

Three-yearly review of the Crime and Misconduct Commission

Submission by the CMC to the PCMC

15 July 2011



Our vision:

That the CMC make a unique contribution to protecting Queenslanders from crime and promoting a trustworthy public sector.

Our mission:

To combat major crime and promote public sector integrity.

We value:

- Integrity
- Accountability
- Respect
- Excellence and innovation
- Collaboration

We will:

- Act with independence, respect, impartiality and fairness in the public interest.
- Show commitment to the rule of law.
- Embrace excellence, professionalism and teamwork in everything we do.
- Be responsive to our clients, and work collaboratively with our stakeholders.
- Respect and value our staff.
- Demonstrate leadership, innovation and flexibility in performing our duties.

Purpose of this submission

Section 292(f) of the *Crime and Misconduct Act 2001* (CM Act) provides the Parliamentary Crime and Misconduct Committee (PCMC) with the responsibility to:

review the activities of the commission at a time near to the end of three years from the appointment of the committee's members and to table in the Legislative Assembly a report about any further action that should be taken in relation to this Act or the functions, powers and operations of the commission.

A report of the PCMC's last review of the Crime and Misconduct Commission's (CMC) activities was tabled in October 2008.

This submission has been prepared to assist the PCMC in its forthcoming review of the CMC. It includes a summary of the CMC's activities and achievements for the past three years, as well as an outlook on its future directions and challenges. This submission should be read in conjunction with other documents, including our annual reports and confidential briefing papers provided to the PCMC every two months, as these provide detailed information regarding the CMC's activities in the previous three years.

Contents

Purpose of this submission	iii
Abbreviations	vi
Executive summary	vii
Chapter 1: Our history and purpose	1
Origins	1
Structure	1
Chief work areas	2
Chapter 2: Changes made, and sought, to the CMC's operations	4
Changes to the CM Act	4
Changes to our investigative powers	4
Changes to our operations	4
Changes requested in the previous review	5
Further changes now sought	5
Chapter 3: Our performance	11
Crime	11
Misconduct	17
Witness Protection	21
Chapter 4: Combating major crime	22
The CMC's jurisdiction	22
The CMC's role	24
Intelligence support	29
Crime research support	30
Major crime prevention	31
Challenges for the future	32
Outlook 2011–12	32
Chapter 5: Proceeds of crime	33
Overview	33
Effectiveness and efficiency	34
Challenges for the future	36
Outlook 2011–12	37
Chapter 6: Promoting a trustworthy public sector in Queensland	38
Performing our misconduct functions	38
Managing complaints	39
Building integrity program, capacity building and prevention	50

Misconduct investigations	52
The CMC's work with the Queensland Police Service	57
Research	59
Challenges for the future	63
Outlook 2011–12	63
Chapter 7: Witness Protection and Operations Support	64
Witness Protection	64
Operations Support	66
Challenges for the future	69
Outlook 2011–12	70
Chapter 8: Trends and resources	71
Trends in major crime hearings	71
Trends in Proceeds of Crime	72
Resourcing issues	74
Appendixes	
1. Accountability and corporate governance	76
2. CMC submission to the Queensland Government for changes to the CM Act	87
3. The CMC's telecommunications interception powers	124

Abbreviations

ACC	Australian Crime Commission
AFP	Australian Federal Police
CJC	Criminal Justice Commission
CM Act	<i>Crime and Misconduct Act 2001 (Qld)</i>
CMC	Crime and Misconduct Commission
COMPASS	CMC complaints database system
DPP	Director of Public Prosecutions
EEO	equal employment opportunity
ESC	Ethical Standards Command
FCU	Forensic Computing Unit
FOI Act	<i>Freedom of Information Act 1997 (Qld)</i>
GOC	Government owned corporation
ICAC	Independent Commission Against Corruption (NSW)
JAG	Department of Justice and Attorney-General
LEA	law enforcement agency
LHHN	local health and hospital network
NCA	National Crime Authority
ODPP	Office of the Director of Public Prosecutions
OMCG	outlaw motorcycle gang
PCJC	Parliamentary Criminal Justice Committee
PCMC	Parliamentary Crime and Misconduct Committee
PIM	Public Interest Monitor
PPR Act	<i>Police Powers and Responsibilities Act 2000</i>
PSA Act	<i>Police Service Administration Act 1990</i>
PSU	Physical Surveillance Unit
QCC	Queensland Crime Commission
QPS	Queensland Police Service
SIU	Strategic Intelligence Unit
TI	telecommunications interception
TSU	Technical Surveillance Unit
UPA	units of public administration
WPU	Witness Protection Unit

Executive summary

This submission covers the period from October 2008 to 30 June 2011. In that time we have implemented changes to the ways in which we act to prevent and combat crime, to promote a trustworthy public service and to provide an effective witness protection service.

Becoming increasingly significant to the CMC is the borderless nature of the matters it deals with and the growing importance of its relationships with like organisations in other jurisdictions, both interstate and overseas. Through these relationships we are sharing resources and information that help avoid duplication, maximise efficiency, bring practical results and build the capacity of all involved. Our partnerships particularly help the CMC meet its obligations to ensure the people of Queensland have justifiable faith in the integrity of their public sector and are protected from crime.

In combating crime we face an increasingly sophisticated criminal presence, a destructive persistence of illegal drugs and an ongoing engagement of individuals in criminal paedophilia. To negate these influences we now utilise the power to lawfully intercept telecommunications, the effective development and use of interdisciplinary law enforcement teams, and the ongoing impact of the civil confiscation of assets derived from criminal activity.

As a consequence of these tools we were able to undertake in 2009–10 the largest operation against organised crime in the history of our organisation, which resulted in the disruption of a drug network with connections along the eastern seaboard of Australia. Its successful completion involved close cooperation with various interstate police forces, Commonwealth agencies and the QPS. Our telecommunications interception powers greatly assisted us in our achievements.

Since our last three-year report and as a consequence of our work combating organised crime alone we have seized drugs with an estimated value of over \$6.6 million, laid over 650 charges, held 32 days of investigative hearings and seized over \$13 million of suspected criminally derived assets. In our fight against criminal paedophilia we have laid 368 charges against 39 offenders. Our Proceeds of Crime team has restrained assets on over 220 occasions. In total it has restrained assets valued at over \$58 million, resulting in over \$17 million being forfeited to the state.

For a short time in 2009 our work in fighting crime was interrupted by a court decision which stopped a number of our undertakings under general referrals. This situation was quickly corrected by an amendment of the CM Act.

In our efforts to improve the integrity of the public sector we have seen an increase in the responsibilities of the CMC. Government-owned enterprises are now part of our area of responsibility. Our jurisdiction covers public service departments, local governments, elected officials, universities and a range of other institutions including peak racing bodies and TAFEs. We also have a particular responsibility to oversee the effective investigation of deaths occurring in police custody or as a result of police operations. Our emphasis throughout has been on working more efficiently and reprioritising our work so as to balance our limited resources with the need to make an effective contribution to the public's confidence in state agencies.

Complaint numbers over the last two years have increased and we have, on average, assessed those matters received within four weeks on 95 per cent of occasions. In our misconduct investigations area we have not recently met our target to finalise 80 per cent of investigations within 12 months but we have nonetheless increased the number of investigations completed from 80 investigations in 2008–09 to 118 in 2010–11.

We have also taken significant steps to directly assist agencies develop their capability to manage integrity issues occurring within their agencies. The ongoing development of an integrity index by which to measure an agency's capability to properly resolve complaints is an important innovation. We have also worked with other lead agencies to deliver specialist services and products aimed at helping agencies effectively manage integrity matters. Our work with the Public Service Commission on the production of guides on public interest disclosures and with the Department of Local Government and Planning on the production of *The Councillor Conduct Guide* are examples of collaboration with other agencies to magnify our impact and rationalise the use of resources.

Our work protecting at-risk witnesses and their families and close associates who have provided assistance to a law enforcement agency continues unabated. Increasingly, we are providing shorter-term protection for specific events, such as when providing assistance to witnesses appearing before the court to give evidence. Notably, the CMC and its predecessor agency have now provided 22 years of protection to witnesses and kept 100 per cent of them safe from harm.

All operational areas are supported by specialist intelligence and research effort. Through these avenues, operational areas receive tactical intelligence, strategic intelligence, advice on targets for investigation, indications of crime markets in Queensland, research advice on crime and misconduct topics within the CMC's jurisdiction, evaluations of policing methods and reports on matters of public policy. Some examples are the recently released reports on the operation of evade police provisions and the operation of the *Prostitution Act 1999*.

In the foreseeable future, conflict between the magnitude of the CMC's responsibilities and the resources available to it will continue to create pressure points. We are constantly seeking ways to work more efficiently and looking for opportunities to leverage off other agencies to increase our impact and make the best use of limited resources. Our Proceeds of Crime team has particular difficulty arising from the recruitment opportunities available to staff in other organisations.

We do not see the current decline in requests from law enforcement agencies for the use of our specialist crime hearings powers or the fewer civil confiscation referrals from the QPS to continue, given that we understand police and other resources were temporarily diverted to meet the response to Queensland's summer disasters of 2010–11. Instead, we expect civil confiscation referrals to increase as agencies embed consideration of civil confiscation possibilities into their investigative processes. There is also, as regards civil confiscation, the opportunity to explore growth areas, especially fraud. On the reverse side of the ledger is the increasing sophistication of targeted individuals in moving assets off shore. Indeed, the increasing sophistication of criminal activity, whether it be by Crime or Misconduct targets, requires us to maintain up-to-date training for staff, especially critical specialist staff, and to devote resources to keeping pace with technological change.

Our work to improve the integrity of agencies and to maintain public confidence in the institutions of the state is currently focusing on the QPS, with the government presently considering ways to improve the regime surrounding police discipline. There is an inherent issue of resourcing with concern about 'police investigating police' in serious cases where the expectation is that only the CMC should investigate such matters. In the CMC, seconded QPS officers routinely undertake and support these investigations. These issues, of course, are before the government for consideration.

To further improve our capability we are proposing that the recommendations from our previous three-year review submission of 2008 focusing on the review of Chapters 3 and 4 of the CM Act and not yet actioned be re-enlivened and that the confidentiality of CMC information be strengthened.

We have also proposed changes to provisions in the CMC Act, including to:

- ▶ increase the time limit to lodge applications for review with QCAT
- ▶ remove the claim of self-incrimination at misconduct proceedings
- ▶ extend the definition of a reviewable decision to include a decision not to commence disciplinary proceedings.

We have noted changes to other legislation that could assist Witness Protection and Proceeds of Crime staff perform their function.

Chapter 1: Our history and purpose

This chapter gives an overview of the origins of the CMC, how we are structured and the responsibilities of each major work area.

ORIGINS

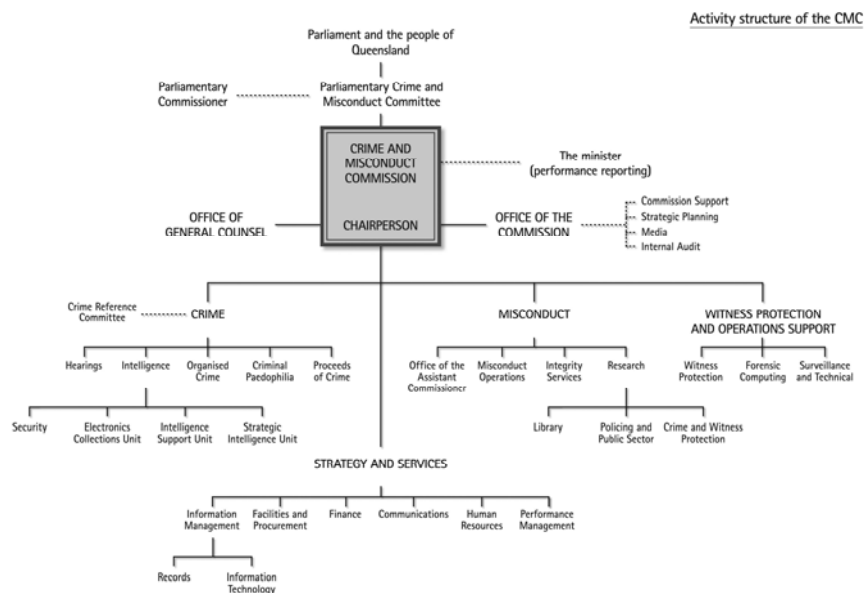
The CMC is an independent specialist agency established under the *Crime and Misconduct Act 2001* (CM Act). It came into existence on 1 January 2002.

The CMC aims to reassure Queenslanders of the integrity and accountability of officers in our public institutions and to demonstrate that effective arrangements exist to ensure our police are honest and efficient and our communities as free as possible from corruption and organised crime.

STRUCTURE

The CMC is headed by a five-member Commission comprising the Chairperson (currently Mr Martin Moynihan AO QC), who is also the chief executive officer, and four part-time Commissioners who represent the community. Decisions made by the Commission are put into effect by the executive officers.

While independent of the government of the day, the CMC is fully accountable to the people of Queensland through the Parliamentary Crime and Misconduct Committee. The following chart shows the basic activity structure and reporting responsibilities of the CMC.



Staff establishment

CMC staff are covered by the *Equal Opportunity in Public Employment Act 1992* and are representative of the community they serve. Our staff establishment of 328 full-time equivalents is made up of lawyers, police, accountants, investigators, social researchers, Indigenous liaison officers, intelligence analysts, computing specialists, administrators and support staff. Staff numbers have grown modestly since the PCMC's previous review three years ago, when there were 302.5 full-time equivalents. This is largely attributable to our telecommunications capacity introduced in October 2009.

CHIEF WORK AREAS

The CMC focuses on three main areas of service: combating major crime, reducing misconduct and improving public sector integrity, and protecting witnesses.

These activities contribute to the Queensland Government's *Toward Q2: Tomorrow's Queensland ambition of Fair — Supporting safe and caring communities*.

Crime

The Crime area of the CMC works with the Queensland Police Service (QPS) and other law enforcement agencies to combat and prevent major crime, including organised crime, criminal paedophilia, serious crime and terrorism. Through the use of our special powers, including telephone interception, the CMC is able to use coercive hearings to make a significant contribution to combating and preventing major crime (see Chapter 4).

The Proceeds of Crime Unit is responsible for the civil confiscation scheme, designed to remove the financial incentive from engaging in serious crime (see Chapter 5).

Misconduct

The Commission's misconduct functions are directed to ensuring that public money and resources are used to the benefit of the people of Queensland and not to private gain.

This involves identifying and enhancing the standards of integrity of the units of public administration in Queensland and ensuring they are complied with.

Civil society cannot turn a blind eye to misconduct. Once misconduct is tolerated as acceptable it will erode standards of integrity and lead to the wastage of public money and resources.

The vast majority of public officials are honest and competent. A small coterie make decisions for the wrong reasons and public money and resources are used for the benefit of corrupt people and not for public good.

Research

The Research area carries out research into crime, misconduct, policing and policy and legislation, particularly in relation to criminal justice and public policy (see Chapter 6). Research into policy and legislation occurs through referrals by our

minister under section 52(1)(c) of the CM Act or through requirements in other legislation.

Witness Protection and Operations Support

The CMC has primary responsibility in the state of Queensland for the protection of people whose safety has been endangered as a result of assisting law enforcement agencies. The Witness Protection program operates under the *Witness Protection Act 2000* (Qld) and the CM Act. It assesses all witness protection applicants from client agencies, assists protected persons to meet their court commitments and provides education and marketing sessions to referring agencies.

The area has a lead role in specialised witness protection training across Australasia (see Chapter 7).

Operations Support provides all of the CMC's specialist operational and investigative teams with physical surveillance, technical surveillance and forensic computing resources. The area is led by the Assistant Commissioner of Police attached to the CMC.

Intelligence

The Intelligence area collects, correlates and analyses information and intelligence relevant to our responsibilities. It monitors various crime markets in Queensland and shares relevant intelligence with other law enforcement and government agencies. Intelligence staff facilitate the exchange of information between our Crime and Misconduct service areas and provide investigative teams with tactical information and intelligence support.

The CMC's telecommunication interception activities are also managed within this unit.

Strategy and Services

Strategy and Services assists all areas of the CMC to achieve their organisational goals. Responsibilities include overseeing the CMC's performance management systems and providing financial, administrative, human resources, information management, communications and corporate governance services.

Further details on our governance and accountability are in Appendix 1.

Chapter 2: Changes made and sought to the CMC's operations

This chapter outlines the changes made to the CM Act and the CMC's operations since the PCMC's last three-year review, highlights recommendations that received support but have not yet been implemented, and proposes others that will improve the current functioning of the organisation.

CHANGES TO THE CM ACT

The following changes to the *Crime and Misconduct Act 2001* have been made since the government response to the PCMC's seventh three-yearly review of the CMC in April 2009:

- ▶ amendments relating to enactment of the *Queensland Civil and Administrative Tribunal Act 2009* to enable the CMC to seek QCAT reviews¹
- ▶ amendments to clarify referrals of major crime matters to the CMC.²

CHANGES TO OUR INVESTIGATIVE POWERS

The following changes to the CMC's investigative powers have been made since the previous review:

- ▶ introduction of telecommunications interception powers with the enactment of the *Telecommunications Interception Act 2009* (Qld).

See Appendix 3 for more information.

CHANGES TO OUR OPERATIONS

The operational environment of the CMC has also been impacted upon by the following legislative changes to other Acts since the previous review:

- ▶ The Integrity Act 2009 and the Integrity Reform (Miscellaneous Amendments) Act 2010, which included amendments to:
 - the *Public Sector Ethics Act 1994* to allow a single code of conduct for the public service
 - the *Public Service Act 2008* to reflect the Public Service Commission's enhanced role to promote an ethical culture in the public service, provide for a revised model for public service appeals, expand the disciplinary provisions of the Act to public service employees and implement operational amendments
 - *Government Owned Corporations Act 1993* to give the Crime and Misconduct Commission jurisdiction over certain types of misconduct in government owned corporations.

¹ Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 and Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24

² Crime and Misconduct and Summary Offences Amendment Act 2009 No. 12 pts 1–2

- ▶ *Criminal Code and Other Legislation (Misconduct and Breaches of Discipline and Public Sector Ethics) Amendment Act 2009*, which introduced the offence of misconduct in public office to the Criminal Code
- ▶ *Right to Information Act 2009* and *Information Privacy Act 2009*. Information about these two new Acts is provided in Appendix 1.

CHANGES REQUESTED IN THE PREVIOUS REVIEW

The following recommendations for changes to the *Crime and Misconduct Act 2001* were supported in the government's response to the previous PCMC review, but have not yet been implemented:

Recommendation 11

The Committee recommends that the *Crime and Misconduct Act 2001* be amended to authorise the Director of Integrity Services to refer certain matters to the appropriate unit of public administration, namely matters for which disciplinary action, other than for official misconduct, may be considered, and matters that require investigation but that are outside the Commission's jurisdiction.

Recommendation 14

The Committee recommends that the *Crime and Misconduct Act 2001* be amended to expressly nominate the grounds of privilege a witness may rely on to refuse to answer a question at a Crime and Misconduct Commission hearing and to clarify that these are the only privileges that may be claimed.

Recommendation 16

The Committee recommends that the *Crime and Misconduct Act 2001* be amended to give Commission officers involved in misconduct or confiscation related investigations the power to seize evidence located in a public place or another place the officer has entered lawfully.

Recommendation 17

The Committee recommends a review of chapter 3 and 4 powers in the *Crime and Misconduct Act 2001* in order to develop uniform provisions with generic application to Crime and Misconduct Commission functions where appropriate.

The CMC provided a comprehensive submission in support of the above recommendations to the then Attorney-General and Minister for Industrial Relations on 23 July 2010. The CMC reiterates its request for consideration of the issues and proposals identified in the attached copy of the confidential submission in Appendix 2. It is requested that this document be considered by the Committee but not be publicly released.

FURTHER CHANGES NOW SOUGHT

Changes to the CM Act

Proceedings before Queensland Civil and Administrative Tribunal (QCAT)

There are essentially three issues with respect to QCAT proceedings which are sought to be addressed through amendments to the *Crime and Misconduct Act*.

Time for commencement of a review application

Firstly, it is sought to extend the time limit to commence a QCAT review application so that it reflects the same time provisions as stipulated in the *Queensland Civil and Administrative Act 2009*. This is to ensure consistency between the two Acts relating to review applications, and to provide the CMC with sufficient time to properly consider whether a review application should be sought.

The QCAT Act provides that an applicant seeking review of a decision must do so within 28 days of a decision being made, whereas the CM Act provides for a time stipulation of only 14 days. The timeframes should be consistent between the two Acts. At present, the necessity of the CMC to file the material within 14 days means that we have little time to consider whether we should review a matter, and to obtain material which was before the original decision-maker. If the timeframe was extended, this would assist the CMC to address those issues.

Evidence-related issues

Secondly, there are evidence-related issues which concern claims of privilege before QCAT. At present, in QCAT proceedings, police witnesses are able to refuse to answer questions on the grounds of self-incrimination privilege. If that occurs, any statement that the witness may have made previously cannot be relied upon, which means that valuable evidence may be lost. The CMC is seeking for abrogation of this privilege in its proceedings before QCAT, and for the use immunity in the CM Act to be extended to documents/statements made in CMC hearings/proceedings so that they can be used in disciplinary proceedings. The current use immunity is too restrictive – i.e. statements obtained from a person, where that person has made a claim of self-incrimination privilege, cannot be used against that person in disciplinary proceedings or in some other types of proceedings.

A discussion of this issue is set out at pp. 71–72 of the CMC's *Setting the Standard* report. In addition, the CMC has also specifically requested amendments in the following correspondence:

- ▶ letter dated 14 October 2008 from former CMC Chairperson Robert Needham to the Hon. Glen Williams AO QC, Chair of the Independent Expert Panel for the Tribunals Review Project
- ▶ letter dated 17 June 2010 from CMC Chairperson Martin Moynihan to the Hon. Cameron Dick MP, Attorney General and Minister for Industrial Relations.

On 18 August 2010 the then Attorney-General the Hon. Cameron Dick MP wrote to the CMC Chairperson advising that while he acknowledged the arguments in support of legislative change, he preferred that the matter be considered as part of the Government's response to the CMC's report on the police disciplinary system.

Recommendation 27 of the report of the *Independent Review of the Queensland Police, Complaints and Discipline System* recommends that an independent review be undertaken to examine these issues. The CMC strongly supports that such a review be undertaken as soon as possible to ensure that it is in a position to effectively bring matters before the QCAT in its original jurisdiction.

Jurisdiction to initiate police misconduct proceedings in QCAT

Thirdly, the CMC is seeking changes to the review jurisdiction of QCAT so that if the QPS declines to initiate police misconduct disciplinary proceedings, the CMC is then able to seek a review of that decision or initiate proceedings in the original jurisdiction of QCAT. At present this cannot be done, and the result is that these proceedings are not then able to be reviewed in circumstances where it might be in the public interest for this to occur.

If the QPS declines to initiate police misconduct disciplinary proceedings, the CMC has no power to seek a review of that decision or to initiate police misconduct proceedings in the original jurisdiction of QCAT. It is suggested that the legislation could be easily amended by including in the definition of 'reviewable decision' a decision not to commence disciplinary proceedings. In addition, section 50 of the CM Act could be amended to allow the Commission to prosecute in QCAT both official misconduct and police misconduct allegations. This issue is currently under consideration as part of the broader suggestion to expand the options open to the CMC in the Independent Review of the Police Disciplinary System. It is simply flagged in this section of the CMC submission as an amendment which could clarify the effect of the current legislation which seriously hinders the CMC's powers to effectively supervise the disciplinary functions of the QPS.

The CMC requests the Committee's support for an amendment of the following sections of the CM Act:

- ***Section 219G, to lengthen the period within which a review application must be made to QCAT to reflect section 33 of the Queensland Civil and Administrative Tribunal Act 2009, i.e. within 28 days after a reviewable decision is made.***
- ***Insertion of new powers of QCAT in Chapter 5, Part 2, Division 4 (QCAT's powers) in relation to abrogating self-incrimination privilege in proceedings brought by the CMC, and for use immunity to be extended to documents/statements made in CMC hearings and proceedings.***
- ***Section 50 to allow the CMC to prosecute in QCAT both proceedings for official misconduct and police misconduct.***
- ***Definition of 'reviewable decision' under s. 219BA to also include a decision not to commence disciplinary proceedings.***

Confidentiality of CMC information

Section 213 of the *Crime and Misconduct Act* and protection of the confidentiality of CMC records and information was recently the subject of litigation before the Deputy Chief Magistrate.³ The CMC relies upon the statutory secrecy provision in section 213 when it is served with subpoenas, notices of third party discovery and other forms of court process which would otherwise require the disclosure of the CMC's records in matters that do not fall within one of the exceptions referred to in section 213(4).

In the case heard in the Magistrates Court it was argued by an applicant seeking to enforce a summons to witness served on the CMC, that the protection given by section 213 should only apply to information related to the CMC's functions of helping to prevent major crime and misconduct. It was argued that the application of this provision must be read with section 62 which appears to grant discretion to the CMC to give written authorisation for information in the CMC's possession to be given or made available to a person for inspection.

The Deputy Chief Magistrate found that 'it was intended that the purpose or policy objective of the legislature was that the Commission be provided statutory protection and it not be required to produce documents as a normal public entity would'. His Honour was satisfied that the literal meaning of the section gave effect

³ Crime and Misconduct Commission v FLP [2011] QMC 008

to the purpose of the Act and the documents sought in the summons to witness came within the protection of s. 213 and could not be compelled to be produced to the court by the CMC. His Honour declined to give his opinion on whether the CMC had properly exercised its discretion not to grant authorisation to give the information for inspection pursuant to section 62 and instead said this was a matter for the Parliamentary Committee's oversight of the CMC.

The statutory protection of confidentiality is further potentially weakened by the availability of an application to the CMC under the *Right to Information Act 2010*. The primary objective of this Act is to grant access to information and the present specific exemptions only cover a very limited range of information held by the CMC and the broad 'public interest' exclusion is open to interpretation. In addition section 6 of the *Right to Information Act* provides that the Act overrides the provisions of other Acts prohibiting disclosure of information. There have been no cases interpreting whether this provision overrides section 213 of the CM Act. The potential exists for a CMC officer to make a disclosure under the RTI Act which would be in breach of section 213 and thereby expose the CMC to liability for disclosure of a person's confidential information. It is understood that the Commonwealth Attorney-General's Department has requested that ambiguity in the provisions of the Queensland Right to Information Act be resolved.⁴ It is noted that integrity agencies in other States appear to have a much wider protection against right to information requests than the exemptions currently available under the Queensland Act.

CMC proposal

Legislative amendment could clarify the law related to confidentiality and the level of protection given when there are requests for disclosure of the CMC's records and other information. It is not in the interests of efficiency and best use of the resources of the CMC for it to continue to be drawn into litigation and/or the need to seek rulings from the Information Commissioner to resolve the current uncertainty. In particular, unambiguous protection from disclosure is required to protect CMC staff confidentiality in areas such as requests for release of staff security vetting information, staff and external participants' research surveys, the records of internal committees such as the risk management committee and the audit committee, and internal investigations of complaints against CMC staff. In regard to the latter, where the PCMC has requested completion of a written report and recommendations on a staff investigation for consideration, the CM Act should make it very clear that such reports are subject to the protection of parliamentary privilege in addition to the protection of s. 213.

The CMC requests the Committee's support for an amendment of section 213 of the CM Act to clarify the protection given extends to a range of information, including but not limited to the following examples: staff security vetting information, staff and external participants' research surveys, the records of internal committees, and internal investigations of CMC staff. In addition, the protection of confidential information relating to concerns about the conduct of CMC staff members referred to the PCMC requires further strengthening in the CM Act.

⁴ See discussion in the ALRC paper on 'Secrecy Laws and Open Government in Australia' Report 112 December 2009 tabled March 2010 and advice given to the CMC by Kate Greenwood of Counsel.

Changes to other Acts

Proceeds of crime

Although the civil confiscation legislation (i.e. *Criminal Proceeds Confiscation Act 2002*) was amended and improved in 2009 it has again been the subject of a review in 2010. The review encompasses, most notably, unexplained wealth and equitable sharing provisions, and recommendations to further strengthen the *Criminal Proceeds Confiscation Act 2002*. The CMC has made a joint submission with DPP to the review, dated 21 October 2010.

Outside of the current review, the issue of the use of a trust fund into which confiscated property is deposited has been topical. Queensland and Victoria are the only Australian jurisdictions whose confiscations legislation requires the proceeds of confiscated property to be paid to Consolidated Revenue.

Witness protection

The Witness Protection unit have identified the following concerns with legislation which affects the day-to-day operations of their unit. They are incidental issues, not related to the *Crime and Misconduct Act*, and are not recommended for legislative change in this report. The CMC's Office of General Counsel and Legal Services are in the process of reviewing them and considering whether legislative amendments should be sought.

Ending protection in particular circumstances

Amendments are being considered in relation to section 14 of the *Witness Protection Act 2000*, for the purpose of enabling the CMC to end protection of a person in particular circumstances, for example where the protectee voluntarily removes themselves from the program and chooses not to make their whereabouts known to the CMC.

Currently, s. 14(2) of the *Witness Protection Act 2000* provides that, before ending a protection agreement, the CMC must take various steps including to inform the protected witness why it is proposed to end the protection, when the protection will end, and to give the person a reasonable opportunity to state why the protection should not end.

Practically, if a protectee voluntarily leaves the program and does not wish to be located the Chairperson cannot end protection and satisfy the legislative requirements. Therefore the protectee is usually suspended under section 12 of the *Witness Protection Act 2000* until such time as he/she is located. This may potentially compromise the integrity of the program, including the ability of the unit to take on other protectees.

Requesting information from other organisations to locate protectees

On occasions the Witness Protection Unit needs to conduct enquiries with other organisations to establish the whereabouts of protectees, for example if a protectee fails to communicate with the unit or disappears without notification. The purpose of these checks is twofold: to determine the protectee's security and wellbeing, and to ensure that the protectee has not been compromised.

These enquiries are often hampered due to restrictions in both State and Commonwealth legislation on the release of such information, in particular privacy laws such as the *Information Privacy Act 2009 (Queensland)* and *Federal Privacy Act 1988* and the restrictions on the circumstances in which TI warrant information can be communicated and a TI warrant can be obtained under the *Telecommunications (Interception and Access) Act 1979*. The TIA Act would

require a criminal offence to have been committed by the protectee before a TI warrant could be obtained, a matter which will not be evident unless and until the protectee is located. Even in order to obtain TI information from another organisation concerning the protectee, that information could only be communicated to the CMC for very specific purposes under ss. 67 and 68 of the TIA, none of which include locating a witness on the witness protection program.

The Senate Committee in late November 2010 recommended that the Senate pass the *Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010 (Cth)*. At that time substantial amendments were made, and although provision was made for missing persons, no amendments were made for persons under a witness protection program.

Chapter 3: Our performance

This chapter provides a snapshot of our recent performance across our major service areas of Crime, Misconduct and Witness Protection.

CRIME

Organised crime

Our performance in organised crime is summarised in Table 1 below. It shows that as a result of our internal organised crime operations, 148 persons were charged with 658 offences. Drugs were seized to an estimated street value of \$6.6 million and the value of assets restrained was approximately \$13 million. Investigative hearings were conducted over 32 days with 38 witnesses being called to give evidence in relation to four organised crime investigations.

During the period 2009–10 there was a marked increase in the number of persons arrested during the course of investigations and in the estimated value of drugs seized. This spike is mainly attributable to the success of Operation Warrior, which is discussed in some detail below.

Table 1: Results of organised crime internal investigations, 2008–09 to 2010–11

Description	2008–09	2009–10	2010–11	Total
Number of arrests	59	75	14	148
Charges laid	206	357	95	658
Drugs seized – estimated street value	\$419 410	\$4 554 145	\$1 650 000	\$6 623 555
Value of assets restrained	\$8 640 981	\$4 332 027	\$49 629	\$13 022 637
Investigative hearing days	2	15	15	32
Witnesses attending on summons	4	22	12	38

Criminal paedophilia

Over the reporting period we commenced 48 operations and completed 37 operations in the area of criminal paedophilia.

Our performance in criminal paedophilia is summarised in Table 2 on the following page, which reveals that our internal criminal paedophilia operations resulted in 39 persons being charged with 368 offences, including Criminal Code offences of production, distribution and manufacture of child exploitation material and Commonwealth offences relating to accessing child exploitation material. Investigative hearings were conducted over seven days with 11 witnesses being called to give evidence in relation to two criminal paedophilia investigations.

Table 2: Results of criminal paedophilia internal investigations, 2008–09 to 2010–11

Description	2008–09	2009–10	2010–11	Total
Number of arrests	12	15	12	39
Charges laid	33	213	122	368
Investigative hearing days	2	4	1	7
Witnesses attending on summons	2	8	1	11

Crime hearings

In the past three years the Commission conducted investigative hearings over 433 days in Brisbane, Maroochydore, Bundaberg, Townsville, Mackay, Yeppoon, Proserpine, Gladstone, and Cairns. The CMC called 437 witnesses to give evidence in relation to 67 serious crime investigations including murders, drug trafficking, arson, kidnapping, torture, extortion and rape, money laundering and child sex offending.

Figures 1 and 2 document our performance in relation to investigative hearings days and witnesses attending hearings. The data provided enable our performance to be reviewed in the context of our estimates for the current financial year and our performance over the previous eight years.

Figure 1: Investigative hearing days, 2002–03 to 2010–11

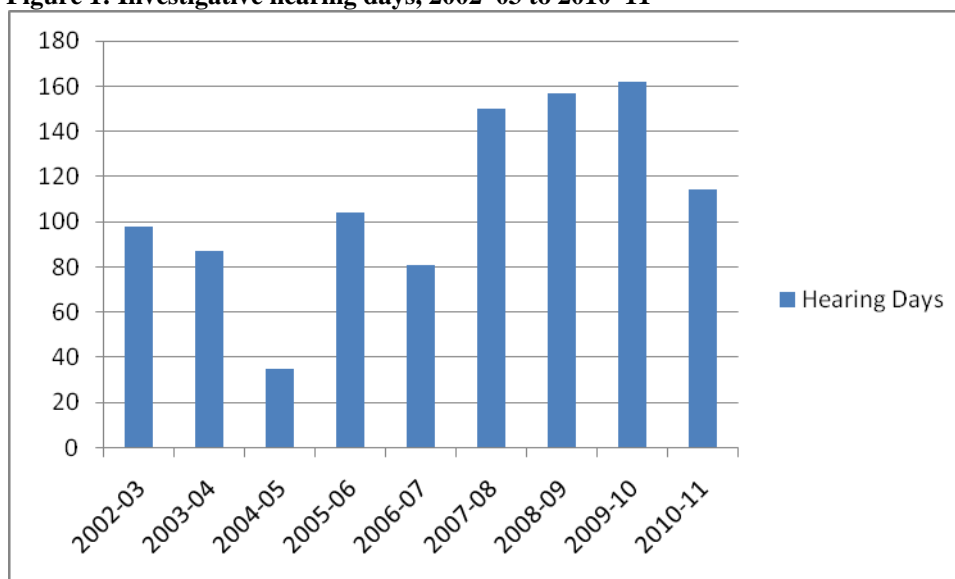
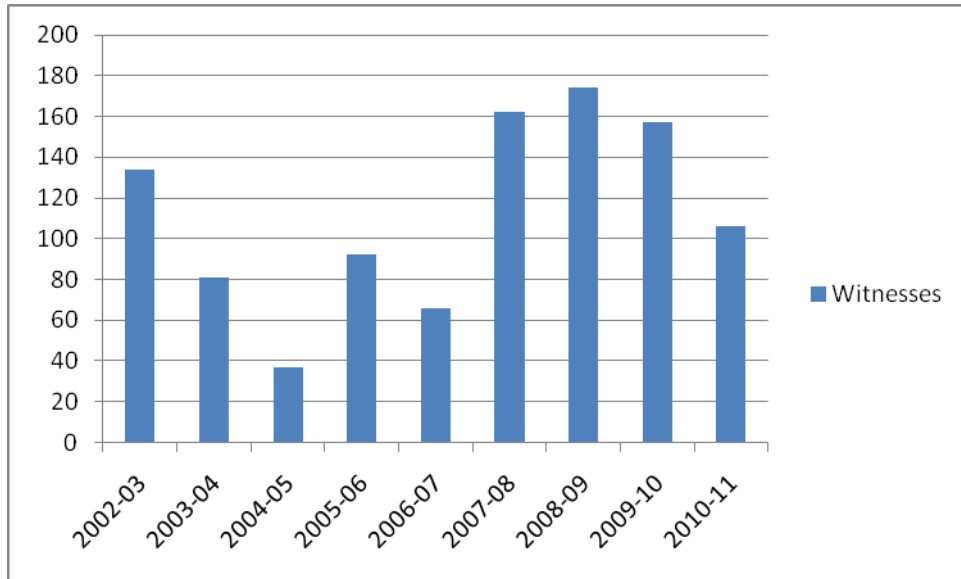


Figure 2: Witnesses attending, 2002–03 to 2010–11



Strategic intelligence

During the review period, we finalised a number of major intelligence projects including a suite of products assessing crime markets in Queensland. In 2009 we published strategic assessments relating to illicit drug markets, money laundering and organised crime, organised fraud and organised property crime. These products were published in comprehensive law-enforcement-only versions and public versions, and are a reference source for the CMC and partner agencies. They help determine priorities, the significance and relevance of criminal matters and assist with operational planning and resource management. Planning for the next suite of crime market assessments will commence in the 2011–12 financial year.

The Strategic Intelligence Unit (SIU) also produced an intelligence digest in 2010 identifying the emerging threat presented by analogue stimulants such as 4-methylmethcathinone, known as 4-MMC and colloquially referred to as Meow-Meow. This highlighted important legal and health issues from an increasing range of similar so-called designer drugs. The SIU also corroborated with the Research area to publish an intelligence digest on the ecstasy and amphetamine use of young people.

Proceeds of crime

Table 3 shows the results that have been achieved since the commencement of the civil confiscation scheme.

Table 3: Civil confiscations: restraints and settlements, 2002–03 to 2010–11

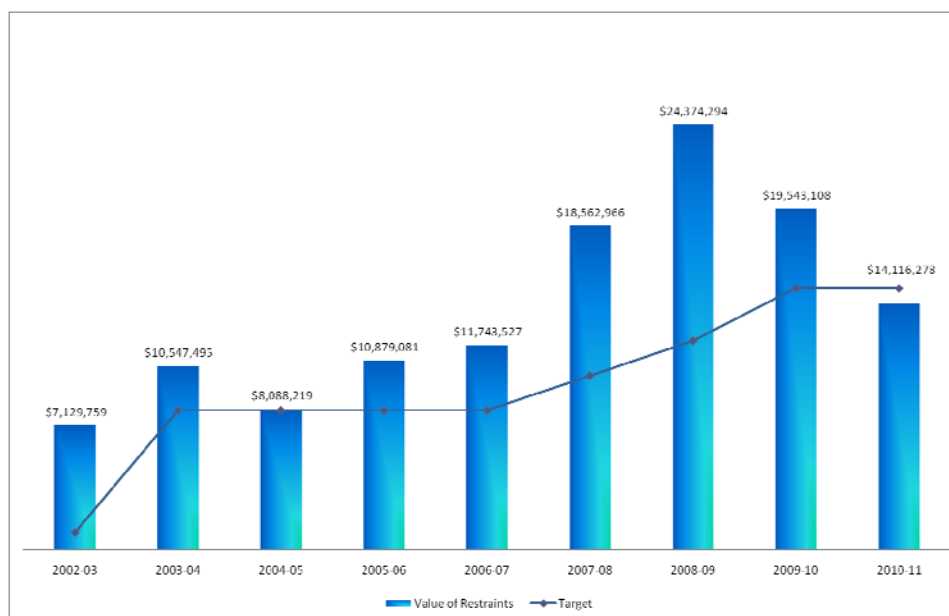
Year	Chapter 2 restraints		Chapter 2 settlements	
	Number	Value	Number	Value
2002–03	10	\$7.129m	1	\$0.018m
2003–04	33	\$10.547m	2	\$0.768m
2004–05	37	\$8.088m	15	\$1.622m
2005–06	28	\$10.879m	25	\$1.999m
2006–07	50	\$11.743m	26	\$4.245m
2007–08	78	\$18.562m	27	\$4.675m
2008–09	78	\$24.374m	23	\$3.304m
2009–10	97	\$19.543m	42	\$5.568m
2010–11	44	\$14.116m	48	\$9.325m
Totals	455	\$124.985m	209	\$31.528m

As at 30 June 2011, the Proceeds of Crime team was managing 99 matters to a value of \$53.2 million through the courts (compared to \$49.78m in respect of 105 matters at the time of the last review). Eight matters involving property valued at approximately \$1.78 million were under investigation preparatory to restraint.

Performance against targets is depicted in Figures 3 to 6.

Figure 3 shows the value of property restrained under the civil confiscation scheme over time. The steady growth over the period from 2004–05 to the peak in 2008–09 was the result of an increase in the number of referrals received from the QPS, as proceeds of crime recovery became better integrated into investigative processes. Deploying resources to meet the demand for restraining orders impacted on the number and value of settlements achieved.

Figure 3: Value of restraints: target versus actual, 2002–03 to 2010–11

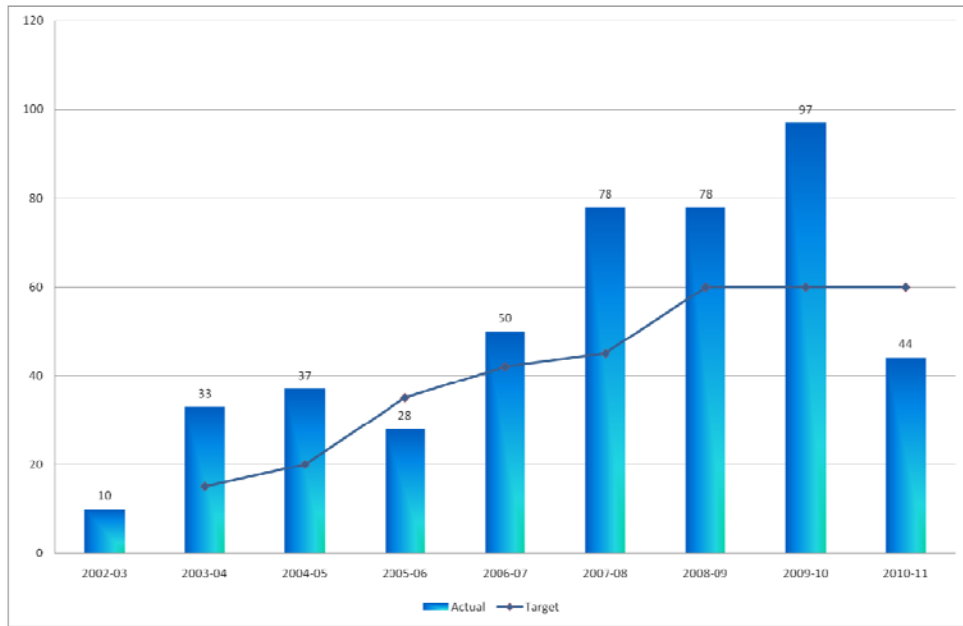


The value of property restrained in subsequent financial years has declined despite a record number of restraining orders being obtained in 2009–10. Referrals from other law enforcement agencies declined markedly in 2010–11 due to factors including

the impact of natural disasters in early 2011 with a consequent fall in the value of restraining orders obtained. Compounding the decline in referrals in the 2010–11 financial year was the difficulty experienced retaining staff and an increased emphasis on bringing active proceeds of crime litigation to a conclusion.

Figure 4 shows the increasing number of restraining orders obtained over time and reflects the general trend evident in the previous figure.

Figure 4: Number of restraints: target versus actual, 2002–03 to 2010–11



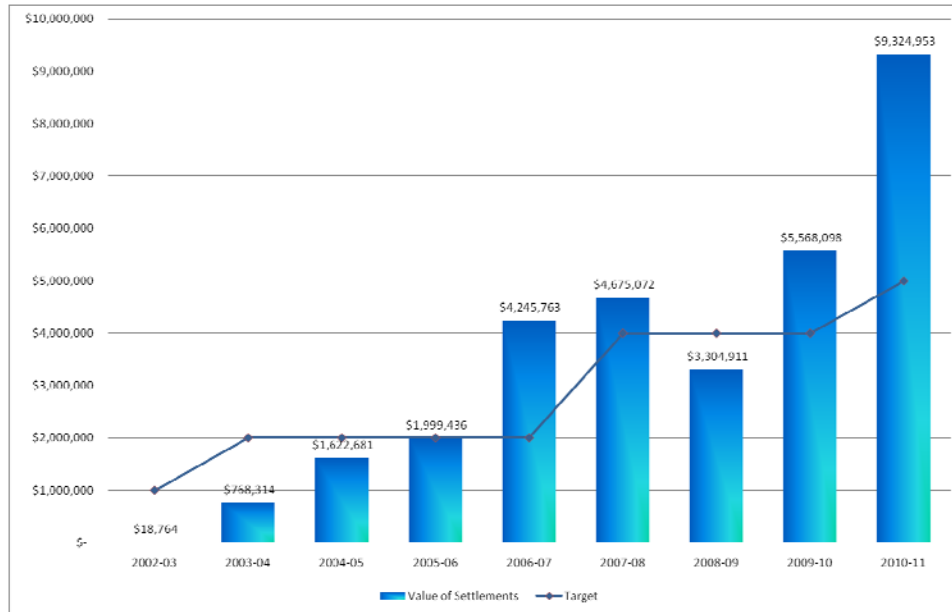
The reduction in activity in the 2005–06 financial year was the result of a refocusing of effort in that year towards litigation of existing matters brought about by resource constraints facing the CMC Proceeds of Crime team at that time. As those resource constraints were alleviated by the recruitment and training of additional staff in 2006 and 2007, both the number and value of new matters dealt with were able to be increased. There is a strong correlation between staffing resources and the value of restraining orders obtained

The Proceeds of Crime team did not achieve its target for the number of restraining orders obtained in 2010–11 and, in fact, the number of restraining orders obtained this year is the lowest since 2005–06. The target for 2011–12 has been increased to 75 in anticipation of a resumption of the long-term trend in proceeds of crime referrals.

There is, however, an inverse relationship between the value of restraining orders obtained in any year and the value of settlements in that year depending upon the deployment of available staff between those activities. The dedication of limited resources to bringing matters to a conclusion adversely impacts on the capacity of the CMC Proceeds of Crime Team to obtain new restraining orders. Conversely, an emphasis on obtaining new restraining orders limits the capacity of the Team to bring existing matters to a conclusion.

Figure 5 depicts the growth in the value of property forfeited to the state.

Figure 5: Value of settlements: target versus actual, 2002–03 to 2010–11

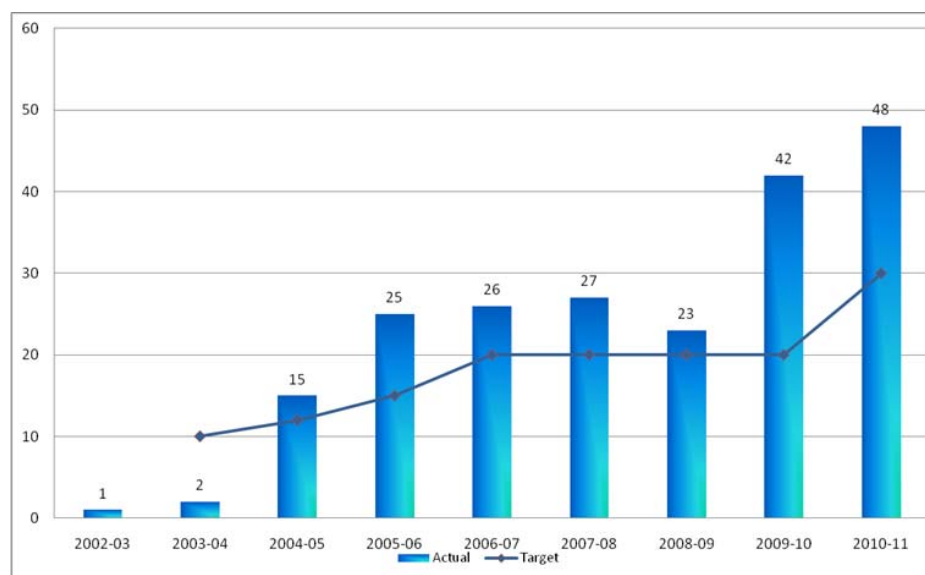


This shows the rise in the value of property forfeited to the state coincidental with the re-direction of staff efforts to bring active litigation matters to a conclusion. It also graphically illustrates the inverse relationship between the value of property forfeited and the value of restraining orders obtained in any period when staffing levels remain static. The value of restraining orders peaked in 2008–09 when the value of property forfeited was the lowest in the past three years, while the value of property forfeited has peaked in 2010–11 at a time when the value of restraining orders fell to its lowest level in the same three-year period.

In addition to the value of property forfeited to the state, over the past three years the state has obtained eight proceeds assessment orders for the recovery of criminally derived proceeds totalling \$11.9 million. Amounts recovered under a proceeds assessment order are only reflected in the value of property forfeited when property is realised to satisfy the proceeds assessment order. As at 30 June 2011, proceeds assessment orders to the value of \$11.6 million remained unsatisfied.

The growth in the value of property forfeited to the state is stronger than the growth in the number of settlements, as depicted in Figure 6. It reveals that the number of matters settled has remained fairly static over the 2009–10 and 2010–11 financial years, indicating a greater number of higher value matters settled in 2010–11 compared with 2009–10. The value of property forfeited to the state is a product of both the number of settlements made and the value of each settlement.

Figure 6: Number of settlements: target versus actual, 2002–03 to 2010–11



As the making of a restraining order is the initial step in the process for the recovery of the proceeds of crime, the nature of the litigation process means that settlements will always lag behind restraining orders, in some cases by several years. The decline in the number and value of restraining orders made over the past three years can be expected to be reflected in a commensurate decline in the number of settlements and the value of property forfeited to the state over the next several years.

As at 30 June 2011, property valued at \$31.527 million had been forfeited to the state (compared to \$14.244 million as at 30 September 2008 at the last review) and restrained property valued at \$53.189 million was held under the civil confiscation scheme (compared to \$49.78 million as at 30 September 2008).

MISCONDUCT

Integrity services

Complaints received

We have experienced a significant increase in complaints received over the last two years. As of 30 June 2011, we have seen an increase of approximately 10 per cent upon the previous year's complaint numbers (which also reflected a significant increase from the year before). This included receiving a record number of complaint matters in March 2011 (562 complaints, the first time complaints have exceeded 500).

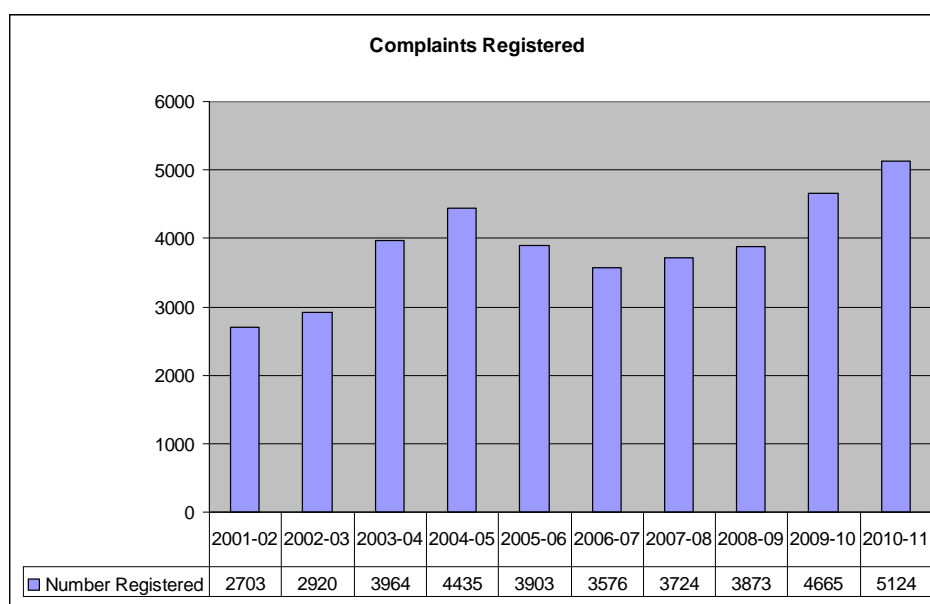
This increase in complaint numbers does not in itself suggest that there has been a decline in integrity standards in Queensland. One of the likely causes may be the rising awareness within the public sector of the obligation to report to the CMC any matter that may involve official misconduct.

In part this awareness has been driven by the CMC’s continuing co-operative work with public sector agencies so as to build their capacity to manage misconduct accountably and effectively.

While the majority of complaints are referred to agencies to deal with, rising complaint numbers impact on our capacity to be timely in the assessment and transfer of complaints, and in monitoring matters requiring closer attention and involving regular interaction with the agency.

Figure 7 shows the number of complaints registered with the CMC.

Figure 7: Overall complaint numbers, 2001–02 to 2010–11

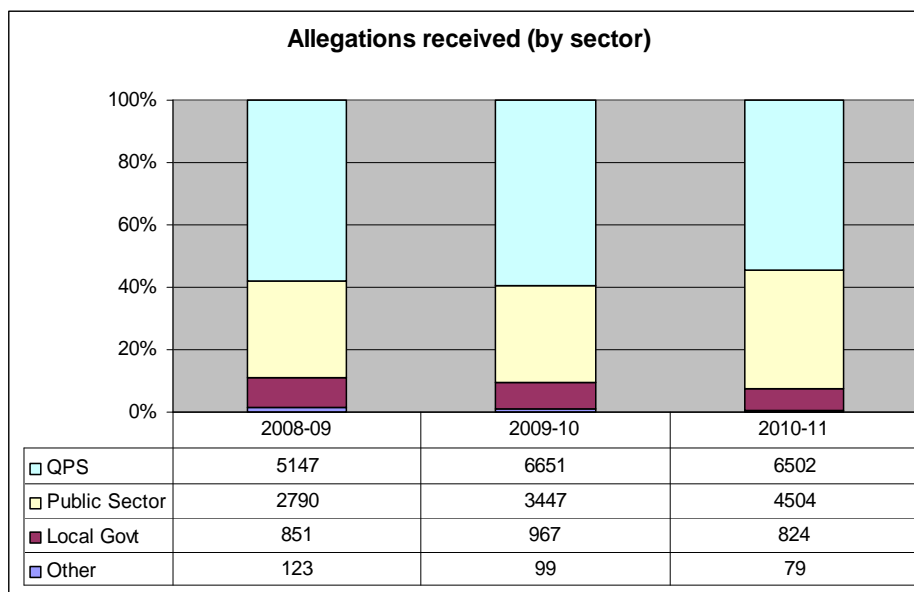


For the financial year 2010–11, the 5124 matters received contained over 11 900 separate allegations of misconduct (one complaint may consist of a number of allegations).

Of these, 54 per cent related to police, 38 per cent to public sector agencies, 7 per cent to local government and 1 per cent to other agencies (primarily politicians).

Figure 8 shows the breakdown of these complaints for the last three years by sector.

Figure 8: Breakdown of allegations by sector, 2008–09 to 2010–11



Timeliness in assessing complaints

The timely assessment of complaints is important, having regard to the expectations of complainants and affected agencies and the need to ensure appropriate matters are identified for investigation and that investigations are commenced as quickly as possible. We continue to achieve our timeliness target of 85 per cent of complaints assessed within four weeks of receipt (see Table 4 below).

The implementation of modified reporting obligations through directions in accordance with section 40 of the Act has been further extended to all government departments, including police. These directions enable the CMC to modify the obligations of a public official to report, and allow us, in effect, to pre-assess certain categories of complaints to allow agencies to start dealing with them straightaway, and report on a monthly basis to us about them. Facilitating electronic access to our complaints database, COMPASS, has also assisted in the timely assessment of complaints. While Queensland Health is the only agency to access COMPASS to date, discussions are in place with a number of other agencies, as we work with them to implement our Building Integrity Program (described below).

Table 4: Matters assessed, 2008–09 to 2010–11

	2008-2009	2009-2010	2010-2011
Matters assessed	3922	4649	5053
Percentage assessed within 4 weeks	94%	97%	93%

Public sector complaints

The total number of public sector (including local government) complaints received in the 2010–2011 year was 2738, compared with 2125 in 2009–10 and 1774 in 2008–09.⁵ A possible explanation for this trend has been noted previously.

The number of allegations involved with the complaints was 5328 for this financial year and 4414 for 2009–10.

The most common allegation types are official conduct (such as the inappropriate exercise of power and authority), misappropriation, assault/excessive force and corruption and favouritism, although the types of allegations can vary from agency to agency depending on the nature of their core business.

Four public sector agencies — Queensland Health, Education, Communities and Community Safety — accounted for 68 per cent of all allegations made in the complaints assessed in 2010–11. This is no doubt indicative of the size of their operations, their staff numbers, and the level and nature of their interaction with the public.

Police complaints

The total number of complaints against police received in the 2010–2011 year was 2388, compared with 2531 in 2009–10 and 2083 in 2008–09.⁶

The complaints received against police involved 6502 allegations this financial year (compared to 6651 in 2009–10).

Misconduct investigations

We completed 118 investigations this financial year, 63 in 2009–10 and 80 in 2008–09.

Of the 118 matters completed in 2010–11, 96 were related to the QPS, 15 were public sector complaints, 6 were related to local government and 1 was related to another agency.

Table 5 shows that the percentage of investigations completed within our timeliness benchmark of 12 months.⁷

Table 5: Investigations completed, 2008–09 to 2010–11

	2008-2009	2009-2010	2010-2011
Percentage completed within 12 months	71% (= 80 investigations)	79% (= 63 investigations)	60% (= 118 investigations)

⁵ Complaints are included if they involve at least one allegation against an employee of a public sector agency or a local government

⁶ Complaints are included if they involve at least one allegation against a member of the QPS

⁷ We aim to complete 80% of our investigations within 12 months

Significant effort was focused this year on finalising investigations carried over from the previous year. As noted, this year we have only completed 60 per cent of our investigations within 12 months.

In the 2010–11 year, 25 per cent of finalised matters resulted in prosecution action instigated by us, or recommendations for criminal, disciplinary or managerial action. This included 166 charges against 40 people.

WITNESS PROTECTION

With respect to our most important indicator — maintaining the safety of protected persons — we have maintained a 100 per cent success rate for the last 22 years with no protected witness coming to harm.

Chapter 4: Combating major crime

This chapter begins with a discussion of some important legislative changes during the reporting period which have impacted on our Crime jurisdiction. We then detail our investigative role in relation to organised crime, criminal paedophilia, serious crime and terrorism. We also highlight the contributions made by our intelligence and research specialists and our prevention strategies, before outlining challenges for the future and the outlook for the year ahead.

THE CMC'S JURISDICTION

The CM Act gives the CMC investigative powers that are not available to the QPS. The CMC is not, however, an alternative police service, nor does its Act intend it to be. Rather, the scope of its activities is limited to referred major crime.⁸ Because it is not funded or resourced as a police service, the CMC's effectiveness depends on its partnerships with the QPS and other law enforcement agencies, its specialist multidisciplinary approach to investigations, and the focused use of its special powers.

Section 26 of the CM Act provides that the CMC combats major crime by:

- ▶ gathering evidence for the prosecution of persons for offences
- ▶ gathering evidence for the recovery of the proceeds of major crime
- ▶ liaising with, providing information to, and receiving information from other law enforcement agencies and prosecuting authorities, including agencies and authorities outside Queensland.

2009 Legislative changes to the referral process

The CMC's power to investigate major crime has always been referral-based. Under the CM Act the Crime Reference Committee refers major crime to the CMC either on its own initiative or at the request of the Commissioner of Police or the Assistant Commissioner, Crime.

The March 2009 Supreme Court decision in *Scott v Witness C* held in effect that broad 'umbrella' referrals of major crime were not permitted by the CM Act and it followed that all existing umbrella referrals were invalid.

In consequence, Parliament urgently amended the CM Act to validate retrospectively all past general referrals of major crime and all investigations conducted pursuant to such referrals. The amendments also gave statutory recognition to the concepts of 'general' and 'specific' referrals and required the Crime Reference Committee to be notified as soon as practicable after the commencement of particular crime investigations under general referrals. Finally the amendments required the Committee to review each general referral within five years of its being made or last confirmed.

⁸ Major crime refers to criminal activity involving an indictable offence punishable by a term of imprisonment of not less than 14 years, or criminal paedophilia, organised crime or terrorism and referred major crime means major crime referred to the CMC for investigation by the Crime Reference Committee.

General referrals

The Crime Reference Committee has since reviewed all existing general referrals. At the request of the Assistant Commissioner, Crime, the Committee ended the following referrals on the dates indicated:

- ▶ 07/98 Blade/Panzer/Freshnet (22 December 2009)
- ▶ 09/98 Limbeck Swordfish (23 February 2010)
- ▶ 14/02 Counter-Terrorism Referral (30 March 2010).

All other existing general referrals were confirmed by the Committee. They are:

- ▶ The Freshnet organised crime referral — criminal activity by members of ‘established criminal networks’, who, for example, have an understanding of law enforcement methods, or have access to law enforcement or regulatory information.
- ▶ The Gatekeeper organised crime referral — criminal activity involving money laundering.
- ▶ The Hydra organised crime referral — criminal activity involving members of outlaw motorcycle gangs and their associates.
- ▶ The Atrax paedophilia referral — criminal activity involving the use of the internet to commit sex offences against children, or offences relating to obscene material depicting children.
- ▶ The Artemis paedophilia referral — criminal activity by members of a paedophile network involving at least two people, or by individuals who have offended against more than one child, in cases where the children are not members of the offender’s immediate or extended family.
- ▶ The Counter-Terrorism referral — criminal activity involving a ‘terrorist act’.

In the light of the legislative amendments, the CMC has refined its procedures concerning the commencement of particular investigations under a general referral. Any proposal for the commencement of a particular investigation, whether initiated internally or as a result of a request by the QPS or another agency, is considered at first instance by our Crime Intelligence Review Committee (CIRC), comprising senior officers from the Office of the Assistant Commissioner, Crime, our Intelligence area and our Witness Protection and Operational Support area. CIRC will consider the proposal and may recommend to the Assistant Commissioner, Crime the commencement of a particular investigation under a nominated general referral.

As the statutory officeholder under the CM Act who is responsible to the Chairperson for the performance of the major crime function, it then falls to the Assistant Commissioner, Crime to decide whether or not the proposed investigation should be commenced. Finally, the legislative amendments require that the Crime Reference Committee be notified of the commencement of any particular investigation under a general referral as soon as practicable. The committee must then consider whether to give the CMC a direction imposing limitations on the investigation, or a direction to end the investigation.

The Crime Reference Committee did not impose any directions upon the CMC during the reporting period (following the commencement of the legislative amendments) in relation to any investigation commenced under a general referral.

Specific referrals

Beyond introducing the concept of a 'specific referral', the 2009 legislative amendments did not substantively affect the way in which particular incidents of major crime are referred to the CMC for investigation.

The CM Act, as amended, permits the Crime Reference Committee to make a specific referral on the application of the Commissioner of Police, the Assistant Commissioner, Crime, or the Crime Reference Committee of its own initiative. To date, all specific referrals have been at the request of the Commissioner of Police, and indeed, all past referrals of particular incidents of major crime were at the request of the Commissioner of Police.

In the case of all specific referrals, the Crime Reference Committee must be satisfied that the following statutory preconditions under section 28(1) of the CM Act have been met, namely:

- ▶ the QPS has carried out an investigation that has not been effective
- ▶ further investigation is unlikely to be effective using powers ordinarily available to police officers
- ▶ it is in the public interest to refer the matter to the CMC.

The Act does not define 'effective' in the above context. However, during the reporting period the meaning of the concept of 'effectiveness' in the present context was the subject of judicial consideration. In *Accused A & Ors v Callanan & Ors* [2009] Justice Applegarth of the Supreme Court made the following statement:

I accept the respondents' submission that, as a general proposition, the usual objective of a police investigation of any offence is to gather all available relevant information as to the commission of an offence and that an investigation which does not succeed in that aim may be regarded as resulting in an investigation that 'has not been effective'. That general proposition is subject to qualifications, for instance in circumstances in which the relevant information that has not been gathered has little or no forensic or other utility. Expressed differently, the available relevant information that the police investigation has been unable to gather must have a significant utility.

The Crime Reference Committee has applied the above test when considering all requests for referrals of major crime subsequent to the above Supreme Court decision.

In the case referred to, it was also held that the material before the court was not sufficient to demonstrate that the Crime Reference Committee had given adequate consideration to all competing aspects of the public interest. A consequence of this judgement is that the Crime Reference Committee now ensures that its consideration of all relevant issues is comprehensively documented in committee minutes and treats the provision of material in judicial review proceedings on a case-by-case basis.

THE CMC'S ROLE

In explaining the CMC's role in the investigation and prevention of major crime, it is helpful to consider separately each of the four areas of activity in major crime: organised crime, criminal paedophilia, serious crime (and other hearings-related investigations) and terrorism.

Organised crime

The CMC draws on a wide range of internal and external expertise and resources in investigating organised crime. In addition, it seeks to implement innovative investigative strategies with a high probability of tactical success. These strategies include the use of multi-disciplinary teams comprising police officers, financial investigators, legal officers, intelligence analysts and administrative staff. Investigations are also supported by CMC staff with specialist capability in relation to coercive hearings, physical surveillance, covert surveillance, witness protection, computer forensic analysis, strategic intelligence and the confiscation of proceeds of crime.

Most of our organised crime investigations are conducted in partnership with other State and Commonwealth law enforcement agencies, and, on occasion, with international agencies.

Our multi-agency investigations are often underpinned by QPS police taskforces established under the CM Act, or joint agency agreements with other law enforcement agencies. During the reporting period the CMC has entered into a police taskforce and joint agency agreements with Victoria Police (Operation Warrior), New South Wales Police (Operations Warrior and Kingdom), the Australian Federal Police (Operation Storm) and the Australian Crime Commission (Operations Foxtrot Brazen and Golf Brazen). The joint QPS–CMC Executive Team provides strategic direction for such investigations.

In determining our investigative priorities, we use a risk-assessment method based on the threat criminal markets pose to the people of Queensland. This entails an ongoing evaluation of criminal markets and the rating of networks/individuals operating within those markets. Our objective is to prosecute persons for offences, recover the proceeds of major crime, dismantle or disrupt organised-crime networks and prevent crime. This entails not merely incarcerating key members of the networks, but also financially incapacitating the networks themselves.

Our new telecommunications interception capability and Operation Warrior

One of the most significant features of our organised crime work during the reporting period was the advent of the CMC's own telecommunications interception (TI) capability. The impact and potential utility of this potent investigative tool can be seen in its use during our flagship organised crime investigation, Operation Warrior.

Operation Warrior commenced in March 2009 as a result of information provided by the Australian Crime Commission and the CMC Proceeds of Crime Unit into the activities of a well-established criminal organisation. The investigation, which saw the degree of criminality spread between Melbourne and Cairns, quickly developed into the largest and most complex drug and money laundering-related organised crime investigation ever conducted by CMC.

The extent of this criminal enterprise dictated that the investigation be undertaken using a multi-agency approach to target the criminal syndicates which had both interstate and international connections. The investigation provided the first opportunity for the CMC to use its recently acquired telecommunications interception (TI) capabilities.

The availability of TI provided investigators with the ability to instigate a number of successful operational strategies, which quickly identified the various roles and level of criminality of the individuals within the syndicates. TI also allowed us to secure evidence of such high quality that a large percentage of those arrested during the course of Operation Warrior sought opportunities to enter early pleas of guilty,

while others sought to assist police by way of providing statements against the major offenders.

Significantly, we discovered that one of the major advantages associated with TI lies in its preventative capacity. Historically, drugs and money are seized during operational closure or purchased in small amounts by covert law enforcement methodology. However, the accuracy and currency of information secured through TI provided investigators with the ability to undertake a number of tactical intercepts of offenders, resulting in the seizure of both cash and large amounts of drugs destined for distribution within the community.

Although the investigative phase of Operation Warrior was completed within 12 months, the scale of the results highlighted the importance of TI in criminal investigations.

Operation Warrior resulted in the arrest of 67 persons on 343 serious drug-related charges, including 46 charges of drug trafficking in various dangerous drugs. During the course of the investigation approximately 2.5 kg of methylamphetamine, 91 kg of cannabis, 2.2 kg of MDMA (ecstasy), 1.3 L of GHB, steroids and cocaine were seized, with a total estimated street value of about \$5 million. The operation resulted in the seizure or restraint of assets of a total of more than \$7 million, including the seizure of approximately \$1.2 million in cash.

With the closure of Operation Warrior, the year 2010–11 was dominated by the preparation of court material, which extensively occupied the resources of our organised crime team. A total of 42 full briefs of evidence were produced, comprising approximately 8000 transcripts, hundreds of witness statements, thousands of hours of physical and electronic surveillance product and forensic analyses. To date, eight people have been convicted for serious drug offences, 14 have been committed to trial in the Supreme Court and 13 listed for committal hearings. There are a further five people in Queensland and other States to be charged with trafficking in dangerous drugs.

Internal restructure

The use of TI during the course of Operation Warrior provided significant opportunities, but also posed new challenges for us in terms of our internal structures. The sheer volume of information obtained by virtue of TI highlighted the need to provide more effective investigative and intelligence support to our operations and was one of the catalysts to the restructure of the organised crime area.

Late in the reporting period, we undertook a review of our investigative capacity in all areas of major crime, including organised crime. Our previous model entailed two independently dedicated multidisciplinary teams. The review identified that a more flexible structural approach was necessary so as to deal effectively with the volume of evidentiary material being collected in contemporary investigations. Although staff numbers have not been reduced, the two teams have effectively merged into one pool of staff with the capacity to easily divide into various staffing models to more efficiently address operational demands, including the ability to divide back into two teams if operationally required.

E-briefs

Our internal review also acknowledged the Organised Crime E-brief as the mainstay of our prosecutorial briefs. The efficient and professional production of high quality briefs of evidence has become a trademark of the investigations undertaken by the organised crime team and the creation and integration of a dedicated team to manage all electronically gathered evidence and propagate the electronic ‘e-brief’ system is seen as fundamental to the continued success of our organised crime investigations.

Criminal paedophilia

Our place in the law enforcement landscape

The ongoing challenge for the CMC in undertaking work relating to criminal paedophilia is to ensure that we are not simply duplicating work already being done by the QPS but are also directing our resources into areas that the QPS, for various valid reasons, is not as well placed to target. To meet this challenge, and to ensure that we are adding value to the overall law enforcement effort in Queensland in a co-ordinated way, we work in close partnerships with QPS Taskforce Argos and regional Child Protection Investigation Units. During the reporting period we have maintained a close working relationship with our QPS counterparts, and have continued to make a meaningful contribution by adding value to the overall law enforcement effort directed against paedophilia.

While the QPS remains the law enforcement agency primarily responsible for the investigation of criminal activity in Queensland involving criminal paedophilia, this part of our major crime jurisdiction continues to be an area of specific and significant focus for the CMC.

Our paedophilia investigations are undertaken by a multidisciplinary team, the Cerberus Team, which comprises three investigators, intelligence analysts and a lawyer. The team is also supported by the CMC's Forensic Computing Unit. As with organised crime investigations, technical, surveillance and other investigative resources are often drawn from across the CMC.

We do not independently investigate wide-ranging child sex offences throughout the state. We have identified the following 'niche' areas of child-sex offending as areas in which we can best make a positive contribution to the overall law enforcement effort in Queensland:

- ▶ offending by networked or recidivist extra-familial child-sex offenders
- ▶ offending by persons who use the internet to facilitate the commission of offences against children and/or in relation to child exploitation material
- ▶ conducting complex protracted criminal paedophilia investigations in partnership with other law enforcement agencies (including the use of the CMC's coercive hearings powers).

The Artemis and Atrax general referrals facilitate investigations in relation to the above paedophile activity. We also have the ability to investigate paedophile activity falling outside the general referrals by seeking specific referrals from the Crime Reference Committee in relation to particular child-sex offending.

Some of our internet-based investigative activity, in particular, takes us into areas in which the QPS and other law enforcement agencies, notably the Australia Federal Police, also conduct investigations. We maintain our relevance in this field because what we do serves to increase over time the number of offenders detected and brought to justice.

Training and development strategies and law enforcement partnerships

In order to maximise our impact upon the detection and prevention of child sex offending in Queensland, we give a high priority to the need for our investigators not just to maintain currency but to be at the forefront of contemporary law enforcement practice. It is this very consideration which underlies our ongoing involvement in certain kinds of Internet-based child sex offending. Even during the reporting period, the methods used by networked or recidivist criminal paedophiles have substantially evolved, due largely to an increased knowledge on their part of law enforcement methodologies and rapidly changing technology. Our investigative responses have also had to evolve.

The evolution of investigative strategies during the last three years has seen a change in our core business from online chat room engagements, to responding to the phenomenon of online distribution of child exploitation material, which is increasingly networked. Because of the ever-changing environment online, it is imperative that our operatives maintain and enhance their skill sets in order to stay ahead of the offenders, and importantly, to be well positioned to target entrenched and highly secretive pederast networks.

This includes thorough training in the latest software packages produced overseas to assist law enforcement bodies investigating various online behaviours of paedophiles. During the last three years, CMC Cerberus Team investigators gained qualifications after training in recently developed investigative software systems by members of the US Federal Bureau of Investigation. Cerberus staff also attend the major annual Crimes Against Children Conference in Dallas, Texas to obtain the very best opportunity to reaffirm existing relationships and identify new networking opportunities.

While it is vital that members of the Cerberus team remain conversant with the latest technology and investigative practices, it remains equally as important to continually seek opportunities to foster professional relationships with other law enforcement agencies. The exploitation of children and the distribution of child exploitation material via the internet is recognised by law enforcement agencies as a global issue. Investigations of the nature of the QPS Operation Achilles, reinforced that the offending against children is not restricted to state or national boundaries, but is international in character with networks being identified throughout Asia, Europe and the United States. This investigation also highlighted the importance of establishing effective working relationships with other law enforcement entities.

Serious crime

A substantial portion of our work is conducted in support of investigations referred from partner agencies. Predominantly this work arises from requests from the QPS, but may also arise from requests by other agencies such as the Australian Federal Police and the Australian Crime Commission.

The CMC receives requests for assistance through the use of our extraordinary investigative powers, and in particular our coercive hearings power. The investigations can relate to any category of major crime, but are most often employed in relation to serious crime. These externally requested investigations necessarily entail the engagement of our legal and administrative staff, with some intelligence support, but do not typically involve other disciplines.

Terrorism

In December 2002, in the wake of the 9/11 attacks and the Bali bombings in September 2002, the Crime Reference Committee approved an 'umbrella' organised crime referral (Referral 14 of 2002) to enable the CMC to use its coercive powers (particularly its hearings power) to assist in the investigation of terrorist threats and terrorist-related activity in Queensland. The reference enabled the CMC to, at the request of the QPS, use its coercive powers to assist a QPS investigation of terrorist-related criminal activity. It was not intended that the CMC would undertake any independent investigation of terrorist-related activity.

In 2004 the Queensland Government amended the CM Act to specifically include terrorism within the CMC's major crime jurisdiction. Subsequent to this the CMC sought a fresh general referral from the Crime Reference Committee (Referral 4 of 2004), based on its counter-terrorism rather than its organised crime jurisdiction, so that it might continue to have the capacity to respond rapidly to any request for

assistance from the QPS in relation to any suspected terrorist-related criminal activity.

As mentioned earlier, the later counter-terrorism referral rendered the original referral redundant, and in March 2010 the Crime Reference Committee ended the earlier referral under section 30A of the CM Act.

It remains the case that any CMC investigation of terrorism, acts preparatory to the commission of terrorism or acts undertaken to avoid detection of or prosecution for terrorism, will occur on receipt of a request from the QPS. The CMC remains at a high state of readiness to respond to such requests.

We did not receive any such request during the reporting period.

INTELLIGENCE SUPPORT

Strategic intelligence

The CMC's Strategic Intelligence Unit (SIU) monitors organised crime markets and groups in Queensland and identifies trends and issues which may influence the nature of criminality in the region. These issues are monitored in the context of changes in national and international trends and in market drivers.

Currently, separate strategic assessments are being undertaken which examine the illicit steroid market in Queensland and the GHB (fantasy) market in Queensland. These assessments will be completed in 2011 and analyse two highly relevant and topical markets with the potential for significant harms.

Target development

During the review period, the SIU working with intelligence analysts posted to the paedophilia investigations and proceeds of crime teams have been instrumental in the development of opportunities to target and undertake tactical investigations into criminal networks.

Internally, three successful operations were approved as a result of intelligence-driven target development. The Strategic Intelligence Unit was also responsible for the development of a Cerberus operation which targeted persons suspected of networked child sex offending in a Queensland regional centre. The SIU continues to undertake proactive target identification and development work in relation to organised crime and criminal paedophilia.

Ongoing information collection and intelligence analysis from human, technical and liaison sources enables the CMC to establish connectivity between separate criminal investigations. This often leads to the identification of organised crime networks that were previously unknown. In determining which investigations could be the most productive the CMC can assess a criminal network's operating methodologies, identify its accumulated assets that could be the target of proceeds of crime initiatives and consider its overall vulnerability to investigation.

Human source program

The CMC continues to use well-positioned individuals to provide confidential information to contribute to the development of strategic criminal knowledge and to progress investigations. The capacity of human sources to provide information not available from other sources is important. The CMC acknowledges the risk of using such sources and during the review period has revised its policies and procedures and implemented enhancements to better manage information and develop a more secure human source database. Our capability in the area of human sources has been

identified as being pivotal to our ongoing intelligence and investigation activity. It will continue to be a priority.

Intelligence partnerships

The importance of intelligence partnerships at both state and national levels cannot be understated. The CMC makes a particularly significant contribution to the ACC for the production of the Picture of Criminality in Australia (POCA) and the National Criminal Target Report (NCTR). The responses to information requests by the ACC are completed on an annual basis. The CMC has received high praise from the ACC for its ongoing quality contributions. The CMC will continue to provide a response to similar intelligence requests, with a view to further enhancing relationships with law enforcement partners.

CRIME RESEARCH SUPPORT

The Research unit of the CMC undertakes a range of research projects aimed at informing and supporting the CMC's major crime function. The major research initiatives undertaken in support of the CMC's major crime and crime prevention functions are outlined below.

Over this review period our crime research has focused on drugs-related research, seeing us working collaboratively with other research and government agencies to better understand patterns and trends of drug use. The growing body of publicly available research on this topic will see the CMC, for the next year or two, move its focus from this area of activity to targeted research into paedophilia.

Research projects

During the review period, we finalised a number of long-term projects on the use of illicit drugs.

Drug use by hospital emergency department patients

In August 2008 we released our report Exploring drug use II: drug use by hospital emergency department patients.

It revealed that these patients had high levels of illicit drug use — higher than that of the general population, and noted that 12 per cent of drivers in the sample reported that they had driven while under the influence of an illicit drug.

Natural history of young amphetamine users

This study followed a random sample of 'ordinary young adults' over time to examine their 'drug use career' and arrived at findings that were consistent with the outcomes of the CMC's 2009 crime markets assessment *Illicit Drug Markets in Queensland: A Strategic Assessment*.

Effectiveness of mandatory treatments on non-custodial offenders

Our paper Mandatory treatment and perceptions of treatment effectiveness: Queensland study of non-custodial offenders with drug and/or alcohol abuse problems provides unique insights into the effectiveness of mandatory and voluntary drug and alcohol treatment options, concluding that mandatory treatment may be as effective as voluntary treatment.

Criminal paedophilia issues papers

Our Research area is finalising a series of issue papers on a range of topics that have emerged from its previous program of work in this area. These issue papers will be designed to inform the CMC's strategic priorities in relation to its paedophilia jurisdiction and provide practical assistance to the work of its paedophilia investigation team.

Prostitution Act review

Our June 2011 review of the effectiveness of the *Prostitution Act 1999* reported that there is little evidence of corruption or organised crime in the legal prostitution industry. This review is discussed further in Chapter 6.

MAJOR CRIME PREVENTION

Crime prevention achievements

Major crime prevention goals permeate our work in organised crime, proceeds of crime, criminal paedophilia, and crime-related intelligence and research.

Our philosophy is to make a telling impact on organised crime activity in Queensland by dismantling and disrupting criminal networks, particularly those entrenched high-risk networks whose activities can only be detected by the dogged efforts of a team of expert multi-disciplinary professionals undertaking sustained and targeted tactical investigations. By identifying, gathering evidence against and charging persons who are engaged in organised crime at the highest levels, and, thereafter, by seeking the forfeiture of their criminally-derived assets, the CMC brings to bear powerful deterrent forces, both physical and economic, on those minded to engage in organised crime.

Many of our criminal paedophilia investigations entail working with and supporting vulnerable communities, community groups or family networks. It has been our experience that our work with such groups empowers them to respond more effectively to the threat of child sex offending within their environment and to manage better the ever-present risk of child sexual abuse. It has also been our clear perception that those persons who have been the subject of CMC criminal paedophilia investigations, have been deterred from ongoing offending by the very fact of our sustained and, on occasion, highly visible investigations.

Serious crime offers little scope for crime prevention initiatives as the matters under investigation are generally crimes already committed rather than ongoing or prospective criminal activity; accordingly the focus is on identifying the offender and gathering sufficient evidence to enable a successful prosecution.

Operation Golf Agitate

This was a joint operation with the QPS in which some 54 sex offenders released into the community under the Dangerous Prisoners (Sexual Offenders) Act (DPSOA) orders were monitored. The operation focused on prioritising investigative and intelligence resources towards DPSOA prisoners who were assessed as being potentially high-risk re-offenders and who had the propensity to be involved in paedophile networks. The investigation was designed to address increasing public concern about the prospect of convicted child sex offenders breaching conditions of their release and actively associating with other known or suspected child sex offenders. In addition to its preventive outcomes, this operation saw the arrest of two DPSOA prisoners for having unsupervised contact with children in Brisbane.

CHALLENGES FOR THE FUTURE

While telephone interception has quickly proven itself to be an effective investigative tool in our crime investigations, it brings challenges in terms of the proper management of the volume of data it generates. We have already moved to restructure and deploy some of our resources to ensure we utilise our telecommunications interception capacity to best effect. We also look forward to further enhancing our capacity in ways which will add to the effectiveness of investigations across the range of crime types we target.

With the technological advances we have made in our investigative methodologies, we have further developed efficiencies around the way the evidence we have gathered is able to be presented. We are, and will continue to be, committed to preparing high-quality electronic court briefs to facilitate the presentation of complex prosecution cases to defendants, their lawyers and, ultimately, the courts.

For reasons explained earlier, it is not expected that a decline in the number of investigative hearings being conducted towards the end of the reporting period is likely to continue. Longer term trends, particularly the trend towards police seeking our assistance in organised crime investigations in which we can become involved under our general referrals, seem to have been affected only by short-term factors. The management of our finite resources to support what we expect will be ongoing high demand in this area will test the flexibility we have built into our structural changes.

The emerging market in Queensland for analogue stimulants and the threat that trend presents has been the subject of our first digest on the topic which related to 4-MMC. We will maintain a focus in our strategic intelligence on these so-called designer drugs without losing sight of the broader illicit drug markets to which our regular strategic assessments relate.

During the reporting period we found we were diverted from some of our strategic crime research priorities by commitments which arose from mandatory legislative reviews and public policy projects. Although these demands on our research capacity are not as high in the immediate future, it remains a challenge for us to balance these demands with our commitment to engaging in relevant and timely crime research such as our paedophilia networks and illicit drug consumption projects.

OUTLOOK 2011–12

In 2011–12 we will:

- ▶ Further enhance our capacity to utilise telecommunication interception as an effective and efficient investigative tool across the range of criminal activity we target.
- ▶ Adopt flexible work and resources allocation practices within our organisational structure to ensure we are positioned to meet ongoing high demand for the exercise of our investigative hearings and other unique powers.
- ▶ Undertake an assessment of the steroids market in Queensland and monitor the emergence of synthetic analogue stimulants.
- ▶ Collaborate with ENTOX, based at the University of Queensland, to conduct a 12-month research project that estimates illicit drug consumption through analysis of wastewater samples in South East Queensland.
- ▶ Continue research into criminal paedophilia networks and strategies and publish ‘The emergence of online paedophilia’, the first of a series of papers addressing current issues.

Chapter 5: Proceeds of Crime

This chapter gives an explanation of the Proceeds of Crime function, examines the achievements of the scheme, discusses trends, compares our performance against benchmarks and outlines emerging issues that affect the scheme.

OVERVIEW

The *Crime and Misconduct Act* provides that the CMC has a civil confiscation function⁹ and that the purposes of the Act include to facilitate the CMC's involvement in the investigation of any confiscation-related activity for the enforcement of the *Criminal Proceeds Confiscation Act 2002*.¹⁰ The Act's provisions as to how its purposes are to be achieved include a reference to the CMC having particular powers for confiscation investigations¹¹ and the provisions as to how the CMC performs its crime function include a reference to gathering evidence for the recovery of the proceeds of major crime.¹²

It is in this context that the CMC is responsible for the administration of the civil confiscation scheme under the *Criminal Proceeds Confiscation Act 2002*.¹³ The legislation commenced on 1 January 2003 and contains two separate schemes for the recovery of the proceeds of crime. The second scheme is conviction-based and is administered by the Office of the Director of Public Prosecutions (DPP).¹⁴

The civil confiscation scheme is not dependent upon a person's conviction on criminal charges before confiscation can be effected, nor does it require the State to link the property sought to be forfeited to the criminal offence. However, the State is required to prove, to the civil standard, that the respondent engaged in 'serious crime related activity'.¹⁵

Property which may be subject to forfeiture under the civil confiscation scheme is limited to property derived from illegal activity.¹⁶ Property used in the commission of an offence is not liable to forfeiture under the civil confiscation scheme but is liable to forfeiture under the conviction-based scheme.

While the CMC is charged with the administration of the civil confiscation scheme, the effective operation of the scheme relies on a high level of cooperation between a range of law enforcement, prosecutorial and property administration agencies.

Under the civil confiscation scheme the key agencies are:

- ▶ the QPS (and to a lesser extent other law enforcement agencies such as the ACC, AFP and the CMC itself), whose primary role is the initial identification of matters and provision of police investigative resources
- ▶ the CMC, which prepares matters for restraint, provides the financial investigative resources and conducts the investigations necessary to deal with interlocutory matters and in preparation for final orders
- ▶ the DPP, who make the applications to court and act as solicitors on the record
- ▶ the Public Trustee, who may be appointed by the court to take control of restrained property.

9 Section 56(b) CM Act

10 Section 4(2) CM Act

11 Section 5(4) CM Act

12 Section 26(b)(ii) CM Act

13 Section 4(5) CPC Act

14 Section 4(4) CPC Act

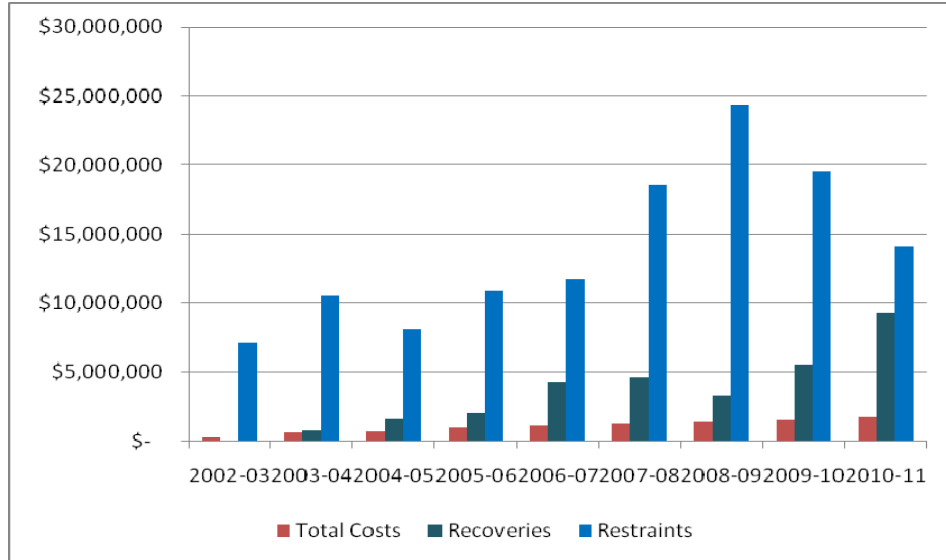
15 See section 16 CPC Act for the definition of 'serious crime related activity'

16 Section 13 CPC Act

EFFECTIVENESS AND EFFICIENCY

The CMC costs of the proceeds of crime function relative to performance are depicted in Figure 9. The chart depicts only the CMC costs of the civil confiscation function and does not reflect the total costs of the confiscation function from a whole-of-government perspective.

Figure 9: Cost of proceeds function against performance



It indicates that the CMC civil confiscation function has been revenue positive since the first six months of operation and, as the function has matured and a greater proportion of resources have been directed towards settlement of matters, the return to the consolidated fund has increased. At present, property valued at almost \$53 million is restrained under the civil confiscation scheme.

Figures 10 and 11 plot the number of available CMC staff dedicated to the civil confiscation function against performance as measured by the value of property restrained and forfeited. Due to the specialised training and skill set needed for officers working in this function, there is a time lag between the recruitment of new staff and full productivity. Nevertheless, Figure 10 depicts the close correlation between staff numbers and the value of restraining orders obtained.

Figure 10: Value of restraints versus staff numbers

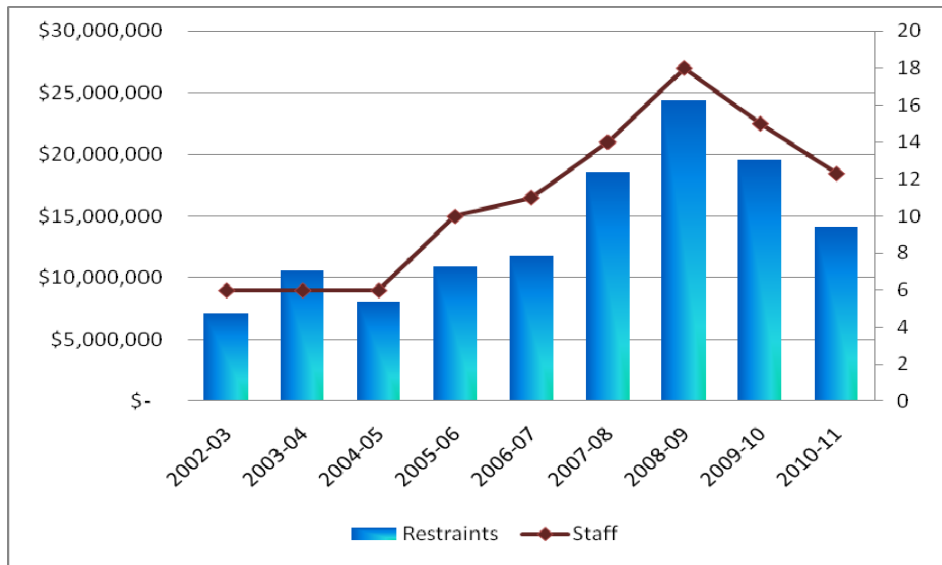
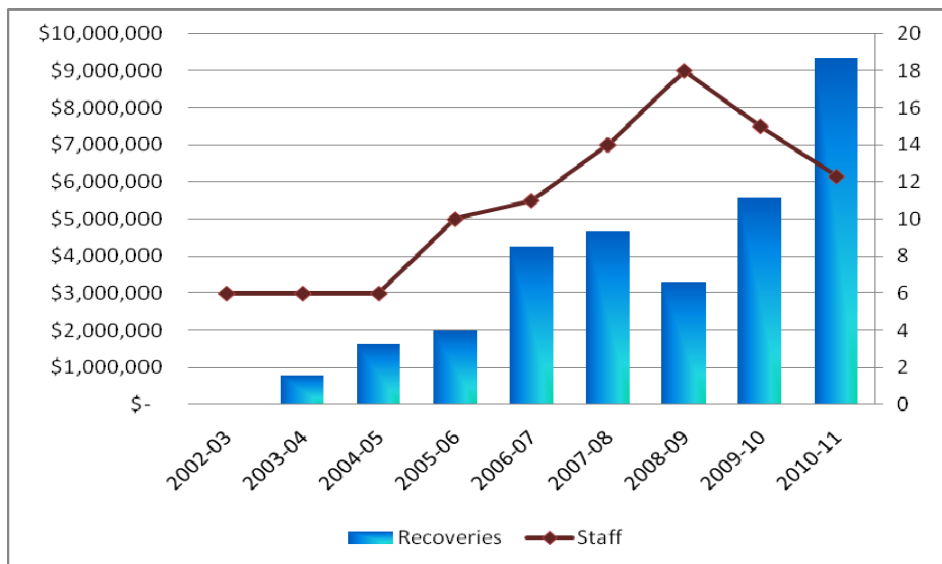


Figure 11 shows that the increase in the value of property forfeited to the state as staff levels fell is a direct result of an emphasis on bringing active matters to a conclusion. As a consequence of our difficulty in retaining staff over the period under review, an increasing proportion of resources was dedicated to finalising matters rather than other activities, most notably initiating new matters by obtaining restraining orders.

Figure 11: Value of recoveries versus staff numbers



Benchmarking

The legislative basis and structure of the CMC proceeds of crime function is very similar to the legislation and structure of the New South Wales civil confiscation scheme. The New South Wales Crime Commission has administered the civil confiscation scheme in that state since 1990 and consequently provided a useful standard for benchmarking the Queensland performance.

Until 2007–08 the New South Wales Crime Commission published a range of data which enabled useful comparisons of its performance in civil confiscation with the performance of the CMC Proceeds of Crime Team. Since that time the data published by the New South Wales Crime Commission is more limited and it is therefore not possible to benchmark against that organisation to the extent previously enjoyed.

In 2010 the New South Wales legislation was amended to introduce unexplained wealth provisions and had earlier been amended to introduce other provisions dealing with new classes of forfeitable property.

As a consequence the New South Wales and Queensland legislation now differ to an extent that it is now not possible to make valid comparisons of performance.

Indeed, in 2010 the Australian Institute of Criminology in a review of confiscation schemes in Australia concluded that the data collected in each jurisdiction 'is not sufficient to undertake a comprehensive evaluation of different regimes in operation. Indeed, it is difficult from the available data to even compare different jurisdictions'.¹⁷

CHALLENGES FOR THE FUTURE

The CMC's submission to the 2008 PCMC three-yearly review identified a number of factors which have the potential to contribute significantly to continued growth in the proceeds of crime function into the future. Several of those factors, each suggesting that additional resources would be required for them to be successfully addressed, remain relevant at the present time. They include:

- ▶ Increased range of criminal activity subject to proceeds of crime recovery.

At present more than 90 per cent of proceeds of crime matters concern drug-related crime whereas 73 per cent of offences dealt with under the Commonwealth confiscation legislation are fraud related. The dollar value of fraud-related crime is likely to be greater than drug-related crime and there is no legislative impediment to proceeds of crime recovery in relation to fraud offences.

As police become more aware of the scope of the civil confiscation scheme it is anticipated that it will generate a greater number of referrals involving a wider range of crime types.

- ▶ Expansion of the scope of confiscation legislation into new areas.

The Queensland legislation does not enable confiscation action to be taken to restrain property of persons who may become liable to criminal compensation orders. In Victoria it does.

¹⁷ *A review of confiscation schemes in Australia* – AIC Reports – Technical and Background Paper 36
Lorana Bartels

Nor does the Queensland legislation apply to some forms of potentially high yield crimes, for example, environmental crimes such as water theft, illegal timber harvesting or pyramid schemes.

Property used in or intended to be used in the commission of an offence is also not subject to civil confiscation. This creates some inefficiency when it is necessary to conduct parallel proceedings by different agencies in order to confiscate both property derived from illegal activity and property used in the commission of an offence.

OUTLOOK FOR 2011–12

In 2011–12 we will continue to:

- ▶ Focus on bringing active matters to a conclusion.
- ▶ Collaborate with our partner agencies to maximise the effectiveness of the civil confiscations scheme.

Chapter 6: Promoting a trustworthy public sector in Queensland

This chapter gives an overview of the CMC's functions and strategies to improve integrity and reduce misconduct in the public sector, including the QPS, and identifies some challenges and future directions.

PERFORMING OUR MISCONDUCT FUNCTIONS

The CMC's role is to continuously improve the integrity of, and reduce the incidence of misconduct in, the public sector. Our specific misconduct functions are to raise standards of integrity and conduct in agencies that are within our jurisdiction, and to ensure that complaints about misconduct are dealt with appropriately.

The CM Act outlines the number of ways in which the CMC performs its misconduct functions, including assessing complaints made to us by members of the public or notified by public sector agencies, monitoring how agencies prevent and deal with misconduct, and investigating. The Act (s. 34) requires that in performing our misconduct functions, we apply the principles of cooperation, capacity building, devolution and the public interest.

The principle of devolution, which has been explored in previous three-yearly reviews, requires agencies to assume greater responsibility for misconduct matters. Applying the principle in the assessment of complaints of misconduct gives public sector managers responsibility to prevent and deal with appropriate cases of misconduct. The CMC's capacity-building role and prevention work provides support for managers to help them enhance integrity and prevent and deal effectively and appropriately with misconduct. Our monitoring role provides an important accountability mechanism, which also provides us with information about any deficiencies in agency capacity. In 2010–11 we have moved to strengthen our monitoring framework, as explained below.

The devolution principle is, of course, subject to the public interest principle. Accordingly, the CMC continues to investigate serious misconduct and matters where the public interest requires an independent investigation be conducted by us, particularly if there is a basis to suspect the alleged misconduct is prevalent or systemic, or where there are serious allegations that have the potential to undermine public confidence in an agency and public administration generally.

Restructuring of Misconduct

During early 2011 and following our governance review (see Appendix 1), we conducted a major review of how our Misconduct area is structured, and how we undertake our misconduct work, to ensure better alignment with the CMC's strategic and operational goals. The review identified a number of changes we will make that are designed to:

- ▶ encourage more effective integration between the work areas in Misconduct, and foster a strong, common culture
- ▶ provide flexibility in moving resources to respond to changing priorities and to produce more timely outcomes
- ▶ better respond to the needs of our partner agencies
- ▶ strengthen our oversight, capacity building and misconduct prevention work

- ▶ make optimum use of our resources and the skills of all of our specialist disciplines, and provide enhanced professional development and support to our staff.

The changes arising from the review’s recommendations will be implemented in 2011–12. They are being made from within existing resources.

MANAGING COMPLAINTS

Complaints management encompasses the receipt and assessment of complaints and monitoring the way in which they are dealt with by the public sector agencies.

The focus of our complaints management is:

- ▶ to give, in appropriate cases, public sector managers responsibility for enhancing integrity and reducing misconduct within their agency through dealing with complaints
- ▶ to support managers in this by providing an effective complaints-handling system, which allows agencies to deal with misconduct in a timely and appropriate way (and help build their capacity)
- ▶ to help build public sector managers’ capacity
- ▶ to satisfy the public interest by:
 - monitoring the way in which agencies deal with particular cases of misconduct, and identifying any deficiencies in their capacity to do so
 - investigating the more serious complaints of misconduct.

Number of complaints

As outlined in Chapter 3, the number of complaints that we have received has significantly increased over the past two years. In 2010–11, we received 5124 complaints, an increase of approximately 10 per cent upon the previous year’s complaint numbers (which also reflected a substantial increase from the year before).

Sources of complaints

Complaints about possible misconduct come to the CMC from a number of sources, including the general public and public sector agencies.

Figure 12 shows the sources of complaints for the last three years — complaints referred directly to the CMC (mainly by the public), complaints referred by the relevant agency under their statutory obligation imposed by Section 38 of the Act (including complaints that they received from the public), and other referrals.

Figure 12

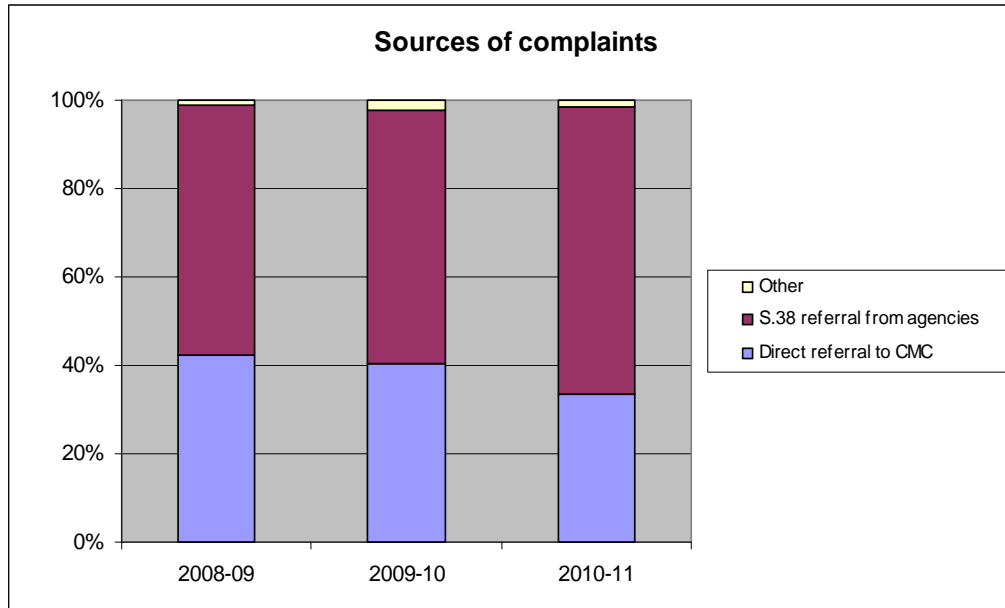
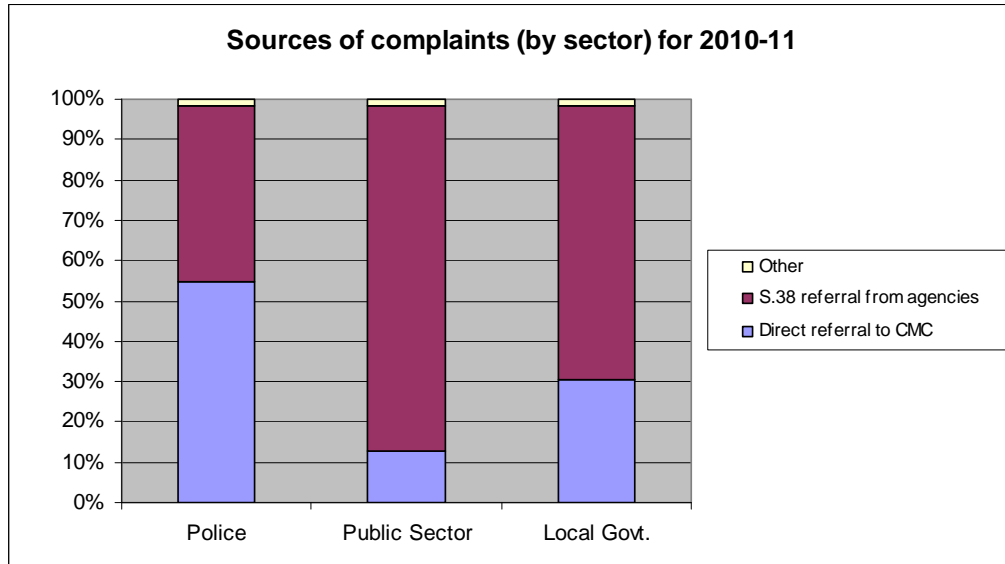


Figure 13 shows a more detailed breakdown of the sources of complaints received in 2010–11 for each of the main three sectors — police, public sector and local government.

Figure 13



The majority of complaints against police in 2010–11 were made directly to the CMC by members of the public (54 per cent). Forty-four per cent were referred to us by the QPS (and 28 per cent of these were made by members of the public direct to the QPS). This historically high ratio of complaints being made by the public reflects the circumstances in which complainants interact directly with police in policing incidents.

In contrast, the majority of complaints about public sector agencies were notifications coming directly from the agencies (86 per cent). We believe that increasing awareness within agencies and their staff of the need to report official misconduct to the CMC, in part driven by our continuing cooperative work with the agencies to build their integrity systems and their capacity to manage misconduct accountably and effectively, is one reason why our public sector complaint numbers are increasing. The rise in complaint numbers also reflects the level of public confidence in how complaints will be actioned.

Twenty-one per cent of complaints were made by members of the public direct to the agency involved. Only 14 per cent of complaints about public sector agencies (excluding local government) were made directly to the CMC by the general public.

In the local government area, 27 per cent of complaints received in 2010–11 were made directly to the CMC by the general public; and 66 per cent came from the CEOs of councils (although 20 per cent of these came from members of the public).

Assessment of complaints

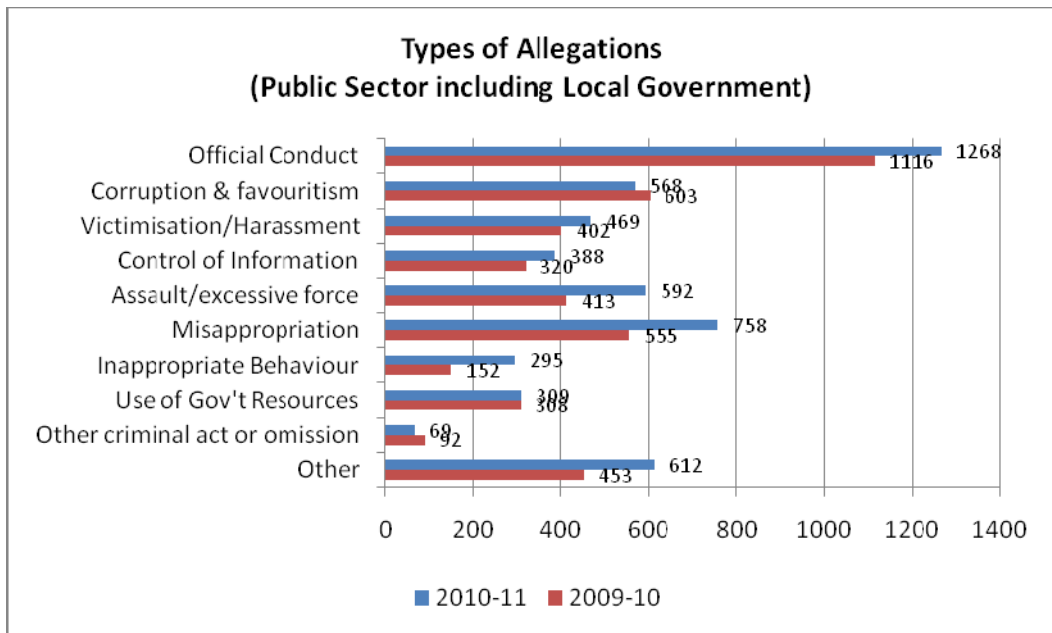
The fact that a complaint is made to the CMC does not mean that there has been any actual official misconduct. The Act provides for a low threshold for referral — there need only be a suspicion that a complaint may involve official misconduct for the agency to be obliged to report it to us.

Table 6 below gives a breakdown of the assessment decisions for those matters assessed in the 2008–09, 2009–10 and 2010–11 years, and Figure 14 depicts the types of allegations made.

Table 6: Assessment decisions

Assessment decision	2008–09	2009–10	2010–11
Referred to agency (outcome advice only)	2913 (74%)	3622 (78%)	4121 (82%)
Referred to agency (subject to review)	314 (8%)	345 (8%)	318 (6%)
CMC investigation	64 (2%)	110 (2%)	77 (2%)
No further action warranted	631 (16%)	572 (12%)	537 (10%)
Total number of matters assessed	3922 (100%)	4649 (100%)	5053 (100%)

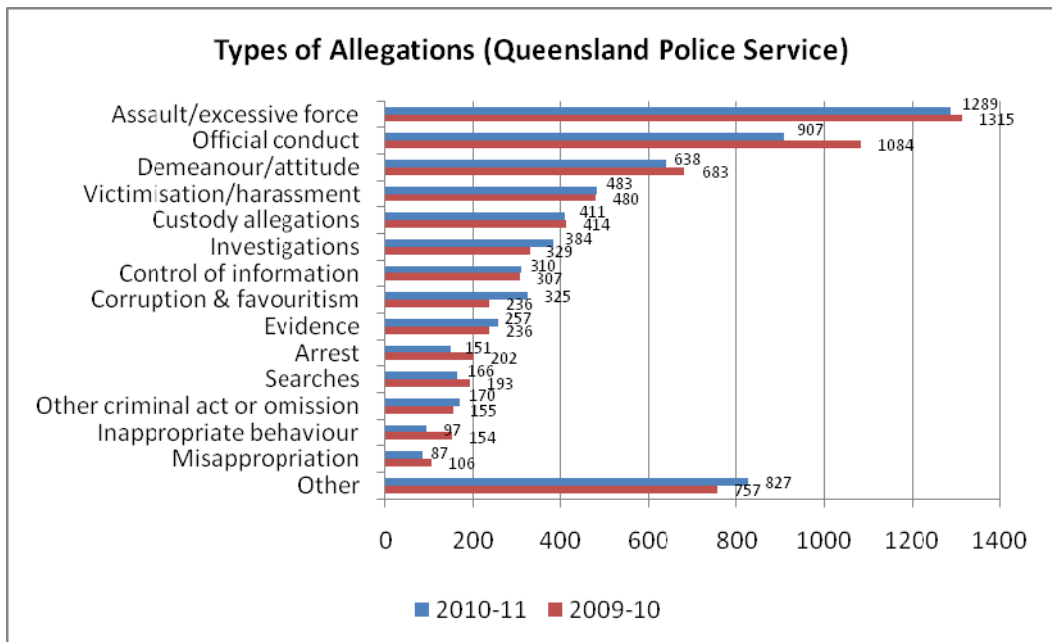
Figure 14



Complaints against police

Figure 15 shows the types of allegations against police that were reported in those two years. The most common allegation types are assault/excessive force and official conduct (which include failure to comply with statutory obligation, failure to comply with operational procedures, and improper use of discretion). Given the role of the QPS and the nature of most contact between police and members of the public, it is not surprising that a significant percentage of allegations concern these two categories.

Figure 15



The comparison of QPS allegations registered in 2009–10 and 2010–11 reveals the following noteworthy points:

- ▶ a slight decrease in the number of allegations related to assault/excessive force
- ▶ an increase in allegations relating to corruption and favouritism.

The decrease in allegations of assault/excessive force has been accompanied by a perceived reduction in the number of complaints we have seen this year that involve situations where people suffered significant injuries as a result of their interactions with police.

As reported in the CMC’s annual report last year, as a result of our monitoring work, the QPS expressed a commitment to effecting change in this important area of assault/excessive force, and has taken significant steps in that regard. This has included the development of proactive strategies to identify at-risk policing situations and officers, improving complaint investigation quality, revising training and education programs, and rewarding ethical behaviour.

We will continue to closely monitor this area and undertake investigations of serious allegations of assault and excessive force where that is in the public interest.

Monitoring complaints

We monitor how agencies handle complaints by various mechanisms. These include:

- ▶ overseeing an agency’s investigation while it is taking place
- ▶ reviewing interim reports as an investigation progresses
- ▶ reviewing an agency’s finalised investigation report before any disciplinary or other managerial action is taken
- ▶ reviewing the outcomes of all misconduct disciplinary hearings conducted by the QPS, exercising our review rights where necessary
- ▶ auditing the way an agency has dealt with a general class of complaints
- ▶ evaluating the quality of an agency’s overall integrity framework
- ▶ recording outcome data for all referred matters.

Through monitoring we can:

- ▶ review our initial assessment of a complaint and even assume conduct of the matter
- ▶ decide to investigate the complaint together with the agency if, for example, our coercive powers or other resources are necessary to enable a productive investigation
- ▶ allow the relevant agency to mediate the complaint or take other managerial action.

The public interest requires that we exercise our oversight function effectively.

To strengthen our monitoring framework we have:

- ▶ devoted more resources to the close initial oversight of the more serious matters
- ▶ audited our monitoring framework to identify areas for improvement
- ▶ restructured, in part, so as to provide greater investigative support and assistance to agencies during particular investigations.

With the proposed redesign of our website we are also aiming to make more information available to interested parties (such as complainants and subject officers) about our complaint handling processes and why matters are referred to agencies, and how we seek to ensure that those matters are being dealt with appropriately.

Reviews and audits

Our reviews focus on individual complaints that are referred to agencies after having been identified at our assessment stage as warranting close scrutiny by us. Reasons for this could include the need to maintain public confidence in how serious allegations are been dealt with, or to follow up on possible systemic issues.

As noted above, we are moving our monitoring focus towards earlier, close monitoring, particularly in serious category matters. This approach is designed to ensure that these matters progress appropriately within agencies and so that we can intervene, if necessary, in a timely way.

In 2010–11 we also adopted a new monitoring performance measure to review 15 per cent of significant agency-managed complaints.

In 2011–12 we will adopt a further new measure to finalise a review matter in a median time of 25 days.

In our regular reports to the Committee we have addressed numbers of matters reviewed during each reporting period for the police, public sector and local government. We seek to provide balanced feedback to agencies where we identify good quality and doubtful investigations and/or overviews conducted internally.

In 2010–11, we found that 82 per cent of the complaint matters that we referred to agencies to deal with had been handled appropriately, exceeding our estimate of 75 per cent.

Supporting reviews is our audit work which enables us to scrutinise how a class of complaint matters that we regard as high-risk has been dealt with by an agency. Our audits variously focus on such things as compliance with standards, integrity of the manner in which complaints are dealt with generally, timeliness, and the way in which an agency is dealing with particular types of alleged conduct, such as reprisals against whistleblowers. Table 7 shows the numbers of matters reviewed since 2008.

Table 7: Matters reviewed

	2008-2009	2009-2010	2010-2011
Matters reviewed	264	304	313
Percentage reviewed within 4 weeks	92%	92%	65%

Monitoring complaints in the public sector

In 2010–11 the CMC reviewed a total of 118 complaints dealt with by public sector agencies. For 14 of those matters we were dissatisfied with the way in which the matters were dealt with by the relevant agencies.

In those cases, we identified a number of capacity and systemic issues and made recommendations to address those issues.

In 2008–09 we conducted compliance and integrity audits of complaints dealt with by four public sector agencies: the Department of Emergency Services, the Environmental Protection Agency, the Department of Justice and Attorney-General and the Department of Employment and Industrial Relations. All agencies

demonstrated significant compliance with all legislative obligations and standards. We examined a total of 77 complaints in the course of those audits.

We also completed quality assurance reviews of Townsville City Council, Gold Coast City Council and Corrective Services.

In our review of the Townsville City Council we noted the rigorous, well-planned policy framework of the then newly merged council that would build their capacity for integrity. In the review of the Gold Coast City Council we noted some cultural issues, but acknowledged that the CEO had introduced reforms that have moved the council forward significantly.

Our review report for Corrective Services noted a difficulty in identifying whistleblowers and activating relevant procedure, but recognised that the agency's capacity was otherwise of a high standard.

In 2009–10 we commenced the quality assurance review process for the (then) Department of Infrastructure and Planning and the Moreton Bay Regional Council. As the department was embarking upon an internal review of their integrity framework as part of the Building Integrity Program and it was known that the program would be shortly extended to the local government sector, the review was limited to the examination of 20 complaints. All were considered to have been dealt with satisfactorily.

Example: Department of Communities and Youth Detention Centres

In 2009–2010 the CMC and the Commission for Children and Young People and Child Guardian observed an increasing trend in alleged assaults against young people in detention. In 2010 the CMC decided to increase its monitoring for these complaints dealt with by the Department of Communities.

Our reviews have identified various issues limiting the department's ability to appropriately deal with misconduct. These issues include the effective participation of young people in investigation processes and the group loyalty of staff working together to supervise young people in challenging circumstances. Both of these issues are considered to impact on the timely and independent reporting and resolution of incidents involving physical contact between young people and staff in detention centres. The CMC and the department are developing an integrity program targeted at Youth Detention Centres. This program is designed to promote and develop supportive cultures within the detention centres for the timely and independent reporting and resolution of possible misconduct and other significant cultural issues.

Monitoring complaints in the Queensland Police Service

In 2010–11 the CMC reviewed a total of 195 complaints dealt with by the QPS. For 41 of the total matters reviewed, we were dissatisfied to some extent with the way in which the matters were dealt with. This was usually with regards to the quality of the investigation by QPS and/or the quality of the investigation report, and timeliness.

Use of excessive force

During the period 1 July 2007 to 30 June 2009 there were 98 matters which we assessed as involving serious allegations of use of excessive force by police, and which we monitored through conducting reviews of those cases. Of those 98 matters we identified 22 matters where we were generally dissatisfied with some aspect of the way the matter was dealt with by the QPS. Issues of concern included perceived failures to appropriately consider criminal prosecution action, and interviewing juveniles without the presence of a support person.

In our experience, allegations about excessive force by police remains the predominant area where the CMC and the QPS most often disagree about the appropriateness of the conduct at issue, and what action should result, particularly where the CMC is of the view that disciplinary action should follow. We accept that in many cases there are a range of options, and that these matters often involve an appraisal of operational actions that occurred in response to a situation where the officers involved had to make quick decisions about their actions.

In dealing with these matters, we are conscious of those situational factors and the risks that may accompany analysis conducted with the benefit of clear hindsight and the advantage of time. In such matters we rely upon the input of our seconded police in advising upon issues such as use of force options that might have been deployed in a particular situation, and the training in operational skills that police are provided with. To this end, we have liaised with the QPS and commenced some information sessions for our staff about QPS use of force training and policies, in order to ensure all of our staff are fully informed of relevant issues.

We have also adopted an approach, where the CMC and the ESC disagree about an outcome in a matter, of seeking to meet at a senior level and discuss disputed issues, in order to better understand each agency's views, and to avoid an approach of engaging in protracted exchanges of argumentative correspondence that may undermine productive working relationships and delay individual cases significantly. This approach has assisted in resolving some contentious matters in a more expeditious way.

In 2010–11 we also conducted an audit on how the QPS dealt with allegations of officers using excessive force when dealing with members of the public. This audit did not consider those complaints mentioned above which were being or had been closely monitored by the CMC.

The audit found that, overall, the matters were dealt with appropriately from a compliance perspective; sufficient information was provided to enable us to conduct the audit and no issues of integrity were raised in the way the matters were dealt with.

The main issue arising for the CMC was the level and quality of police interaction with complainants. It is the nature of these allegations that they are often very personal to the complainant. Also, as the complainant is almost always identified to the police making inquiries, it can be expected that complainants will be kept up to date by the QPS on the progress of their matters. When notified of an outcome it is expected that police will fully inform them of action taken and the reasons why that action was considered appropriate. We recommended accordingly.

Reviewable decisions

We also examined 'reviewable decisions', which are decisions the QPS makes in internal disciplinary proceedings against police officers for police misconduct.

We may ask the Queensland Civil and Administrative Tribunal (QCAT) to review a decision, if we are not satisfied the decision properly reflects the purposes of disciplinary proceedings. Generally we consider applying for a QCAT review when we believe the police service has made an error of law or fact in finding a disciplinary matter is unsubstantiated, or when we believe the sanction imposed is inadequate in a matter that is serious enough to justify the police officer being dismissed or demoted and the police officer has shown little (if any) insight into his or her misconduct.

In the last year we finalised three QCAT reviews we had commenced in 2009–10. We also applied to review a further six cases. In the finalised matters, QCAT increased the sanctions imposed on the police officers in two cases.

Five of the six cases currently pending in QCAT relate to three high speed police pursuits in South East Queensland. The other pending case relates to the disappearance of a motor vessel and the loss of five lives in the Torres Strait in 2005.

We have seen a trend of rising numbers of ‘reviewable decisions’ over the current reporting period. Under the relevant legislation we are obliged to exercise our review rights within 14 days of receiving advice of a decision. This means that we must at times afford these matters priority over other review work, which has impacted on the timeliness of our review work this year (see Table 7, above).

QCAT case study of a reviewable decision

A Deputy Police Commissioner concluded disciplinary proceedings for two matters of misconduct against a police officer, arising from the arrest of a juvenile. The police officer had allegedly used such excessive force in effecting the arrest as to rupture the juvenile’s spleen. The officer had also allegedly been untruthful when interviewed about the incident.

The police officer contested both disciplinary matters and the Deputy Commissioner ultimately found both matters were unsubstantiated. This was because she preferred the police officer’s evidence over the juvenile’s evidence, and she speculated the juvenile had been injured in some way other than his interaction with the police officer.

We applied to QCAT for a review of that decision.

Following consideration of the facts, QCAT upheld our application and found the police officer had used excessive force when arresting the juvenile. The officer then resigned from the QPS, prior to the QCAT decision being finalised. Nevertheless QCAT made a disciplinary declaration against the officer indicating it would have dismissed him from the police service, had he not resigned.

The disciplinary declaration means that if the officer ever seeks employment with another Queensland government agency, the disciplinary declaration will warn the agency of QCAT’s findings about the officer in this case and allow the agency to assess his suitability for employment with them.

Important initiative areas

Local government

One of our areas of emphasis in our current strategic plan is in assessing and investigating areas of risk in the local government sector.

The commencement of the *Local Government Act 2009* on 1 July 2010 brought about significant changes to the way in which the conduct of local government councillors in Queensland is monitored, reported and dealt with.

One of the outcomes of the amended legislation is that allegations of official misconduct about councillors which are not determined to warrant investigation by the CMC, given the public interest, are now referred to the Department of Local Government and Planning to deal with, as opposed to the CEO of the local government involved.

To facilitate a smooth transition to this new process, we participate in joint complaint assessment meetings where we consider complaints of official

misconduct against councillors with representatives of the department. As part of this ongoing assessment process we also provide statistical data about complaints to the department. We also meet with other integrity agencies (the Queensland Audit Office and the Ombudsman) to discuss integrity risks in local government and common strategies for managing them.

We also have worked co-operatively with the Local Government Association on issues of mutual interest.

In May 2011 we launched *The Councillor Conduct Guide*, providing guidance to new and prospective councillors on their obligations as elected officials under the Local Government Act.¹⁸ This will be followed later this year by development of an Ethics and Integrity checklist for sitting and prospective councillors in the lead-up to the local government elections in March 2012. This checklist will provide guidance for all candidates on their legal and ethical obligations during the conduct of the election campaign.

Our Misconduct prevention officers also provided outreach services to the local government sector, presenting workshops in regional areas for councillors and council officers, and providing information and advice upon specific issues.

The CMC is committed to assisting Indigenous communities in a range of ways, one of which is through the provision of education and advice on the proper discharge of the obligations of elected officials who serve with Indigenous Councils.

Government owned corporations (GOCs)

The return to jurisdiction of 13 GOCs in the 2010 calendar year saw a continued focus for the CMC on working cooperatively with these agencies to facilitate transition to the new arrangements. As part of the transition, the GOCs had to put in place new policies, procedures and processes to deal with the obligation placed upon them to report suspected official misconduct to the CMC, and also to comply with the new requirements of the *Public Interest Disclosure Act 2010* (PID Act).

This transition, while on the whole successful, has led to the identification of some complex cross-jurisdictional issues arising from the corporatised nature of the GOCs. As a result of the amendment to the GOC Act, chief executive officers of GOCs are required to notify the CMC of a complaint, information or matter relating to the GOC that involves or may involve suspected official misconduct as if the GOC was a 'unit of public administration' as defined in the CM Act.

Further, an obligation is placed upon the Under-Treasurer to also notify the CMC of a complaint if the Under-Treasurer reasonably suspects such misconduct has occurred and the chief executive officer of the GOC has not notified the CMC of the complaint.

The PID Act came into effect on 1 January 2011 and operates to bring GOCs within its application with respect to complaints by a person generally and also an employee of the GOC.

However, GOCs are public companies under the Corporations Act and accordingly the whistleblower protection mechanisms under that Act (Chapter 9, Part 9.4AAA) currently apply.

The provisions of the Corporations Act relating to the confidentiality of disclosures made by persons to certain individuals or entities provide that such disclosures are protected and unauthorised disclosure is an offence. These same provisions provide that authorised disclosure may be made to a limited number of agencies including ASIC, APRA and the AFP or to someone else with the consent of the discloser.

18 <<http://www.cmc.qld.gov.au/data/portal/00000005/content/18023001306905018454.pdf>>.

While it seems a discloser may give permission for a complaint to be communicated to a State-based integrity agency such as the CMC, it is not specifically identified.

The CMC recognises that in the limited situations where the need for dual reporting might occur, the Commonwealth agency will likely have the expertise and powers appropriate to facilitate the investigation and prosecution of the alleged misconduct of an individual.

However, for the CMC's monitoring role with respect to suspected official misconduct to be fulfilled, certainty is required as to the steps to be taken by Chief Executive Officers and the Under-Treasurer when dealing with concerns so as to meet the reporting obligations imposed by the whistleblower provisions of the *Corporations Act*, the GOC Act, the CM Act and the PID Act.

Without such certainty there will be continued doubt for GOCs about reporting obligations and concern about exposure to prosecution for failing to report suspected official misconduct to the CMC. There is also the possibility of concurrent investigations of the same alleged misconduct being undertaken by the CMC and a Commonwealth agency, and the likely undermining of the CMC's specific obligations and powers as outlined in our Act.

The CMC is working in co-operation with the GOCs and other sector stakeholders such as Queensland Treasury (Office of Government Owned Corporations) to resolve these legal issues.

We have also provided training about official misconduct and the jurisdiction of the CMC to individual GOCs. However a planned visit to regional centres hosting GOCs was unable to proceed due to the impacts of the natural disasters in Queensland in early 2011.

Electronic systems support

The CMC has given Queensland Health electronic access to its complaints management database, COMPASS. Queensland Health is able to directly enter, and case manage, complaints using the database. This enables the CMC to engage in real time monitoring of the way Queensland Health deals with complaints and improves timeliness in sharing information between the agencies.

The Brisbane City Council and DEEDI are currently developing proposals for electronic access to COMPASS. We will also be working with the QPS to examine the feasibility of its use of COMPASS.

All access to COMPASS is occurring in the light of a longer-term decision about and the adoption of a new and improved whole-of-government discipline and complaints management information system.

As that police discipline review recognised, an effective complaints management system is vital to the operation of an effective, transparent and strong police complaints model.¹⁹ Those observations are apposite to the public sector.

As part of the web redesign project we are also developing the capacity for complainants to submit complaints to us online. This is an important initiative and has potential to allow for a 'complainant friendly' complaints lodgement facility.

National health reforms

Since the last three-yearly review, the Commonwealth, State and Territory governments have agreed to work towards a transformation of the Australian health system with significant reforms to be made.

¹⁹ See pp 100–102 of the Independent Panel's report

Queensland is now working towards the implementation of a number of the reforms that will change the way public health and hospital services are managed. The Health and Hospitals Network Bill 2011 (HHN Bill) was introduced to State parliament on 16 June 2011.

Essentially the reforms are to implement changes from 1 July 2012 providing for the establishment of 17 local health and hospital networks (LHHNs) in Queensland which will be statutory bodies with governing councils, accountable to the local community and the Queensland Parliament, also units of public administration for the purposes of the *Crime and Misconduct Act 2001*. The number of new LHHNs will impact on the CMC's ability to implement improved complaints management and integrity systems for each individual network. One of the areas likely to be impacted upon is the efficiencies gained through Queensland Health's adoption of the CMC's COMPASS electronic complaints management system (see above).

As part of this transformation, significant reforms have also been undertaken with respect to the registration of health professionals, with the implementation of a single national agency encompassing both registration and accreditation functions. The Australian Health Practitioner Regulation Agency (AHPRA) subsumes, relevant to the Queensland context, the work of the Medical Board of Queensland and Health Practitioners Registration Boards.

From the perspective of the CMC, it has created the need for the establishment of Memoranda of Understanding between agencies to facilitate the sharing of information, such as the removal of practitioner registration and referral of complaints which may be more appropriately dealt with by that agency.

BUILDING INTEGRITY PROGRAM, CAPACITY BUILDING AND PREVENTION

Over the period 2010–2013 one of the CMC's strategic priorities is to progressively build the capacity and accountability of public sector agencies in managing misconduct, subject to our oversight. (The program was previously named and reported on as the 'Devolution Project').

As part of this strategy, we are aiming by 30 June 2013 to implement improved integrity systems across all core public sector agencies — departments and other significant agencies, such as local governments.

In 2010 we successfully worked with Queensland Health, Brisbane City Council, the Department of Employment, Economic Development and Innovation (DEEDI), and the Department of Justice and Attorney-General to implement improved complaints management and integrity systems.

This year we continued to work with those agencies and also began working with the other departments.

In performing this work we use tools to examine the complaints management, misconduct prevention and institutional integrity of an agency. We also analyse the policies, procedures and practices that an agency has in place to assist it manage complaints and promote integrity in its officers. We survey agency staff about their knowledge and trust in these controls. Our monitoring and audit work also informs our assessments and allows us to form a judgment about the agency's overall integrity profile.

Our trial evaluation of DEEDI assesses the agency as having an effective integrity framework and complaints handling process. We will report on the progress of the other agencies throughout this calendar year.

We will also begin implementing our Building Integrity program in the local government sector.

Legislative change

The new offence provision of misconduct in public office, referred to in Chapter 2, has already been used to secure the conviction of a former civilian employee of the Queensland Police Service who repeatedly checked the internal information management system to see if he was being investigated for supplying steroids. The matter was investigated by the QPS and monitored by the CMC. The defendant pleaded guilty to one count of misconduct in relation to public office and was sentenced to 12 months' probation and ordered to perform 100 hours of community service, with no conviction recorded. He has already been dealt with for other offences of supplying and possessing steroids, for which he received probation and a fine.

Working with other integrity agencies

We continued:

- ▶ to promote the government's integrity agenda by our involvement in the Queensland Public Sector Ethics Network (QPSSEN) and the Public Interest Disclosure (PID) Network
- ▶ to identify areas of emerging risks in local government and the areas in which the integrity agencies may be able to give priority to coordinating resources for better results through quarterly meetings with the Queensland Audit Office and the Office of the Queensland Ombudsman
- ▶ to assist overseeing the implementation of 54 recommendations from the *Service Delivery and Performance Commission (SDPC) Review of the QPS*, through continued representation on the steering committee.

We also worked with other integrity organisations on the following initiatives:

- ▶ hosting the Australian Public Sector Anti-Corruption Conference (APSACC) 2009
- ▶ publishing *The Councillor Conduct Guide*
- ▶ in collaboration with the Public Service Commission, we
 - assisted in the development of a Single Code of Conduct for public sector agencies
 - introduced ethical decision-making training for senior public servants
 - assisted in redrafting whistleblower guides to support the introduction of the *Public Interest Disclosure Act 2010*.

Outreach programs

We began undertaking regular visits to regional Queensland to deliver advice and assistance to units of public administration in 2002. The program has continued and has included visits to, and consultation with, agencies in rural and regional areas, and provided an opportunity for the delivery of our training and educational activities. Areas visited included Cairns, Townsville, Rockhampton, Longreach, Caloundra, Charleville and the Gold Coast.

Our program for 2011–12 will include visits to southern, central and north Queensland and will provide opportunities for attendees from local and state government.

Indigenous engagement

Our commitment to assisting Indigenous people continues. The review into the structure and functions of Misconduct Investigations recommended an increased presence of Indigenous people employed at the CMC, and the establishment of an Indigenous Support Unit within the Office of the Assistant Commissioner, Misconduct.

This recommendation was accepted by the Commission and recognises and builds upon the history of good work by previous Indigenous people employed within Misconduct. Significant assistance has been provided by the CMC's Indigenous advisors across the Commission over recent times, including receiving and assessing complaints, providing assistance to investigations, assisting the community's reception of our Palm Island report, supporting our Research unit with following up recommendations arising out of our report on crime prevention in Indigenous communities, and assisting our Prevention team in creating culturally appropriate information to identify and minimise misconduct. We are, too, participants in the Federal Indigenous Cadetship scheme to provide young Indigenous persons an employment opportunity not otherwise available to them.

As part of our commitment to people in remote Indigenous communities, we visited Thursday Island, Cairns, Mt Isa and Doomadgee in 2009. We delivered training sessions on how to deal with complaints of official misconduct and effectively managing conflicts of interests, and consulted with Indigenous agencies and organisations on ways in which to improve the handling of complaints by Indigenous people against the police.

In 2011 we held misconduct prevention forums in Yarrabah, Cairns and Townsville in Far North Queensland which were attended by mayors, councillors and staff from both Indigenous and non-Indigenous local government entities.

Our commitment to an informed Indigenous public continues with our annual contribution to the National Aboriginal and Islander Day Observance Committee (NAIDOC), through participation at Family Days held in SE Queensland at Inala, Zillmere and Musgrave Park at West End.

By engaging directly with Indigenous people at these types of events we hope to spread the message of who we are and what we do, and empower people to report any knowledge of public sector misconduct.

We also attend community council meetings, the Justice Entry Program (JEP) and provide cultural awareness training to recruits undergoing training at the QPS Academy. We see this as another element in our ongoing engagement strategy through a combination of face-to-face meetings and regular reminders that we are available to people.

MISCONDUCT INVESTIGATIONS

One of our key strategies to promote a trustworthy public sector is to investigate the most serious public sector misconduct. We also assist public sector agencies to investigate misconduct complaints by making available the expertise and experience of our investigators, lawyers, forensic accountants and intelligence officers and by using our special investigation and police powers. As part of the investigation process, we focus on identifying agencies' systemic or procedural weaknesses and developing recommendations to help them prevent future misconduct.

Where an investigation results in evidence sufficient to support grounds for disciplinary action, we may refer the matter for action to the agency where the officer is employed. If there is evidence to support a criminal prosecution against the officer for an offence, a police officer seconded to the CMC may commence the proceedings or the CMC may seek advice from the Director of Public Prosecutions.

Even though a person may have resigned as a public sector officer, we may still decide to investigate the matter.

Should evidence uncovered support disciplinary action that could have resulted in dismissal or demotion we may refer the matter to the agency that employed the person for it to consider making a disciplinary declaration. The declaration, which involves a finding of misconduct, will remain on the person's file and will be taken into account should the person seek re-employment in the public sector.

We have pursued these declarations in a number of recent cases as they effectively prevent a resignation being used to avoid a disciplinary outcome for serious misconduct.

In our pursuit of corruption and other serious misconduct, we use interdisciplinary teams comprising police and civilian investigators, financial analysts, lawyers, intelligence analysts and support staff. We also rely on specialised resources in intelligence, financial analysis and forensic computing, as well as proactive and covert investigative techniques.

Investigation strategies

During 2010 our Prevention team also moved from our Research area to Misconduct. The establishment of closer links between our specialist Prevention officers and our misconduct work creates better opportunities for our Prevention officers to work with our partner agencies to improve their capacity to identify and deal with misconduct. It also provides more timely access to valuable information which informs our broader misconduct prevention activities. From July 2011 we will have Prevention officers attached to our investigative teams, to ensure a true interdisciplinary approach to all misconduct investigations.

Misconduct Prevention input

Prevention officers work closely with the investigating team so as to be aware of the nature of the misconduct and provide complementary input to the investigation report or provide specialist advice directly to the agency. This allows the agency to take remedial action at the earliest time possible, instead of waiting for the outcome of any disciplinary or court action.

Covert techniques

Our covert investigative capacity includes the use of surveillance, telephone interception,²⁰ listening devices and covert operatives. We also have the power to conduct closed investigative hearings to which witnesses may be summoned to give evidence on oath concerning the matter under investigation, and to issue notices to require a person to give information on oath in an interview and to require a person to provide us with documents. These notices can require the person to maintain confidentiality with respect to the notices.

Public hearings

Public hearings allow:

- ▶ a wider gathering of evidence on which findings and recommendations can be based than may usually be acquired during a normal investigation

²⁰ See Appendix 3

- ▶ justice to not only be done but also be seen to be done, with the public being involved in the process of reducing corruption and restoring confidence in the system.

Intelligence assessments and target development

Intelligence activities support misconduct investigations by:

- ▶ conducting strategic assessments which identify and assess misconduct risk areas
- ▶ undertaking target development activities to identify opportunities for investigative teams
- ▶ ensuring the sharing of relevant intelligence products both within the CMC and between the CMC and external agencies.

Since the last review the SIU has conducted two strategic assessments focused on identifying and discussing risk associated with aspects of local government and policing. The SIU is currently undertaking a third assessment of this nature to highlight an area of risk within policing identified as a result of the CMC's Operation Tesco.

As mentioned in Chapter 4 of this report, Intelligence continues to administer and support the CMC's human source program. In the past three years the CMC has conducted a number of human source training courses, including one specifically designed to train colleagues from other integrity agencies on the recruitment and use of sources specific to misconduct investigations.

Achievements

Here are examples of investigations conducted or concluded since the last review.

Dangerous Liaisons (Operation Capri)

Operation Capri, an investigation conducted by the CMC between March 2006 and September 2008, concerned multiple aspects of police misconduct in connection with using and managing prison informants. The investigation resulted in the production of a public report and numerous disciplinary and criminal proceedings. Our report, *Dangerous Liaisons*, was released in 2009–10 and is available on our website at www.cmc.qld.gov.au.

The conduct examined in this operation and the CMC's reported conclusions were also used by QPS as the basis for an integrity training and awareness exercise across the Service.

Operation Tesco

From January 2009 the CMC investigated a range of allegations that certain police officers on the Gold Coast were involved in the use and supply of dangerous drugs, the use and supply of confidential police information to assist criminal associates, and the receipt of benefits in connection with those activities.

The first phase of the investigation focused on three officers. It found that although two of those officers were actively engaged in alleged misconduct, there was no evidence of widespread corruption and misconduct by police on the Gold Coast.

From November 2009 the CMC conducted an extensive closed hearing program involving a large number of Gold Coast police officers, nightclub owners, managers and staff. The evidence revealed that long-standing problem behaviours continued to prevail on the Gold Coast, including inadequate supervision, a general erosion of

standards of conduct, alcohol abuse, improper use of official police resources, and a failure to recognise the seriousness of misconduct or inappropriate conduct and to react appropriately.

Given the seriousness of these issues, rather than wait until the conclusion of its investigation to report on recommended reforms, when our investigation progressed to an overt phase we raised our concerns with senior managers of the QPS, so that appropriate management responses could be developed quickly. In February 2010 the QPS advised the CMC of strategies it had implemented and of other actions proposed to address these issues. In August 2010 the Police Commissioner announced a comprehensive package of further measures designed to improve policing on the Gold Coast and address the problems identified in Tesco and earlier CMC investigations.

In the interests of public confidence in the QPS, in September 2010 the CMC conducted public hearings to explain the matters under investigation and to provide an opportunity to further consider the more difficult questions and challenges presented by the evidence from Tesco.

Operation Tesco is now finalised. A public report was released on 23 June 2011 and is available on our website at <www.cmc.qld.gov.au>.

As a result of this operation:

- ▶ QPS policies concerning the acceptance of gifts and gratuities by QPS members, and managing the risk of inappropriate associations, have been enhanced or developed.
- ▶ the CMC has referred evidence to the QPS with the following recommendations:
 - that a post separation disciplinary declaration be considered against a now former uniformed officer. On 22 February 2011 this officer was fined \$4000 for drug-related criminal offences, with no conviction recorded.
 - that disciplinary action for misconduct be considered against a plain clothes constable for victimising a suspected whistleblower. This officer was suspended from duty on 19 August 2010.
 - that a post separation disciplinary declaration be considered against a former uniformed constable in respect of various allegations of fraudulent and dishonest conduct. This subject officer resigned from the QPS on 5 July 2010.
 - that disciplinary action be considered against a plain clothes constable with respect to an incident of public nuisance
 - that disciplinary action be considered against an Inspector for an alleged failure to report misconduct and a failure of the standards and leadership the community is entitled to expect from its senior police officers
 - that managerial guidance be given to a plain clothes officer in respect of his alleged involvement with the second officer mentioned above, in the victimisation of a suspected whistleblower.

Operation Nighthawk

In September 2010 the CMC received information that a sergeant in the South Eastern Region was supplying ecstasy and amphetamines to other persons, including other police officers. Our investigation subsequently identified six police officers who were allegedly involved in the use of these drugs or knew about this conduct but failed to report it.

As a result of the evidence obtained during our investigation, the sergeant, three other police officers and a civilian member of the QPS have resigned. We charged the sergeant with offences of supplying and possessing dangerous drugs and stealing a drug testing kit from the QPS. A family member of the sergeant was also charged with drug offences. These matters are presently before the courts.

Evidence of alleged misconduct relating to drug use, untruthfulness and failing to report misconduct by the three other police officers and civilian member have been referred to the QPS for consideration of a post disciplinary declaration being made against those persons. We have also referred to the QPS for disciplinary action evidence of alleged failure to report misconduct by two other police officers who were allegedly aware of drug use by their colleagues.

This investigation also revealed evidence suggesting officers at another police station had been involved in stealing alcohol they had seized in the course of their duties and using it for their social activities. We referred this evidence to the Ethical Standards Command for investigation and the matter is to be finalised in the near future.

Alleged kickbacks

The CMC investigated a complaint alleging that an employee of a Technical and Further Education (TAFE) college in South East Queensland had corruptly received a free air conditioning system to the value of \$25 000 from an air conditioning company that had secured contracts with the TAFE.

The subject officer was responsible for approving quotations from contractors, including the air conditioning company, for work to be done at the TAFE. The investigation resulted in sufficient evidence to warrant the consideration of criminal proceedings against the subject officer for the offence of receipt of a secret commission. We referred evidence in relation to the matter to the Director of Public Prosecutions for consideration of a criminal charge against the subject officer, and to the Department of Education so that appropriate disciplinary action might be considered.

The CMC also investigated other allegations that an employee of the Department of Communities was involved in fraud and the receipt of secret commissions in his role as a senior manager of a departmental facility on the Gold Coast. It was alleged that between 2003 and 2008 the subject officer had received from two private cleaning contractors at the facility over \$110 000 and \$40 000, respectively. The investigation resulted in sufficient evidence to warrant the consideration of criminal proceedings against this subject officer for secret commissions. The CMC is presently awaiting advice from the DPP in relation to this matter.

Operations Moonlight and Spoke

Commencing in November 2005, the CMC conducted Operation Moonlight, investigating allegations that a former Minister of the Crown, Gordon Nuttall, had accepted corrupt payments from two businessmen, the late Mr Ken Talbot, of McArthur Coal Limited, and Mr Harold Shand.

The CMC also investigated information as part of Operation Spoke that Mr Nuttall had received corrupt payments from Mr Brendan McKennariy, a contractor involved in Queensland Health projects.

In December 2007, Mr Nuttall and Mr Shand were charged with one count of receiving/paying a \$60 000 secret commission. In January 2008 Mr Nuttall and Mr Talbot were charged with 35 counts of receiving/paying secret commissions

totalling almost \$300 000. On 20 June 2010 Mr Talbot died in a plane crash in the Congo and the charges against him were withdrawn.

Mr Nuttall was found guilty of the 36 charges against him and on 17 July 2011 was sentenced to a total term of seven years' imprisonment. He was unsuccessful in his subsequent appeal against conviction and sentence.

Mr Shand was first tried in March 2010 but after the jury failed to reach a verdict, was re-tried in March 2011. He was found guilty of the secret commission offence, on 1 April 2011, and sentenced to 15 months' imprisonment, suspended after serving four months. He did not appeal.

Mr McKennariery was granted an indemnity from prosecution and later gave evidence against Mr Nuttall. In August 2009, Mr Nuttall was charged with a further five counts of official corruption in respect of payments of over \$152 000 he had allegedly received from Mr McKennariery, and five counts of perjury relating to alleged false evidence he had given in CMC hearings.

Mr Nuttall was found guilty of those charges on 10 December 2010 and sentenced, in effect, to an additional five years' imprisonment, with a parole eligibility date fixed for 2 January 2014.

An appeal by the Attorney-General against the inadequacy of Mr Nuttall's sentences was heard on 10 May 2011. On 7 June 2011 the Court of Appeal upheld the Attorney-General's appeal, the effect of which was to increase Mr Nuttall's head sentence to seven years and extend his non-parole period by 18 months.

On 12 July 2010, Justice Applegarth of the Supreme Court ordered that Mr Nuttall pay to the State of Queensland the sum of \$454 480.04 (a proceeds assessment order in relation to the Talbot and Shand monies). He also ordered Mr Nuttall to pay the State's costs of \$42 000. On 28 March 2011 Justice Boddice issued a further Proceeds Assessment Order to the value of \$141 500 (in relation to the McKennariery matter) and a costs order of \$5000. These amounts are yet to be paid. The restrained properties are in effect security for the orders.

THE CMC'S WORK WITH THE QUEENSLAND POLICE SERVICE

This section reports on the ways in which we work with the QPS to improve policing in Queensland. Continuous improvement of the police service was a key focus for the former CJC and remains an important area of work for the CMC. We have already reported on our complaints and investigations regarding the police.

Review of the police disciplinary system

In December 2010 we published a report on our review of the Queensland Police Service disciplinary system, entitled *Setting the Standard*. Our report contained a package of 11 recommendations aimed at improving the police discipline framework, policies and procedures, and resolving a number of issues and notable deficiencies in the current system.

In response, government noted that the CMC's report recommended further work be undertaken to develop a revised disciplinary model, and appointed an independent panel to undertake this work. That panel reported in May 2011, and their report has been released for public consultation, with submissions due in July 2011.

Public confidence in the QPS is essential to the effective performance of policing work. A fair, robust and effective discipline system that assures police accountability and integrity is essential to maintaining that public confidence. We

will continue to work with government and the Queensland Police Service to achieve much-needed reforms to the disciplinary system.

The recommendations contained in the Independent Panel's report will, if implemented, have major implications for how the CMC approaches its police misconduct functions.

A detailed submission was prepared by the CMC in relation to the panel's report and recommendations. The review, and consequently the CMC's submission, addresses many of the fundamental issues that have at times been of particular interest to the PCMC over the last three years, including the broad issue of 'police investigating police' and public confidence in the police complaints and discipline system; the timeliness of complaint resolution; and consistency and adequacy of disciplinary outcomes. In those circumstances, to avoid duplicity we will not address those issues in this submission. We have provided a copy of our response to the panel's report to the Committee.

It should be noted that while the review conducted by the Independent Panel addressed the majority of issues and recommendations raised in our report, the panel did not fully consider all recommendations made by the CMC. For instance, Recommendation 11, which sought legislative amendment to provide for a 'loss of confidence' dismissal power for the Commissioner of QPS, was regarded as beyond the scope of the panel review.

The CMC would seek the Committee's support for progressing those recommendations made in the *Setting the Standard* report which have not been taken up in the independent panel review process. The CMC's position in relation to those recommendations is explained in the discussion sections of the *Setting the Standard* report.

Police-related deaths

In May 2010 the Acting Coroner (Deputy Chief Magistrate Hine) delivered his findings in the re-opened inquest into the death in police custody of Mulrunji Doomadgee on Palm Island in 2004 and, among other things, made a recommendation about the role of the CMC in the future investigation of deaths in police custody.

Following meetings between the State Coroner, the Commissioner of the Queensland Police Service and the Chairperson of the CMC, agreement was reached as to the future approach to the investigation of these matters. A Memorandum of Understanding reflecting the proposed arrangements is currently under consideration within Government.

At the present time, the CMC is initially attending upon all such deaths to whether police misconduct is raised and who should lead the further investigation.

There were 11 matters where the CMC was involved in the oversighting of police-related deaths in 2010–11.

Our focus on this important work will have resourcing implications, both in increased operational costs and more significantly, in 'opportunity costs', as investigating these matters from within existing resources will mean that some other investigations will not be able to be undertaken.

Nevertheless, given the critical importance of maintaining public confidence in the investigation of this most serious category of matters, we are committed to making an effective contribution to the independent and transparent investigation of police-related deaths.

We will also measure the percentage of police-related fatalities where the Coroner is satisfied with the CMC's response. We are aiming to achieve a 100 per cent satisfaction target.

Assisting the State Coroner

On 12 June 2009 Antonio Galeano died at Brandon, North Queensland after he had allegedly been Tasered and detained by a police officer and his partner, who had attended the scene after being called to deal with a disturbance. The Coroner was advised of the death of Mr Galeano and the Deputy Coroner appointed to conduct an inquest into the matter.

The Ethical Standards Command took over responsibility for assisting the Deputy Coroner with the investigation and the CMC commenced overseeing that investigation.

In August 2010 the CMC completed its review of the ESC investigation and reported on a number of matters to the Coroner for consideration.²¹

The inquest into the death of Mr Galeano was commenced by the Deputy Coroner in November 2010 and is continuing.

RESEARCH

Police research

Our police research in the last three years has been focused on the following areas:

- ▶ enhancing integrity in the QPS
- ▶ evaluating the use of police powers, including use of force.

Enhancing integrity in the QPS

In this period, Research has continued its extensive program of survey research, publishing results from our eighth survey in the *Public Perceptions* series and our fifteenth in the *Police Ethics* series. In our *Public Perceptions* series, in addition to examining the annual data, we also took the opportunity to look back to our first survey, conducted in 1995, to measure changes over the 13-year period. The over-time analysis enables the QPS and the CMC to reflect upon the success or otherwise of strategies that have been put in place to build integrity and ethical values in the culture of the QPS.

We are considering expanding the police ethics aspect of this research into a longitudinal study of one cohort of officers over a period of time.

Public perceptions of the Queensland Police Service

Findings from our 2008 public attitudes survey showed that an overwhelming majority of Queenslanders had a positive view of the QPS and considered that its members generally or mostly behave well.

Areas for improvement included perceptions about the treatment of Indigenous persons, police interaction with young people and misunderstandings about the complaints process.

The eighth survey report in this series will be published in the near future.

²¹ We also produced a 2011 review of Taser deployments, *Evaluating Taser reforms*, available on our website <<http://www.cmc.qld.gov.au>>.

Interactions between police and young people

In collaboration with The University of Queensland and Queensland University of Technology, we drew on three linked studies to examine the perceptions of police by young people.

Our published paper found that although none of the studies provided definitive answers for improving relations between police and young people, all three increased our understanding of the nature and complexity of these relations.

Police ethics surveys

Our annual survey in 2010 and an analysis of findings from surveys between 1995 and 2008 revealed that:

- ▶ There has been some positive change in the ethical attitude of police officers.
- ▶ There are some areas where there could be some improvement such as lenient views as to the propriety of accepting gifts of alcohol at Christmas or using a police vehicle for a minor personal matter.
- ▶ There was a slight decline in ethical standards detected in CMC investigations into police in the past two years. We are working with the QPS to introduce initiatives to address these issues, and will continue to do so.

Predicting complaints against police officers

This 2010 study revealed that there was no single factor which would predict complaints, although young male officers account for the majority of complaints and increased activity levels predict increased complaints. An early intervention system may be the most effective means of reducing complaints against police officers.

Evaluating the use of police powers

Taser reform evaluation

During this review period the CMC has undertaken an active role in research on Taser use and reform.

The CMC produced a review of Taser deployments in 2011 following a death in June 2009 in North Queensland after a Taser deployment. Our review made 27 recommendations. Findings included:

- ▶ The QPS had demonstrated a firm commitment to implementing the recommendations from the 2009 QPS–CMC review.
- ▶ The introduction of the revised policy appeared to have had some positive effect on how QPS officers used Tasers.
- ▶ Some aspects of Taser use by the QPS continue to concern the CMC, including:
 - the continued deployment of multiple or prolonged discharges
 - that potentially ‘vulnerable’ or ‘at-risk’ groups were generally more likely to be involved in Taser deployment and
 - that Indigenous Queenslanders are over-represented as subjects of Taser use.

Search warrant review

The QPS’s review and audit of the processes associated with search warrant applications made by police officers to Justices of the Peace was oversighted by the CMC. The review concluded that a substantial number of applications had

procedural or technical faults, with 25 per cent having substantive deficiencies such as incorrect or insufficient information.

The CMC will continue to monitor the outcome of this review and the implementation of the recommendations in the report produced by the QPS.

Public sector research

Public perceptions

We are currently preparing a report for publication on public perceptions of the Queensland public service and local government, featuring a comparative analysis of survey responses from 2008 and 2010.

Custodial officer perceptions

This study of custodial officer perceptions of Queensland correctional institutions from 2001 and 2007 highlighted, over time, some significant improvements and challenges regarding misconduct. Queensland Correctional Services has since made a number of changes to their processes, policies and training program based on our recommendations.

Research assistance to misconduct investigations and the Building Integrity Program

This has included:

- ▶ advice on the role of ministerial advisors and their interaction with public servants
- ▶ advice on policies and strategies for the management of inappropriate associations of police officers for Operation Tesco.

Research has also provided assistance for the design and analysis of the departmental surveys conducted as part of the Building Integrity Program overseen by Integrity Services.

Public policy research

Move on powers

Our review of police move-on powers published in December 2010 found:

- ▶ A steady increase in the use of move-on powers, likely to be associated with the expansion of the power across Queensland.
- ▶ Young adults aged between 17 and 24 years were more likely to be moved on.
- ▶ Indigenous people were significantly more likely to receive a move-on direction
- ▶ Move-on powers, as used by police, are not an effective diversionary mechanism for Indigenous people or juveniles.

We made 11 recommendations and the government has supported in principle a number of changes to QPS practices including the storing of data (to assist future analysis) and a revision of its approach to policing public order.

Review of Police Powers and Responsibilities (Motorbike Noise) Amendment Act 2005

This review found that:

- ▶ These laws have failed to address the problem of excessive noise and should be repealed.
- ▶ A ministerial taskforce and an advisory committee be created to provide a whole-of-government response to managing off-road motorbike riding in Queensland.
- ▶ Recommendations were made for better regulation of excessive noise caused by off-road motorbikes.

The Government is considering providing its response to our recommendations.

Review of the 'evade police' offence

In our June 2011 report, *Police pursuits and community safety: a review of the evade police offence*, we reported that:

- ▶ although the provisions will never be effective in a significant proportion of incidents where offenders flee from police, they are a useful operational tool in many other cases.
- ▶ there are 13 recommendations to improve the ability of police to identify and prosecute offending drivers and improve the integration of the evade police provisions, as an alternative to pursuit, within QPS and training.

Review of the Prostitution Act 1999

Our June 2011 report, *Regulating Prostitution: a follow-up review of the Prostitution Act 1999*, found that:

- ▶ overall the underlying principles of the Act are being realised
- ▶ there is an emerging trend of increasing involvement of migrant sex workers in the illegal sector and the licensed brothel sector
- ▶ there is no evidence of sex trafficking or debt bondage for Queensland sex-workers
- ▶ a legislated committee be established to cover the whole of the prostitution industry.
- ▶ some earlier recommendations to reduce the illegal industry had only recently been implemented and it was too early to assess their impact.

Policing in Indigenous communities

Following our publication in November 2009 of *Restoring order: crime prevention, policing and local justice in Queensland's Indigenous communities*:

- ▶ the Queensland Government supported five of the six broad areas we recommended for reform
- ▶ of the 51 specific areas for action we highlighted, the government response supported 31 of these and 'supports in principle' the remainder.

Policing in Indigenous communities remains a key focus of the CMC.

Future research

Our next scheduled legislative review is scheduled to commence in 2013, when we will review the operation of the *Child Protection (Offender Prohibition Order) Act 2008*.

CHALLENGES FOR THE FUTURE

If the trend of rising complaint numbers continues in the future, there is the strong likelihood we will be faced with resourcing pressures, arising from the need to deal with complaints in a timely and effective way, responding to the needs of agencies, complainants, targets and members of the public for speedy service and quality support and advice; and delivering on our other operational objectives, including our monitoring, capacity-building, prevention and investigative roles.

Working co-operatively with the State Coroner and the Queensland Police Service, we will also need to develop our role investigating and overseeing police-related deaths and dealing with the demands that these will place on our resources and the skill sets of our staff. It is imperative we are successful in managing this increased and very important responsibility.

Implementing the changes required by the government's review of the police disciplinary system will have significant implications for us, including the possibility we will need to realign our internal structures and resources to meet demands of the new system. We are ready for this challenge and welcome the opportunity to play a significant part in delivering much-needed changes in this area. We are cognisant of the importance of having a police complaints and discipline system in which the public, and police, can have confidence.

OUTLOOK FOR 2011–12

In 2011–12 we will:

- ▶ implement reforms arising from the Police Discipline Review
- ▶ restructure our Misconduct teams to better align with our strategic and operational goals
- ▶ continue to protect the public interest by investigating the most serious and sensitive allegations of official misconduct
- ▶ engage more effectively with our partner agencies and ensure we provide individualised support that addresses their needs with relevant integrity and investigative issues
- ▶ provide more information, through our website, about our complaint handling and oversight processes, and the outcomes of high profile matters
- ▶ commence the implementation of our Building Integrity Program in the local government sector.

Chapter 7: Witness Protection and Operations Support

This chapter explains how the Witness Protection Program operates within the CMC, highlights the progress that has been made recently in the area of specialist training for witness protection officers, and outlines the Operations Support function at the CMC.

WITNESS PROTECTION

Witness protection is an essential component of the Queensland criminal justice system, because it provides an environment which assists and protects people in danger from giving evidence to law enforcement agencies and the courts. The Witness Protection Unit (WPU) has maintained a 100 per cent success rate in protecting witnesses.

The Witness Protection Program offers services to people who are in need of protection because:

- ▶ they have assisted a law enforcement agency
- ▶ they are closely associated with a person who has provided such assistance.

Witness protection may include providing court security or close personal protection, and securing witnesses in a safe location on a temporary or permanent basis.

Witness Protection Advisory Committee

The Witness Protection Advisory Committee (WPAC) comprises:

- ▶ the Assistant Commissioner of Police, Director Witness Protection and Operations Support (Chair)
- ▶ the Executive General Manger, CMC
- ▶ the Detective Superintendent, Operations Coordinator, Witness Protection and Operations Support
- ▶ the CMC Official Solicitor
- ▶ the Detective Inspector, Officer in Charge, Witness Protection Unit.

The committee's primary objectives are to make assessments and provide strategic advice and recommendations to the Chairperson, who has the ultimate responsibility for administering the program, and the WPU.

The functions of the WPAC include:

- ▶ making assessments, evaluations, recommendations and directions in respect of:
 - applications for interim protection
 - applications for protection
 - applications for a new identity
 - withdrawals from witness protection
 - other matters of significance relating to witness protection

- ▶ advising and making recommendations to the CMC Chairperson on issues relating to witness protection
- ▶ providing guidance and direction to the WPU
- ▶ authorising financial or other arrangements in particular instances where a protectee withdraws from witness protection.

Successes and achievements

The following are recent examples of witness protection outcomes:

- ▶ A person gave evidence at a re-trial in 2009. The accused was granted a retrial after a guilty verdict was returned in 2002 in respect of the charge of murder. The protectee successfully completed their evidence and the accused was found guilty of murder and sentenced to life imprisonment.
- ▶ Witness Protection officers provided 24-hour close personal security to one person for the duration of a court security operation. The protectee gave evidence at a committal hearing against a person charged with the offences of grievous bodily harm, assault occasioning bodily harm and supplying dangerous drugs. The accused person was committed to trial for the charges of grievous bodily harm, and supplying dangerous drugs and fined \$1000 on the charge of assault occasioning bodily harm.
- ▶ A protected person gave evidence at the trial of a person who had been charged with five counts of rape. The defendant was found guilty on four of the rape indictments and sentenced to life imprisonment.
- ▶ Two protected people gave evidence against a person who was subsequently convicted on two charges of production of a dangerous drug and sentenced to two years' imprisonment
- ▶ A protected person gave evidence against three people who were charged with importing and trafficking dangerous drugs. The protectee successfully gave evidence against one accused which resulted in a hung jury with a re-trial date to be set. The remaining two defendants pleaded guilty and were remanded in custody for sentencing.
- ▶ A protected person gave information to the police which contributed to a person being charged with murder. The protectee was not called to give evidence at court due to time constraints but will appear at the next court date in 2011.
- ▶ A protected person gave evidence against four people charged with importing a controlled substance under the Commonwealth Criminal Code. All four were sentenced to terms of imprisonment of five to six years.
- ▶ A protected person gave evidence at the trial of two people who were charged with manslaughter, a variety of serious assaults, torture, deprivation of liberty and demanding property or benefits with threats. One defendant was found guilty of manslaughter and sentenced to ten years' imprisonment while the second was found guilty of acts intended to maim/disfigure/disable and was sentenced to imprisonment for five years. Both accused were found guilty on all remaining counts and were sentenced to further maximum of six years' imprisonment to be served consecutively.
- ▶ Two protected people gave evidence at a civil asset confiscation trial initiated by the CMC. The respondent had an extensive criminal history in drug trafficking and the production of dangerous drugs. The court made a proceeds assessment order requiring the respondent to repay \$4.2 million.

Training

We developed new marketing strategies and tools, including presentations and a QPS screen saver, to engage with client law enforcement agencies and promote greater awareness of our services and their potential benefits for those agencies. We also took opportunities to strengthen working relationships with other agencies providing witness protection services. We have continued to refine our protection methodologies through:

- ▶ participation in the Australasian Witness Protection Forum (AWPF)
- ▶ facilitating training courses
- ▶ regular communication with counterparts throughout Australasia and other support agencies.

Through our lead agency status regarding witness protection training we have:

- ▶ in May 2009, hosted the annual Australasian Witness Protection Forum (AWPF) in Brisbane
- ▶ advanced the assessment methodologies and recognition of prior learning for the national witness protection training course
- ▶ contributed to course preparations, including development of joining instructions, training and assessment tools relevant to the curriculum National Witness Protection Course held in Perth in November 2010 and attended by two Queensland WP officers
- ▶ arranged for the revised Advanced Diploma in Public Safety (Police – Witness Protection) to be held in Queensland in late 2011.

In 2010 we also participated in a research project conducted by the AFP to determine personality indicators for witness protection officers. The research results will be presented to the AWPF and be incorporated into selection processes for CMC staff.

Legislative issues

Legislative amendments

There are a number of proposed legislative amendments to the *Witness Protection Act 2000* that would improve the functioning of the WPU. These are outlined in Chapter 2.

OPERATIONS SUPPORT

Operations Support incorporates three specialist areas of physical surveillance, technical surveillance and forensic computing. All three areas provide the necessary specialist expertise to support CMC operations and investigations.

Physical surveillance involves teams with the primary objectives to gather evidence and intelligence on people who are suspected of being involved in official misconduct, serious criminal or organised crime activity and who are under investigation by the Misconduct, Crime or Intelligence areas of the CMC. Physical surveillance officers support some technical surveillance activities and also assist to ensure the safety of protected persons.

Technical surveillance provides the CMC with the capability to undertake electronic surveillance that includes using audio, video and tracking devices to support CMC functions, including its witness protection activities. These specialist staff also provide advice and technical support for the CMC's telecommunications

and secure radio communications. The unit is actively engaged in projects involving the digitising of listening and observation posts and the use of new technology in the transmission of surveillance product from remote sites.

Forensic computing provides the CMC with the capacity to examine data storage devices in support of public sector misconduct investigations and crime investigations including paedophilia. Staff utilise leading forensic data capture tools to recover and extract electronic information from devices such as:

- ▶ computers
- ▶ portable storage devices
- ▶ email servers
- ▶ file servers
- ▶ back-up tapes
- ▶ cameras
- ▶ personal digital assistants
- ▶ and mobile telephones.

The unit is experiencing greater storage capacity in devices as technology advances and storage capacity becomes more affordable to the everyday user. For example, a two terabyte hard drive which can hold 357 DVD quality movies or 11,000 lower resolution video files or entire email databases for six state government departments can be purchased for less than \$100.

Other advances impacting on the complexity of the work forensic computing work include:

- ▶ Smart phones — these were initially aimed at the business elite with storage of up to 8GB. Since 2009 smart phones have become the telephone of choice for many young people and adults and have the capacity to store up to the 32 GB of data. This ever-expanding storage capacity opens up a vast source of digital evidence. In 2009 a full mobile telephone examination could take up to an hour. With smart phones being computers in their own right the equivalent examination can now take over a week.
- ▶ Social networks — in 2011 there are 700 million users of Facebook. It is considered one of the fastest expanding areas in which to locate digital evidence.

Successes and achievements

The following are examples of where all three Operations Support areas have contributed significantly to the success of CMC operations.

Operation Capri

The Operation commenced in 2005 involving a series of proactive and covert inquiries into allegation involving alleged police misconduct. In part, the investigations extended to issues involving the propriety of certain relationships between police officers and convicted criminals, including allegations of payments to criminals in exchange for confessions, cash rewards and unsupervised sessions with wives and girlfriends.

Operation Tesco

This was an 18-month CMC investigation into alleged police misconduct on the Gold Coast that involved all three Operations Support areas and which resulted in the identification of systematic issues requiring immediate attention to address, for example, poor officer supervision, improper associations, the receipt of gifts/benefits, organisational culture and workforce/human resource management issues. Forensic computing staff serviced 12 requests for assistance and participated in the execution of search warrants on police establishments and residences and examined a large amount of digital media devices.

Operation Warrior

This was an extensive covert joint investigation between the CMC and police in Queensland, New South Wales and Victoria to investigate organised crime and the production, supply and distribution of illicit drugs along the east coast of Australia. The network was allegedly poised to sell \$2.5 million worth of illicit drugs, including 91 kg of cannabis, 2.5 kg of methylamphetamines and 2.2 kg of ecstasy as well as steroids and cocaine. Forensic computing staff serviced some 34 requests for assistance involving the examination of computers, mobile telephones and storage devices.

North Coast regional project

Forensic computing staff, in conjunction with Crime's Cerberus team, undertook a project to facilitate the dissemination of child exploitation investigation techniques to North Coast Region police investigators. The project involved providing investigators with training in the use of forensic software and a forensic computer to undertake their own assessment of basic digital evidence such as photographs, video, email, chat logs and office documents. Investigators in distant locations can now receive hard drives prepared by Forensic computing staff that will allow them to identify digital evidence at the distant location.

Training

Physical surveillance

Training of new staff continues to be conducted on a one-to-one basis by qualified and experienced surveillance officers. The training and interaction provided by experienced team leaders better prepares the newly trained officers to fit within a close operational team environment at the end of the training course. Members of the unit continue to maintain their skills and knowledge base by attending recognised training programs conducted by the QPS and the CMC.

Technical surveillance

Staff undertake a variety of training and attend relevant seminars to familiarise themselves with new products and technology. Although there is no recognised training course for new members of technical units in Australia, in-house training is conducted in relation to installation techniques, electrical testing procedures and the safe use of various items of plant and equipment relevant to their duties. As a requirement for all radio frequency (RF) workers, members undertake training and re-certification in pole top rescue, first aid and working at heights.

In partnership with Skills Tech Australia, Eagle Farm TAFE, a specialised training course for technical surveillance officers within Australia was developed. The course provides the necessary training to undertake specific technical surveillance

functions. Due to the success of this venture, we are currently designing further specialised training with the organisation.

Forensic computing

Due to rapidly advancing technology, forensic computing staff maintain a close liaison with similar industry bodies and training providers to maintain pace with emerging global issues. The CMC also ensures that members working in the unit, both police and civilian, receive a high level of specialist training from highly qualified trainers in Australia and overseas, enabling staff to give quality advice to investigators and expert evidence in any subsequent court proceedings.

The forensic computing area maintains membership with the following organisations:

- ▶ International Association of Computer Investigative Specialists, and actively participates in the exchange of information
- ▶ Queensland Digital Evidence Group (QDEG), where members meet periodically during the year to discuss trends and improved systems affecting forensic computing
- ▶ Australian Digital Evidence Group (AusDEG), comprised of government forensic computing units throughout Australia that use the group to share information.

CHALLENGES FOR THE FUTURE

Historical data shows fluctuations in access to WPU by clients, and recent trends indicate that marketing and training be conducted to ensure our continued relevance to our client base, and so that the program remains efficient and effective.

New technologies have vastly increased the capacity to collect, store, and compare information, and biometric data, including fingerprints, retinal scans and facial recognition, is becoming an important tool in combating identity fraud and terrorism. The capacity of these emerging technologies to link and match witness identities (linking new and old identities) and undermine protection methodologies through locating witnesses, is becoming increasingly relevant. Through the Australasian Witness Protection Forum, the WPU has gained membership of the Biometrics Association of Australia, where it maintains currency in biometrics and data mining impacts on protection.

Within Operations Support, there will be further changes in the way we use technology as a surveillance and intelligence gathering utility. We are taking advantage of the next generation telecommunication networks (4G) and IP systems to collect, transmit and distribute surveillance product in its various forms. The future demise of the GSM network, ISDN system and the auctioning of radio frequency spectrum whereby existing radio users will require reallocation have also created new opportunities to embrace emerging technology. This will indeed have a significant contribution to the effectiveness and efficiency in the deployment of human resources and also in the quality of surveillance product gathered.

Operations Support will not only maintain its internal resources but also continually upgrade and advise on better configurations and services for the Commission's investigative staff. The unit will further advise, shape and model the electronic surveillance gathering areas for the consolidation of evidence in alignment with trends in the external law enforcement environment.

OUTLOOK 2011–12

In 2011–12 the WPU will:

- ▶ Continue to deliver WP training and presentations to:
 - the Detective Training Program, Phase 1, at the Queensland Police Service Academy to educate junior investigators on the use of, and access to, the program
 - the QPS Police Prosecutions Course, to train prosecutors in court security processes involving protected witnesses
 - senior police and regional QPS investigators on services offered by witness protection staff.
- ▶ Maintain close liaison with national witness protection jurisdictions to ensure that witness protection training is relevant and current and will result in all WP jurisdictions having the same base training.
- ▶ Aim to meet the commitment to provide an effective witness protection service. We will look to establish ways to measure our efficiency in providing our services, and conduct research and analysis into client and participant satisfaction with our processes.
- ▶ We will also continue to meet the challenge of emerging technologies, such as addressing the impact of biometrics, facial recognition technology and social media on the security of participants in the program and our staff.

Operations Support will:

- ▶ Embrace the use of SMART technology using next generation telecommunications networks and IP systems to be integrated and additive to the surveillance environment.
- ▶ Maintain and adopt partnerships with other integrity commissions and law enforcement agencies to discuss problems and provide solutions with the better use of technology.
- ▶ Continue to develop specialist training programs for staff to enhance skills and be able to overcome potential constraints generated from emerging technologies used by the criminal element.
- ▶ Improve our response and state of readiness to support the various operational and investigative teams.

Chapter 8: Trends and resourcing

This chapter draws on the previous chapters detailing our performance and the work of the Commission and identifies the trends likely to have an influence on the work of the CMC.

TRENDS IN MAJOR CRIME HEARINGS

A phenomenon that commenced shortly before the reporting period was a marked increase in the level of demand for hearings in support of police organised crime investigations. Those investigations emanated from both the police State Crime Operations Command and police regions. Many were drug-related but others related to armed robberies, thefts and other property offences and serious organised fraud. We put this down to the knowledge police have gained of the effectiveness of hearings as an investigative tool through working with us in serious crime investigations. Through these engagements with us police have also gained an understanding of our general referrals and how we can assist in organised crime investigations to complete the picture in relation to the true nature and extent of criminal syndicates, the hierarchies involved, the sources of drugs and drug precursors and, importantly, the whereabouts of criminally derived assets.

This enhanced engagement came in the context that we have always sought to ensure that we are meeting the expectations of all parts of the Queensland community. However, this spike in demand has posed significant resourcing challenges for us, particularly when coupled with our 'traditional' workload in investigating serious crime matters.

Another feature of our work in this area during the reporting period has been an increase in demand for CMC hearings assistance in support of investigations primarily conducted by agencies other than the QPS, for example, the ACC or the AFP. This has no doubt been a reflection of our increasingly close engagements with Commonwealth agencies on matters of mutual interest. This relatively new area of demand for CMC hearings is again welcome and likely to continue over time given our commitment to Commonwealth–State partnerships in combating organised crime.

As against the factors outlined above, we noticed a sharply reduced level of demand by the QPS for hearings assistance during recent months. This has resulted in our hearings day figures for 2010–11 being significantly less than the equivalent figures for each of the preceding three years. We are confident that the reduction in QPS demand is temporary and is specifically attributable to the natural disasters that beset Queensland early in 2011. Indeed, in the aftermath of the floods and cyclones, we were advised by senior officers from State Crime Operations Command to expect a reduction in the number of QPS requests for hearings assistance for an indefinite period due to the temporary redeployment of large numbers of police investigators to other duties related to the natural disasters. This forewarning proved accurate.

Taking all of the above factors into account, it is our expectation that external demand for CMC hearings will soon revert to previous high levels which, if sustained over time, may necessitate a significant realignment of our resources.

TRENDS IN PROCEEDS OF CRIME

Number and value of restraining orders

As outlined in Chapter 2, there has been a downward trend in the number and value of restraining orders under the civil confiscation scheme. This is the result of factors both external and internal which have dampened demand. The external factors are expected to be short-lived and it is anticipated that a resumption of the long-term upward trend in demand will occur. Internal factors are discussed in the resources section below.

Number and value of settlements

The increasing trend in the number and value of settlements is the result of a deliberate focus on concluding active matters. The divergence of resources from activities associated with meeting demand for initial restraining action to activities necessary to bring matters to a timely conclusion is a major factor in both the increasing trend in settlements and the declining trend in restraining orders.

Referrals

As the CMC civil confiscation function is dependent upon appropriate matters being referred from other law enforcement agencies, in particular the QPS, the future growth of proceeds of crime recovery is dependent upon future growth in referrals.

Growth in referrals was anticipated as proceeds of crime recovery became better embedded in the investigative process of mainstream law enforcement agencies, however the number of referrals from QPS reached a plateau in 2008–09 and 2009–10 and declined in 2010–11.

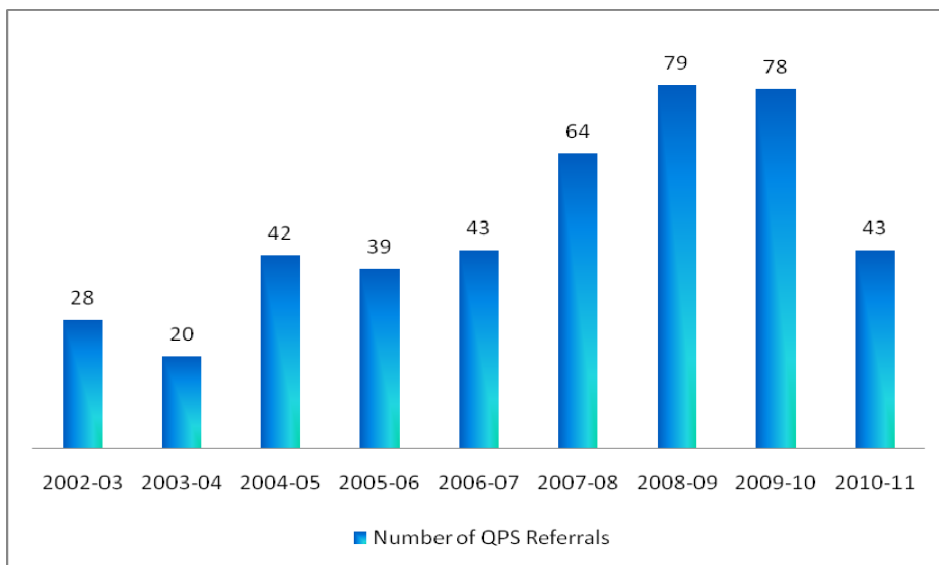
The impact of the several natural disasters that affected Queensland in 2010–11 is partially responsible for the decline in the number of QPS referrals in the latter part of the period under review, although several other factors also contributed to the decline. One dampening factor is likely to have been the effect of the discontinuation of the CMC's marketing program for its proceeds of crime function to other law enforcement agencies in light of the staffing constraints faced.

In its submission to the 2008 PCMC three-yearly review, the CMC warned that demand reduction strategies carried the risk of derailing initiatives to increase awareness of the function among police and could create a disincentive for police to refer appropriate matters.

Discontinuation of the proceeds of crime marketing program and the current inability to respond to all QPS requests quickly is suspected to have interrupted the upward trend in QPS referrals since 2008–09.

The overall effect is depicted in Figure 16 which shows the trend in referrals from QPS.

Figure 16: Number of QPS referrals



The upward trend evident in the years prior to 2008–09 was due to better integration of proceeds of crime recovery into investigative practice and was expected to continue for several years. The fact that it reached a peak in 2008–09 and has declined since is largely the result of the factors described above. It is anticipated that there remains significant potential for resumption in the upward trend in the immediate future.

Telecommunications interception

The introduction of telephone interception in Queensland has had a noticeable impact on proceeds of crime referrals. Since the commencement of telephone interception in Queensland the proportion of proceeds of crime referrals involving telephone intercept evidence has increased significantly.

Currently 48 per cent of all referrals received by the CMC Proceeds of Crime Team contain evidence obtained through telephone intercept, compared with 19 per cent in 2007–08. Telephone interception has resulted in an increase in the number of referrals that might otherwise have emanated from an investigation and has improved the quality of those referrals.

Potential areas of growth

Fraud

At present more than 90 per cent of proceeds of crime matters dealt with under the civil confiscation scheme relate to underlying drug-related crime. The other major area of criminal activity with significant potential for proceeds of crime recovery is fraud-related crime.

Under the legislation as it currently stands, proceeds of crime recovered through confiscation action is paid into the consolidated fund. It is unknown how confiscation action could impact on the ability of a victim to obtain compensation under an order for restitution.

Offshore property

The CMC submission to the 2008 PCMC three-yearly review noted that as the criminal community becomes more aware of the civil confiscation legislation and its impact on their activities, there will be greater motivation for criminally derived property to be held outside the Australian jurisdiction.

This trend is evident to a greater degree in other jurisdictions but is also beginning to emerge in Queensland. Since the last three-year review, the CMC has conducted confiscation litigation with links to several overseas jurisdictions including Switzerland, Israel and Vietnam. It is anticipated that this trend will increase with the increasing mobility of populations and economic globalisation.

Provisions enabling the court to compel repatriation of overseas-held property were introduced in the 2009 amendments, however, the identification and recovery of property held outside Australia is likely to remain problematic and imposes additional demands on already strained resources.

RESOURCING ISSUES

Crime resourcing

A significant challenge that arises for the CMC in relation to externally-requested investigations is to ensure that this jurisdiction is appropriately resourced at any given point of time. Unlike our internally driven work in organised crime and criminal paedophilia, our work in this area is almost entirely driven by external factors and the level of external demand for hearings at any point in time is of course beyond our control.

We have adopted strategies over time to assist us in our forward planning, including encouraging preliminary consultations in any investigation that is likely to result in a request for hearings assistance so that we are better able to deploy our resources in the short- to medium-term. Given that CMC Crime legal officers involved in hearings are also members of our organised crime and criminal paedophilia multi-disciplinary teams, one of our particular challenges is to coordinate the competing demands upon these officers to minimise the risk that meeting external demands for hearings will adversely impact upon our internally-generated work.

Proceeds of Crime resourcing

Staffing

The availability of suitably skilled staff and our ability to attract and retain them are likely to be inhibiting factors over the longer term. Staffing difficulties may impact on our capacity to respond to referrals as quickly as the referring agency would wish and limit our capacity to initiate and finalise matters in similar proportions.

Although adequate staff numbers are necessary to meet the workload, the skills and experience of those staff are also vitally important. The skill set required of officers in the Proceeds of Crime team is not readily available and significant effort and resources are applied to training and development of officers to attain the necessary skill levels.

Supplementary funding has been made available from within the CMC's existing resources to engage three additional staff for 2011–12. The productivity gains will be limited and unsustainable due to the short-term tenure of the additional staff.

Misconduct resourcing

The increase in complaints numbers has obvious and marked implications for the CMC, especially if growth at the current rate continues.

Our recent involvement in the oversighting of police-related deaths also has significant implications. As noted in Chapter 6, the current workload generated by this new responsibility will continue given the importance of the work, which may mean lessened activity in other areas. Should there be an unexpected expansion in this task, there could be significant resource implications.

Implementation of the recommendations arising from the current review of the police misconduct, complaints and disciplinary system will also place pressure on our resourcing, if changed practices and processes or responsibilities are not supported with additional resourcing, where needed. One of the panel's recommendations was that a review be conducted of the resourcing of the CMC's police misconduct function.

Appendix 1: Accountability and corporate governance

The CMC's corporate governance framework is underpinned by the organisational vision, mission and values established within its strategic plan. The CMC has recently focused on strengthening its governance practices to ensure the accountability and integrity of its internal controls through effective planning and performance management.

EXTERNAL ACCOUNTABILITY

The CMC is a statutory body and is accountable for its actions through a variety of overseeing and monitoring mechanisms, the principal one being the Parliamentary Crime and Misconduct Committee.

External reporting

The CMC reports on its strategic and operational performance through the annual report, reports requested by the PCMC, various publications and the CMC website. It also produces six-monthly reports to the Minister. The reporting includes both qualitative and statistical information and updates to the PCMC on reportable projects and activities.

The strategic and operational performance targets of the CMC are published through the Service Delivery Statement (part of the State Budget Papers) and are given actionable expression in the CMC Strategic and Operational Plans. These performance targets include a range of measures relating to the efficiency and effectiveness of the CMC.

Operational performance is reported to the Minister and Queensland Treasury within the Service Delivery Statement performance reporting regime.

The CMC provides audited financial statements through the Annual Report and specific information on organisational matters is provided annually in response to Estimates Committee requests.

The extent of the oversight of the CMC is reflected in the following table.

Table 1: External accountability – monitoring and oversight roles

External Accountability	Description
Parliamentary Crime and Misconduct Committee (PCMC)	<ul style="list-style-type: none"> ▪ The PCMC is a seven-member, all-party committee of the Queensland Legislative Assembly established to: <ul style="list-style-type: none"> - monitor and review the performance of the CMC - review CMC reports, including the annual report and research reports - request reports on matters that have come to the CMC’s attention through the media or by other means - receive and consider complaints against the CMC, and deal with issues concerning the CMC as they arise.
Parliamentary Crime and Misconduct Commissioner	<ul style="list-style-type: none"> ▪ The Parliamentary Crime and Misconduct Commissioner (Parliamentary Commissioner) assists the PCMC in its role of monitoring and reviewing the CMC. ▪ The Parliamentary Commissioner, at the PCMC’s direction, investigates complaints against the CMC or its officers, and conducts audits and reviews of the CMC’s activities. The Parliamentary Commissioner’s powers include the ability to require CMC officers to give evidence at a hearing, and to require the production of records, files and other documents. ▪ The PCMC may also direct the Parliamentary Commissioner to audit and review the CMC’s activities. Each year the Parliamentary Commissioner submits an audit of the CMC to the PCMC.
Minister	<ul style="list-style-type: none"> ▪ The Minister responsible for the CMC is the Honourable Paul Lucas MP, Deputy Premier and Attorney-General, Minister for Local Government and Special Minister of State. ▪ The Minister participates in the selection of the Chairperson, Commissioners and Assistant Commissioners, approves senior officer appointment conditions and approves the CMC’s budget. ▪ The Minister has an obligation, under section 260 of the CM Act, to ensure that the CMC operates to best practice standards. In order to do this, the Commission must report to the Minister on the efficiency, effectiveness, economy and timeliness of the CMC and its systems and processes, including operational processes and the dealing of complaints when and in the way the Minister requires.
Crime Reference Committee	<ul style="list-style-type: none"> ▪ The Crime Reference Committee, established under section 274 of the CM Act, has responsibility for referring major crime to the CMC for investigation. It also has a coordinating role for investigations into major crime conducted by the CMC in cooperation with any law enforcement agency. ▪ The committee is chaired by the Assistant Commissioner, Crime, and consists of the Chairperson of the CMC, the Commissioner of Police, the Commissioner for Children and Young People and Child Guardian, and two community representatives.

External Accountability	Description
Public Interest Monitor	<ul style="list-style-type: none"> ▪ The Public Interest Monitor monitors applications for, and the use of, surveillance warrants and covert search warrants under the CM Act and the PPRA. ▪ The Public Interest Monitor has the following functions for surveillance warrants and covert search warrants: <ul style="list-style-type: none"> - to monitor compliance by the CMC in relation to matters concerning applications for surveillance warrants and covert search warrants - to monitor compliance by the CMC in relation to CMC telephone interception requirements - to appear at any hearing of an application to a Supreme Court judge or magistrate for a surveillance warrant or covert search warrant, or to test the validity of the application - to gather statistical information about the use and effectiveness of surveillance warrants and covert search warrants - whenever it is considered appropriate, to give to the Commission a report on non-compliance by the CMC.
Supreme Court	<ul style="list-style-type: none"> ▪ Many of the CMC's coercive powers may be exercised only with the approval of a Supreme Court judge. These include: <ul style="list-style-type: none"> - a search warrant (where structural damage may occur) - a covert search warrant - a surveillance warrant - a notice requiring immediate attendance at a hearing - monitoring and suspension orders on financial institutions - an arrest warrant for non-attendance - an additional powers warrant. ▪ The CMC is also subject to review in the Supreme Court in the following cases: <ul style="list-style-type: none"> - A person who believes that they are being investigated unfairly by the CMC may apply to the Supreme Court for relief. - The Supreme Court may decide issues of privilege raised by a person under investigation either at first instance or by reviewing a decision made by a presiding officer at a CMC hearing.
Controlled Operations Committee	<ul style="list-style-type: none"> ▪ The Controlled Operations Committee, chaired by a retired District Court judge (the independent member), was established under the PPRA to consider and make recommendations about applications for 'controlled operations' to be undertaken by the QPS or the CMC. Controlled operations are investigations of serious indictable offences, misconduct or organised crime that involve police officers and others engaging in activities that may be unlawful.

INTERNAL ACCOUNTABILITY

The Commission

The CMC is headed by a five-member Commission comprising the Chairperson and four part-time Commissioners who represent the community. The Commission has responsibility for achieving the purposes of the CM Act.

Each fortnight the Commission meets formally to consider issues relating primarily to the strategic direction of the organisation. In guiding and maintaining the focus of the organisation, it discusses matters affecting all areas of the organisation including strategic, financial, and managerial issues; specific crime and misconduct operations; and research and intelligence projects, including capacity development and misconduct prevention activities.

Current CMC Commissioners

The current Commissioners of the CMC are: Mr Martin Moynihan AO QC (Chairperson), Ms Ann Gummow, Mrs Judith Bell, Mr Philip Nase and Professor Marilyn McMeniman AM.

Mr Martin Moynihan AO QC

The Honourable Martin Moynihan has a Bachelor of Laws from the University of Queensland and was admitted as a barrister in 1965. He worked in private practice for almost 20 years, during which time he became a Queen's Counsel (1980) before being appointed as a Judge of the Supreme Court of Queensland in 1984.

With a strong legal background and a keen interest in public integrity and anti-corruption initiatives, Mr Moynihan has worked on numerous Royal Commissions, including as Counsel assisting at the Australian Royal Commission of Inquiry into Drugs (1978–79). From 1986 to 1989 he conducted a Reference from the High Court of Australia, to determine factual issues in a claim by Eddie Mabo and others regarding a land title claim for Murray Island (Mabo case).

Mr Moynihan received the Centenary of Federation Medal for services to the law in 2001, and in 2003 was appointed as an Officer of the Order of Australia for services to the law and to the Mater Hospital.

Ms Ann Gummow

Ms Gummow has a Bachelor of Laws from the University of Queensland and a Graduate Diploma in Legal Practice from the Queensland University of Technology. She was admitted as a solicitor in 1983 and fulfils the requirement that one of the CMC's part-time commissioners must be a practicing lawyer with a proven commitment to civil liberties.

Since 1990 Ms Gummow has worked at the Women's Legal Service in community legal education, community development and contributed to legal reform. Prior to that, she was a solicitor in private practice. At other times Ms Gummow has contributed in teaching teams offering learning activities in social work, social policy, justice studies and law at various Queensland universities.

Mrs Judith Bell

Mrs Bell has a Diploma in Teaching, a Bachelor of Education Studies and a Bachelor of Arts majoring in Aboriginal and Torres Strait Islander Studies. She has extensive experience and knowledge of the public sector and child welfare, with more than 30 years' experience as a teacher in Queensland and the United Kingdom.

She is on the Board of Trustees for the Brisbane Grammar School, as well as a member of the University of Queensland's Senate. Mrs Bell is also a former member of the CMC's Crime Reference Committee.

Mr Philip Nase

Mr Nase has bachelor degrees in arts and law from the University of Queensland, and a master's degree in law from London University. His legal experience spans almost four decades, including 17 years as a Crown Prosecutor, during which time he appeared for the Crown in criminal appeals and special leave applications before the High Court of Australia. For approximately 10 years he was president of the Queensland Crown Prosecutors Association.

Mr Nase was appointed to the District Court in 1994, and served as a judge of the court for almost 15 years. For the last eight years he regularly sat in the remote communities of Mornington Island, Doomadgee and Normanton, taking a special interest in justice issues in these communities.

Professor Marilyn McMeniman AM

Professor McMeniman has a Bachelor of Arts, Diploma of Education and a Doctor of Philosophy from the University of Queensland, and a Master of Arts from the University of London. She has held academic positions at both the University of Queensland and Griffith University. At the latter, she was the foundation Head of the School of Languages and Applied Linguistics in 1994–95, Dean of Education from 1996 to 2001, and Pro Vice Chancellor (Arts, Education and Law) from 2002 to 2009. She is currently the Deputy Vice-Chancellor and Provost of Griffith University. Professor McMeniman's main teaching and research interests include language acquisition, learning and education policy review.

Throughout her career, she has provided advice to governments, industry, the wider profession and community, and has co-authored major national and state reviews and reports.

In 1997, she was made a Member of the Order of Australia for services to education, and in 2007 received the Zonta Woman of Achievement Award. She has served on a number of state committees and boards including the Pacific Film and Television Commission from 2003 to 2007. In 2009, she was appointed to the Queensland Government Smart State Council.

Internal governance and corporate practices review

In June 2010, the Chairperson initiated a review of the CMC's internal governance and corporate practices which was undertaken by an external consultant with findings and recommendations delivered to the Commission in November 2010. The aim of the review was to provide parameters for improving transparency, efficiency and governance processes in order to ensure that the CMC remains dynamic and relevant to the needs of Queensland.

Resulting from this review, the Commission has developed a set of guiding governance principles and has committed to embedding a culture of continuous improvement across the organisation to build and sustain:

- ▶ a robust governance framework
- ▶ a culture of corporate ownership
- ▶ strong strategic and performance management

- ▶ structures that support our strategy
- ▶ open, regular and effective communication.

From late 2010, the Commission and leadership team have been working with staff to roll out a number of improvements in the areas of focus listed above. These include the reorganisation of the Commission's committee structure to ensure clearer accountability and transparency of decision-making; the establishment of the role of the Executive General Manager to assist the Chairperson with instigating operational improvements to drive performance; strengthening and developing internal communications; reviewing the structures of functional areas to better align them to key organisational priorities; and reinforcing the role of the Office of the Commission.

Executive Leadership Group

One of the distinctive changes the CMC has introduced to its internal governance framework is clearer lines of accountability. To support this, an Executive Leadership Group has been formed as the primary strategic management group which provides support to the Chairperson by having input to and reviewing substantive management decisions, some of which may be put to the Commission. This group acts as an advisory group rather than a delegated authority and does not exercise a decision-making authority. Instead, it considers and advises on executive matters or decisions to allow the responsible officer to be accountable for the matter or decision.

The Executive Leadership Group is led by the Chairperson and comprises the Assistant Commissioner, Misconduct, the Assistant Commissioner, Crime, the Executive General Manager and the Director, Office of the Commission and meets weekly.

CMC committees

The review of the committee structure of the CMC has enabled more transparent and streamlined processes and has resulted in a simplified and clearer structure.

Formal governance committees

Audit Committee: provides independent advice to the Commission on determining potential risks to the CMC and where audit focus should be directed.

Budget Management Committee: provides high-level advice and expertise with budget matters and ensures that appropriate and effective financial management practices are in place.

Risk Management Committee: ensures that the CMC maintains an appropriate risk management framework to identify and monitor strategic risks in a risk-control environment.

Workplace Health and Safety Committee: monitors the CMC's performance in providing a safe and healthy environment for its employees.

Other CMC groups

CMC groups and less formal committees perform an important function where a formal committee structure for decision making is not required. In such cases a group of individuals gathered to address a particular purpose provides a forum for discussion and the exposure of the necessary advice or information across the Commission. Other bodies or groups that support the work or operations of the CMC include the:

- ▶ Executive Leadership Group
- ▶ Business Continuity Committee
- ▶ Managers Communication Forum
- ▶ Information Steering Group.

Structures to support strategy

Following the review of governance and corporate practices, the Commission identified the importance of more strongly aligning the structures of functional areas within the CMC to the key priorities of the organisation, as well as ensuring a greater degree of operational flexibility and responsiveness within a constantly changing environment. As a result, the structures of the misconduct, crime, research and information management areas were reviewed with the changes being implemented in 2011. Additionally, the corporate services function within the CMC has been realigned to deliver a stronger focus on performance management, with the Executive General Manager leading Strategy and Services in the delivery of consolidated corporate services capability. The role of the Office of the Commission has also been reinforced.

One of the approved recommendations from the Review of Governance Arrangements (Jameson Review) was for the CMC's information management activities to be independently examined by an external specialist. This evaluation commenced in early 2011 and resulted in 20 major recommendations to address issues identified with Information Management systems and activities, and the management of those systems and activities. All recommendations were subsequently approved by the Commission. A challenging 12-month implementation plan has been developed and the staged execution of the plan has commenced.

Consistent with the CMC's Strategic Plan and mandatory principles of State Government Information Standard IS40 – Recordkeeping, an Electronic Document and Record Management System (eDRMS) was successfully implemented across all areas of the CMC in August 2010. The eDRMS implementation supports the lifecycle management of the CMC's electronic and physical documents and records together with providing opportunities for productivity improvements through workflow management functions.

In addition, further resources have been allocated to the Proceeds of Crime team to assist it to cope with increasing demands placed on this area and in 2009 an Electronic Collections Unit was established to perform the CMC's telecommunications interception functions.

Following on from the governance review of 2010 and the introduction of continuous improvement strategies, there have been organisation restructures of various magnitudes across the CMC. Most notably, Misconduct is currently embedding significant structural change while Crime has made lesser adjustments so as to better deploy its available resources. Corporately, the Commission established the position of Executive General Manager to drive change and performance across the organisation and to support the Chairperson in the execution of his chief executive officer role.

Internal Audit

The role of Internal Audit is to conduct independent audits to help management achieve sound managerial control. The activities of the independent audit function are monitored through the Audit Committee. All internal audits are risk-based which enables the Audit Committee to effectively monitor the CMC risk management framework. Additionally, Internal Audit prepares annual and strategic audit plans that complement the CMC's strategic corporate objectives and address the areas of most risk to the CMC. The audit plans are endorsed by the Audit Committee and have Commission approval.

Financial management and performance management

Senior managers are responsible and accountable for the achievement of corporate goals and objectives within approved budget allocations. In late 2010 and during 2011, an activity-based costing model has been progressively rolled out to support the work of the Budget Management Committee.

The CMC also reports on its performance through:

- ▶ the annual Service Delivery Statement
- ▶ targets set through strategic and operational planning
- ▶ financial statements for inclusion in the annual report
- ▶ an internal budget reporting regime
- ▶ risk management reporting.

Performance reporting and monitoring is formally facilitated through fortnightly Commission meetings, regular meetings with the PCMC, and six-monthly reports to the Minister.

Legislative compliance

General Counsel and Legal Services

The role of General Counsel is to provide independent legal advice to the Commissioners and is therefore established as an independent office. General Counsel reports directly to the Chairperson to ensure that the integrity of advice is maintained and separated from operational legal support services provided to the CMC through the Legal Services Unit.

Right to Information

Access to documents in the possession or control of the CMC may be available to the public under the *Right to Information Act 2009* (RTI Act).

While the CMC is subject to the access provisions of the RTI Act, the Act does not apply to particular documents such as those relating to surveillance devices, controlled operations, assumed identities, covert search warrants and telephone interception. A further limitation on access is a provision which restricts access to documents in the Crime and Misconduct areas of the CMC to those persons they concern.

The RTI Act requires that certain documents accessed under the Act may be published on the disclosure log on the CMC's website.

Information privacy

The primary objectives of the *Information Privacy Act 2009* (IP Act) are to provide for the fair collection and handling of personal information in the public sector, and to provide a right of persons to access and amend personal information held by public sector entities. It sets out the Information Privacy Principles (IPP) to which public sector entities must adhere, unless exempted by the IP Act.

The IPP have limited application to the core activities of the CMC and do not apply to controlled operations, covert operations, telephone interception, witness protection or complaints and investigation of misconduct. The CMC is also not subject to particular IPP if it is satisfied on reasonable grounds that non-compliance is necessary for performing its activities related to the enforcement of laws and intelligence functions.

OUR EMPLOYEES

A diverse and talented range of 315 employees qualified as lawyers, police, investigators, intelligence analysts, social scientists and corporate specialists ensure that the CMC undertakes our core business.

While the retention of qualified and specialist staff remains an issue for the CMC with its small specialist work teams we nonetheless acknowledged 46 employees for their long and meritorious service in 2010.

In 2011 the Commission initiated an exercise to review its staff establishment so as to ensure its resources are properly deployed to meet its commitments and manage its risks.

Workforce management issues

The CMC continues to have issues bearing on:

- ▶ attracting, engaging and retaining experienced staff
- ▶ organisational capability and improvement
- ▶ managing a multi-generational workforce
- ▶ strengthening management and supervisory practice at all levels of the organisation.

It continues to actively develop programs, policies and strategies to build its capacity in these areas. As part of our initiatives the Commission has committed to examining the employment contracts under which non-award staff are employed to ensure the contracts remain consistent with employment conditions in the public sector. There is some evidence they may not be.

Human resources initiatives

Organisational climate survey

This year the CMC conducted its third organisational climate survey to provide staff with an opportunity to voice their opinions and thoughts about the organisation. Results are awaited.

Staff training

Over the last three years our employees have developed their capacity and talent through a range of development opportunities including participation in training

programs, attendance at workshops and conferences and secondment opportunities in Queensland Government agencies and the ACC.

A recent review of the Staff Performance and Development Program identified a number of program improvements and the need for a more user-friendly process. The new Achievement and Capability Planning process will be rolled out in 2011–12.

The Australian Public Sector Anti-Corruption Conference (APSAC), to be held in Perth in late 2011, will be a major event for the CMC with a number of staff presenting papers. The APSAC conference occurs every two years through a cooperative arrangement between corruption-fighting bodies in Queensland, New South Wales and Western Australia. Queensland hosted the event with great success in 2009.

Internship program

The CMC provides opportunities for final-year law students at the Queensland University of Technology to work at the CMC for one day per week for 12 weeks as part of their final year of study.

Employee support and guidance

To support our employees we:

- ▶ provide 50 or 100 per cent membership fee financial support to ensure meet their ongoing professional accreditation
- ▶ consistent with the public sector, provide qualifying employees paid leave to attend lectures and exams to support their tertiary study
- ▶ offer a range of flexible work practices including staggered work hours, compressed work week and part-time employment
- ▶ maintain a Work, Family and Life Balance Program that incorporates flexible working hours, leave provisions (including purchased leave), employment arrangements (including part-time employment and job-sharing arrangements), and the maintenance of a workplace culture that supports employees in balancing their work and family and other responsibilities
- ▶ comply with the *Carers (Recognition) Act 2008* by providing information at induction for new staff and by reviewing our policies and intranet content for consistency with the Act
- ▶ listen to our employees through our Commission Consultative and Equal Opportunity Committee (CCEOC) which, in 2011, was refocussed to become the CMC Consultative Forum. The forum provides employees with a vehicle for cross-organisational communication and a consultative process for issues relating to employment conditions (including equal employment opportunities), the working environment and the implementation of the CMC Enterprise Agreement 2009
- ▶ maintain a confidential and fee-free employee assistance service for staff experiencing personal and work-related difficulties affecting their work
- ▶ reviewed and amended the CMC Code of Conduct in 2010 to conform to the legislative requirements of the *Public Sector Ethics Act 1994*. Staff workshops introducing the change occurred in August and September. All new employees are given a copy of the Code of Conduct at induction and provided with an overview of its contents, with discussion on relevant examples.

Reporting improper conduct of CMC staff

The CM Act requires the Chairperson to report to the PCMC if the Chairperson suspects a CMC officer has acted in a way that involves or may involve improper conduct (s. 329). The CM Act also provides for a wider definition of CMC officers, by including former officers, and specifically allows the PCMC to request reports in respect of these matters.

Tenure: recommendation of the independent panel for the Review of the Police Discipline System 2011

The independent panel reporting to the government on the police disciplinary system made the following recommendation in its report to government in 2011:

RECOMMENDATION 5:

It is recommended that the ongoing need for a maximum tenure of 15 years for assistant commissioners and ‘senior officers’ of the CMC (as provided for under section 247 (3A) of the Crime and Misconduct Act 2001), be referred by the responsible Minister to the PCMC for its consideration in monitoring the CMC’s progress in succession planning and recruitment strategies in the next three-year review of the CMC in 2012 (p. 50).

In its response to this recommendation the CMC advised the government in the following terms:

SUPPORTED. The CMC considers that the current tenure provisions for senior officers strike a reasonable balance between the competing needs of making these positions attractive to potential candidates; retaining a sufficient bank of experience in the organisation; and achieving a satisfactory level of turnover and ‘new thinking’ among the executive leaders of the CMC.

The CMC notes the history of the existing ‘senior officer’ provisions in the Act. The original form of those provisions imposed an eight year limit on certain key roles. Ongoing concerns about the adverse effect of that limitation upon the CMC’s ability to recruit and retain senior staff of sufficient operational expertise led to the PCMC supporting a relaxation of the restriction, in the form of the current provisions which provide for a tenure of five years, with possible reappointment for further periods in certain specified circumstances.

Given the history of the relevant provisions and particularly their amendment in 2006, and the role of the PCMC in reviewing the relevant issues, the CMC agrees that the PCMC is the appropriate entity to consider these matters.

Appendix 3: The CMC's telecommunications interception powers

The ability of the CMC to lawfully intercept telecommunications has proven to be a powerful tool in the fight against serious and organised crime and in successfully investigating corruption.

In October 2009 the Crime and Misconduct Commission (CMC) established an Electronic Collections Unit designed to use the powers available under Queensland's *Telecommunications Interception Act 2009*.

The government provided funding totalling \$14 million over five years from January 2010. The CMC continues to enhance the telecommunications interception capabilities it already has in place.

The funding provided allows the CMC to use its telecommunications interception capabilities as a strategy in investigations into serious offences involving corruption, illegal drugs, extortion, paedophilia, violent crimes and fraud. All of this occurs independently of the Queensland Police Service.

To date, telecommunications interception (TI) capabilities have allowed the CMC's investigative teams to:

- ▶ more efficiently and effectively target other investigative resources, including physical surveillance and surveillance devices
- ▶ greatly increase their understanding of the criminal networks being investigated and identify those involved in serious criminality
- ▶ identify and rapidly act on opportunities to obtain physical evidence (e.g. the interception of illicit goods or money being moved by criminals)
- ▶ identify the proceeds of criminal activities more efficiently and effectively
- ▶ consider investigative options beyond the use of covert surveillance devices, which are often resource intensive and high risk
- ▶ obtain evidence which is more easily presented to the courts, especially by the utilisation of electronic briefs of evidence.

While the CMC's investigative teams overwhelmingly agree that TI capabilities are critical to ongoing successful investigations of serious crime and corruption, the capability has presented some issues, including:

- ▶ Criminals are becoming increasingly aware of the TI capability in Queensland and are taking more sophisticated precautions.
- ▶ The TI landscape is ever changing and the interception of data will become increasingly important.
- ▶ Investigative teams need to manage a significantly increased amount of information and adhere to a complex compliance regime imposed by the Commonwealth. This has seen a restructure of the Crime investigative function to better manage the volume of TI information generated.
- ▶ The greater access to real time conversations IT allows raises issues about the timely translation of such conversations when they are held in languages other than English.
- ▶ Acting on increased operational opportunities identified through TI impacts on the deployment of limited staff and equipment.

- ▶ TI is only one of a range of investigative methodologies and others, including surveillance devices, remain important tools to access communications other than telecommunications.
- ▶ Staying in touch with increasingly complex developments in telecommunications requires access to well trained and qualified technical expertise.

The CMC is finalising an agreement with the Australian Crime Commission (ACC) to ensure a long-term telecommunications interception capability for the CMC.

Once finalised, the agreement with the ACC will provide enhanced telecommunications interception capabilities for the CMC and certainty regarding its ongoing partnership with the federal crime body.