



LEGISLATIVE ASSEMBLY OF QUEENSLAND

PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE

**A report on a review by the Parliamentary Crime and Misconduct Commissioner of the
actions and holdings of the Crime and Misconduct Commission in relation to the
investigation of Senior Sergeant Michael Isles**

Report No. 81

November 2009

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CHAIRMAN'S FOREWORD

In 2008, the Crime and Misconduct Commission (the CMC or the Commission) investigated allegations made against Senior Sergeant Michael Isles, Officer in Charge of the Ayr Police Station.

Mr Steven Isles, the son of Senior Sergeant Michael Isles, referred a complaint to the Parliamentary Crime and Misconduct Committee (the PCMC or the Committee) in April 2009, in relation to the CMC's investigation of the allegations against his father.

In response to the concerns raised by Mr Steven Isles in his correspondence to the Committee and also further correspondence from Mr Terry O'Gorman of Robertson O'Gorman Solicitors (on behalf of Senior Sergeant Michael Isles), the Committee asked the Parliamentary Crime and Misconduct Commissioner to review the actions and holdings of the CMC in relation to the investigation.

This report attaches the report of the Parliamentary Crime and Misconduct Commissioner. A summary of the Commissioner's findings can be found at pages 29 and 30 of the attached report.

Paul Hoolihan MP
Chairman

November 2009

1. INTRODUCTION

The Committee has resolved to table the report of the Parliamentary Crime and Misconduct Commissioner (Parliamentary Commissioner) in the Legislative Assembly. It is the practice of the Committee when tabling such a report to provide some background detail regarding the role and powers of both the Committee and the Parliamentary Commissioner.

The PCMC monitors and reviews the performance of the functions of the CMC. The Committee is established under the *Crime and Misconduct Act 2001* as a bipartisan committee of the Queensland Legislative Assembly. It has the following functions:

- to monitor and review the performance of the CMC's functions;
- to report to the Legislative Assembly where appropriate on any matters pertinent to the Commission, the discharge of the Commission's functions or the exercise of the powers of the Commission;
- to examine reports of the CMC;
- to participate in the appointment of commissioners;
- to conduct a review of the activities of the CMC at the end of the Committee's term ("the Three Year Review"); and
- to issue guidelines and give directions to the CMC where appropriate.

The PCMC can also receive complaints and deal with other concerns of which it may be aware about the conduct or activities of the CMC or an officer or former officer of the CMC.

The Committee is assisted in its oversight process by the Parliamentary Commissioner. Mr Alan MacSporran SC was appointed as the Parliamentary Commissioner in December 2004. Mr MacSporran's appointment is on a part-time basis.

The Parliamentary Commissioner has a number of functions under the Act. These include, as required by the Committee:

- conducting audits of records kept by, and operational files held by, the CMC;
- investigating complaints made about, or concerns expressed about, the CMC;
- independently investigating allegations of possible unauthorised disclosure of information that is, under the Act, to be treated as confidential;
- reporting to the Committee on the results of carrying out the functions of the Parliamentary Commissioner; and
- performing other functions the Committee considers necessary or desirable.

To assist in the performance of these functions, the Parliamentary Commissioner has wide powers.

Any decision by the Committee to ask the Parliamentary Commissioner to investigate or review and report on a matter must have the bipartisan support of the Committee.

The Parliamentary Commissioner has further responsibilities under the *Crime and Misconduct Act 2001* and the *Police Powers and Responsibilities Act 2000* pursuant to amendments made by the *Cross-Border Law Enforcement Legislation Amendment Act 2005*.

These include:

- inspecting the records of the CMC to determine the extent of the CMC's compliance with legislative requirements relating to surveillance device warrants, retrieval warrants and emergency authorisations;
- reporting to the PCMC at six monthly intervals on the results of such inspections;
- inspecting the records of the CMC at least once every 12 months to determine the extent of the CMC's compliance with legislative requirements relating to controlled operations;
- reporting annually on the activities of the CMC under the controlled operations provisions to the Chair of the PCMC; and
- auditing the CMC's records relating to assumed identities at least once every six months.

2. BACKGROUND

In response to a complaint made by Mr Steven Isles, on 5 June 2009 the Committee resolved, in accordance with section 295(3) of the *Crime and Misconduct Act 2001*, to request the Parliamentary Crime and Misconduct Commissioner to:

pursuant to section 295(2)(f) of the Crime and Misconduct Act 2001, the Parliamentary Crime and Misconduct Commissioner be asked to:

1. review the actions and holdings of the Crime and Misconduct Commission in relation to the investigation of Senior Sergeant Michael Isles, having regard to –
 - (a) the concerns raised by Mr Steven Isles, Senior Sergeant Michael Isles and Mr Terry O'Gorman (for Senior Sergeant Isles) in their letters to the Committee dated 1 April 2009 and 11, 14 and 18 May 2009; and
 - (b) the response by the Crime and Misconduct Commission in its letter dated 27 May 2009; and
2. report to the Committee advising whether in respect of those concerns the actions of the Commission in its investigation of Senior Sergeant Isles was conducted appropriately and in a timely manner in all of the circumstances.

3. THE REPORT OF THE PARLIAMENTARY COMMISSIONER

The Parliamentary Commissioner has delivered his report to the Committee. That report, which is not a report of the Committee, speaks for itself.

APPENDIX A

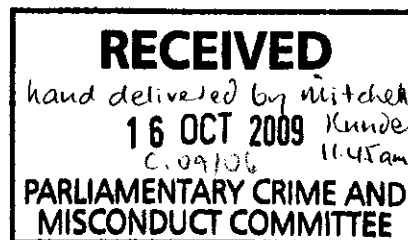


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16 October 2009



Mr Paul Hoolihan MP
Chair
Parliamentary Crime and Misconduct Committee
Parliament House
BRISBANE QLD 4000

Dear Mr Hoolihan

**Re: Complaint by Mr Steven Isles about the Crime and Misconduct Commission's
investigation of Senior Sergeant Michael (Mick) Isles, Ayr Police Station**

I refer to your letter of 5 June 2009 wherein you advised of the Committee's resolution that pursuant to section 295(2)(f) of the *Crime and Misconduct Act 2001*, I be asked to review the actions and holdings of the CMC in relation to a the investigation of Senior Sergeant Michael Isles.

I have now concluded my review of the CMC's actions and holdings in the matter and accordingly provide my report for the consideration of the Committee.

Yours faithfully

A J MacSporran SC
Parliamentary Commissioner

Enc

**REPORT ON THE REVIEW
OF THE ACTIONS AND HOLDINGS OF THE
CRIME AND MISCONDUCT COMMISSION
IN RELATION TO THE INVESTIGATION OF
SENIOR SERGEANT MICHAEL ISLES**



**OFFICE OF THE
PARLIAMENTARY CRIME & MISCONDUCT COMMISSIONER**

OCTOBER 2009

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INTRODUCTION

This complaint relates to a Crime and Misconduct Commission (CMC) investigation of allegations made against Senior Sergeant Michael Isles. Sen Sgt Isles has served as a Queensland Police Officer since 1974. Throughout that time he has received a number of awards for his police service. For the past nine years Sen Sgt Isles has been the Officer-in-Charge of the Ayr Police Station, however since shortly after the commencement of the CMC's investigation of the allegations against him, Sen Sgt Isles has been on sick leave.

According to information provided by Sen Sgt Isles,¹ on the morning of Saturday 2 August 2008 he and his wife attended a supermarket in Ayr to assist in setting up a Lions Club fundraising sausage sizzle. Sen Sgt Isles and another club member then travelled to a workshop in the nearby suburb of Brandon to work on a Lions Club trailer.

Sometime later, Inspector A (the supervisor of the Burdekin Police Region) attended the sausage sizzle looking for Sen Sgt Isles. He was directed to the workshop in Brandon where he arrived at approximately 11.00am. Inspector A, who is known to Sen Sgt Isles, was dressed in plain clothes at the time. He told Sen Sgt Isles *"You need to come with me Mick."*

Sen Sgt Isles went with Inspector A in the Inspector's vehicle. He asked Inspector A what was going on but the Inspector did not answer. Sen Sgt Isles states that he was not informed as to where he was being taken or the reason why. During the journey, Sen Sgt Isles asked whether they could stop at his residence so he could change out of his dirty clothes but Inspector A said *"No. We have to keep going."*

Inspector A drove to the Ayr Police Station where Sen Sgt Isles was met by two police officers from the CMC. Sen Sgt Isles was taken into his office where he was formally detained whilst a search warrant was executed upon him authorising a search of the Ayr Police Station. The search warrant was issued in relation to offences of Official Corruption (providing information with a view to protecting a person from detection or punishment for offences under the *Drugs Misuse Act 1986*) and Receiving Secret Commissions (corruptly receiving money to certify that a person had passed a driver's licence examination).²

At approximately 1.00 pm, during the period of Sen Sgt Isles' detention inside the Ayr Police Station, his wife attended the front door of the station and asked to see her husband. One of the CMC officers advised her that an investigation was taking place and that Sen Sgt Isles was involved. According to Sen Sgt Isles, the CMC officer refused to let Mrs Isles see him so she returned home where she telephoned her son Steven Isles who is a police officer in the Northern Territory.

Steven Isles told his mother to return to the Ayr Police Station. He said that he would telephone the police station to arrange for his mother to see her husband. Steven Isles telephoned the police station and, after initially being told he could not speak with any senior police officer or the CMC officers, he managed to speak to Inspector A.

¹ This information is extracted from a report prepared by Sen Sgt Isles which was provided to the Parliamentary Crime and Misconduct Committee on 20 May 2009. The report is mistakenly dated 11 May 2008. Clearly the report was prepared on 11 May 2009.

² Sections 121 and 442B of the Criminal Code respectively.

Steven Isles states that he spoke for more than twenty minutes with Inspector A. He referred to the *Crime and Misconduct Act 2001* and the *Police Powers and Responsibilities Act 2000* seeking to establish upon what basis his father could be refused contact with a family member, friend or legal representative. Eventually, at the conclusion of the conversation, Inspector A advised Steven Isles that the door to the police station was being unlocked and Mrs Isles was permitted to enter.

After concluding the search of the Ayr Police Station, the CMC officers accompanied Sen Sgt Isles to his residence where he was again detained whilst a second search warrant was executed upon him in respect of his residence. Sen Sgt Isles states that the search of his residence was “*notably inconclusive, in that very little was searched, and what was searched was very cursory.*” During the search, one of the CMC officers stated that they were searching for “*unreceipted moneys*”.

Sen Sgt Isles was then asked to produce his bank account statements, telephone records and various other documents. His wife provided this material to the CMC officers. The CMC officers then informed Sen Sgt Isles that his mobile telephone was to be seized. He was informed that the telephone would be returned after three or four working days but it was not returned until after Steven Isles contacted the CMC on 7 May 2009. The telephone was returned by registered post - postmarked 8 May 2009 – more than 9 months after it was seized.

When Sen Sgt Isles went to work at the Ayr Police Station on the morning of Monday 4 August 2008 he was met by Acting Superintendent B who informed him that he had been relieved of operational command of the police station. The following month, in a formal response to a grievance filed by Sen Sgt Isles, he was informed that he was “*...relieved of the responsibility for maintaining operation control during the course of the investigation.*”³

On the evening of 4 August 2008 the two CMC officers who had executed the search warrants attended Sen Sgt Isles’s residence and served him with a notice to attend a CMC hearing to be held in Townsville on 6 August 2008.

Sen Sgt Isles attended the CMC hearing with legal representation arranged by the Queensland Police Union of Employees (QPUE). The legal representative addressed the hearing and provided a medical certificate stating that Sen Sgt Isles was unable to give evidence. Sen Sgt Isles was excused from appearing before the CMC hearing on that day but the QPUE solicitor informed him that he may have to attend at a later date.

Sen Sgt Isles states that the CMC contacted the QPUE solicitor on 16 September 2008 to advise that “*If Isles participates EROI [an electronically recorded interview], depending on the outcome (no guarantees), there may not be a reason for him to attend a hearing.*”

In October 2008 Sen Sgt Isles instructed the QPUE solicitor that anything the CMC had to say to him was to be formalised in writing. In his report to the Parliamentary Crime and Misconduct Committee (the Committee) of 11 May 2009, Sen Sgt Isles stated that he had not heard further from the solicitor or from the CMC.

However, Sen Sgt Isles’s son, Steven, has had dealings with the Queensland Police Service (QPS) and the CMC on his father’s behalf. Steven Isles contacted the QPS and the CMC on a number of occasions throughout March, April and May 2009. He wrote to the then Police Minister, Hon Judy Spence, in January 2009 and was advised to contact the QPS Ethical Standards Command. He subsequently contacted the QPS on 11 March 2009 seeking advice as to the

³ This passage is as quoted at page 4 of Sen Sgt Isles’s report to the Committee of 11 May 2009.

progress of the investigation into the allegations against his father. His inquiry was referred on to the CMC.

The CMC wrote in reply to Steven Isles on 16 March 2009 advising that, as it was understood that Gilshenan & Luton solicitors had been retained to act for Sen Sgt Isles, the CMC was not able to discuss aspects of the investigation with Steven Isles directly. However, he was invited to advise the CMC in writing if he had concerns about the investigation.

Steven Isles continued to press the CMC for a resolution of the investigation of allegations against his father throughout March 2009. Then on 1 April 2009 he wrote to the Committee to lodge a *“complaint regarding the time taken from the Criminal Misconduct Commission (CMC) [sic] and the lack of action regarding the criminal investigation of Senior Sergeant Michael Isles, OIC Ayr Police Station.”*

On 7 April 2009 the Committee sought a report from the CMC and a copy of any correspondence between the CMC and Steven Isles. Then, on 29 April 2009 the CMC wrote to Sen Sgt Isles concerning the *“investigation with respect to an allegation that corrupt payments were being made to an unidentified police officer to issue heavy rigid vehicle driver license upgrades from Ayr Police Station.”* The CMC advised that *“Our investigation regarding the matters concerning you has now been completed and I am of the view that the above mentioned allegation cannot be substantiated.”*

The CMC’s correspondence then referred to a compliance inspection of the Ayr Police Station conducted by QPS Ethical Standards Command Inspectorate and Evaluation Branch in August 2008. The CMC stated that *“The content and number of findings and recommendations in the Audit Report, if accepted, evidence maladministration at a level of seriousness such that we consider this matter could, if proved, constitute official misconduct by you. Namely, gross incompetence in the exercise of professional skill when performing the duties of Officer-in-Charge.”* The issues arising from the audit report were referred back to the QPS for appropriate action.

On 14 May 2009 Steven Isles wrote again to the Committee. Amongst other matters, Steven Isles asked how the CMC could clear his father of all serious criminal allegations and then hand the matter back to the QPS *“to see if they can get you [that is, Sen Sgt Isles] on some internal administrative issues?”* Steven Isles questioned whether this amounted to an abuse of power on the part of the CMC. He also advised that Robertson O’Gorman Solicitors were now acting on behalf of the family and would be providing additional correspondence to supplement the initial complaint. The Committee received the material from Robertson O’Gorman Solicitors on 18 May 2009.

On 20 May 2009 Steven Isles sent further material to the Committee including the report prepared by his father to which Steven and his mother also contributed information. This report provides a useful chronology of events from the Isles family’s perspective.

The Committee received the report requested from the CMC and copies of correspondence between the CMC and Steven Isles on 27 May 2009.

Finally, on 16 June 2009, one week after the Committee’s reference was received in my office, Steven Isles attended the Parliamentary Annex and personally delivered further material, including digital recordings of conversations and interviews he had conducted, for my consideration in the conduct of my review.

TERMS OF REFERENCE

At a meeting on 5 June 2009 the Parliamentary Crime and Misconduct Committee resolved in accordance with section 295(3) of the *Crime and Misconduct Act 2001* (the *CM Act*), that:

pursuant to section 295(2)(f) of the Crime and Misconduct Act 2001, the Parliamentary Crime and Misconduct Commissioner be asked to:

- 1. review the actions and holdings of the Crime and Misconduct Commission in relation to the investigation of Senior Sergeant Michael Isles, having regard to –*
 - (a) the concerns raised by Mr Steven Isles, Senior Sergeant Michael Isles and Mr Terry O’Gorman (for Senior Sergeant Isles) in their letters to the Committee dated 1 April 2009 and 11, 14 and 18 May 2009 and*
 - (b) the response by the Crime and Misconduct Commission in its letter dated 27 May 2009; and*
- 2. report to the Committee advising whether in respect of those concerns the actions of the Commission in its investigation of Senior Sergeant Isles was conducted appropriately and in a timely manner in all of the circumstances.*

RESULTS OF INVESTIGATION

The actions and holdings of the Crime and Misconduct Commission in relation to the investigation of Senior Sergeant Michael Isles

The initial information

The CMC's investigation of Snr Sgt Isles arose from information which came to light in the course of a QPS operation named Operation Golf Magic. This covert drug operation was commenced by the QPS Northern Region Drug Squad on 8 June 2008. The operation targeted a criminal network suspected of involvement in trafficking of the dangerous drug methylamphetamine in the Burdekin region of North Queensland.

The CMC's involvement in the operation was approved on 10 July 2008 pursuant to the Freshnet organised crime reference. It was envisaged that the CMC's involvement in the operation would be the conduct of investigative hearings in Townsville in late July and early August 2008.

In the course of the operation, the QPS obtained a surveillance device warrant under the provisions of the *Police Powers and Responsibilities Act 2000 (PPRA)* authorising the installation of surveillance devices in the residence of the principal target of the operation. The principal target also had legitimate business interests in the sugar cane haul out industry and he therefore employed a number of persons to drive trucks for him from time to time.

Significant evidence to support drug trafficking charges against the principal target was obtained by means of the surveillance devices. More relevantly for the purposes of this review, during the monitoring of the surveillance devices on 15 June 2008 the principal target was heard to say *"Is that why I had to pay that much money for him to get his HR license?"* (The reference to an "HR licence" related to a Heavy Rigid licence classification, that is, a licence to drive trucks of the type used in the sugar cane haul out industry.) Later on the same day, after a dispute with one of the truck drivers, the principal target was heard to say *"I'll never get my money back from that c*** getting his HR licence."*

At 8.26 am on 20 June 2008, the principal target and his de facto partner were heard talking about a person named "[Christian name of the person of interest]". The partner read out (or recited) the telephone number of the person of interest which the principal target then dialled. He was heard talking on the telephone (presumably to the person of interest) about missing a truck driver and getting a new driver.

On Friday 27 June 2008, the principal target was heard talking on the telephone to another of his truck drivers. He spoke to the driver about going to the police station as soon as he (the driver) had finished work. He told the driver to take his learner's permit in and book a driving test with *"the police officer"*.

On the morning of 30 June 2008, Ayr police executed drug related search warrants on two premises in Ayr. QPS intelligence holdings do not reveal any known connection between the occupants of these premises and the principal target. (This fact was disclosed in the CMC's applications for search warrants in respect of Snr Sgt Isles.) At 9.12pm on 30 June 2008, the principal target called the mobile telephone number of the person of interest and said *"The raids are happening are*

they?” He went on to say that he had nothing there and he was giving them no more money. He said *“They won’t find anything here...they’ll come here for sure.”*

The CMC suspected that the person of interest may have been providing the principal target with confidential information about QPS activities in the area.

In mid June the principal target had allegedly assaulted a male person who attended his residence to return property to one of the truck drivers. It was alleged that the principal target had assaulted the male person with a steel pipe and wilfully damaged his vehicle. The matter had been reported to the Ayr police.

On 1 July 2008 the surveillance devices recorded the principal target talking to his partner about the conversation he had with the person of interest the previous day. He said that the person of interest had informed him that *“If you give them five grand they’ll leave you alone.”*

His partner asked *“Is that what she said?”*

The principal target replied *“Yeah, like I’m going to give them c***s any more money.”*

His partner commented *“Wow. That’s not going to be much when they share it up amongst the lot of them.”*

The principal target said *“Yeah, that’s right. Go and get f***ed. I’d rather take them to court. I’d rather take them to court and give Harvey the money and have them up on harassment.”* (The CMC believed that Harvey was possibly the principal target’s lawyer and that this conversation related to the payment of money to QPS officers to avoid prosecution for the assault and wilful damage incidents.)

The principal target was again heard talking to one of his truck drivers about driving tests on 3 July 2008. The driver spoke about being booked in for a driving test at “8”. The principal target later referred to “it” costing “4 grand” and he then stated *“That’s why he got paid, to make sure you pass.”* The principal target then reiterated that it costs him “4 grand” for each person for the driving tests.

The surveillance devices recorded a person knocking at the door of the principal target’s residence at about 7.40am the following morning (4 July, 2008). The principal target then left his premises at 7.56am. He returned at 9.39am and the truck driver walked into the residence 2 minutes later. The principal target and the truck driver then sat at the kitchen table. The surveillance devices recorded the truck driver producing his new licence and showing it to the principal target. A third male person entered the kitchen and sat at the table at approximately 10.00am. There was some further discussion about licences before the principal target spoke about his licence. He stated that it cost him *“4 grand to get [the Christian name of the person of interest] to change it on the system.”*

Notification to the CMC

Pursuant to section 37 of the *CM Act*, the Commissioner of Police has a duty to notify the CMC if the Commissioner reasonably suspects that a complaint, or information or matter involves police misconduct. Similarly, under section 38, if a public official (which term specifically includes the Commissioner of Police) suspects that a complaint, or information or matter involves, or may involve official misconduct the public official must notify the CMC of the complaint.

The CMC's Breach of Discipline Audit Report⁴ states under the heading "Reporting Obligations":

4.4 There is a low threshold for reporting 'misconduct' to the CMC. The focus of the duty to report is the suspicion about the complaint (and the nature of any allegation made) and not about any actual conduct that may have given rise to the complaint. The CMC should be notified of a complaint as soon as the requisite suspicion has been formed...

*4.8 In determining whether a complaint raises the requisite suspicion under section 37 or 38 of the CM Act, the officer may take into consideration reliable and accurate information that is already in the possession of the QPS, such as documentary records and CCTV recordings, but may **not** undertake any preliminary inquiries, such as interviewing any witness or officer who is the subject of the complaint. Of course, the complainant may be interviewed when taking the complaint.*

In accordance with the statutory duty, on 18 July 2008 the Assistant Commissioner of the Northern Region, forwarded to the CMC a report provided to him by the Regional Crime Coordinator, Northern Region. The report related to the information obtained during the monitoring of the surveillance devices in the course of Operation Golf Magic. The report stated that:

The conversation on 3 July 2008 suggests \$4000 has been paid for persons to receive favourable treatment during driving tests. The conversation on 4 July references the payment of 4 grand to 'get [the Christian name of the person of interest] to change the license on the system'...Inquiries on 18 July 2008 have confirmed two drivers of interest have recently received licenses. These were:

- (a) [Truck driver C and his date of birth] – obtained his Prov. HR licence on 04/07/2008; and*
- (b) [Truck driver D and his date of birth] – obtained his HR license on the 06/06/08. It may have been transferred from interstate.*

Both of those drivers worked for the principal target.

In his report to the CMC, the Assistant Commissioner also referred to community concerns that local police were suspected of inaction in relation to the principal target's drug dealing activities.

On 18 July 2008 a Misconduct Investigations file (numbered MI-08-1709) was created in respect of the information received from the QPS. The CMC's Matter Details Report records the information received as relating to an "unidentified QT or QPS officer who is alleged to have issued drivers licences to associates of a criminal identity for \$4000 per licence."

Further inquiries made by the CMC prior to seeking warrants

In the course of their initial inquiries in relation to the allegations, CMC officers established that Queensland Transport had no involvement in the testing and issuing of driver's licences in Ayr. All testing and issuing of driver's licences was conducted by the QPS at Ayr Police Station. The CMC also established that the tests for the two drivers mentioned in the QPS report, a third driver who had also worked for the principal target, and another person with a previous association with the principal target were all conducted by Sen Sgt Isles.

⁴ The CMC's Breach of Discipline Audit Report was delivered to the QPS in draft form in December 2007. A copy of this document was included as "Attachment A" to the CMC's Response to the QPS Submission to the Committee's most recent Three Year Review of the CMC.

CMC officers obtained copies of numerous documents from Queensland Transport in relation to HR driver's licence tests undertaken at the Ayr Police Station. In particular, the documents relating to the licence obtained by the principal target's truck driver at the Ayr Police Station on 4 July 2008 showed that Snr Sgt Isles had signed as the certifying officer/examiner. The documents showed that the test was taken in a vehicle registered to the principal target. The principal target had signed the form consenting to the use of his vehicle in the driving test which suggested that he was present at the Ayr Police Station on the day of the test.

Previous QPS inquiries had established the identities of a number of the principal target's associates, including the truck drivers and the person of interest.

During the monitoring of the surveillance devices in the principal target's residence, a number of comments had been recorded which suggested that the person of interest may have been involved as a conduit for the communication of information and the flow of funds between the principal target and the subject police officer. For example, on 30 June 2008 the person of interest had apparently informed the principal target that QPS officers had executed drug related search warrants on premises in Ayr. Conversations monitored on the surveillance devices in the principal target's residence also suggested that the person of interest discussed with the principal target the possibility of his paying \$5000 to QPS officers so that "...*they'll leave you alone.*" Then, on 4 July 2008, the principal target made the comment in relation to his licence that it cost him "*4 grand to get [Christian name of the person of interest] to change it on the system.*"

CMC officers then sought to establish whether links existed between any QPS officers at the Ayr Police Station and the principal target or persons associated with him - in particular, the person of interest. To this end, billing data was obtained in respect of telephone numbers at the Ayr Police Station and call charge records were sought in respect of telephone numbers associated with Snr Sgt Isles, the principal target, the person of interest and other persons associated with the principal target.

Analysis of the call charge records established that between 1 May and 24 July 2008, 32 telephone calls were made from the person of interest's mobile telephone to services subscribed in the principal target's name. In the same period 58 calls were made from the person of interest's mobile telephone to a mobile telephone recorded in a QPS "Staff Contact List" as the after-hours contact number for Snr Sgt Isles.⁵ Again in the same period, 57 telephone calls were made from the mobile telephone of the person of interest to the general number for the Ayr Police Station and 25 calls were made to another number within the Ayr Police Station.

The billing records for telephone numbers at the Ayr Police Station established that from late May until the end of June 2008, 16 calls were made to the person of interest's mobile telephone and two calls were made to her landline from within the Ayr Police Station. Call charge records established that in the same period 15 calls were made to the person of interest's mobile telephone from the mobile telephone recorded in the QPS "Staff Contact List" as the after-hours contact number for Snr Sgt Isles. (The information in this paragraph was not included in the applications for the search warrants in respect of the Police Station or Snr Sgt Isles's residence.)

The CMC continued to receive information from the QPS derived from the listening devices installed in the principal target's residence during this period. On 28 July 2008 the principal target

⁵ This service is subscribed in the name "F. Isles" which the CMC believed to be Snr Sgt Isles's wife Fiona. In the search warrant applications, the CMC disclosed this fact and the fact that a call made to this service was answered by a female person.

was heard to state that “[Christian name of the person of interest] *is going to ring me when the coppers are on their way so I’ve got nothing here. I’ve got a couple of guns that I need to get rid of.*”

Armed with the above information the principal investigator, Detective Sergeant Cameron Preston, sought internal approvals to obtain search warrants in respect of the Ayr Police Station, Snr Sgt Isles’s residence and the residence of the person of interest.

On 1 August 2008 the Covert Investigations Team Leader and the Acting Director of Misconduct Investigations certified that they had recommended the applications for the search warrants. A short time later Det Sgt Preston attended the Brisbane Magistrates Court where Acting Magistrate James Barbeler issued the search warrants under the provisions of section 151 of the *PPRA*.

The concerns raised by Mr Steven Isles, Snr Sgt Michael Isles and Mr Terry O’Gorman

The submission from Robertson O’Gorman Solicitors refers to four substantive matters raised on behalf of Sen Sgt Isles. Those four matters cover most of the issues raised in the material the Committee received from Michael and Steven Isles in April and May 2009. The four matters are:

1. Whether there was a proper basis for the issue of a search warrant against Sen Sgt Isles.
2. The public manner of the execution of the search warrant.
3. The return of property seized at the time of the execution of the warrants.
4. The timeliness in the CMC completing the investigation.

1. Whether there was a proper basis for the issue of a search warrant against Sen Sgt Isles

As Mr O’Gorman states in his submission, the fact that an Acting Magistrate issued the search warrant does not, of itself, establish that the CMC made appropriate enquiries before seeking the search warrants from the Magistrate, nor does it establish whether the CMC considered all the relevant facts and material.

The initial information received by the CMC was obtained pursuant to a surveillance device under a surveillance device warrant. This information was therefore “protected information” as defined by section 351 of the *PPRA* and the use of such information is significantly restricted under Chapter 13, Part 5, Division 1, of that Act.

More particularly, the CMC could not make enquiries with the principal target, the person of interest or QPS officers and administrative staff at Ayr Police Station without compromising the integrity of the then current undercover crime operation or the CMC’s own covert misconduct investigation. The enquiries the CMC could undertake were therefore limited to a certain extent by these factors.

Time constraints also limited the enquiries the CMC could undertake. The draft investigation report prepared by Det Sgt Preston in February 2009 states that the referral of the misconduct allegations to the CMC shortly before the closure of Operation Golf Magic “*did not allow appropriate time frames to deploy covert strategies as part of any investigative strategy.*”

As discussed under the next heading, the CMC had two weeks from when the initial information was received from the QPS in which to conduct the necessary enquiries, evaluate the resulting information and make a determination as to whether the warrants would be sought. In that time the CMC conducted the following enquiries:

- Subscriber checks for mobile telephone numbers used by the principal target, Snr Sgt Isles and the person of interest.
- Profile checks on the person of interest and some of the principal target's truck drivers.
- Call charge records for the principal target, Snr Sgt Isles and the person of interest.
- Residential Tenancies Authority searches on the person of interest and other associates of the principal target.
- Queensland Transport searches for upgraded licences for the principal target's associates.
- Various other enquiries with Queensland Transport including obtaining copies of paperwork for upgraded licences.
- Searches of Snr Sgt Isles's QPS e-mails.
- Searches of billing data and cost centre details for the Ayr Police Station.
- Electricity checks for the person of interest and other associates of the principal target.
- Querymaster checks on searches of the QPS databases conducted by Snr Sgt Isles.
- Search of complaints history of the person of interest on the CMC's COMPASS system.

My review of the CMC's holdings in relation to the investigation of Sen Sgt Isles indicates that the CMC did make appropriate enquiries before seeking the search warrants from the Magistrate.

In his submission to the Committee Mr O'Gorman contends that, if the allegation under investigation was that corrupt payments were being made to an unidentified police officer, his client is entitled to be informed of the factual basis upon which a search warrant was executed against him personally including the search of his private residence.

As stated above, the allegation under investigation by the CMC did indeed concern an *"unidentified QT or QPS officer who is alleged to have issued drivers licences to associates of a criminal identity for \$4000 per licence."*

It should be noted that the CMC did not simply rely on the summary, or extracts, of conversations that the QPS provided in its initial report referring the matter to the CMC. The listening post logs and transcripts of the monitored conversations were obtained so that all the supposedly incriminating comments could be considered and considered in context.

The enquiries conducted by CMC officers established that Queensland Transport (QT) had no involvement in the testing and issuing of driver's licences in Ayr and that all testing and issuing of driver's licences was conducted by QPS officers at the Ayr Police Station. The CMC also ascertained that four of the principal target's associates had obtained HR licence upgrades in the relatively recent past and that those tests had been conducted and the four licences upgraded by Sen Sgt Isles.

Further, the CMC considered that comments made by the principal target suggested that the person of interest may have been involved as the conduit for the communication and flow of funds and information between the principal target and the unidentified subject police officer. Telephone billing and call charge records established a high frequency of telephone contact between the person of interest and Snr Sgt Isles and a fair amount of contact between the person of interest and the principal target.

The CMC received some information the day before the warrants were obtained which suggested that the person of interest had recently joined a local community group concerned with law and order issues. Nonetheless the frequent contacts with Sen Sgt Isles over the preceding three months was sufficient to be confirmatory of the CMC's suspicions of the person of interest's possible involvement as a go-between.

This information constituted the factual basis upon which the search warrants were sought in respect of Snr Sgt Isles. **I do not consider the CMC's actions in seeking search warrants based upon this information, to be inappropriate. In my view the CMC did consider all relevant and available facts and materials before seeking the search warrants from the Magistrate.**

In his submission to the Committee Mr O'Gorman refers to section 86(4)(b) of the *CM Act* which requires that "*an application under this section must fully disclose all matters, of which the authorised commission officer is aware, both favourable and adverse to the issuing of the warrant sought.*" Of course, the CMC applied for the warrants in respect of Snr Sgt Isles pursuant to section 150 of the *PPRA* which contains no such provision. Nonetheless, CMC officers would be expected to act in accordance with this principle by virtue of their obligation to "*at all times, act independently, impartially and fairly,*" pursuant to section 57 of the *CM Act*.

My review of the CMC's holdings has revealed that there were matters which Det Sgt Preston did not disclose in his applications for the search warrants, namely: that the Querymaster checks on searches of the QPS databases conducted by Snr Sgt Isles revealed that he was a very low user of QPS systems and no searches of relevance were identified; that the search of Snr Sgt Isles's QPS e-mails revealed no e-mails of relevance; and that searches of the billing data for Ayr Police Station established that no calls were made from the Ayr Police Station to the principal target.

However, I do not consider that any of these matters is adverse to the issuing of the warrants sought. It has never been a requirement that applications for search warrants must disclose all unproductive preliminary enquiries undertaken. It follows that I do not consider it to have been inappropriate that these matters were not disclosed in the applications for the search warrants having regard to the information derived from the surveillance devices which clearly provided a basis to further investigate Snr Sgt Isles's possible involvement in corrupt activity. In particular, as stated earlier, that information clearly provided a basis for the obtaining of the search warrants.

I have mentioned above that a mobile telephone number recorded in a QPS "Staff Contact List" as the after-hours contact number for Snr Sgt Isles was subscribed in the name "F. Isles". In the search warrant applications the CMC disclosed this fact and the fact that a call made to this service was answered by a female person. These matters might be regarded as adverse to the issuing of the warrants sought.

The applications for the search warrants referred to a telephone call on 30 June 2008 during which the person of interest apparently informed the principal target that QPS officers had executed drug related search warrants on two premises in Ayr. The applications disclosed the fact that QPS intelligence holdings did not reveal any known connection between the principal target and the occupants of these premises.

I have also referred to other evidence about telephone calls made from the after-hours contact number for Snr Sgt Isles and the Ayr Police Station to the person of interest's mobile telephone – information which might be regarded as favourable to the issuing of the warrants - which was not disclosed in the warrant applications.

The CMC's actions in the execution of the search warrants

By the time the CMC's misconduct investigation of Snr Sgt Isles commenced, the closure of the crime operation, Operation Golf Magic, had been scheduled for the weekend of 2 and 3 August 2008. A search warrant was to be executed upon the principal target's residence by QPS officers in the early hours of 2 August and warrants were to be executed upon secondary targets of the crime operation later on 2 August and 3 August 2008.

An action plan prepared by the CMC's Covert Investigation Team on 24 July 2008 stated:

One of the driver's licenses is in the name of one of these secondary targets. Therefore, it would be beneficial to the CMC investigation if members of the Covert Investigation Team travel to Townsville and conduct inquiries in Ayr at the same time as the QPS raids. It is also anticipated CMC investigators will have to execute PPRA warrants independent of the QPS on a number of places in Ayr including the Ayr Police Station.

By 29 July 2008 the CMC was aware of other persons of interest to the misconduct investigation. The CMC therefore sought information from the QPS as to whether the person of interest, the truck drivers and other associates of the principal target were also targets of Operation Golf Magic and whether the QPS intended executing warrants upon them. (A number of these persons had previously been nominated by the QPS as prospective witnesses for the hearings to be conducted by the CMC at the closure of Operation Golf Magic.) The CMC received advice that, at that stage, only two of the truck drivers were targets for the closure of the crime operation.

Also on 29 July 2008 the CMC obtained a copy of the roster for the Ayr Police Station for July/August. It was at this stage that the CMC ascertained that Snr Sgt Isles would be on rest days on 2 and 3 August 2008, the weekend scheduled for the closure of the crime operation.

On 31 July 2008 the QPS advised that the person of interest was now also to be a target for the closure of the crime operation.

On 1 August 2008, after obtaining the search warrants in respect of the Ayr Police Station and Sen Sgt Isles's residence, a team of CMC officers flew to Proserpine. The following morning the officers travelled to Ayr as proposed in the action plan prepared by the CMC's Covert Investigation Team on 24 July 2008 and approved in the subsequent Operational Order.

In his report to the Committee of 11 May 2009, Sen Sgt Isles states that at approximately 11.00am on 2 August 2008 the supervisor of the Burdekin Police Region, Inspector A, attended the workshop in Brandon where he (Sen Sgt Isles) was working on the Lions Club trailer. Inspector A, who is known to Sen Sgt Isles, was dressed in plain clothes at the time. He told Sen Sgt Isles "You need to come with me Mick" and Sen Sgt Isles accompanied the Inspector in his vehicle. Sen Sgt Isles's does not suggest that he accompanied Inspector A otherwise than willingly.

According to Sen Sgt Isles, the Inspector did not inform him as to where he was being taken or the reason why. Sen Sgt Isles also states that during the journey, the Inspector refused his request to stop at his house so he could change out of his dirty clothes.

Sen Sgt Isles states that Inspector A drove to the Ayr Police Station where he was "handed over" to two officers from the CMC who took him into his office where he was detained and the search warrant in respect of the police station was executed. It is clear from Sen Sgt Isles's report that he was only detained by the CMC officers at the Ayr Police Station when the warrant was executed (although later in his report he questions the right of Inspector A to detain him).

The following entry in the CMC's investigation running sheet for 2 August 2008 is consistent with the version of events provided by Sen Sgt Isles in his letter to the Committee of 11 May 2008:

Search Warrant Ayr Police Station- Attended Ayr Police station and taking up with A/Supt [B] & Insp. [A] and briefed re: execution of search warrant. Isles located and picked up by [A] and upon arrival at Ayr Police Station a PPRA search warrant was executed (1131 hrs). All conversations were recorded by Preston/Mabbutt. Several items of property were seized and a FPR issued. Whilst executing the search warrant Michelle Hosie (AO2) attended the station at the request of A/Supt [B] and ran through the licensing procedures. 1402 hrs search warrant execution concluded.

2. The public manner of the execution of the search warrant

In his letters to the Committee of 1 April 2009 Steven Isles states that “my father Michael Isles was first detained on 2 August 2008, in an extremely public manner, detained while volunteering at a working bee for the local Burdekin Lions Club.” Mr O’Gorman also states in his submission that “The Search Warrant was executed at a time and manner where unnecessary embarrassment was occasioned to Senior Sergeant Isles.”

It is clear from the version of events provided by Sen Sgt Isles himself in his letter to the Committee of 11 May 2008 (and supported by the CMC's holdings) that Sen Sgt Isles was not detained at the Lions Club function. Sen Sgt Isles states that after setting up for the Lions Club function at the local supermarket, he and one other person travelled to a workshop approximately five kilometres out of town to work on a Lions Club trailer.

Sometime later, the owner of the workshop advised Sen Sgt Isles that someone was looking for him at the front of the workshop. Sen Sgt Isles then saw Inspector A standing at the front door of the workshop in plain clothes. Inspector A, the supervising Inspector of the Burdekin QPS region, then told Sen Sgt Isles to accompany him. Sen Sgt Isles states this can be verified by the owner of the workshop who appears to have been the only other person in the immediate vicinity.

There is no suggestion from Sen Sgt Isles that the workshop was an extremely public place⁶ and he was not actually detained there. Sen Sgt Isles was only detained by CMC officers once he had arrived at the Ayr Police Station. Steven Isles's allegation that his father was detained “...in an extremely public manner, detained while volunteering at a working bee for the local Burdekin Lions Club,” is inaccurate, emotive and unhelpful. Snr Sgt Isles was clearly not detained “in an extremely public manner”.

Mr O’Gorman, in his correspondence to the Committee, questions “the basis upon which [Sen Sgt Isles] was commanded to accompany the Inspector”; the fact that Sen Sgt Isles was not “advised by the Inspector as to why he was being taken away”; and the fact that Sen Sgt Isles “was denied by the Inspector an opportunity to stop off at his private residence to change his clothes...”

The Committee's terms of reference ask that I review the actions of the CMC in relation to the investigation of Sen Sgt Isles. Therefore, unless CMC officers orchestrated or were otherwise complicit in the (alleged) actions of Inspector A, these matters do not come within the ambit of the Committee's terms of reference.

⁶ In a telephone conversation with Mr Kunde of my office on 7 August 2009, Steven Isles referred to the workshop as “private premises” which would appear to be a more accurate description.

Det Sgt Preston has been interviewed in relation to the involvement of CMC officers in securing the attendance of Sen Sgt Isles at the Ayr Police Station on the morning of 2 August 2008. He stated that CMC officers had no involvement in the arrangements to bring Sen Sgt Isles to the police station. Det Sgt Preston advised that since the warrant had been obtained in respect of the Ayr Police Station, CMC officers would have been entitled to execute the warrant in Sen Sgt Isles's absence. However, his recollection is that Acting Superintendent B and Inspector A considered that, as Sen Sgt Isles was Officer in Charge of the station, he should be present for the execution of the warrant and they (the senior QPS officers) organised for his attendance.

Det Sgt Preston states that the CMC officers had no involvement whatsoever in Inspector A's subsequent actions. He has no knowledge of what Inspector A said to Sen Sgt Isles at the workshop or during the journey to the police station. He certainly did not advise Inspector A what to say, or indeed what not to reveal, to Sen Sgt Isles. Det Sgt Preston made the point that, as a police officer of the rank of sergeant, he was in no position to be dictating procedures to an Acting Superintendent or Inspector.

Det Sgt Preston stated that the CMC officers had no involvement in Sen Sgt Isles being denied the opportunity to stop at his residence to change his clothes. In fact Det Sgt Preston revealed that at 11.46am on 2 August 2008, shortly after the warrant was executed (at 11.31am) he and Sen Sgt Isles walked the short distance (approximately 100 metres) from the police station to Sen Sgt Isles's residence to retrieve keys for locked storage areas within the police station. Det Sgt Preston stated that he waited outside whilst Sen Sgt Isles entered his residence to retrieve the keys. Det Sgt Preston commented that Sen Sgt Isles had an opportunity to change his clothes at that time had he so desired. At 11.49am the two men returned to the police station to continue the search.

Both Mr O'Gorman and Steven Isles, in their submissions to the Committee, raise concerns that Sen Sgt Isles's wife was denied permission to see her husband at the police station whilst the search warrant was being executed. Again, this issue seems to principally involve Inspector A rather than the CMC officers although Steven Isles does state that his mother told him that CMC officers said she could not see her husband.⁷ Steven Isles asks *"On what grounds my father could be deprived of his liberty to have contact with a friend, family member or legal representative while in custody."*

It is incorrect to assert that Sen Sgt Isles was deprived of his liberty to have contact with his family members or legal representative. As discussed later in this report, the CMC officers provided Sen Sgt Isles with the opportunity to speak to a nominated QPUE representative during the execution of the search warrant. It should also be noted that the electronic recording of the execution of the search warrant at Ayr Police Station reveals that an hour into the search, Sen Sgt Isles received a call on his mobile telephone from a member of his family. Det Sgt Preston told Sen Sgt Isles that he could answer the call if he wanted. Sen Sgt Isles answered the call and told the caller *"Tell Mum I'll talk to her later."*

Further, just over an hour later, Mrs Isles attended the public reception area of the police station. She was greeted by name by an Inspector (either Inspector A from the QPS or Inspector Mabbutt from the CMC). Mrs Isles can be heard to state *"I just insist on seeing my husband please."* The Inspector informed Mrs Isles *"OK. You'll just have to wait a minute. OK? He's just talking to someone at the moment. If you'd like to wait."*

⁷ This matter is referred to in an account of events prepared by Steven Isles and contained in the report prepared by his father dated 11 May 2008 (but which should obviously read "11 May 2009").

Within five minutes Det Sgt Preston can be heard informing Sen Sgt Isles, *“Your wife, I believe, is at the counter wanting to speak to you. The Inspector has spoken to her but we just indicated that we’ll only be a couple of minutes but you might want to just reassure her that...”*

Sen Sgt Isles replied *“Well, I mean, I must be – when are you going to un-detain me?”*

Det Sgt Preston stated *“As soon as we sign up all the paperwork...So if you just bear with us for that, we’ll formalise that part of it.”*

Sen Sgt Isles replied *“I’ll just slip out and see her and tell her I’ll see her when it’s...”*

Det Sgt Preston said *“I don’t have a problem with that.”*

Inspector Mabbutt likewise said *“No, I don’t have a problem with that”* at which time Sen Sgt Isles can be heard leaving the room before returning approximately thirty seconds later. Within five minutes the search of the police station was concluded and Sen Sgt Isles was un-detained.

The discussions which Steven Isles states he had with Inspector A concerning the Inspector’s authority to prevent his mother seeing his father are not matters for consideration within the Committee’s terms of reference. There is nothing in the submissions provided by Steven Isles, Sen Sgt Isles and Mr O’Gorman which suggests the CMC had any control or other involvement in this or the other alleged conduct of Inspector A. Nor has my review of the CMC’s holdings revealed any suggestion of such involvement.

The actions of the CMC officers leading up to and during the execution of the two search warrants were appropriate in my view.

On the basis of my review of the CMC’s actions and holdings it is clear that Mr O’Gorman’s contention that *“The Search Warrant was executed at a time and manner where unnecessary embarrassment was occasioned to Senior Sergeant Isles”* is not accurate. It was in Sen Sgt Isles’s own office at the Ayr Police Station that the warrant was executed upon him.

Steven Isles maintains that his father is a pillar of the community and that Inspector A has a lot to answer for in the way he facilitated the execution of the warrant.⁸ Whilst Inspector A’s actions are not the subject of my review, it should be noted that an alternative view is that his assistance to the CMC officers may have been intended to, and did in fact, minimise unnecessary embarrassment being caused to Sen Sgt Isles. Surely Sen Sgt Isles being located by, and asked (or commanded) to accompany his QPS Regional Inspector would be less likely to cause embarrassment or even public speculation and comment, than CMC officers detaining and executing warrants on him in public.

In his submission to the Committee, Mr O’Gorman states that:

The relevant Search Warrant could have been executed at a time that our client was on duty and when he could have been expected to be present at the station. On the facts known to us, there was nothing urgent about the execution of the Search Warrant such that it had to be executed in the public manner in which it was.

⁸ This comment was made during conversations Steven Isles had with his father and a QPS Assistant Commissioner at Sen Sgt Isles’s residence on 11 August 2008. Steven Isles delivered a copy of a recording of these conversations to my office on 16 June 2009.

I have already concluded that the warrant was not executed in a public manner. Moreover, as stated above, the closure of the crime operation, Operation Golf Magic, had been scheduled for the weekend of 2 and 3 August 2008 long before the CMC's misconduct investigation of Snr Sgt Isles commenced. Search warrants were to be executed on the principal target, some of his truck drivers and other associates including the person of interest.

Having found that there was a proper basis for search warrants to be obtained in respect of Snr Sgt Isles, it is my view that it would not have been operationally appropriate for the CMC to delay executing the search warrants on Snr Sgt Isles in these circumstances. If Snr Sgt Isles had been involved in misconduct as the CMC then suspected, the execution of the search warrants upon the principal target, the person of interest and the truck drivers would have alerted Snr Sgt Isles to the possibility that his misconduct had been detected and any delay in executing the search warrants upon him would have provided him with time in which to dispose of any possible incriminating evidence.

An article in the Townsville Bulletin on 16 August 2008 under the headline "*Treated like a criminal*" reported on the execution of the search warrants upon Sen Sgt Isles. The article quoted Sen Sgt Isles's family as saying "*They've got someone who has been in charge of a police station for nine years, who is in a position of trust. How can they treat someone in such a position of trust like a criminal, more than you would treat criminals themselves?*"

The CMC responded to the criticism and inaccuracies in the article by issuing a media release on 18 August 2008:

The article, Treated like a criminal, asserted that Senior Sergeant Mick Isles, Officer-in-Charge, Ayr Police Station, was publicly humiliated by being detained by CMC officers at a Lions Club gathering and having his house raided by the CMC.

The suggestion that the CMC investigators acted inappropriately towards Senior Sergeant Isles has no basis in truth. CMC investigators were not present at the social gathering in question, and did not detain him at any stage.

The CMC had applied for, and obtained, search warrants in respect of an ongoing investigation. On the day in question, a senior Queensland police officer (not from the CMC) approached Senior Sergeant Isles at the social gathering and advised him that the CMC intended to execute search warrants, including one for the police station at which Isles is the officer-in-charge. Senior Sergeant Isles chose to be present while the searches took place.

The events in question occurred after consultation with the Queensland Police Service, and with the cooperation of the Northern Regional Command.

The CMC is approaching this matter in the same way it conducts all its investigations: with due consideration to all potentially affected individuals, and regardless of the fact that someone is a senior police officer.

The CMC proposes to interview Senior Sergeant Isles when he is available.

My review of the CMC's holdings and actions supports the CMC's assertion that it approached the investigation of the misconduct allegations against Sen Sgt Isles in the same way it conducts all its investigations. The fact that Sen Sgt Isles was a respected senior police officer did not, and should not, effect the manner in which the investigation was conducted.

There are two points to be made in relation to the media release however. Firstly, the media release states that CMC investigators did not detain Sen Sgt Isles at any stage whereas he was detained by CMC officers upon his arrival at the Ayr Police Station. And secondly, Sen Sgt Isles disputes that Inspector A advised him that the CMC intended to execute the search warrants and that he chose to be present while the searches took place. As stated above, the conduct of Inspector A falls outside the Committee's terms of reference and also outside the ambit of my functions as defined in section 314 of the *CM Act*.

3. The return of property seized at the time of the execution of the warrants

After completing the execution of the search warrant at the Ayr Police Station, at 2:15pm the CMC officers attended Sen Sgt Isles's residence where a second search warrant was executed. Also present at the residence were Sen Sgt Isles's wife, mother, daughter and son-in-law. In his report to the Committee, Sen Sgt Isles described the search conducted by the CMC officers as "cursory".

At the conclusion of the search the CMC officers requested Sen Sgt Isles's bank account statements, telephone records and other paperwork. This material was provided to the CMC officers by Sen Sgt Isles's wife. The CMC officers then informed Sen Sgt Isles that his mobile telephone was to be seized pursuant to the warrant. Sen Sgt Isles states that he was informed that the telephone would be returned after three or four working days. In fact, the CMC returned the telephone to Sen Sgt Isles by registered post on 8 May 2009, after Steven Isles had contacted the CMC on 7 May 2009.

In his letter to the Committee, Sen Sgt Isles asks, "*Why was this property held for this period of time, and not returned to us. Have the responsible officers complied with the relevant sections of the PPRA referring to the retention of property.*" Sen Sgt Isles notes that under section 695 of the *PPRA*, after holding property for a period of 30 days, there is a responsibility that an officer must present before a Magistrate or Justice of the Peace to justify the reason for the retention of the property.

Similarly, in his letter to the Committee of 18 May 2009, Mr O'Gorman asks whether the CMC officers complied with the relevant sections of the *PPRA* relating to retention of property.

Section 695(2) of the *PPRA* does indeed provide that:

Within 30 days after a police officer seizes the thing, the police officer must apply to a justice of the peace (magistrates court) or a magistrate (the issuer) for an order under section 696 in relation to the thing...

The CMC officers did in fact comply with the provisions of section 695 of the *PPRA*. At 2.54pm on 28 August 2008 Det Sgt Preston sent the following e-mail message to Sen Sgt Isles's (then) legal representative Adrian Braithwaite:

Mr Braithwaite (Adrian),

I wish to advise that tomorrow morning I will be making an application in the Brisbane Magistrates Court to retain the property seized whilst executing a PPRA search warrant from Michael Isles residence on the 2/8/2008.

Regards Cameron.

Det Sgt Preston subsequently attended the Brisbane Magistrates Court and obtained an “Order in Relation to Thing Seized” in relation to the property seized from Sen Sgt Isles’s residence pursuant to the search warrant. The order authorised, pursuant to section 696(1)(a)(i) of the *PPRA*, that the seized property be kept in possession of a police officer (Det Sgt Preston) until the end of any investigation in relation to which the property may be relevant.

The CMC’s holdings establish that at 3.25pm on 3 September 2008 Sen Sgt Isles’s legal representative requested a copy of the paperwork in relation to the application to retain the seized property. A copy of the order was sent to Sen Sgt Isles’s legal representative at 9.42am on 8 September 2008.

Furthermore, section 695(2) of the *PPRA* is subject to a number of exceptions. Pursuant to section 695(2)(b) an “Order in Relation to Thing Seized” under section 696 is not required, where:

(b) consent to the continued keeping of the thing has been given by its owner or the person who had lawful possession of the thing before it was seized;

At the conclusion of the CMC’s search of his residence, Sen Sgt Isles had signed and dated a “Crime and Misconduct Commission Property Receipt” (numbered P00388) which reads:

I, being the owner/in lawful possession of the property (delete whichever does not apply) before it was seized/supplied, consent to the Crime and Misconduct Commission keeping the property until the conclusion of any investigation or proceeding involving the property and any appeal.

Therefore, notwithstanding the initial indications by CMC officers that the telephone would be returned within three or four working days, in light of the order obtained by the CMC and Sen Sgt Isles’s written consent to the CMC keeping the property until the conclusion of any investigation or proceeding involving the property, it is difficult to conclude that the CMC’s retention of the telephone was inappropriate.

After obtaining the “Order in Relation to Thing Seized” for the mobile telephone, Det Sgt Preston delivered Sen Sgt Isles’s mobile telephone to the CMC’s Forensic Computing section for inspection on 11 September 2008. The contents of the telephone were copied and stored on the CMC’s file server and it appears that Det Sgt Preston collected the telephone from the Forensic Computing section on 15 September 2008. Det Sgt Preston was advised in a memorandum dated 15 October 2008, that a report had been prepared on the contents of the telephone and was available for inspection.

On 29 April 2009 when Sen Sgt Isles was advised that the investigation regarding matters concerning him had been completed, his consent to the CMC retaining his property, and the authorisation of the “Order in Relation to Thing Seized” effectively ceased. **The CMC’s continued retention of the mobile telephone for a further eight days after that time may be regarded as inappropriate.**

Mr O’Gorman states that *“It was only when my client’s son contacted the CMC on 7 May 2009 that the mobile phone was returned to my client.”* The CMC’s holdings confirm that on 7 May 2009 Steven Isles telephoned the CMC and requested the return of the mobile telephone. It does appear to have been an oversight on the part of the CMC in not returning the telephone at the conclusion of the investigation eight days earlier. However, as soon as this became apparent by means of Steven Isles’s telephone call, the Acting Director Misconduct Investigations personally authorised the immediate return of the mobile telephone.

CMC procedures required a memorandum to be prepared by the Property Control Officer to the Records Manager. The Records Manager completed a formal authority directing that the telephone be delivered to Sen Sgt Isles by secure means, and it was sent to Sen Sgt Isles by registered post on 8 May 2009.

4. The timeliness in the CMC completing the investigation

In his letter to the Committee of 18 May 2009, Mr O’Gorman refers to the *“unexplained and unacceptable delay of eight months in finalising the investigation into Senior Sergeant Isles”*. He states that Sen Sgt Isles was relieved of operational command of Ayr Police Station on 4 August 2008, which fact *“must have been known to the CMC who then took eight months to complete their investigation.”*

Steven Isles raises similar concerns in his letters to the Committee of 1 April 2009. He states that after the search warrants were executed at the Ayr Police Station and his father’s residence on 2 August 2008 there was *“subsequently no further action from the CMC to date...Now more than 8 months after the initial detention for the purpose of executing search warrants and some penned extremely serious criminal allegations of corruption, how can the CMC justify not to date having either brought a charge(s) against my father.”*

In order to review the actions of the CMC in relation to the investigation of Sen Sgt Isles I have principally referred to the investigation running sheet which details the progress (or indeed, otherwise) of the CMC’s investigation and various lines of enquiry.

The running sheet records the enquiries made by CMC officers in late July and early August 2008 prior to the execution of the search warrants upon Sen Sgt Isles during the closure of Operation Golf Magic on 2 and 3 August 2008. I have referred to these enquiries above at page10.

Far from there being *“no further action from the CMC”* after the search warrants were executed on 2 August 2008 (as Steven Isles believes), the CMC undertook a range of further enquiries in a comprehensive investigation of the alleged misconduct.

In the days after the closure of Operation Golf Magic, CMC officers conducted interviews with persons of interest and began compiling statements relevant to the misconduct investigation.

The principal target participated in an electronically recorded interview on 3 August 2008. During the interview he stated that on two occasions he had paid the person of interest \$4000 to give to her police contact at the Ayr Police Station to ensure that two of his drivers, truck driver C and truck driver D, received their HR licences. The principal target stated that he was not aware of the identity of the person of interest’s supposed police contact.

The principal target also made a further allegation that on one occasion he had paid the person of interest \$5000 to ensure that another of his drivers was granted bail in relation to certain charges the driver was facing.

The person of interest was also interviewed by CMC officers on 3 August 2008. She admitted that she telephoned Sen Sgt Isles frequently in his capacity as Officer-in-Charge of the Ayr Police Station and that she had regular contact with the principal target. However she denied having received money from the principal target to arrange HR licence upgrades. She also denied having paid any money to Sen Sgt Isles or to any other police officer.

On 6 August 2008 the person of interest appeared before the CMC's investigative hearing in Townsville. She reiterated her denials of ever receiving money from the principal target or making payments to a QPS officer to arrange HR licence upgrades or to ensure bail was granted in respect of the principal target's drivers. However, after certain evidence was disclosed to her, she admitted that on one occasion the principal target handed her an envelope which he said was for "Mick". The person of interest stated that she drove to the Ayr Police Station and handed the envelope to a female Administrative Officer. She said that she had no knowledge of the contents of the envelope.

The principal target appeared before the CMC's investigative hearing the following day. He repeated the evidence provided in his interview that on two occasions he had paid the person of interest \$4000 to give to her police contact at the Ayr Police Station to ensure that his two drivers received their HR licences. He also repeated his allegation that he had paid the person of interest \$5000 to ensure that another of his drivers was granted bail. He was questioned about the person of interest's claim that he had given her an envelope for "Mick". The principal target stated that the incident did not occur as described by the person of interest. He said that he had asked the person of interest if the money he was paying was for Sen Sgt Isles and she told him it wasn't.

From early August until December 2008 CMC officers conducted further enquiries including:

- Conducted interviews with a number of the principal target's associates;
- Obtained statements from a number of the principal target's associates;
- Sought and obtained call charge records, subscriber details and billing information for other persons of interest to the investigation;
- Continued analysis of previously obtained call charge records including identification of missing numbers;
- Obtained rosters and time sheets of QPS and Administrative Officers at Ayr Police Station;
- Obtained statements from Administrative Officers at the Ayr Police Station;
- Obtained an "Order in Relation to Things Seized" for Snr Sgt Isles's mobile telephone;
- Inspected reports prepared by Forensic Computing section on the contents of mobile telephones seized pursuant to search warrants;
- Liaised with Sen Sgt Isles's legal representative in relation to Sen Sgt Isles's participation in an interview (as discussed further below);
- Conducted business names checks on Sen Sgt Isles, Fiona Isles and the person of interest;
- Conducted checks on titles and bills of mortgage for property owned by Sen Sgt Isles, Fiona Isles and a family company;
- Conducted company checks on Sen Sgt Isles, the family company and family members;
- Obtained records for driver training course commenced by one of the principal target's drivers;
- Held meetings with Queensland Transport officers and obtained the QT Policy Manual;
- Obtained statements from Queensland Transport officers and other persons connected with licence testing and training;
- Transcribed and considered the evidence provided at the investigative hearings by the person of interest, the principal target and others;
- Served Notices to Discover upon various financial institutions in relation to possible accounts of Snr Sgt Isles, the family company and the person of interest;
- Sought and obtained call charge records for another of the principal target's truck drivers;
- Searched the CMC's COMPASS system to identify matters where the person of interest was either the complainant or the subject officer;

- Conducted enquiries with the Corrective Services Investigation Unit in relation to the person of interest;
- Conducted enquiries in relation to the person of interest's credit history, bad debts and previous dealings with QPS;
- Conducted numerous enquiries to establish the true identity of the subscriber of a telephone number recorded in call charge records;
- Conducted various other enquiries to check details provided by the person of interest and the principal target in their interviews and at the investigative hearings and in statements provided by others.

By November 2008, most of the CMC's enquiries were focussed on the person of interest but the CMC was also still awaiting the results of some searches that had been requested in relation to Snr Sgt Isles. For example, the complete table of all telephone contact between Snr Sgt Isles, the person of interest, the principal target and one of his truck drivers was only finalised on 16 December 2008.

Similarly, the financial profiles prepared in respect of Snr Sgt Isles and the person of interest for the period 1.1.08 – 30.9.08 were only completed on 22 December 2008. Analysis of these profiles found no direct evidence of payments from the principal target to Sen Sgt Isles or the person of interest and no direct evidence of payments from the person of interest to Sen Sgt Isles.

The only activity recorded in the investigation running sheet between 22 December 2008 and 24 March 2009 is the receipt of material from two financial institutions pursuant to Notices to Discover. This material was more relevant to the investigation of the person of interest although also potentially of relevance to the investigation of Snr Sgt Isles, for example, if there had been evidence of payments made to accounts associated with Snr Sgt Isles.

Apart from the responses to the Notices to Discover from the two financial institutions, virtually all of the CMC's enquiries relating to the investigation of Sen Sgt Isles had been concluded by the end of 2008. It only remained for the principal investigator to prepare an investigation report and a determination to be made as to whether there was evidence capable of supporting any action in respect of Snr Sgt Isles. Ultimately, this took almost four months – until 29 April 2009. (It took even longer to determine the appropriate action in relation to the person of interest – until mid July 2009.)

During the course of this review the issue of timeliness of the investigation was raised with the CMC's then Acting Director Misconduct Investigations.⁹ The Acting Director Misconduct Investigations stated that there had been a great deal of activity in relation to the investigation until December 2008 (as confirmed in the investigation running sheet and other CMC holdings) but conceded that progress on the investigation then slowed down to some extent due to a number of factors.

On 8 September 2009, the CMC was provided an extract of a draft of this report to enable submissions to be made to me on behalf of the CMC generally or on behalf of any officer alluded to in the report. The CMC provided a written response on 12 October 2009 wherein it conceded that *"the progress of the investigation slowed down in early 2009."* The CMC stated that this was due

⁹ The Acting Director Misconduct Investigations had previously been the Executive Legal Officer involved in the misconduct investigation of Sen Sgt Isles until 23 March 2009 when staff rearrangements were brought about by the recreation leave of the Chairperson and the pre-retirement leave of the Assistant Commissioner, Misconduct.

to a number of factors, most of which were beyond the control of the investigative team and the CMC.

Firstly, the video and audio components of the recordings of the surveillance device product had become de-synchronised and it was unclear whether the problem could be rectified. A QPS officer attached to the Northern Region Drug Squad was attempting to resolve the issue but there were concerns as to whether any of the surveillance device product would be able to be used in evidence.

Then on 19 January 2009, Det Sgt Preston was seconded to the CMC's Crime Investigations area for a period of approximately four months. As the principal investigator for the misconduct investigation, Det Sgt Preston was responsible for the preparation of the draft investigation report. The CMC response states that ideally, Det Sgt Preston would have completed the draft investigation report before his secondment, however there were "*significant pressing priorities*" in Crime Investigations and no immediately available option to the secondment of Det Sgt Preston.

The draft investigation report was eventually completed on 26 February 2009. It should be noted that the report did not solely concern Sen Sgt Isles. It also considered issues relating to the person of interest, the principal target and a number of his associates. The draft investigation report recommended that due to insufficient evidence, no further action be taken against Sen Sgt Isles in relation to the allegations of misconduct.

Shortly after the completion of the draft investigation report, the judgement in the matter of *Scott v Witness C*¹⁰ was delivered in the Supreme Court in Cairns. The court in that case found that the CMC had no power to undertake investigations on referral from the Crime Intelligence and Research Review Committee (CIRRC) pursuant to the umbrella Freshnet Reference. Following this decision, the CMC placed an embargo on the use of all evidence obtained from the listening devices and in the course of the investigative hearings for Operation Golf Magic since the hearings were conducted pursuant to the Freshnet Reference. The embargo remained in place until after the issue was resolved by legislative amendment to the *C&M Act* in May 2009.¹¹

The CMC's written response of 12 October 2009 also referred to a number of other factors - principally staffing issues - which impacted upon the progress of the investigation in early 2009.

The CMC advised that during the course of this investigation, the Covert Investigations team was also conducting three complex proactive covert operations and a number of other smaller investigations. The CMC submitted that "*The team's senior officers had to manage competing heavy demands to lead and oversee the management of the complex high risk proactive covert investigations, while at the same time drafting and processing a myriad of legal documents, reports and correspondence.*"

Further, the Covert Investigations team's Executive Legal Officer was required to act in the position of Director Misconduct Investigations from 12 to 20 January 2009 whilst the Director was on recreation leave, and then again from 23 March 2009 due to the recreation leave of the Chairperson and the pre-retirement leave of the Assistant Commissioner, Misconduct. The CMC advised that, as there was no person available to relieve in the Executive Legal Officer's position, she was required to act as Director and cover the responsibilities of her own substantive position during these periods.

¹⁰ *Michael John Scott v Witness C* [2009] QSC 35

¹¹ The *Crime and Misconduct and Summary Offences Amendment Act 2009* was assented to on 28 May 2009.

As a direct response to the heavy demands on the Covert Investigations team, a second legal officer (a Principal Legal Officer) commenced duties within the team on 2 February 2009. The Principal Legal Officer had no prior knowledge of the ongoing covert investigations or the investigation of Snr Sgt Isles in particular. He was initially involved in other ongoing covert investigations and had to attend a pre-booked course for two weeks in March 2009. He was also required in the field for three days in early April to assist with a matter arising from his previous position.

According to diary notes, the Executive Legal Officer briefed the Principal Legal Officer about the investigation of Snr Sgt Isles on 10 March 2009. The Principal Legal Officer was asked to consider Det Sgt Preston's draft investigation report. The Executive Legal Officer recollects that they also considered the report prepared by the QPS Ethical Standards Command Inspectorate and Evaluation Branch in relation to the compliance inspection conducted of the Ayr Police Station in August 2008.

Both reports required further detailed consideration. The CMC's written response to my draft report observes that *"Given the workload and other commitments, and the unresolved factors still impacting on the Isles investigation, it is not surprising that [the Executive Legal Officer] and [the Principal Legal Officer] may not have immediately turned their priority attention to the Isles' investigation at that time."*

The running sheet records a further meeting on 24 March 2009 to discuss the draft investigation report and the QPS report on the compliance inspection conducted of the Ayr Police Station. Then on 14 April 2009 the Executive Legal Officer (then in the position of Acting Director Misconduct Investigations) asked the Principal Legal Officer to give priority to finalising the investigation of Snr Sgt Isles. Ultimately it was concluded that the initial allegations could not be substantiated in respect of Sen Sgt Isles and letters were sent to Snr Sgt Isles and the QPS outlining this decision on 29 April 2009.

The view expressed in the extract of the draft report provided to the CMC was that the time taken to prepare the draft investigation report, make the determination as to whether there was evidence capable of supporting any action in respect of Snr Sgt Isles, and advise him of that decision, was excessive. The CMC's response provides an explanation as to why the investigation took as long as it did to finalise. I accept, as asserted by the CMC, that officers in the Covert Investigations team were subject to a *"heavy and demanding workload involving the competing priorities of many serious, sensitive, complex and/or high risk matters"*.

Nonetheless, I remain of the view that the CMC's investigation of Snr Sgt Isles was not conducted in a timely manner. The CMC has provided a satisfactory explanation as to why the investigation took as long as it did to finalise but that does not alter my view that the time taken was excessive.

In a telephone conversation with my Principal Legal Officer on 7 August 2009, Steven Isles offered the view that it would generally take more than six months for investigators to gather sufficient evidence to ground a search warrant in an investigation of allegations of fraud or money laundering. Whilst Steven Isles made these comments in the context of suggesting that the CMC did not make sufficient enquiries before seeking the search warrants against his father (which suggestion I do not accept), his comments amount to an acknowledgement that investigations aimed at identifying and tracking un-receipted moneys have the propensity to be complex and protracted.

Further concerns raised by Mr Steven Isles, Snr Sgt Michael Isles and Mr Terry O'Gorman

5. Issues relating to attempts to interview Snr Sgt Isles

In his letter to the Committee of 18 May 2009, Mr O'Gorman refers to the fact that Sen Sgt Isles produced a medical certificate indicating his inability to give evidence at the CMC's investigative hearing on 6 August 2008. The letter continues:

...and he was not formally requested in writing thereafter to attend any subsequently listed Investigative Hearing or to participate in a record of interview.

In the CMC's letter of 29 April 2009, it asserted that "we were prevented from obtaining your evidence regarding those matters as you declined to be interviewed and you were excused from giving evidence in the closed hearing on medical grounds".

There is an insinuation in this comment that Senior Sergeant Isles' inability to participate in an Investigative Hearing contributed to the delay in completing the investigation. It is noted that there is an oblique hint in that regard without any assertion let alone any factually based assertion being made in the letter of 29 April 2009 that the delay in resolving the matter was, in fact, partially due to our client's initial inability to attend at an Investigative Hearing because of his health status. Our client denies being even a partial cause of the delay in resolving this matter by the CMC.

Steven Isles made similar comments in his e-mail to the Committee of 14 May 2009:

The CMC claim that my father refused to communicate with them and this is how they account for the delay in the investigation. This is absolutely absurd and we can substantiate without doubt that my father has never since the very outset of this criminal investigation refused to communicate with the CMC or for that matter declined to interview, this can also be co-oberated [sic] by the union appointed solicitor.

There is no doubt that the CMC was prevented from obtaining Sen Sgt Isles's version of events at the investigative hearings as he was excused from giving evidence on medical grounds. I do not believe that Snr Sgt Isles, Steven Isles and Mr O'Gorman would dispute that. The issue of whether Sen Sgt Isles ever actually declined to be interviewed in relation to the allegations is somewhat more complicated.

During the course of the execution of the search warrant at the Ayr Police Station on 2 August 2008 the CMC officers informed Sen Sgt Isles that they intended to offer him the opportunity to participate in a criminal interview and then, depending on the results of that interview, a disciplinary interview. Sen Sgt Isles stated that he would not speak to the CMC officers without a solicitor or QPUE representative being present. The CMC officers then gave Sen Sgt Isles the opportunity of calling and speaking with the QPUE representative for the Northern Region but an interview did not eventuate that day.

On 4 August 2008 Det Sgt Preston contacted the QPUE representative for the Northern Region in relation to Snr Sgt Isles's matter. The QPUE representative stated that Snr Sgt Isles would not be participating in a criminal interview (namely an interview in which the interviewee is not obliged to answer any questions but any answers they do give can be used in evidence against them.)

Later that day the QPUE representative informed Det Sgt Preston that the QPUE would have to send a representative from Brisbane to assist in any disciplinary interview with Sen Sgt Isles. (In a

disciplinary interview the police officer interviewee can be directed to answer questions but any answers given pursuant to the direction may not be used in evidence against them.)

CMC officers attended Sen Sgt Isles's residence on the afternoon of 4 August 2008 to serve the Attendance Notice for the investigative hearing upon him. At that time Det Sgt Preston confirmed with Sen Sgt Isles the information he had received from the QPUE representative that Sen Sgt Isles would not be participating in a criminal interview.

On 6 September 2008 Sen Sgt Isles attended the CMC's investigative hearing with his QPUE legal representative. The legal representative addressed the hearing and provided the medical certificate stating that Sen Sgt Isles was unable to give evidence. Sen Sgt Isles was excused from appearing before the CMC hearing on that day but his legal representative informed him that he may have to attend at a later date.

By 8 September 2008 the CMC officers involved in the hearings for Operation Golf Magic had concluded that Sen Sgt Isles would not be required to give evidence before the investigative hearings because his evidence "*may well be peripheral to the issues central to the crime investigation*". It was also considered that the officers involved in the misconduct investigation could obtain a statement or conduct an interview with him in the near future if necessary. Around this time the CMC officers involved in the misconduct investigation were also considering the possibility of holding hearings in relation to the misconduct allegations.

On 11 September 2008, Det Sgt Preston sent an email message to Sen Sgt Isles's (then) legal representative asking:

Can you please confirm Michael Isles' current medical condition and status including his ability to participate in a disciplinary interview. If you have a current medical certificate would you mind forwarding me a copy.

On 12 September 2008 Sen Sgt Isles's legal representative forwarded to Sen Sgt Preston an update concerning Sen Sgt Isles's current mental condition prepared by a Specialist Mental Health Clinical Consultant Therapist from the Ayr Mental Health Service. The update on Sen Sgt Isles's condition was somewhat equivocal in regard to his ability to participate in an interview but it did confirm that he was unfit to resume his police duties and concluded that "*I would not recommend his involvement in any other matters related to his employment before he is provided medical clearance to resume his duties.*"

In his report to the Committee of 11 May 2009, Sen Sgt Isles states:

Contrary to the CMC letter dated 29 April, 2008 [actually 2009], where it stated that I declined to interview, I have not at any time refused to interview, and this can be confirmed by the Union solicitor. There were attempts to submit me to a disciplinary interview and an email received from the investigating officer Preston, 16 September 2008, stated 'If Isles participates EROI [an electronically recorded interview], depending on the outcome (no guarantees), there may not be a reason for him to attend a hearing.

On 25 September 2008 Sen Sgt Isles's legal representative advised Det Sgt Preston:

Isles has been referred to a Psychotherapist specialising in his kind of problems. He assures me he is eminently qualified to write reports and does it regularly. Before I pay for a report from him could you let me know if he is suitable. From speaking to him verbally his view was that Isles is not right at this stage however I don't have those final instructions from him. Will be speaking to him again tomorrow in that regard.

On a separate point, I have been instructed to request a direction in writing for Isles to participate in a disciplinary interview.

At 11.03 am on 29 September 2008 Det Sgt Preston sent the following email to Sen Sgt Isles's legal representative:

I just spoke to your office and was informed your on leave, I'll catch up with you next week in relation to this matter. Currently the CMC wishes to interview Mick Isles, as he's on sick leave any such direction for an disciplinary interview would be in writing. Thus if he's able to be interviewed that would be great however if he is unable to provide you with instructions or be interviewed then we would need a report from a suitably qualified health professional (a doctor is always preferred) indicating the reasons behind his inability to provide instructions and be interviewed.

Any hassles please give me a call.

In October 2008 Sen Sgt Isles instructed the QPUE solicitor that anything the CMC had to say to him was to be formalised in writing. In his report to the Committee of 11 May 2009, Sen Sgt Isles stated that he had not heard further from the solicitor or from the CMC.

Det Sgt Preston notes in his draft investigation report that Sen Sgt Isles was still medically unfit in February 2009 and had not been interviewed. It is clear that the CMC wished to conduct a disciplinary interview with Sen Sgt Isles and that Sen Sgt Isles was aware of this fact. Mr O'Gorman is correct in his assertion that Sen Sgt Isles was not formally requested in writing to participate in a record of interview. Sen Sgt Isles's QPUE legal representative had provided a medical statement establishing Sen Sgt Isles's unfitness to be interviewed and therefore Det Sgt Preston never sought a written direction to Sen Sgt Isles to participate in a disciplinary interview.

The issue of whether Sen Sgt Isles declined or refused to be interviewed then comes down to a question of semantics. Rather than stating in the letter to Sen Sgt Isles of 29 April 2009 "*We were prevented from obtaining your evidence regarding those matters as you declined to be interviewed...*" it would have been more accurate had the CMC stated that they were prevented from obtaining Sen Sgt Isles's evidence as he was "medically unfit to be interviewed". It does appear that Sen Sgt Isles is correct in saying that he never declined to be interviewed, but this is only due to the fact that, although he was aware that the CMC wanted to interview him, his legal representative had arranged for his excusal on medical grounds prior to any written direction to participate in an interview being given.

Mr O'Gorman refers to an insinuation in the CMC's letter to Sen Sgt Isles of 29 April 2009 that Sen Sgt Isles's inability to participate in the investigative hearing contributed to the delay in completing the investigation. Regardless of whether there is such an insinuation, I have come to the conclusion (above) that the delay in resolving the matter was due to the excessive time it took the CMC to prepare the draft investigation report, make the determination as to whether there was evidence capable of supporting any action, and advise Sen Sgt Isles of that determination.

6. Mr O'Gorman's suggestion that the investigation was only finalised when it was because of other factors

In his letter to the Committee of 18 May 2009, Mr O'Gorman states:

Indeed, there is an interpretation open that but for the agitation of the matter by our client's son, Steven Isles... the clearance letter of 29 April 2009 may not have issued at that time.

An argument is open that the clearance letter issued on 29 April 2009 because the CMC were prompted into action both by newspaper publicity, particularly in the Townsville Bulletin, as to the inordinate length of time that the investigation was taking and also because of the fact that the CMC knew that Steven Isles had made a complaint to your Committee and that your Committee were intending to address that complaint at an upcoming meeting of your Committee.

It appears that the CMC first became aware of Steven Isles agitation around 11 March 2009 when a letter from the QPS referring to Steven Isles's telephone enquiries with the ESC was received by the Assistant Commissioner Misconduct. The draft investigation report had been completed by that time recommending that no further action be taken against Sen Sgt Isles in relation to the allegations of misconduct. Clearly none of the factors to which Mr O'Gorman refers led to this recommendation.

The draft investigation report was considered at a meeting between the Executive Legal Officer and the Principal Legal Officer on 10 March 2009 but the final determination as to the appropriate action in relation to Sen Sgt Isles was yet to be made.

The CMC only became aware of the Committee's interest in the investigation of Sen Sgt Isles on or after 7 April 2009 when the Committee's Research Director wrote to the CMC seeking a report and copies of correspondence between the CMC and Steven Isles. The CMC was getting close to finalising the matter by this stage, although the clearance letter was still three weeks away.

The CMC's written response to my draft report states that "*following concerns expressed about the time it was taking to complete the investigation of Snr Sgt Isles, [the Acting Director Misconduct Investigation] recalls that she spoke to [the Principal Legal Officer] on 14 April 2009, and requested he give priority that week to reviewing Det Sgt Preston's report and the finalisation of the matter.*"

The source of the concerns expressed about the time it was taking to complete the investigation is not specified – it may have been the newspaper publicity, the agitation of Steven Isles or the interest of the Committee as Mr O'Gorman suggests. Whatever the source of the concerns, the result was that the finalisation of the investigation of Snr Sgt Isles was prioritised and the CMC's involvement in the matter was concluded within 15 days.

It does appear then that one or more of the factors to which Mr O'Gorman refers may have impacted to a certain degree upon the timing of the CMC's final determination in the matter and the issuing of the clearance letter of 29 April 2009.

7. Steven Isles suggestion of abuse of power

Steven Isles, in his e-mail to the Committee of 14 May 2009 states:

"...after 9 months of no communication between the CMC and my father and in the absence of any written correspondence other than [sic] the copies of warrants executed and a notice provided to appear in a star chamber on 6 August 2008, how can the CMC clear my father of all serious criminal allegations and fire a smoke-screen and suggest we are handing the matter back to the QPS to see if they can get you on some internal administrative issues? I ponder the question does this amount to an abuse of power?"

This passage relates to the CMC's letter to Sen Sgt Isles of 29 April 2009. I should say firstly that it is somewhat misleading to suggest that there was "*9 months of no communication between the CMC*" and Sen Sgt Isles. As Sen Sgt Isles was legally represented, CMC officers communicated with his legal representative on numerous occasions during the investigation as mentioned throughout this report. The CMC officers would be entitled to believe that Sen Sgt Isles was being kept apprised of these communications.

Steven Isles main concern here is that the CMC's referral to the QPS of issues of possible maladministration by his father is an attempt to "*get*" his father on "*some internal administrative issues*" and amounts to an abuse of power.

After the CMC's attendance at the Ayr Police Station on 2 August 2008, the QPS Ethical Standards Command Inspectorate and Evaluation Branch conducted an unannounced compliance inspection of the Ayr Police Station between 25 and 29 August 2008. This inspection was conducted by the QPS independently of the CMC, certainly not at the CMC's instigation and unbeknownst to the Executive Legal Officer and others involved in the CMC's misconduct investigation.

The QPS provided a report on the results of the compliance inspection to the CMC in December 2008. The CMC evaluated the report in late March and April 2009 and concluded (as advised in the letter to Sen Sgt Isles of 29 April 2009) that the findings, if accepted, evidenced maladministration at a level of seriousness that could constitute official misconduct; namely gross incompetence in the exercise of professional skill when performing the duties of Officer in Charge.

The CMC dealt with the report on the results of the compliance inspection in accordance with section 46 of the *CM Act* - the same way it deals with any other complaint about, or information or matter involving misconduct. In this instance the CMC acted pursuant to section 46(2)(b) and the matter was referred back to the QPS to continue to deal with by way of investigation. In this regard the actions of the CMC in its investigation of Sen Sgt Isles were entirely appropriate in all of the circumstances. There can be no suggestion of an abuse of power on the part of the CMC.

8. Sen Sgt Isles's request for a copy of the recording of conversations during the execution of the search warrants

In his report to the Committee of 11 May 2009 Sen Sgt Isles stated that during the execution of the search warrant at the Ayr Police Station of 2 August 2008, he requested a copy of the recorded conversations between himself and the CMC officers. The CMC officers advised that they should be able to download the recording of the conversations and provide him with a copy. As at 11 May 2009, Sen Sgt Isles had not received a copy of the recording.

There is no legitimate reason for Sen Sgt Isles not to be provided with a copy of the recording. It is my understanding that a copy of the recording has since been provided to Sen Sgt Isles.

CONCLUSION

My review of the actions and holdings of the CMC in relation to the investigation of Sen Sgt Isles revealed that, in regards to the concerns raised by Mr Steven Isles, Senior Sergeant Michael Isles and Mr Terry O'Gorman, the investigation was conducted appropriately but not in a timely manner. My conclusions in relation to the major issues of concern identified in Mr O'Gorman's letter to the Committee of 18 May 2009 are as follows:

As to whether there was a proper basis for the issue of a search warrant against Sen Sgt Isles - the CMC received information which suggested that an unidentified Queensland Transport or QPS officer had issued driver's licences to associates of the principal target for \$4000 per licence. The CMC made appropriate enquiries before seeking the search warrants from the Magistrate. Those enquiries established that all testing and issuing of driver's licences in the area was conducted by QPS officers at the Ayr Police Station. The CMC ascertained that four of the principal target's associates had obtained HR licence upgrades in the relatively recent past and that those tests had been conducted and the four licences upgraded by Sen Sgt Isles.

The CMC considered that comments made by the principal target suggested that the person of interest may have been involved as the conduit for the communication and flow of funds and information between the principal target and the subject police officer. Telephone billing and call charge records established a high frequency of telephone contact between the person of interest and Snr Sgt Isles and a fair amount of contact between the person of interest and the principal target.

I do not consider the CMC's actions in seeking search warrants based upon this information, to be inappropriate. In my view the CMC did consider all relevant and available facts and materials before seeking the search warrants from the Magistrate.

Certain matters which might be regarded as adverse to the issuing of the warrants sought were disclosed in the applications for the search warrants. Other matters were not disclosed in the applications for the search warrants but I do not consider it to have been inappropriate that these matters were not disclosed.

As to concerns about the public manner of the execution of the search warrant - I have concluded that Snr Sgt Isles was not detained "*in an extremely public manner*". It was in his own office at the Ayr Police Station that Sen Sgt Isles was detained and the warrant executed upon him. The search warrant was not "*executed at a time and manner where unnecessary embarrassment was occasioned to Senior Sergeant Isles.*" If anything, it appears that steps were taken to avoid causing unnecessary embarrassment to Sen Sgt Isles. Further, in my view it would not have been operationally appropriate for the CMC to delay executing the search warrants on Snr Sgt Isles.

As to concerns about the return of property seized at the time of the execution of the warrants - the CMC obtained an "Order in Relation to Thing Seized" under the provisions of section 696 of the *PPRA* permitting the property to be retained. Therefore, notwithstanding the initial indications by CMC officers that the mobile telephone would be returned within three or four working days, in light of the order obtained by the CMC and Sen Sgt Isles's written consent to the CMC keeping the property until the conclusion of any investigation or proceeding involving the property, it is difficult to conclude that the CMC's retention of the telephone was inappropriate.

The CMC's retention of the mobile telephone for a further eight days after 29 April 2009 when Sen Sgt Isles was advised that the investigation regarding matters concerning him had been completed, may be regarded as inappropriate.

I have concluded that the CMC's investigation of Snr Sgt Isles was not conducted in a **timely manner**. The time it took to prepare the draft investigation report, make the determination as to whether there was evidence capable of supporting any action in respect of Snr Sgt Isles, and to advise him of that decision, was excessive.

Steven Isles, in his letter to the Committee of 1 April 2009 advises that *"...the continued and tardy investigation at the hands of the CMC has and continues to have a very marked impact on the health of my father, Michael Isles, mother, Fiona Isles, and also a number of other family members who were present at the time of executing the search warrant and the like."*

It is not surprising that an unduly protracted investigation of allegations as serious as these would have such an effect.

Mr O'Gorman's letter refers to previous complaints concerning the time taken over such investigations involving serving police officers. The CMC is well aware of such criticisms in the past and should have made a greater effort to complete this investigation within a reasonable time frame.

However it should be noted that I have no adverse comments in terms of the quality of the investigation itself – it was appropriately thorough and professionally carried out with suitable recognition of the seriousness of the allegations against Sen Sgt Isles and the QPS more generally.