers and everything in relation to the ability to assist in these disciplinary, misconduct or whatever employment related stuff. You really would not go past a tribunal that already exists with the expertise in that area. It was just something we were floating. It also takes away that public questioning about sometimes police investigating police. At least you would be under the auspice of an appointed commissioner who would be there to resolve, make recommendations and possibly even decide the facts if the resolution could not be agreed upon. I do not know. It was just an idea that we were kind of floating in what is a very complicated, difficult area. There is no doubt about it.

Deputy Commissioner Stewart: No, thank you. I certainly understand your intent to try to make this work better. Quite interestingly enough—and it was in the last few words that you just spoke—it was about only those sorts of issues that cannot be resolved. I think the Holy Grail of police discipline is actually to resolve most of the things in the workplace by the use of managers and supervisors, because we do know—and research tells us—that the people who influence the behaviours of staff most appropriately are supervisors and managers. So if you have good supervisors and managers who meet appropriate standards and hold to principles—in other words, obey the procedures and processes of our organisation and the laws of the state—then quite appropriately I think for them to be able to deal with something effectively, quickly, fairly and honestly in the workplace is really the best outcome. The only thing that would then need to go to an independent tribunal would be something where the facts or the process is disputed.

The challenge for us is that we have a very strong framework and we have a very strong unionised labour force within our organisation, and I make no criticism of that. It is a fact of life and I have come through that process myself in all those years. Those frameworks are in place that allow the system to be tested. I think that that is part of where officers who have had complaints registered against them often have a different perspective on the actions that made them arrive at that point where the complaint is made, and they want fairness in any process. I do believe that most of those still can be dealt with in a workplace environment and only the most difficult have to be dealt with outside of that environment. But we have a long way to go because, as I said, one of the challenges is that where an officer wishes to dispute the outcome of even a minor matter they have a whole series of mechanisms by which they can appeal or challenge decisions.

Mr MOORHEAD: I think Mr Strange from the CMC gave evidence earlier that there is no real incentive to say, 'Look, I cop what has happened. This is what I expect to be the reasonable outcome.' There is an incentive in the process to put the matter to proof and to require the process to be followed through, whereas in a lot of other places where people understand what the likely outcome would be, if they think the supervisory role would be consistent they are happy to say, 'Yeah, I did raise my voice at the traffic lights. I'm really sorry,' and the supervisor will probably say, 'Look, don't do it next time,' and move on. But the incentive in this scheme for an officer to say, 'Give me my right of response and I will get my lawyer to write a response and then I will put you to proof.' How do you change that culture?

Deputy Commissioner Stewart: You give faith in the system to the officers themselves because it is not the supervisors and the leaders within the system who go through a very specific and rigorous investigation on even the most simple complaints. They do not want to be challenged about the role they play in the system because that occurs from time to time. So officers have to be confident that, if a supervisor is able to deal with the matter right there and then, even if in some perspective it could be seen as quite a serious matter—and I am talking about a push and a shove; a minor level of unreasonable or excessive force—if it can be dealt with to the satisfaction of the complainant and the supervising officers at that stage, then we need to have confidence that it will not rear its head again. It will not be continually litigated by either the organisation or the oversight agency or then taken on appeal to other tribunals. So it is about giving our people confidence that once the matter is dealt with that is the end of it.

It is like a child. I mentioned the family discipline system before. The police is a family. We consistently talk about the 'police family' in many respects and the discipline system within families is no different. If you continually discipline a child over an act that they have committed at some stage and you continually rehash that event, you are going to have a very disturbed child. We all know that. I do not think there is any difference with police discipline in that respect. It has to be dealt with and dealt with fairly, appropriately and honestly by all parties and the matter be reported on, but allowed to be finalised and the people can move on in their lives.

Mr RYAN: I have a couple of questions. The first one relates to the submission that we received from the Queensland Police Union of Employees, which made a suggestion or a recommendation that the crime function of the CMC be transferred to the QPS. Would that be a view that the QPS would entertain or feel would be an appropriate recommendation for this committee to make?

Deputy Commissioner Stewart: Thanks for your question, Mr Ryan. It is an interesting concept. The considerable powers that are appropriately given to the CMC in certain areas, which is a strength of an independent oversight agency—and I am particularly talking about the coercive powers, their ability to investigate matters on their own behalf or on our behalf in the crime area—is particularly advantageous, I think. To have those two things in the one place I can see could be problematic—the public perception and the fairness. Having that in an oversight agency I think is a very good thing. I have always said that it would be wonderful if we had all of the resources that we needed ultimately to deal with all of that big-end-of-town

crime, but we are also realistic that we put appropriate resources towards that and we then utilise the appropriate resources not only of the CMC but of other agencies around Australia that are able to help us in that endeavour. Overall, I think the current system works in a very coordinated and a very appropriate way. I think the relationship between the CMC and us in this role is one of the greatest strengths of the system.

Mr RYAN: That is a good statement to have on the record. Thank you, Deputy Commissioner. The other question relates to, and perhaps your colleague might be able to provide some background, the current workload of the Ethical Standards Command—just budget, staffing, how many complaints you have received and how many of those complaints as a percentage that you resolve within a 12-month period.

Assistant Commissioner Doyle: Thank you for the question, Mr Ryan. Obviously, some of that detail I would not have at my fingertips today. I am happy to take that on notice and provide that information. But I can provide some general statements around that. The commissioner has given some significant statements around providing extra resources for the Ethical Standards Command, particularly arising out of Operation Tesco. We have been the happy recipient of those extra resources over the past 12 months and they will continue to occur. So in terms of resourcing, we are actually very well placed at this point in time. Clearly, we will never have enough resources to do all the complaints for Queensland. That is not the intent of the Ethical Standards Command. So we have a devolved model in place whereby those appropriate investigations are undertaken by the regions. So there is a devolved model.

Clearly, the more serious matters are kept at ESC and we think that is an appropriate position to take. In terms of the numbers of complaints, we are holding a considerable number of investigations currently. The three areas of the state where the majority of complaints arise and that we deal with are the Gold Coast, the south-east region; metropolitan north, Brisbane; and the central region, centralised in Rockhampton, just north of us. So they are the three major areas of concern for us. Is there a timeliness question in there?

Mr RYAN: The percentage resolved.

Assistant Commissioner Doyle: Again—

Mr RYAN: You probably do not have that data.

Assistant Commissioner Doyle: No, I do not at my fingertips, but certainly the majority of the complaints are resolved as being unsubstantiated. There are a portion of complaints, obviously, that are substantiated and, of course, there are quite a number that we currently have on our books at the moment. Over the past 12 months, I think we had something in the order of just over 2,700 complaints for Queensland—for the last financial year—which is actually a decline from the previous year, which was close to 3,000 complaints. So from our perspective that is a good outcome. It is getting back to where we were a couple of years ago. Interestingly, earlier this year, as a consequence, or around the time of the disasters in Queensland, we actually saw a significant drop-off of complaints over the first two quarters of this year. I guess that is in some ways not unremarkable, but it is actually a pleasing result. We are seeing a slight increase in the last quarter but, again, we are still below what we were last year. So there are some positive signs from that perspective.

CHAIR: Congratulations. Do you have any other questions?

Mr RYAN: Just one other. I asked a similar question of the CMC earlier and it is just around the draft gratuities policy that the commissioner has released. Of course, it is going through a process now of consultation and getting feedback from people. Have you had any early feedback from your officers but also from the community around the draft policy?

Deputy Commissioner Stewart: Certainly, on particular aspects of it we have seen interesting media commentary but, internally, I think overall we have had a positive response. There is ongoing dialogue in relation to the issue of accepting food and whatnot. That is a matter that is still the subject of consultation, including the union representation of our members. But we are hopeful that we will get a resolution to that in the near future.

Mr RYAN: The conversation I have had around that particular draft policy with people in the community is that the majority of your officers understand the basis for it. They get it. They get why the draft policy is there. The challenge is with the community who think, 'The coppers do a good job. Half price at Maccas is a good deal for them.' So it is going to be a bit of a community education campaign as well.

Deputy Commissioner Stewart: Without doubt. Thanks for those comments, because I do agree with you. It is certainly an area that is challenging for an organisation such as ours. We have looked far and wide right across Australia at policies that are being put in place by other jurisdictions. It is not an easy issue to deal with. I will give you a really simple example of why it is not easy, because it is not just about half-price Maccas; it is about police doing a good job, where often a very grateful community will drop a carton of beer or something around to the police station and just simply say, 'Hey, great job. That was a wonderful outcome. Have a drink on us.' That happens quite regularly and knocking them back is hugely offensive at times.

I personally have been in situations—and I am sure most police have—where you walk in and you buy a cup of coffee. As they ring up the till it is not the full price. You are in uniform and you say, 'No, you have the wrong price.' 'No, for police it is discounted.' And you say, 'No, I'm happy to pay.' 'No, the manager won't.' You can stand there for five minutes and argue the point but the 16-year-old kid behind the counter is just doing what they have been told to do by their boss. You can almost cause offence in that sort of situation. So it is challenging for our members and we have made it very clear that, where the offer is to pay and pay full price, that you really have to use your discretion in each situation.

CHAIR: The member for Brisbane has suggested that politicians should generally be charged double.

Ms GRACE: Not should be, I think we generally are.

CHAIR: The member for Nicklin has a question.

Mr WELLINGTON: Deputy Commissioner, just following on from the conversation we have been having, I have been thinking about the resources that are allocated to investigate a complaint against a serving officer. I understand that a number of officers have their tape recorders in their pockets. Has the service looked at whether you take that to the next level and say, 'We need to provide more resources.' I know there is always a need for more money, but has there been any investigation or thoughts about, 'If we really had a better process where officers had the tape recorder going all the time then a lot of this time and the resources that are taken up in investigating complaints that are found to be simply a waste of time and resources would be saved.' Maybe there are some efficiencies in there—or is that going to create more problems and more procedures that you are going to have to comply with thereby it is just not going to be viable?

Deputy Commissioner Stewart: This is one of those seemingly almost 'How simple could this be? Let's give everyone one of those \$10 video recorders that you can buy on the internet.' A lot of our officers use them now. I suppose it looks like a highlighter pen and it is about the same size. It is actually a digital video recorder. So it is recording video—so sight and sound. The challenge is actually not in them doing it; the challenge comes in the ownership of the information, the storage of the information and the retrieval of that information. I do not want to start talking about terabytes and petabytes of data and how much they cost the Queensland government to store and the challenges with the administrative workload of how you store that—what administrative process do you need to go through. I think you would have come across the type of administrative workload that we are challenged by every day with exhibits—normal exhibits. These are crime exhibits or exhibits that we have taken of lost property and that sort of thing. There is a hugely onerous accountability process for that—and there needs to be, because they are not ours. They are in our custody, but they are not ours.

It is the same with information. That information taken for official purposes becomes the property of the state. Then you have to catalogue it. You have to store it. You have to be able to find it again when you need it. It sounds simple and, as I said, there are many police doing this informally as a way of making life easier for themselves. As you can well imagine, to be able to appear before a senior officer who says, 'Look, a complaint has been made. I will replay the tape for you and you can actually look at it on the computer,' that can resolve things within seconds. If you make that the norm, then you have to have this whole other raft of administrative processes. That is what we are challenged by as an organisation. I am not making excuses. I am putting the facts on the table to say that what seems like something that even I say, 'How simple would that be?' the challenge is actually the cost that then encroaches on our budget in terms of trying to just deal with the complexity of the backroom part of the system.

Mr WELLINGTON: Early this morning I put a question in relation to the comparisons between the phone tapping requirements for our Queensland Police Service officers in comparison to the phone tapping requirements of your colleagues interstate. Bearing in mind that if an officer wants to do some phone tapping for major crime issues time is of the essence, you cannot sit around and do reams of paperwork to justify it, has there been any investigation or comparison between what is required in the Queensland Police Service and what is required interstate?

Deputy Commissioner Stewart: Yes. When the legislation was set up in Queensland it was certainly only set up after a complete review of the legislation as it currently stands in most of the other states. We have a few extra components and I will say that in an emergent situation there is still some administrative workload that has to be done, but I think there always has to be balance—and I am not the best judge of this, I think the government is the best judge—between the privacy and the efficacy of the laws as opposed to us being able to have and continue to have this very, very important power for us. Do I think the balance is right? It is probably not a question for me. There are always ways to improve things. I agree with you that one of the ways may be to have emergent powers in relation to specific criteria for phone taps, but again that is a matter more for, perhaps, the committee.

Mr MOORHEAD: We have had some evidence before the hearing about the MOU for investigation of police related deaths. It seems that the feedback has been quite positive from the CMC's perspective. What is the QPS's view of that MOU? Is it working? I am particularly interested in how it works in remote locations.

Deputy Commissioner Stewart: You have stolen my thunder. I think for accountability the system works as well as it possibly can bearing in mind the huge geographic size of this state and the fact that we are a decentralised state. What sounds easy in one jurisdiction where different Police Services exist side by side, and I am talking about overseas models—

Mr MOORHEAD: I think Mr Strange was talking about the UK example where the police complaints authority can just turn up.

Deputy Commissioner Stewart: And it can. I might be wrong on this, but I think the UK fits into Queensland eight times, which is a bit of a challenge. If we have a death or a serious injury in one of our remote locations in Queensland, and even doubly so if it happens to be a remote Indigenous community, just getting police there who are independent is probably a five hour drive minimum for any of those locations. We are getting better, because we do have, as you know, ways of moving around the countryside. We have our own fixed-wing aircraft fleet. So we do our very, very best to get independent people there.

Mr Doyle might want to speak to this because he is at the heart of our processes in getting independent people in, but also for separating the officers immediately. Whilst again that sounds like a simple matter, that can mean people being held or separated after a very traumatic event with virtually no-one to talk to for an hour or maybe two before anyone of authority or seniority can get there and get versions. We have got around that. We ask our senior officers to make those inquiries initially, get initial versions, and I suspect Mr Strange may have commented on that.

I think that at the heart of the system is getting an initial version and then, as soon as practicable, getting senior officers in there who are independent to be able to undertake a fulsome investigation of the officers involved. Invariably these things do not happen at 9 o'clock in the morning when everyone is available and aircraft are flying, it happens at 2 am or 3 am in the morning in the most tragic circumstances and sometimes the officers who are there are not only the officers involved but they are actually trying to do the core business of dealing with the family who may have just lost a loved one and there is no-one else. It can be tricky. In South-East Queensland we do not have that problem. We can have independent people within very, very short spaces of time. Murphy's law is that these things do not just happen in South-East Queensland. If you do not mind, I would invite Mr Doyle to comment as well.

Assistant Commissioner Doyle: I think the Deputy captured it pretty well. Obviously the more problematic areas are those that are the far-flung locations in Queensland. There is a gap between when we can attend as independent investigators as opposed to local police, so we do rely on our local police, through instructions from senior officers at the Ethical Standards Command, to actually put particular protocols in place to ensure, as best we can, the probity of the investigation, both through versions from the officers but also the preservation of any scenes that might be probative to the investigation. And, of course, we engage with the CMC in that process as well and that works quite well. We actually assist each other in terms of getting to those locations where we can. By and large I think, from recent experience, and we have had quite a number of similar sorts of investigations over the last couple of years, that has worked out particularly well. We have not really seen any particular areas of concern between the commission and ourselves in our approach to these investigations.

CHAIR: We would just like to know about your thoughts on the Parliamentary Commissioner's role from a QPS perspective? Mr Favell is here this afternoon. We are mainly concerned with regard to one new issue and an issue that occurred previously during the release of the Palm Island review. The relationship between the QPS and the CMC became somewhat strained because of the role of the Parliamentary Commissioner at that time. You may be aware of that. Recently we had it highlighted to us that there may be some difficulties for the Parliamentary Commissioner in having a facilitated role in coming down and reviewing files. Do you have any thoughts and do you know what the QPS's feelings are? We would be aware that some things you might want to keep in confidence. Unfortunately, the role is somewhat difficult for the Commissioner as well so we need some advice from you, or your thoughts. Both of you, I think.

Deputy Commissioner Stewart: It is a very, very interesting question and if I could ask your indulgence, if it would suit the committee, I would certainly in one sense like to take part of that question on notice and potentially provide you with a written response from the service. In another sense, I believe that where there is a cooperative spirit between our two agencies to move forward on issues in the best interests of the community then in those cases, most times, it almost makes the Parliamentary Commissioner for the CMC redundant, in one sense. I personally believe that our relationship is a strong one and it is cooperative. I have had the pleasure of actually performing in Paul's role in a previous life. I was the Assistant Commissioner of Ethical Standards. I think it was two parliamentary reviews ago that I actually sat here and gave evidence. It is very clear that the greatest advances we have ever made as an organisation is when the relationship with the CMC has been at its strongest. I am not saying that we have always agreed, I am simply saying that it has been a rigorous and mutually respectful relationship where we are able to work together for everyone's best interests. I think that we enjoy that now. If I can just put that part of it in context. The second part, in relation to the role of the Parliamentary Commissioner, is one which perhaps I should just take on notice, if that would suit the committee.

CHAIR: That would be fine. Paul, do you have any comment?

Assistant Commissioner Doyle: I am happy to defer to the Deputy on this one.

CHAIR: Thank you both very much for answering those questions very honestly and really filling us in on some areas that we do not clearly know. Sometimes information takes a little while to get out there. People assume we know these things. We appreciate you coming along this afternoon. We thank the QPS for its participation in the process. It certainly makes both the CMC's role and our role much better. I am sorry to ask you the curly one at the end, but then again sometimes in these processes we want to have something that we can work on. The aim will be to produce a report, get some recommendations out and we will endeavour to make sure that we follow on through that process and possibly fill in the gaps that we have not always quite completed in the past. Thank you both for coming this afternoon.

Proceedings suspended from 2.55 pm to 3.12 pm

LEAVERS, Mr Ian, General President, Queensland Police Union of Employees

TUTT, Mr Simon, Media and Government Relations, Queensland Police Union of Employees

CHAIR: We would like to welcome Mr Ian Leavers, General President of the Queensland Police Union of Employees and Mr Simon Tutt. As you know, this is a PCMC hearing. We have convened this morning and have heard from the CMC and we have previously heard from the QPS. We would like to thank you, Ian, for coming this afternoon. We presume that you would like to make an opening statement.

Mr Leavers: Yes, that would be good. Thanks for the opportunity. We are committed to the process in relation to having an integrity commission in Queensland. We believe that it is very important. But I do have concerns with the system as it currently is. Simon Tutt is with me. He handles our external and our government relations and is well aware of the process as well. The concerns that the Police Union has in relation to the CMC at present is that there appears to be a lack of a review process. When we had the PPRA review all external stakeholders are invited to take part. I have written to the Council of Civil Liberties, the Law Society, the Bar Society and obviously the Police Union are involved, but you have got all the important stakeholders involved and we have views which may vary and are wide ranging, but it is very important you have a cross-section. I am concerned that the CMC is an organisation that can review and has no review process. I think you have always got to have accountability and with probably the most powerful public body in Queensland I think that is very, very important.

Secondly, I have a concern about the disproportionate use of investigative processes. That concerns me with the CMC. Once they investigate a matter of misconduct, no matter whether it be of a minor nature or a very serious matter of misconduct they can use the powers, whether it be coercive hearings or telephone intercepts, which are available to them. I believe that is purely for very serious matters and for minor misconduct matters I believe it is an abuse of process.

On the other side is the duplication of services. We have bodies within the CMC that investigate crime and misconduct. I believe it should be purely an integrity commission as an oversight body. Because while it investigates crime, who oversees the crime section of it? Child pornography is investigated by the CMC and witness protection is provided. I believe that the community is better served by handing that back to the Police Service and then the CMC, as the integrity commission, can oversee the Police Service in that forum. That is a very real concern that I have. Why would we have a process available in the CMC and the Police Service doing the same thing? It just does not make sense and I think it would be a better use of resources for the public of Queensland if it were entrusted to the one body. The other issue we have is that a lot of police are seconded to the CMC to perform these functions. It simply does not make sense.

Lastly, I have a concern about the time taken for investigations by the CMC. With some 320 staff at the CMC some of the investigations that are undertaken go on for an extraordinary length of time. That is really unacceptable. I believe the time frame for investigations that take place should be a lot more stringent than currently is the case. The recent investigation into Operation Tesco took a long time. There was a lot of money put into that and a lot of resources. It concerned me that that was an investigation conducted by the CMC, however a lot of the information through the inquiry ended up in the public forum. I believe that is unacceptable because if you have an inquiry it should be confidential. Any evidence which is gained or adduced out of those inquiries and the people who are giving evidence should have the rights of any other person in society. When it is leaked to the media all the time or information ends up out there, where is one's right to a fair trial? If it be a police officer who ends up with disciplinary action, they are already smeared by the time any action is taken. That deeply concerns me. I think it needs to be watched.

CHAIR: Thank you. Any further comments, Ian?

Mr Leavers: I have provided the eight-page report in relation to this. Those are a lot of the concerns I have. I purely believe, as it was when set up after the Fitzgerald inquiry, it should be an integrity commission and there should not be a duplication of service. What concerns me is the checks and balances in relation to the CMC. There are some examples I can speak about in relation to that. One was the recent investigation into the investigation of the Palm Island incident. That report was publicly released. What concerned me about that was that all persons were tainted when that report was released before any disciplinary or other action was taken. People, whether they be police officers or anyone else in the community, whether they be a politician, a doctor or a judge, still have rights and they should not be smeared publicly. That concerned me.

The chairman of the CMC is an honourable man, but he publicly stated to the commissioner of police, 'Here is a report. You will take action and if you do not take action I will then consider whether or not to reappoint your contract.' That is very dangerous. As people may be aware, we took that to court and we won through apprehended bias. For that to be in the public sphere before any disciplinary action or any other action was taken against the police involved, I have grave concerns about that. I think we need proper checks and balances to ensure that that does not happen again. People's reputations and careers can be destroyed on the say-so of a report.

Mr MOORHEAD: I might start on that point. In your submission you have raised your concerns about leaking from the CMC. We have asked the CMC about that in the proceedings this morning. What concerns me is this notion of trial by media. It concerns me that that works both ways. The QPUE has
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never been reluctant to make declarations of innocence of officers shortly after incidents have occurred and before investigations are finalised. Is there a way that we can move the CMC and the QPUE away from this notion of trial by media? I suppose you are concerned about the CMC leaking investigations and I think there are concerns about QPUE statements being issued shortly after incidents, defending the innocence of officers. Is there some way that we can move away from that process so that you could have faith in the CMC process? Also, I understand that the QPUE has a role in advocating for its members, but I hope that in the first instance that would be through the investigatory process and secondarily through the media.

Mr Leavers: That is very hard and complex. I have commented on a few matters. Whether it be a death in custody or a police shooting, as there was a couple of weeks ago over at Everton Park, information will always be there and probably the media will want information. Obviously, once charges are laid all I can really say is that the Police Union will defend the police. Generally it is to get some information out there because the fact is that it needs to get out there. I try not to interfere with the investigation process, but to give a brief summary. It is a very difficult thing. However, I know as a serving police officer that when conducting an investigation should I release information like the CMC I would be subject to the discipline system. The CMC cannot have it both ways. If a police officer does it they will be disciplined. If the CMC has the right to publicly release things or leak information that is concerning.

CHAIR: Do you see a need to streamline that a lot better? Do you think we need to have a process of releasing something? In the ordinary world, that is what happens. Are you forecasting a better system in some ways?

Mr Leavers: Any public report is often handed down through the parliament. If there is action to be taken against any individual, I do not believe it should become public at that point because whoever has an allegation raised against them has the right to a defence. If it is in the public sphere, we may have different sections of the community involved. Depending on what is reported or not reported by the newspaper people are tainted. There was an example in Operation Capri. I made a complaint to the CMC in relation to this. A former officer was named in the report, but he was never even interviewed. That is unacceptable. If an allegation is going to be levelled at you, you certainly should have the right to reply. However, it became a public document and, although acronyms were used to deidentify the people, those who knew what was going on knew exactly who was who. That concerns me. Once it is in the public area, you have to be careful. If you are going to take action against someone, it should be kept quiet.

Mr MOORHEAD: Do you think there would be a need for the QPUE to engage in that public comment if you had faith that the CMC would not have an investigatory process that involved media publication?

Mr Leavers: I am very concerned because I do believe at times there can be bias with the CMC. For example, the chairman's report to the commission in relation to taking action against the investigation into the investigation of Palm Island, that was clearly apprehended bias. That does concern me. There have been many other investigations. As we know with the recent review of the entire police discipline system, we have a situation that does concern me, although not directly for this forum. If a police officer is disciplined by the prescribed officer within the Police Service and the CMC does not like the sanction imposed, they can come over the top and implement a new sanction. That is a very dangerous power that they will have in the near future. We have to look at the entire judicial process. If a magistrate was to give a decision, how could a District Court judge or a Supreme Court judge come over and say, 'I'm not happy with that decision' or the Attorney-General say, 'This is the penalty that you are going to get'? There has to be one rule for all and not separate ones for different individuals. That concerns me with issues that have happened in the past.

Ms GRACE: How would you suggest that that could be overcome, for example, if there is a public perception that a particular disciplinary issue or a misconduct issue has not been handled properly and it just was not adequate? If the CMC did not have the powers, do you have any recommendations on how that public confidence in the process could be implemented, Mr Leavers?

Mr Leavers: Absolutely. Under the present system, if the CMC is not happy with the sanction imposed or, say, the police officer involved is not happy with the sanction imposed they both have the right to appeal to QCAT. I think it should be the same for both parties. If you are not happy, you have the right to appeal, not for the CMC to come in and say, 'This is the penalty.' That is unacceptable.

Ms GRACE: Earlier today with a couple of other submissions we explored whether QCAT is the appropriate tribunal or is a tribunal with more expertise in the area of industrial relations, such as the Industrial Relations Commission, a more appropriate body, particularly to deal with issues related to employment. Is QCAT ideal or should the commission be looked at as a more appropriate tribunal? I am not suggesting that you give me a formal response today, but had you thought of that angle rather than using a tribunal that is not so expert in the area, particularly when it comes to employment related issues?

Mr Leavers: My understanding is that a lot of matters that go on appeal to QCAT are not necessarily in relation to employment conditions. They are more in relation to appeals against sanctions for alleged misconduct or whatever it may be. I believe the expertise, which is made up by a variety of people who act for QCAT, is probably very appropriate and it is probably very independent. I think it has its merits. Not only do they deal with police misconduct, although that seems to be the majority of their dealings, they also deal

with others, whether it be nurses, teachers and so on. I think that is probably a very worthwhile exercise. If it is, say, employment related, we always have the option to go down to the Industrial Relations Commission. I think we have both sides covered there.

CHAIR: We might just move off that topic. We are concerned about the issue that you are seeking to separate the crime component of the CMC and bring it back to what happened under the previous model with the QPS. We are open-minded to everything. Our understanding currently is that with the crime role of the CMC, what it is dealing with is very significant crime and, of course, it has those coercive powers. Have you thought that possibly there are separate things that those groups do and that, although that model may not be perfect, it does work. Your submission seems to suggest that if it went back, we would be saving money. Can you really see a model that might work where you have both those powers in the QPS? Can you explain how that might be? This morning we heard some very elegant explanations that that may not be the case. In fact, the previous submission was from the deputy commissioner and he stated that the coercive powers need to be held possibly in another entity.

Mr Leavers: With anything to do with coercive powers, it has to be—whether ‘regulated’ is the word, but be overseen. If I was doing an investigation in relation to a child death and I needed to use coercive powers, I had to go through the chain of command and deal with the CMC. If I needed to utilise those powers, it could have been arranged. That is the same when we go through the Public Interest Monitor for listening devices. I have done that when investigating a child death as well. That is a rigorous process. It is open, honest and transparent. I think that is probably the fair way to go. The Public Interest Monitor, I think, does work and there is a lot of work that goes into those matters, but that is probably the place for it. I do think that the Integrity Commission should be the integrity commission. While you have the crime there, it is a duplication of process and we do have police officers there. Should those powers be required, it is simply by way of an application to go to those bodies to use those powers. I think it has merit there.

Ms GRACE: So you do not see that the CMC role is one of complementing rather than duplicating? Do you not see that at all?

Mr Leavers: No. It seems to be duplicating. I know in relation to paedophilia you will have sections of the state crime command who will investigate exactly the same things as the CMC. I know people who have worked in both of those sections for both of those organisations. In fact, the CMC has more resources than the Police Service in relation to that. But primarily they are investigating paedophilia. It is not looking at government employees or integrity issues; it is looking at the wide range of paedophilia that they are investigating. So I see it as a duplication. If you pool everyone together, I believe it is a better use of resources. It is the same in relation to the outlaw motorcycle gangs. We have Task Force Hydra and then we have a section of the CMC who look at similar issues. If you have two separate bodies who necessarily are not working together, you can miss things. The sharing of intelligence I believe would be more beneficial.

Mr MOORHEAD: Your submission both in writing and today raises some concerns about the accountability of the CMC. Do you think that the Parliamentary Crime and Misconduct Committee or the Parliamentary Crime and Misconduct Commissioner need greater powers to oversee that? Where have your frustrations been in terms of that oversight role? I am keen to get to that.

Mr Leavers: The way I see it with the PCMC is that there needs to be an investigative limb there to be able to do it. My understanding is that often things are referred back to the CMC. But there needs to be an investigative limb there to oversee it, because I have concerns with some of the information that is presented by the CMC. I think you need trained investigators and a team to be able to assist in that process.

Mr MOORHEAD: Are you saying that our parliamentary commissioner function should have more of an interventionist and direct fact-finding role rather than necessarily reviewing documents type role? Is that what you are saying?

Mr Leavers: I think that would be a good idea because there could be many questions that still need to be answered. The truth is that any author of any report can write a report in many different ways and there may be many questions that need to be answered. I have no issue with the CMC. I think it is a very important body. But with great power comes great responsibility, and there should always be openness and transparency. I think that is very important.

Mr MOORHEAD: I am only relatively new to the PCMC. I have not dealt with the QPU. Has your experience in the past been a good one in terms of having complaints about the CMC investigated, such as the leaking complaints and those sorts of things?

Mr Leavers: There have been several complaints in relation to leaks within the CMC. The truth is that it is very hard to get to the bottom of them. You can only make decisions on the information provided to you. That is why I believe you need an investigative arm, and that does concern me. The fact is that, when I go back through recent history to the investigation into the investigation of Palm Island, I believe that the processes that were involved then and dictated by the CMC, had that been any other organisation or the Police Service—it was serious misconduct, which is the way it went down. But the CMC I believe were a law unto themselves there. We all know that was a very emotive issue on Palm Island. There was a lot of misinformation out there. I do know that when we took that to the Supreme Court because of the

apprehended bias the Police Service were given a report to discipline the police but they did not get the entire brief of evidence. If you have to make a decision, you need all of the available information. That concerns me.

Ms GRACE: Referring matters back to the CMC from the PCMC is but one option. We do have other options as well. Doesn't it become a little bit complicated that you have the CMC being an investigative body and then you have another investigative body investigating the investigative body? The layers are there. What would be the practical way of doing it? From our point of view we have more than one option than to refer a matter back to the CMC. You do not have to answer this today, Mr Leavers. But could you give some thought to what the member for Waterford was referring to? What other kinds of things would you like to see that are not there already to strengthen that? I think having another body or another investigative unit would be almost like a pyramid or a Ponzi scheme. It becomes a bit unworkable.

Mr Leavers: Absolutely it becomes very cumbersome. That is why I think it is very important for the CMC to be purely an integrity commission and not have other functions, because then they can purely oversee those other functions of the Police Service. I have heard some criticisms in relation to the Police Service and police investigating police. The fact is that you need competent people to investigate police. I have every confidence in our Ethical Standards Command and the job that they do.

Ms GRACE: While you are on that, do you have a problem with QPS officers being seconded to the CMC? Do you see that as a good career move or a good thing to do in relation to working together? Do you want to comment on that at all?

Mr Leavers: I think it is very important under the present system that to do investigations you need police at the CMC. I say this because you need very experienced investigators to investigate serious and complex matters. Whether it be procedure or experience or dealing with the legislation, you need that investigative background and experience to be able to get your head around it. I think it is very important.

I do have an issue at present, and that is that we have civilian investigators at the CMC who may come from other states. They simply do not understand the processes and the legislation in Queensland, and I see that as flawed. I can give an example. I have been to some critical incidents. There was a police shooting at Everton Park a couple of weeks ago. I am not being critical of the CMC officer. He is a very decent sort of person. But they simply go there and stand around and watch what the Ethical Standards Command do. I do not think that has any merit. I believe that our police are one of the most accountable organisations, I would suggest, in the country. There is room for oversight, but at this point, having investigators who do not take any part in the process but stand there and watch, I do not see that as an effective use.

With the accountability the way it is now, it is straight down the line. It has to be. It cannot be done any other way. There was a matter probably 2½ years ago. It is before a court at the moment, but I will briefly state it because I think it is important. The matter was initially to be investigated by the local command in Townsville. I pleaded with the Police Service for the Ethical Standards Command to go to investigate it. That is quite different for a Police Union to ask for a fully independent investigation. We did not get much success out of the CMC on that either. But I believe that all of those investigations should be investigated thoroughly by an independent body. I believe that the Ethical Standards Command is the place for that to occur. Then it can be overseen or reviewed by the CMC. Then you do not need these other bodies time and time again.

CHAIR: Can I go back to your opening statement to clarify a few things which have been brought up? It is with regard to the no review process of the CMC. We have alluded to the fact that we have the Parliamentary Crime and Misconduct Commissioner and we have an oversight committee. You have alluded to the fact that possibly the Parliamentary Crime and Misconduct Commissioner should have other investigative powers. What more would you want as an oversight group of the CMC? Do you have a model?

Mr Leavers: I believe it should be reviewed, whether it be on a three-yearly basis or whatever the time frame is similar to the PPRA Review Committee, where all the interested stakeholders can go through the review and many of the stakeholders can put in recommendations or concerns they have had over that period of time, and it can all be flushed out. I think that is a very open and transparent method. You will get people from various backgrounds, whether it be the Law Society, the Bar Association, the Police Union. You will have representatives from the government. I think it is probably very healthy. Obviously when you get so many different views from people from so many different backgrounds you generally end up with a very balanced view and decision. At the moment I see the CMC—I am not being disrespectful at all—as a bit of a closed shop in some ways. In some ways they dictate how things occur. I think with a body which is so powerful there needs to be proper oversight. I think a proper review like that would complement the PCMC.

Mr RYAN: Mr Leavers, are you saying that we need to have a process different from the process we are going through now, which is a three-yearly review process where all those stakeholders you have mentioned have been invited to make a submission? All those stakeholders, like yourself, have been invited to come and make an oral submission. Are you saying we need a different process to what we are actually doing right now, which happens every three years?

Mr Leavers: I think all the stakeholders need to be involved in any issues—

Mr RYAN: All the stakeholders were invited—the Bar Association, the Council for Civil Liberties—

Mr MOORHEAD: You are looking for a negotiated process.

Ms GRACE: I think Mr Leavers is saying maybe to get them all in the one room.

Mr RYAN: Like a roundtable.

Mr Leavers: Yes, a roundtable discussion. At the end of the day, from my point of view—and people can see it from one side or the other—I think with a roundtable discussion you get people from various backgrounds and you could end up with the best possible model, or we can look at what has worked and what has not worked and what has worked in other states and what has not worked in other states and then we can get the best model. But continual review of any process I think is very important. Since the introduction of the then CJC in 1989, we have come a long way. We have had a lot of change. We have had to move with the times. I think it is important that we continually change and review. It is part of risk management.

Ms GRACE: It is an interesting concept. The difference is that when you are dealing with legislation it is just one side of politics that is in government who is driving it and the government can invite people and negotiate. This is a parliamentary committee where we cross the whole political spectrum and it is not quite as simple as when you do it in another environment. But I know exactly what you are talking about, because I am going through another process similar to that at the moment on another issue. It is worth considering.

CHAIR: Yes. That is why we have these reviews. We try to get a better outcome for all.

Mr MOORHEAD: I suppose there are two processes. There is this process and then there is the government process of what they do to respond to it.

Ms GRACE: That is right.

CHAIR: I just have one further question with regard to the time frames for investigation, which was your third point. You were concerned about the time frames for your members. Can you expand on that? Are you suggesting we should have some guidelines as to what is a reasonable time frame? Should there be points at which people are notified where they are in that time frame? Is that not happening? At the end of that process, is there no conclusion? Is that what you are saying?

Mr Leavers: At times that can be the case. Some investigations can go on for many years. I know one which has recently been commenced by the CMC and it may take two to three years for that process to be finalised. I think there are some investigations that they do which could be dealt with far more efficiently and effectively. The end result is that they do have a lot of capabilities for investigations—more than any other organisation. But it is not only the police officers whose lives are put on hold but also their families, their work units and the complainants who make a complaint from outside. If they see an investigation taking 12 to 18 months or two or three years, everyone loses confidence in the system. I think it is something that we really need to watch and ensure we have time frames.

If it is to go on for a long time, there should be regular updates so people know where they stand or what is happening. I do understand that with some complex investigations—whether it be drug related or paedophilia—some things need to be kept completely confidential and you cannot give updates. I am not unreasonable about that. But in the main I think a far more efficient process would benefit all. Often the first thing people know is that a complaint has been made and then it may take two to three years. I think that is unacceptable to put people's lives on hold—people cannot be promoted; they cannot be transferred. They lose their incentive to work sometimes. It has a dramatic effect on police. Often the results that come back are of a minor nature. For those that come back that are of a serious nature, quite frankly I state that they deserve what they get.

Mr MOORHEAD: Deputy Commissioner Stewart was talking about the fact that often the first step in these disciplinary processes with police is to resort to adversarial, formal—'black and white letter law', he called it—processes. It seems that the police disciplinary process too closely reflects a criminal investigation, where on both sides there is a higher standard of proof than might be required in a normal workplace and it is also a much longer process. I come from a union background and have dealt with investigations which would be over in one day, with the investigation pulling together people to find out what happened. It seems that there is a process in the QPS where, as soon as there is a question of misconduct, everyone backs into their corners and goes through a long, disputed disciplinary process. Do we need to give more managerial powers to supervising the staff? What do we do to stop small matters becoming large matters?

Mr Leavers: That is a very important point, and I raised this while giving evidence during Operation Tesco. There are many matters which I believe can be dealt with very quickly. A very good example was the widely publicised nude run with the SERT police about two years ago. I was involved initially in that.

Mr MOORHEAD: Not in the run I hope?

Mr Leavers: I was contacted; I was not involved in the run. You would have read it in the papers. What happened was I spoke with the police involved. The investigation kicked off the next day. I had spoken to all the police involved and they wanted to put their hand up straightaway and say, 'I was involved, I want to get what I deserve and move on.' That investigation took well over 12 months.

Ms GRACE: This is the point I was making before. If you were able to go to another tribunal that had expertise in that area, a decision or an outcome would be able to be reached quickly. Twelve months of investigating something that in our experience could probably be handled in 48 hours is an interesting dilemma.

Mr MOORHEAD: Is that because people do not know what the likely outcome would be? I would think that if a nudie run was worth a fine of X amount of dollars you would just say, 'Fair enough, I will cop the \$300 fine,' or whatever it is. Is it because people do not have an understanding of what the likely outcome will be? Why do we have such a slow process?

Mr Leavers: Because what happens is that, firstly, everyone has to be interviewed and they are very thorough interviews. Then a full investigation has to be reported on. That has to be overseen by the local command and there may be changes required or further investigations. Then it will go back to the local command, then the Ethical Standards Command, then overruled by the CMC, which will say, 'Yes, take disciplinary action,' at whatever level and those people went before the deputy commissioner. The deputy commissioner has the power to dismiss people. The fact is the biggest penalty in that was one fellow was demoted. We have appealed that and it has now gone back to two pay points, but there is another appeal by the CMC as well.

At the end of the day, had those police known that it would have been two pay points they would have put their hands up the next day. I said to the investigators that they are prepared to plead guilty on this, let us get it over and done with and have an instant hearing, which can be good. This is the allegation that the nude run took place, and they would have plead straightaway. But what happened is they were set aside for 12 months, moved out of their duties—which is not an effective use of resources—and a lot of them lost a lot of money through wages and they went through a lot of humiliation.

That was not good enough. What they did was not criminal; it was outright stupid, it was unacceptable and they all accept that. I think it could have been dealt with a lot better than it was. As the Police Service said, it was a complex investigation. What concerns me is that, if that is a complex investigation, what happens if we get some really complex investigations in relation to murders? It could have been done a lot quicker and they would have got on with their lives.

Mr MOORHEAD: Once an investigation process starts, does the QPUE have an advocacy process that involves discussion of outcomes or is it solely about formally going through an investigatory process?

Ms GRACE: Is there any conciliation process?

Mr Leavers: Yes, there will be. We have lawyers who act for us when I become aware of many matters. Depending on the indication, I indicate this person will enter a plea very quickly. There are some people who resign very quickly. I do not mind giving that advice. I believe that the disciplinary system should be two things. Is someone worth saving? Yes, we save them. If they are not worth saving, they must leave the organisation. I understand there needs to be a punitive process, but it also needs to be an educational process because a lot of mistakes are made through purely not having the knowledge, the experience or the supervision out there. That is the reason mistakes are made.

When I first joined the police I was asked why we have sergeants. It was explained that they are the ones to supervise you, keep you out of trouble and if you make a mistake they correct it on the run. I still think that is very important today, but the truth is that a lot of supervisors at the level of sergeant are stuck doing internal investigations or administrative functions. Therefore, they cannot supervise the junior constables out there making these decisions. I have been there myself when I have turned up to domestics and you will see people treating the young constables with contempt. But if you turn up as a sergeant or someone above and you give some advice it certainly goes a different way. I have corrected behaviour on the run and it has been fixed immediately and it is effective, but to go through a long investigation process serves no-one any good.

CHAIR: Does that imply that possibly as a result of operations like Tesco and Capri we have not learned out of that process what we need to do to prevent that happening again? Is that what you are saying?

Mr Leavers: I think there is bigger scope for it, yes. I think with proper supervision at the sergeant level and above we can nip a lot of things in the bud. I gave the example in Tesco. If I am a shift supervisor or a sergeant and I am walking the beat in Surfers Paradise and I do a patrol of a licensed premises, if I see police officers who may be off duty and I think their behaviour is compromising themselves, I could give them advice—obviously not at the time; I would need to talk to them—to correct that behaviour there and then instead of allowing things to go on. What we need to do is give supervisors the authority to supervise. We have come into a world where supervisors will supervise but then a frivolous complaint can be made, the supervisor goes through a hell of a time and as a result of that they stop supervising because it becomes too difficult. We have to empower the supervisors and give them credit. If the supervisors do the wrong thing obviously the penalty needs to be quite good, but we need to look at whether it was intentional or in good faith. I know as a shift supervisor that I used to spend three days a fortnight doing a roster. To me that is an ineffective use of police resources.

Mr MOORHEAD: Obviously devolution is one of the big issues in this area of integrity, and the QPS is no different. How do you make sure that the public have faith in that process? How does the average punter from Beenleigh know that that direct response by the supervisor is going to be the correct one? I

think that is always the balancing factor. A lot of people have concerns about police investigating police. That is why I think some things that are often quite minor go straight to the CMC rather than to OICs. How can you make the public support that or have faith in that process?

Mr Leavers: I think the minor matters can be addressed by the supervisor. There is always a reporting process. Should it be they have something which is significant enough to report, it should be reported. If a member of the community at Beenleigh makes a complaint about the way they were spoken to, with initial information, I look at it and I would say, 'Yes, this has or has not occurred,' I can then report that further should it need be.

With regard to police investigating police, the fact is that a lot of investigations at the moment are referred back from the CMC to police to investigate. I have said this in a review of the discipline system: I am very concerned that I, as a sergeant, have to investigate my subordinates. I think that places me in a very difficult situation. I have the people I work with whom I may rely on who I have to investigate. If I come out with a favourable comment, I could be accused of giving them favours. If I come out with another view where they need disciplinary action, I wear the wrath of the troops.

What I think needs to happen in relation to the discipline system is that all matters which relate to complaints from senior sergeants down to recruits should be investigated by the Ethical Standards Command. Complaints of commissioned officers should be investigated by the CMC so we have this overriding view. I do not believe supervisors should be investigating their subordinates. It places you in a very difficult situation, but the CMC has let this occur and has continued to let it occur. That is why we become very frustrated with the CMC when they say it is wrong for police to investigate police. They are the ones who are in control of it and who dictate this.

Mr MOORHEAD: It may not all be the CMC. I know that the one thing many of my constituents really hate is when they write to the CMC and they get a letter back saying, 'Your complaint has been forwarded to ESC.' I suppose that is the other point. For those people who do not have faith in the system to get a letter from the CMC saying, 'Your complaint has been devolved to the ESC,' is often quite disappointing too.

Mr Leavers: That may very well be. It depends how many people you resource at the CMC. I know the Ethical Standards Command has 20 per cent of the entire police population, so that is one in five. It just depends on what resources you want to give to the Ethical Standards Command or the CMC. I do not doubt the investigators at the Ethical Standards Command. I think they do a very competent and thorough job and that is always overseen by the CMC, so possibly there needs to be better education of the community that the CMC will oversee all investigations. If they do have a concern, it can go back or they can take it over. I have been critical of the CMC at times. I believe there are some investigations they should take over.

CHAIR: I would like to thank you both for your submissions, answers to submissions and for presenting this afternoon. Thank you both for coming in. We will be conducting further hearings tomorrow which you are welcome to observe. We will deliberate on the submissions and try to produce a document that reflects both our input and the input of the submitters. We will make sure that it is made available to you and then produce it back to government. It is for the government then to decide on what it is going to do with that as a result.

We will do that in a timely manner. We will make sure that we continue to have an oversight role both in the production of that and in the deliberations that come from it. We will endeavour to make sure that what was submitted and what was raised both in questions and around the topic over the public hearings is implemented as best as we can see it to improve the system. Thank you for participating this afternoon. We will adjourn until 9 o'clock tomorrow morning.

Committee adjourned at 3.57 pm