

# Crime and Misconduct Commission

CRIME AND  
MISCONDUCT  
COMMISSION



QUEENSLAND

## **Public Report to the Parliamentary Crime and Misconduct Committee**

1 March to 31 March 2014

---

The CMC fights crime and promotes integrity in Queensland

## **Purpose of the report**

This report has been prepared by the Crime and Misconduct Commission (CMC) for discussion at its public meeting with the Parliamentary Crime and Misconduct Committee on 5 May 2014. It aims to put the work of the CMC in context for the wider Queensland community.

## **About this report**

Some investigations undertaken by the CMC cannot be reported on publicly until they are finalised. There would be a significant risk of compromising a current investigation, causing reputational damage to those persons who are under investigation or a risk of breaching legislation. Discussing the progress of an investigation also carries with it a risk that persons who are assisting by confidentially providing information to the CMC could be identified.

Similarly, it is not possible to include detailed reports on short-term or recent performance from the CMC's witness protection program.

The CMC acknowledges there is a public interest in our business and we need to report publicly to our parliamentary oversight committee, the Parliamentary Crime and Misconduct Committee. The information in this report strikes a balance between providing information to the public and protecting confidential CMC processes.

More general information about our jurisdiction, work areas, roles and responsibilities can be found at [www.cmc.qld.gov.au](http://www.cmc.qld.gov.au)

# Contents

---

Chairperson’s report.....	4
Crime .....	6
Misconduct .....	12
Witness protection .....	18
General Counsel and Legal Services .....	19
Our people.....	21
Police Service Reviews .....	23
Media.....	24
Communications.....	25

# Chairperson's report

---

I am pleased to report on the Crime and Misconduct Commission's (CMC) activities for the period of 1 March to 31 March 2014 to the Parliamentary Crime and Misconduct Committee (PCMC).

This report outlines the key activities undertaken by the CMC across the breadth of the organisation.

## Acting Chairperson activity during this period

The following liaison meetings were undertaken with the following persons:

### General

- On 17 March 2014 I attended an Australian Crime Commission stakeholders meeting in Canberra.

### Liaison meetings

- On 5 March 2014 I attended a CMC Cabinet Sub Committee meeting to discuss the draft Crime and Misconduct and Other Legislation Amendment Bill.
- On 11 March 2014 I met with the Commissioner of Police for our monthly briefing.
- On 13 March 2014 I met with Dr Watterston, Director-General, Department of Education, Training and Employment in relation to a complaint matter.
- On 13 March 2014 I attended a brief 'meet and greet' with Mr Steve Griffin, Commissioner of the Queensland Building and Construction Commission.

## Update on reviews and inquiries

- Action taken since the PCMC inquiry into the release and destruction of Fitzgerald Inquiry documents includes:
  - The finalisation report was tabled at the private meeting with the PCMC on Monday 3 March 2014. Copies were also provided to the State Archivist, the Minister for Science, Information Technology, Innovation and the Arts, and the Attorney-General. This recommendation is now completed.
  - Work is being done to determine how best to refine the search process for identifying which CMC records may hold Fitzgerald Inquiry material. The number of records that show on the CMC's system created during the Fitzgerald Inquiry is over 5800 but when the search parameters are extended out to the end of 1994 the number of records created is over 157,000.

As it is likely that Fitzgerald Inquiry prosecutions and investigations continued beyond 1994 the number of records that potentially may contain Fitzgerald Inquiry material as primary source documents would be significantly greater still. As there is no one key word to search on, the magnitude of this project is significant.

- To mitigate the risk while the approach to this work is still being explored the CMC is placing an internal disposal freeze on certain classes of records which will replace the QSA freeze which expires on 14 April 2014, 12 months since it was applied. QSA has offered the CMC the option of renewing the existing QSA freeze or developing an internal process. The State Archivist has been notified of the CMC's decision and has been provided with a draft copy which is to be taken to the Commission meeting for approval on Friday 11 April 2014, to take effect from Tuesday 15 April 2014. The freeze is for 12 months unless revoked sooner.

- *Crime and Misconduct and Other Legislation Amendment Bill 2014*

The Bill was introduced into parliament on 19 March 2014.

## Corporate activities and issues report

- The CMC's 2014-18 Strategic Plan consultation draft was forwarded to the Performance Unit, Department of the Premier and Cabinet on 27 March 2014.

## **Matters arising out of previous public meeting on 3 March 2014**

I am compiling a formal response to these matters which I will provide to the Committee as soon as possible.

Dr Ken Levy RFD  
Acting Chairperson

# Crime

---

The CMC is a specialist law enforcement agency targeting crime of the highest threat to our community. Our goal is to make Queensland as hostile an environment as possible to major crime and to reduce its impact on Queenslanders. The CMC operates in a framework of strict legal compliance, and a high level of accountability attaches to the use of our special powers.

This report on the crime function addresses the performance of the function over a one month reporting period.

## Activities and issues report

### Overview

- 7 new major crime investigations commenced, one of which was a specific referral<sup>1</sup> of a murder and the remaining 6 were organised crime matters commenced under the established criminal networks general referral.
- Our Organised Crime investigation team was engaged in 4 organised crime investigations of high-risk crime networks engaged in drug trafficking and other illegal activity in Queensland.
- Our Crime hearings teams held a total of 35 days of hearings involving 28 witnesses in support of 12 CMC or QPS investigations of organised and serious crime, or in support of our intelligence function. These matters included 7 homicide investigations and 2 weapons trafficking networks.
- 14 persons were called to criminal motorcycle gang (CMG) related hearings held over 16 days.
- Our Proceeds of Crime team received 6 referrals from the QPS which are considered to have links to CMGs, 3 of which have been deemed suitable for confiscation action and involve property to the value of \$2,018,650.
- Our Proceeds of Crime team obtained 10 restraining orders over property valued in excess of \$3.061m. Also, the State was the recipient of 3 forfeitures of property totalling \$4.876m, including the largest ever single cash forfeiture in the sum of \$4.3 million.
- Our Criminal paedophilia team charged an alleged child sex offender with 17 offences.
- Crime Intelligence completed two reports (for law enforcement agencies only): a current and emerging issues report on the infiltration by CMGs of the tattoo industry in Queensland and a report titled "*Use of wastewater analysis for drug use monitoring: its potential value to law enforcement*".

## The CMC's Crime Function

The CMC's crime and prevention function is undertaken by the following teams and units:

- Organised Crime investigation team
- Proceeds of Crime
- Criminal paedophilia team
- Hearings unit
- Dedicated intelligence and research officers

The CMC major crime function has also received specific funding over the 2013-14 financial year to deliver an increased focus on criminal organisations and particularly CMGs.

---

<sup>1</sup> A referral is the mechanism that authorises the CMC to investigate major crime and exercise its powers. There are two kinds of referral of major crime: general or specific. Specific referrals are typically made in response to one-off incidents of serious crime such as homicide. General referrals are broadly based mandates to investigate the following thematic areas: criminal motorcycle gang activity, established criminal networks, money laundering, terrorism, internet-related child sex offending, extra-familial child sex offending by networked or recidivist offenders, weapons and offences of extreme violence against vulnerable victims.

Pursuant to recent amendments to the *Crime and Misconduct Act 2002* the CMC can also now obtain intelligence referrals to exercise its powers to gather intelligence in certain circumstances.

An update on the performance of each of these areas follows.

## Update: Focus on Criminal Organisations

Since October 2013 extensive CMG related intelligence hearings have been focusing on the membership and activities of Queensland based CMGs. In addition the CMC hearings team has conducted CMG-related major crime hearings where it was assessed that the investigations in question were likely to yield valuable evidence concerning CMG offending in Queensland.

Since the commencement of this initiative a hearings program has been undertaken, exploring a range of CMG-related themes and issues identified by the CMC and QPS Task Force Maxima. During March 2014, 11 witnesses were called to intelligence hearings held over 13 days and 3 witnesses called to CMG-related hearings undertaken pursuant to the established criminal networks general referral held over 3 days.

During the reporting period the Proceeds of Crime Team received 6 referrals from the QPS which are considered to have links to CMGs, 3 of which have been deemed suitable for confiscation action and involve property to the value of approximately \$2,018,650.

The CMC continues to collect intelligence on issues associated with CMGs in Queensland and produces intelligence reports which are disseminated to partner law enforcement agencies.

In addition to ongoing operational intelligence, during the reporting period a current and emerging issues report on the infiltration by CMGs of the tattoo industry in Queensland was completed. The report is now being disseminated to partner law enforcement agencies only.

## Organised crime

In combating organised crime, the CMC focuses on investigations calculated to dismantle or disrupt the criminal identities and networks engaged in the illicit commodity markets of greatest harm to Queenslanders. In making these assessments, we rely upon our specialist strategic intelligence expertise. To maximise the law enforcement response, our operations are often conducted jointly with other State and Commonwealth law enforcement agencies.

## Activities/outcomes

During the reporting period:

- Our Organised Crime team was engaged in 4 organised crime investigations of high-risk crime networks engaged in drug trafficking and other illegal activity.
- Financial investigations and brief preparation concluded in Operation Lithium, with a financial brief of evidence now finalised. Lithium was a joint investigation undertaken by the CMC with the New South Wales Police Force targeting a Queensland-based crime network allegedly responsible for distributing precursor chemicals used in the production of methylamphetamine within New South Wales. It resulted in the arrest of 5 persons (see the following table).
- All other investigations are in a covert/sensitive phase and no further information can be published at this time.

**Table: Use of CMC powers and results of investigations**

	Operation LITHIUM – commenced 22 August 2012
Arrests	5
Charges laid	32
Drug seizures	\$358,750
Notices to produce	94
Warrants	9
Value of assets restrained	\$1,008,079

## Proceeds of crime

The CMC administers the non-conviction-based civil confiscation scheme (Chapter 2) under the *Criminal Proceeds Confiscation Act 2002* (CPCA). Under Chapter 2, property is liable to be restrained if it belongs to, or is under the effective control of, someone who is suspected of having engaged in serious criminal activity in the past six years. Restrained property is liable to be forfeited unless a person proves, on the balance of probabilities, that it was lawfully acquired. The CMC is also responsible for administering Chapter 2A of the CPCA which contains the recently introduced Serious Drug Offender Confiscation Order Scheme. Under Chapter 2A, property of a person is liable to forfeiture upon conviction for qualifying serious drug offences.

Our Proceeds of Crime staff work closely with the Queensland Police Service (QPS) and the Director of Public Prosecutions (DPP) in identifying and litigating proceeds of crime matters, as well as with the Public Trustee of Queensland, who is responsible for the property restrained and held by the state.

## Activities/outcomes

As at 31 March 2014, our work in progress was as follows:

- 87 current civil confiscation matters involving restrained property valued at \$49.913m
- 40 referred matters awaiting restraint involving property valued at \$13.903m.

Since the last report we achieved the following results:

- 10 restraining orders were obtained over property valued in excess of \$3.061m
- The State was the recipient of three forfeitures of property totalling \$4.876m, including the largest cash forfeiture in the CMC's history of \$4.3m.

Settlement negotiations were being undertaken in 38 matters involving property valued at \$13.505m.

## Proceeds of crime results since 2002

Since the *Criminal Proceeds Confiscation Act 2002* came into operation, our team has been instrumental in delivering to the state:

- \$170.982m in assets restrained
- \$62.303m in assets forfeited.

During the reporting period 12 new referrals were received. For the period 1 July 2013 – 31 March 2014, 83 referrals have been received. This exceeds the number of referrals received for the entire 12/13 financial year. The number of matters awaiting restraint has increased due to the increase in referrals. Further, a number of matters are awaiting the closure of covert police operations prior to the commencement of proceeds of crime action.

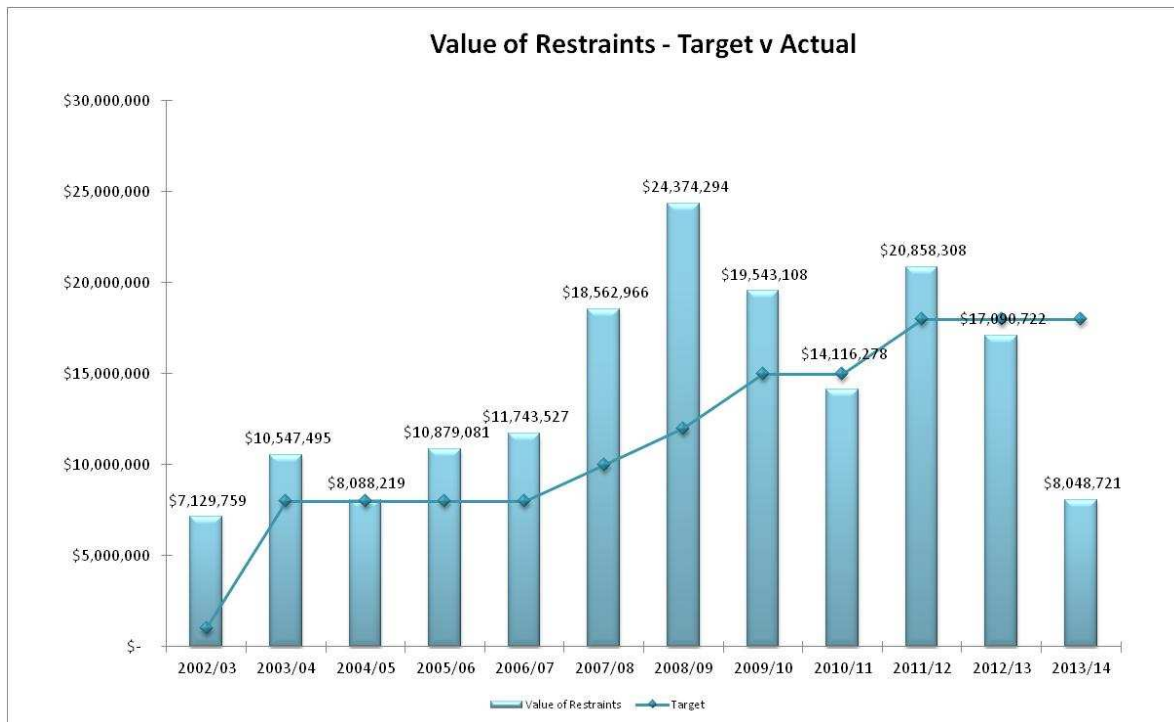
## Value of restraints

The amendments to the *Criminal Proceeds Confiscation Act 2002* have provided the State with new tools in which to confiscate proceeds of crime. The strategy which has the best outcome of success and will provide the best return to the State is to be elected prior to commencing restraint. For this reason additional enquiries are being conducted prior to restraint to ensure the best possible confiscation strategy is employed. As a result this has caused a delay in obtaining restraining orders. As at the end of the reporting period, a further 8 applications for restraining orders relating to property worth approximately \$3.291 million had been filed in the Supreme Court and will be heard in coming weeks.

Taking into account the applications currently before the Supreme Court and the applications expected to be filed before 30 June 2014, it is envisaged that approximately \$15 million worth of property will be restrained during 2013/14.

The following table however depicts restraints as at 31 March 2014.

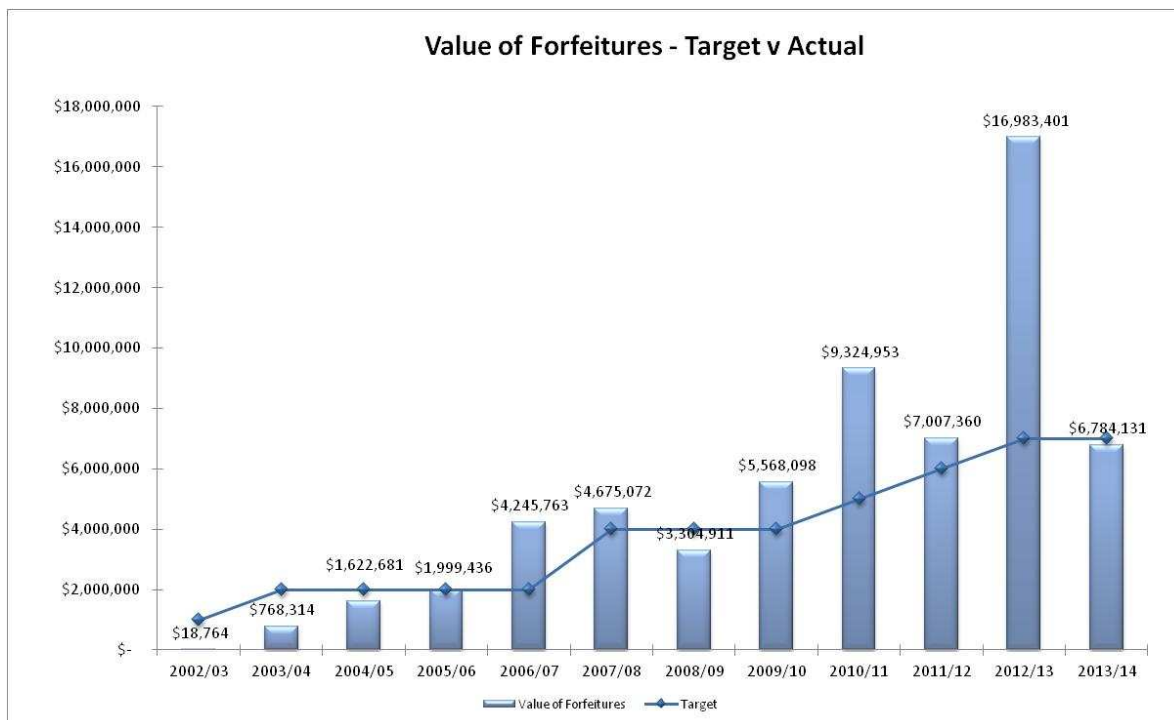




**Figure: Estimated net value of criminal proceeds restrained (target compared with actual), 2002–03 to 2013–14**

### Value of forfeitures

There are forfeiture applications before the Supreme Court over property valued at approximately \$443K. It is therefore anticipated that the annual forfeiture target of \$7 million will be reached as at 30 June 2014 as depicted in the following table.



**Figure: Net value of assets forfeited (target compared with actual), 2002–03 to 2013–14**

## **Criminal paedophilia**

Although our jurisdiction relates to all child sex offending, the CMC focuses on internet-based offending and networked, recidivist extra-familial offending. This ensures that our work complements, rather than duplicates, the work of others. The CMC works closely with QPS Task Force Argos, regional Child Protection Investigation Units, Offices of the Commonwealth and Queensland Director of Public Prosecutions, and interstate and foreign law enforcement agencies.

### **Activities/outcomes**

As a result of our ongoing internet-based investigations pursuant to one of our general referrals, we charged an alleged child sex offender from Brisbane with a total of 17 offences under Queensland and Commonwealth law, including:

- knowing possession of child exploitation material
- using a carriage service to make available child exploitation material.

An information and evidence package was also disseminated to Northern Territory police as a result of a recent online investigation.

## **Coercive hearings**

With the advent of legislative changes enabling the holding of intelligence hearings relating to criminal organisations, coupled with a spike in QPS requests for hearings assistance in major crime investigations (primarily murder investigations), the CMC has continued to hold an increased number of hearings during the reporting period.

### **Activities/outcomes**

Our Crime Hearings team held a total of 35 days of hearings in Brisbane, Biloela and Mackay in support of 12 CMC or QPS investigations of organised and serious crime, or in support of our intelligence function. A total of 28 witnesses were called to these hearings. (See also focus on criminal organisations at page 7).

Major crime hearings were held in support of a range of investigations. They include the following:

- Criminal activity by members and associates of CMGs, including an incident involving the doing of grievous bodily harm and organised fraud
- 7 homicide investigations
- 2 weapons trafficking investigations
- A money laundering investigation.

### **Significant outcomes from hearings held during the reporting period include:-**

- Parts of a motor vehicle of interest in a murder investigation were located as a result of a hearing.
- Police recovered 17 unlicensed firearms including two sub-machine guns as a result of CMC weapons trafficking hearings.
- A person of interest in a murder investigation was sentenced to 7 months imprisonment for refusing to answer questions at a CMC hearing held in January.
- A 32 year old man was sentenced to 12 months imprisonment in the Mackay District Court for perjury, cumulative upon a three year sentence for drug trafficking. The perjury arose from false evidence given by the witness at a CMC hearing held in 2009 relating to alleged large-scale cannabis production and trafficking by a family-based network in North Queensland.

## **New Major Crime referrals**

At the request of the Queensland Police Service seven new major crime investigations commenced during March as detailed below.

We received one new specific referral of major crime, being a “cold case” murder investigation. Hearings will commence in this matter in April.

Five new investigations (relating to a suspected homicide, suspected drug trafficking networks and the organised theft and disposal of high end motor vehicles) also commenced under our organised crime general referral. A further investigation commenced under our Weapons general referral.

## Intelligence

The CMC's work in major crime is largely shaped by our strategic intelligence activity. This informs our understanding of organised crime markets, identifies the priority markets and syndicates, and helps to ensure that resources are allocated towards those areas that pose the highest risk. In this way, strategic intelligence products inform and drive our investigative activities. Our intelligence function also contributes significantly to our crime prevention function. Our intelligence staff engages with a wide range of clients, stakeholders and partners to ensure the CMC maintains a strategic awareness of developments in the crime environment in Queensland and other jurisdictions.

## Activities/outcomes

During the reporting period:

- We completed a current and emerging issues report titled "Use of wastewater analysis for drug use monitoring: its potential value to law enforcement". This product was disseminated to Australian law enforcement agencies only in March 2014. The product discusses several different ways wastewater can be used by law enforcement and how it has been used by the CMC to monitor illicit drug consumption in Queensland and inform crime investigation and prevention strategies.
- We have been collecting information to assist with an assessment of the new and emerging psychoactive substances (NPS) market. The project examines trends in the market, key drivers, the level of involvement of organised crime groups in the market, marketing techniques, sources (e.g. online drug marketplaces and regional supply chains) and the implications for law enforcement. Consultations with key experts in law enforcement and health agencies were conducted during March and are ongoing.

## Research

### **Legislative review of the *Child Protection (Offender Prohibition Order) Act 2008***

The CMC's review of the *Child Protection (Offender Prohibition Order) Act 2008* is in progress. This legislation allows police officers to apply to a Magistrate for an order prohibiting certain previously convicted child sex offenders from engaging in certain conduct that poses a risk to the lives or sexual safety of one or more children, or of children generally.

As required by the Act the review commenced in June 2013 (five years after the Act commenced). The expected completion date of the project is June 2014, after which a report will be tabled in Parliament.

# Misconduct

---

The role of the CMC's Misconduct function is to promote a trustworthy public sector in Queensland and reduce the incidence of misconduct. Our wide-ranging jurisdiction includes all state government departments, the QPS, local governments, public sector agencies and statutory bodies, government-owned corporations, universities, prisons, courts, tribunals and elected officials.

This report on the Misconduct function emphasises the most current and/or critical information.

## Activities and issues report

### Overview

The CMC finalised 11 misconduct investigations that included the referral of a number of charges to the Director of Public Prosecutions (DPP) for consideration. The charges involved misconduct in public office and fraud related offences.

The CMC is unable to provide further information about these matters as it would be inappropriate to release information which could disclose the identity of persons under investigation and which may cause reputational damage to those persons. Discussing the status of particular investigations also carries with it a risk that persons who are assisting by confidentially providing information to the CMC would be identified.

#### Statistics for the period 1 March to 31 March 2014

- Received 314 complaints of official misconduct
- Assessed 287 complaints
- Closely monitored and reviewed 24 Public sector and Police matters
- Currently investigating 32 serious misconduct matters
- Commenced 4 new investigations
- Finalised 11 investigations.

### Preparation for changes to the CMC's jurisdiction

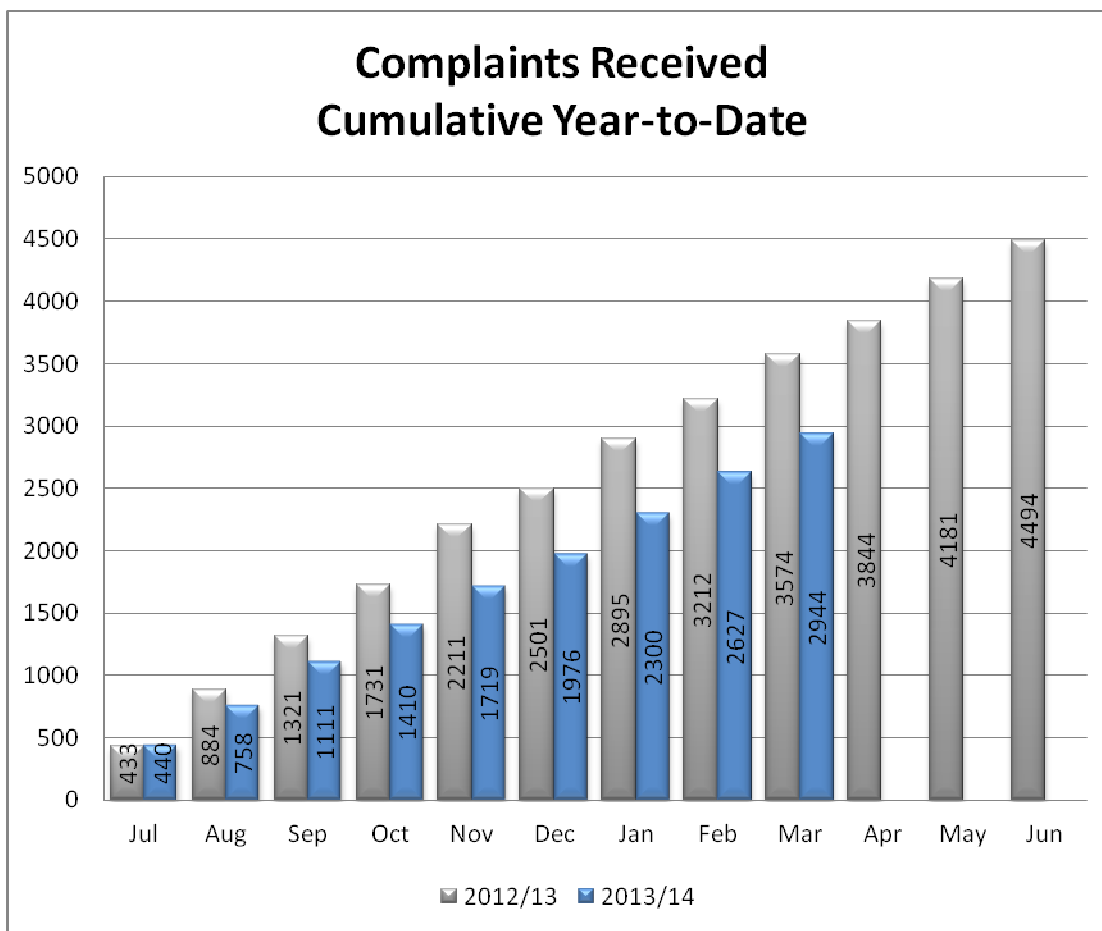
As reported previously, the CMC has commenced preparations to support the anticipated changes to the Commission's jurisdiction arising out of the Independent Advisory Panel's "Review of the Crime and Misconduct Act and Related Matters". A working party was established to implement those anticipated changes and following the introduction of the *Crime and Misconduct and Other Legislation Amendment Bill 2014* to Parliament on 19 March 2014, that group has now commenced work.

### Complaints

The CMC currently receives and assesses all complaints alleging misconduct in Queensland's public sector agencies. For the reporting period 1 March to 31 March 2014, the CMC received 314 complaints. The number of complaints received represents a 13% decrease compared to the same period in the previous year. For the financial year to date, the CMC has received 2,944 complaints. This compares to 3,574 for the same time last year and continues the downward trend.

The 314 complaints received in the reporting period contain a total of 478 allegations of misconduct. (A complaint may contain multiple allegations.) Of these allegations:

- 53 per cent (255) related to police
- 39 per cent (186) related to public sector agencies (including Government-Owned Corporations)
- 6 per cent (29) related to local government
- 2 per cent (8) related to other agencies.



The CMC has assessed 287<sup>2</sup> complaints in the reporting period:

- 223<sup>3</sup> (78%) were referred to the appropriate agency to deal with, subject to the CMC's monitoring
- 4 (1%) were retained for investigation by the CMC (including investigations conducted cooperatively with agencies)
- 60 (21%) were assessed as requiring no further action.

#### How the CMC monitors complaints<sup>4</sup>

The CMC adopts different levels of monitoring depending on:

- the seriousness of the allegations to be investigated;
- the capacity of the originating agency to undertake the investigation independently and
- the public interest.

The CMC's monitoring function also includes random audit activities focussed on high risk activities or agencies.

Examples of audits currently underway in the reporting period include:

- A compliance and integrity audit of the way in which complaints related to inappropriate associations between public service officers and Criminal Motorcycle Gangs (CMGs) have been dealt with by the Queensland Police Service and other public sector agencies. The complaints involved in this audit have been reviewed and the report is under consideration;

<sup>2</sup> The number of complaints assessed differs slightly from the number received because somewhat different time periods apply.

<sup>3</sup> Of the 223 complaints referred to the appropriate agency to deal with, 31 (14%) were subject to close monitoring.

<sup>4</sup> The CMC's monitoring role is set out in sections 35, 47 and 48 of the Crime and Misconduct Act.

- An audit of matters referred to public sector agencies and reviewed by the CMC in the 2012/13 financial year that were outsourced to an external investigator by the agency dealing with the matter. The purpose of this audit is to comment on whether the outsourcing of investigations by agencies is an efficient use of resources and to determine under what circumstances an agency might use the services of an external consultant/investigator. Liaison with public sector agencies is currently underway to seek documentation regarding their practices in outsourcing investigations;
- An audit is being conducted to determine the number of outstanding matters referred to public sector agencies to deal with (not including the Queensland Police Service), with a focus on matters that are older than 12 months, to identify why matters have not been resolved. This audit is progressing with over half of the sample of complaints having been audited.

## Misconduct Investigations

The CMC investigates only the most serious or sensitive allegations of misconduct. Investigations undertaken in Misconduct Operations are generally not reported on publicly until finalised. There would be a significant risk of either compromising a current investigation or causing reputational damage to those persons who are under investigation otherwise. Discussing the progress of an investigation also carries with it a risk that persons who are assisting by confidentially providing information to the CMC would be identified.

As at 31 March 2014, Misconduct Operations has 32 matters under investigation (including 5 cooperative investigations). The full breakdown for the 32 investigations outstanding, and a guide as to the duration of the investigations, is as follows:

11	(34%)	< 3 months
6	(19%)	3–6 months
6	(19%)	6–9 months
4	(12%)	9–12 months
5	(16%)	> 12 months
32	(100%)	

## Improving the timeliness of our investigations

In July 2013, the CMC reported to the PCMC that as part of continuous improvement, we had implemented a number of initiatives aimed at improving the timeliness of investigations.

Those initiatives have resulted in a marked reduction in the number of matters under investigation which exceed 12 months. As at the end of this reporting period Misconduct Operations had 5 (16%) investigations on hand which exceeded 12 months, this shows a considerable improvement from the same time last year at which time there were 15 (32%) investigations exceeding 12 months. Misconduct Operations is working towards ensuring that it has no investigations over 12 months by the end of the current financial year. For the reporting period 1 July 2013 to 31 March 2014, 78% of the investigations were finalised within 12 months. This measure is expected to fall slightly lower if Misconduct Operations successfully finalises the remaining investigations which are currently exceeding 12 months.

## Oversight of the Queensland Police Service

### QPS complaints

During the reporting period, the CMC received 134 complaints containing 255 allegations against police. This represents a 24% decrease when compared with the same period last year. For the financial year to date, the CMC has received 1,403 complaints against police, compared to 1,716 in the corresponding period in 2012-13.

Indigenous complaints decreased slightly for the reporting period, comprising 5 per cent of the total complaints made against police.

## Reviews of matters dealt with by the QPS

For the reporting period 1 March to 31 March 2014, 11 police matters have been the subject of close monitoring through a case review. The CMC was satisfied with the way in which the QPS dealt with those matters in all cases.

## Discipline reviews and appeals

In the reporting period, we examined 5 'reviewable decisions' (involving 26 disciplinary matters). We also had four ongoing QCAT review applications. One of these matters finalised during the reporting period. Another of the matters was a new application, filed during the reporting period.

There was also one ongoing appeal in QCAT relating to a discipline matter, and one ongoing discipline matter in the Court of Appeal which has now finalised.

Taking into account the two finalised matters referred to above, the CMC currently has five ongoing discipline matters in QCAT.

## Oversight of police-related deaths and 'significant events'

The CMC is informed of all police-related deaths and also of 'significant events' involving police. It may elect to attend an incident if there is concern regarding the public interest (for example, where a police officer has shot at someone, regardless of whether there have been injuries or deaths).

In the reporting period the CMC has not responded to any police-related deaths nor received notification of any significant events across the state.

## Investigating allegations of serious misconduct

For the reporting period 1 March to 31 March 2014, the CMC has finalised 2 investigations into 3 serious allegations of police or official misconduct. Both investigations were found to be unsubstantiated.

For the financial year to date, the CMC has commenced 22 new investigations (including 3 co-operative investigations) and finalised 16 investigations into allegations against police.

## Research

### Police use of force monitoring program

In January 2013, the CMC improved its capacity to monitor aggregate trends in Queensland Police Service use of force incidents. The CMC established a use of force monitoring program, which monitors the type, frequency and basic characteristics of recorded QPS use of force incidents over time, to:

- identify any notable trends in police use of force to inform possible further work by the CMC
- enable timely internal advice about the frequency of police use of force.

The data is analysed biannually and two internal reports are prepared. Report 1 was completed in October 2013 and Report 2 is due for completion in April 2014.

### Audit of community safety plans in discrete Indigenous communities (Action 49 of Restoring order)

The CMC's Restoring Order report recommended that efforts to reduce crime and violence in remote and other discrete Indigenous communities must be guided by strong local-level planning. Previous government arrangements required the development of a community safety plan in each discrete Indigenous community and in the Torres Strait. Action 49 of Restoring Order requires the CMC to audit the crime prevention and community justice (including policing) component of the plans in 2013 with a focus on their potential to reduce and prevent crime and violence, and improve the relationship between police and the communities.

A preliminary assessment of the status of community safety planning determined that insufficient progress had occurred to make a traditional audit meaningful. The project terms of reference were modified to reflect this lack of progress. The

project now aims to highlight some of the key learnings from the process to date with a view to improving future community safety planning processes.

The project commenced in May 2013 with an expected completion date of May 2014.

## **Public Sector (including Local Government)**

### **Complaints**

During the reporting period, the CMC received 156 complaints containing 194 allegations related to public sector and other agencies (including government-owned corporations and members of Parliament). The number of complaints received is approximately the same as the same period last year.

For the financial year to date, the CMC has received 1,372 complaints related to public sector and other agencies, compared to 1,617 in the corresponding period in 2012-13.

In the local government sector, for the reporting period we have received 32 complaints (containing 45 allegations) of official misconduct involving local governments, which is a decrease of 22% when compared to the same period last year. For the financial year to date, the CMC has received 246 complaints about local governments, compared to 331 in the corresponding period in 2012-13.

### **Monitoring**

For the reporting period 1 March to 31 March 2014, the CMC has reviewed 13 complaints investigated and or dealt with by public sector agencies (including local governments). The CMC was satisfied with the way in which agencies dealt with the matters in the majority of cases.

As a result of our reviews, 2 procedural recommendations to agencies were made. Recommendations focussed on areas such as reviews or amendments of policies and procedures and deficiencies in relation to an agency's tendering and procurement framework.

### **Investigating allegations of serious misconduct**

For the reporting period 1 March to 31 March 2014, the CMC finalised 9 investigations into 44 serious allegations of official misconduct in the public sector (including local government). As a result of these investigations, 3 matters involving 13 possible criminal offences are under consideration.

For the financial year to date, the CMC has commenced 19 new investigations and finalised 28 investigations into allegations against public sector employees (including local government).

Other noteworthy outcomes in this period include:

The prosecution of a contractor relating to an investigation into allegations that an employee of the former Department of Local Government, Sport and Recreation was involved in fraud and/or the receipt of secret commissions from the private cleaning/maintenance contractor. On 7 March 2014 the contractor was sentenced to 18 months imprisonment wholly suspended for two years and ordered to pay restitution to the Department of Natural Parks Recreation Sport & Racing in the amount of \$18,345.90. Prosecution proceedings against the departmental employee are expected to commence in the near future.

### **Misconduct prevention and anti-corruption activities**

Under its legislation the CMC has a function of helping to prevent misconduct. Prevention officers are attached to investigation teams, enabling ongoing reviews of the systems, policies, procedures and work practices relevant to the matter under investigation. Prevention officers focus on the systemic causes of misconduct, rather than the individual



who has been involved, to identify weaknesses and gaps and make recommendations to reduce opportunities for misconduct within the agency and, where relevant, across the public sector.

Agencies responded to 28 of our recommendations within the reporting period and they accepted/implemented 100 per cent of them. Recommendations related to reviews or amendments of policies and procedures, improvements to record-keeping practices and access controls, development of a critical incident management framework and staff training in relation to codes of conduct, managing conflicts of interest and procurement practices.

## **Presentations**

Presentations provided in March included the following:

- Information sessions to the Sunshine Coast, Metro North, Darling Downs, Metro South and Children’s Hospital and Health Service (HHS) Boards and Executives designed to educate senior executives and board members of HHSs of their obligations under the *Crime and Misconduct Act 2001*. Topics covered during the sessions are:
  - Dealing with suspected official misconduct;
  - Misconduct Risks: Awareness and management;
  - Ethical Issues.

The motivation to deliver these sessions arose from two factors observed by the CMC. Firstly, a small number of complaints that indicated a lack of compliance with policies and procedures by senior executives and a steady decline in the number of matters that were being reported to the CMC following the restructure of the Department of Health into 17 individual HHSs.

## Witness protection

---

For reasons that include preserving the safety of witnesses it is not possible to include reports on short-term or recent Witness Protection performance.

However, in the reporting period all witnesses in our program were kept safe and were able to give their evidence in court.

Additionally, the target for performance against the witness protection service standard in the CMC's Service Delivery Statement is currently exceeded with the median time taken to conduct an initial witness protection assessment at 10 hours against a target of 48 hours for the period 1 July 2013 to 31 March 2014.

# General Counsel and Legal Services

---

## Significant issues

### Police disciplinary reviews

The CMC has a number of QCAT reviews in relation to police discipline on foot. These cover a range of different aspects of police misconduct.

In total, over the relevant period the CMC was involved in four police disciplinary review applications before QCAT (i.e. Lee, Moran, Majewski and Alexander), one of which has now finalised, and one appeal in relation to disciplinary matters before QCAT (i.e. Francis), which is ongoing. The Court of Appeal delivered its decision in a long-running police discipline matter (Flegg) during the reporting period. The CMC was unsuccessful in its attempt to have the suspension of sanction removed.

### Judicial Reviews

The CMC has been involved in five judicial review matters over the relevant period, three of which are ongoing and two of which were recently decided in the CMC's favour (after proceeding to hearings late last year). Of the total, four involve witnesses who have been required to attend at crime/intelligence hearings and the final matter relates to an official misconduct investigation conducted by a unit of public administration.

### Section 195 appeals

The CMC has been involved in two appeals pursuant to s 195 of the CM Act, relating to witness' claims of "reasonable excuse" in relation to requirements to answer questions at CMC hearings. One of these matters is currently before the High Court.

### Contempt Applications

There have been four ongoing contempt applications on behalf of the CMC over the relevant period, some of which are still ongoing. There is one further matter that was finalised in the last reporting period that was not reported on in the last report. Some of these relate to criminal motorcycle gang (CMG) matters arising from CMC intelligence hearings.

### ***Telecommunications (Interception and Access) Act 1979 (Cth)***

The Crime and Misconduct Commission (CMC) became an "enforcement agency" after the enactment of the *Telecommunications (Interception and Access) Amendment Act 2007* (Cth) in November 2007. Until the enactment of the *Telecommunications Interception Act 2009* (Qld) (Qld TI Act) in June 2009, the CMC utilised telecommunications data and stored communications information as part of its investigative strategies.

Under the Qld TI Act, the CMC was declared to be an interception agency for the purposes of the *Telecommunications Interception and Access Act 1979* (Cth) (TIA Act) on 8 June 2009. From this point, CMC investigative teams have increasingly used telecommunications interception (TI) capabilities as part of their investigative strategies, to great effect. The TI regime imposes a number of stringent obligations upon the CMC; accordingly, the agency has developed formal policies and procedures and provides ongoing TI training to assist relevant CMC officers in appropriately discharging those obligations.

TI warrant powers are utilised regularly, adopting the compliance procedures established by General Counsel and the Legal Services Unit and approved by the Commission. The updated procedures adopted in relation to using, communicating and destroying lawfully intercepted information are subject to ongoing review to ensure compliance with legislative requirements.

## **TIA Act Reform**

It has been recognised that the TI landscape is constantly changing and that the interception of data has become increasingly important in the management of criminal and misconduct operations. Given the complexity of the TIA Act and its inability to keep pace with technological advances in telecommunications, the former Commonwealth Government sought to embark upon TIA Act reform — in particular, principles-based TI legislation that would be flexible enough to encompass new technologies and provide a more streamlined approach for agencies who use TI as an investigative tool.

On 16 December 2013, the CMC was invited by the Senate Legal and Constitutional Affairs References Committee (the Committee) to lodge a submission to the Inquiry into Comprehensive Revision of the TIA Act, with specific regard to:

- (a) The recommendations of the Australian Law Reform Commission *For your Information: Australian Privacy Law and Practice* report, dated May 2008, particularly recommendation 71.2; and
- (b) Recommendations relating to the TIA Act from the PJCIS *Inquiry into the potential reforms of Australia's National Security Legislation* report, dated May 2013.

The CMC lodged a submission to the Committee on 27 February 2014, which was accepted on a confidential basis. The Committee is due to release its report on 10 June 2014.

## **Reporting and Compliance Obligations**

The Parliamentary Crime and Misconduct Commissioner has continued to report favourably in relation to the CMC's procedure on obtaining TI warrants and managing TI warrant information. The CMC has also been assessed as compliant by the Commonwealth Ombudsman with regard to stored communications obligations under the TIA Act, and Commonwealth surveillance device obligations under the *Surveillance Devices Act 2004* (Cth).

# Our people

The CMC recognises that committed and capable employees are central to our success in achieving our goals and objectives. We continue to review, develop and implement human resource management practices and programs to provide a supportive and stimulating environment for all staff.

## CMC Establishment

(as at 31 March 2014)

### People

Functional Area	Data	Employment type			Grand Total	Feb-14	Differential
		Permanent	Temporary	Casual			
Executive, Office of the Commission	Headcount	15	5		20	20	0
	FTE	15	5		20	19.8	0.2
Strategy & Service	Headcount	47	14		61	61	0
	FTE	44.9	12.99		57.89	57	0.89
Crime	Headcount	52	17	3	72	62	10
	FTE	51.3	16.8		68.1	58.8	9.3
Intelligence	Headcount	28	2	19	49	54	-5
	FTE	26.95	2		28.95	32.6	-3.65
Misconduct	Headcount	79	11	1	91	92	-1
	FTE	77.8	10.4		88.2	89	-0.8
Research	Headcount	13	5		18	18	0
	FTE	12.5	4		16.5	17.6	-1.1
Witness Protection & Operations Support	Headcount	50	0		50	52	-2
	FTE	49.4	0		49.4	51	-1.6
<b>Total Count of Actual Staff</b>		284	54	23	361	359	2
<b>Total Sum of Staff FTE</b>		277.85	51.19	0	329.04	325.8	3.24

## Permanent positions

Functional Area		Mar-14	Feb-14	Differential (Actual)	Differential (FTE)
Executive, Office of the Commission	Actual	15	15	0	
	FTE	15	15		0
Strategy & Services	Actual	56	56	0	
	FTE	55.4	55.4		0
Crime	Actual	51	51	0	
	FTE	51	51		0
Intelligence	Actual	35	35	0	
	FTE	33.8	33.8		0
Misconduct	Actual	88	88	0	
	FTE	87.8	87.8		0
Research	Actual	19	19	0	
	FTE	19	19		0
Witness Protection & Operations Support	Actual	52	52	0	
	FTE	52	52		0
<b>Total</b>	Actual	316	316	0	
<b>Total</b>	FTE	314	314		0

## Police Service Reviews

---

Commissioners for Police Service Reviews (Review Commissioners) arbitrate on any grievances that police officers may have about promotions, transfers or disciplinary action. To ensure the transparency and independence of the review process, Queensland Police Union of Employees representatives have a standing invitation to attend promotion, transfer and disciplinary review hearings as observers.

When a review matter progresses to a hearing, the Review Commissioner is empowered to consider the material presented and prepare written recommendations for the attention of the Commissioner of Police (Commissioner), who makes the final decision. If a recommendation is not accepted, the Commissioner must provide the Review Commissioner with a statement of reasons for this.

During the reporting period, the following statistical information applies:

Status	Promotion	Transfer	Unapplied Transfer	Disciplinary	Non-appointment
Matters lodged					
Matters withdrawn before hearing					
Matters out of jurisdiction					
Matters awaiting hearing at 31/03/2014			1	1	
Matters heard		1		1	2
Matters progressing (awaiting papers)		1		1	
Matters referred for Judicial Review					
Matters lapsed					
Matters awaiting outcome from hearings held in previous reporting period		2			

# Media

---

## Media releases

- 11.03.2014 CMC secures largest cash forfeiture of \$4.3 million in proceeds of crime action – Statement announcing that the CMC has successfully obtained a Supreme Court order forfeiting \$4.3 million in cash to the State of Queensland, making it the largest forfeiture of cash since the CMC began administering the proceeds of crime scheme in 2003.
- 06.03.2014 CMC arrests Murrumba Downs man on child exploitation charges – Statement announcing that a 54-year-old Murrumba Downs man has been charged with 17 child exploitation material offences following an investigation by the CMC’s Cerberus team.

## Media interviews

- 11.03.2014 Director Financial Investigations, Angela Pyke: Interview with 4BC radio about the CMC’s record cash forfeiture of \$4.3 million. CMC media staff were present.



# Communications

## External presentations

PRESENTER AND TITLE		AUDIENCE	TOPIC
<b>March 2014</b>			
25/03/14	David Goody Manager, Proceeds of Crime	Public Trustee of Queensland	Recovering the Proceeds of Crime
25/03/14	Paul Collings Prevention Adviser	Board Members and Exec Staff, Metro South HHS	Misconduct Risks: Awareness and management
	Elske Shaw Prevention Adviser		Dealing with suspected official misconduct
24/03/14	Paul Collings Prevention Adviser	Board Members and Executive Staff, Darling Downs HHS, Toowoomba	Misconduct Risks: Awareness and management
	Elske Shaw Prevention Adviser		Dealing with suspected official misconduct
20/03/14	Paul Collings Prevention Adviser	Board Members and Exec Staff, Children's Health Qld HHS	Misconduct Risks: Awareness and management
19/03/14	Darren Brookes, Assistant Director Det Insp Geoff Acreman Integrity Services	Professional Practice Managers (PPM) Conference, Brisbane.	Work of the Police Program and the obligations at the CMC for suspected misconduct.
13/03/14	Elske Shaw Prevention Adviser	Executive Staff, Metro North HHS	Dealing with suspected official misconduct
	Paul Collings Prevention Adviser	Executive Staff, Metro North HHS	Misconduct Risks: Awareness and management
11/03/14	Senior Sergeant Wright Forensic Computing Unit	2014 X-Ways Users Conference, Canberra (National conference attended by state & federal forensic computing sections)	Conference Opening Address including conference agenda and aims (financial/learning benefits gained through the Australian forensic computing community working together and sharing up-to-date research on the unlimited sources of electronic evidence)
			Presentation on Advanced Data Collection (securing electronic evidence using different methods for different scenarios)
05/03/14	Elske Shaw Prevention Adviser	LocalBuy Fleet and Procurement Conference, Brisbane	Workshop: Fraud and Corruption Control
04/03/14	Paul Collings Prevention Adviser	Board Members and Exec Staff, Sunshine Coast HHS, Nambour	Misconduct Risks: Awareness and management