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JOINT COMMITTEE ON THE AUSTRALIAN COMMISSION FOR
LAW ENFORCEMENT INTEGRITY

Reference: Law enforcement integrity models

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JOINT STATUTORY COMMITTEE
ON AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY

Friday, 14 November 2008

Members: Ms Parke (*Chair*), Senator Johnston (*Deputy Chair*), Senators Carol Brown, Cameron and Parry and Mr Chester, Mr Clare, Mr Hayes and Ms Ley

Members in attendance: Senator Parry and Mr Chester, Mr Clare and Ms Parke

Terms of reference for the inquiry:

To inquire into and report on:

- a. the responsibilities and powers of the various state law enforcement integrity agencies;
- b. the organisational structures and internal governance arrangements of the various state law enforcement integrity agencies;
- c. the governance structures that underpin the state law enforcement integrity agencies' relationships with external bodies including:
 - i. state ombudsmen
 - ii. parliamentary oversight committees
 - iii. intelligence-gathering agencies
 - iv. other relevant agencies
- d. the legal rights and obligations of the various state law enforcement integrity agencies to investigate corruption issues involving law enforcement officers formally or informally seconded to national law enforcement agencies or participating in joint operations with national and/or state law enforcement bodies;
- e. existing state corruption prevention programs;
- f. the internal anti-corruption processes of the state law enforcement bodies and the protocols and processes in place for reporting corruption matters to their respective integrity agency;
- g. the adequacy and applicability of existing state law enforcement integrity approaches to the structure and operations of ACLEI.

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Committee met at 10.35 am

CHAIR (Ms Parke)—I declare open this public meeting of the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity. Today's public hearing is for the committee's inquiry into law enforcement integrity models. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, but under the Senate's resolutions witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken, and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may of course also be made at any other time.

[10.36 am]

PRENZLER, Professor Timothy James, Private capacity

CHAIR—Welcome. The committee has accepted your submission as submission No. 2. Are there any changes you would like to make to it before we proceed?

Prof. Prenzler—No.

CHAIR—I now invite you to make a short opening statement, at the conclusion of which I will ask members of the committee to ask questions.

Prof. Prenzler—I was told I had three minutes. I started scratching something out yesterday afternoon and ended up typing it out. If you do not mind, I will just read it out. It might be a little tedious, but I will try to be quick.

My submission advocates what has been termed a civilian control model of law enforcement integrity management. The model entails a substantive and controlling role for an external agency in the investigation and adjudication of complaints and related integrity matters. I do envisage some flexibility in the application of this model. Essentially, the more a police department displays a high-risk profile for misconduct, the more the external agency needs to be directly involved in investigations and adjudications as opposed to a detached review role. All external agencies should, however, have the legal power and capacity to conduct investigations into any matters related to possible misconduct and, importantly, to adjudicate any matters by inquisitorial process with disciplinary authority, including employment termination, subject to an appeal process.

Agencies should also have the capacity to engage in covert investigations, including the use of integrity tests, undercover agents, listening devices and communication intercepts. They should also be able to conduct drug and alcohol tests, provide whistleblower protection, provide dispute resolution and mediation services and engage in integrity profiling and early intervention in relation to police officers, police staff and units of police organisations or to direct police to engage in these activities and direct police to make improvements to procedures.

In many jurisdictions, police misconduct is categorised into three tiers of seriousness. I believe that, at a minimum, all matters in the top two tiers should be automatically managed by the external agency. Complaints assessment and investigation teams should consist of a majority of officers who have not been police officers. At the same time, I believe that complainants in most cases should be consulted about whether their complaint is handled internally or externally and whether they would prefer to have their complaint managed through mediation. Too many anticorruption agencies fail to properly engage with complainants and often evince a disdainful attitude towards ordinary disaffected citizens.

I also advocate a model in which all public sector agencies within the jurisdiction are oversighted by a single public sector integrity commission. This agency would treat police, politicians, public sector agencies and statutory corporations on an equal basis. Within the

agency, a dedicated police section would ensure that law enforcement agencies receive a specific sustained focus. Such an agency should be tasked solely with integrity matters. It should not be encumbered by additional and potentially conflicting tasks such as combating major and organised crime or coordinating criminal justice processes.

A public sector integrity commission should also be readily accessible to ordinary citizens through a regional shopfront presence. It should not be bunkered down in a central business district. There must also be transparency in reporting comprehensive statistics on case dispositions and trends and issues in misconduct. I believe that this is the best model to minimise misconduct, to satisfy complainants and to ensure community confidence in the independence and quality of police and public sector integrity management. Thank you. How many minutes was that?

CHAIR—It was very good. I am now going to open it up to my colleagues to ask questions.

Senator PARRY—In your opening statement, you mentioned that it would not be police officers forming the core part of the investigation team. Can you just expand on that? What about police officers with an integrity background who may have left the police force or may have come from a different jurisdiction? Would you exclude them as well?

Prof. Prenzler—Not entirely. I think experienced police officers with a good record definitely have a role to play. I think they should be in the minority, though. Investigative teams or assessment teams should consist of a majority of non-police or non-former police investigators.

Senator PARRY—Where would they develop their skills?

Prof. Prenzler—Sometimes when agencies start up—for example, after a major corruption scandal, especially in larger states—this presents a problem. Probably, for an interim period, you need seconded or ex-police investigators. But over a period of time, it is quite possible to (a) train your own investigators or (b) recruit them from other agencies—for example, private investigators or insurance investigators.

Senator PARRY—The majority of private investigators and insurance investigators are usually ex-police officers. It is a never-ending cycle.

Prof. Prenzler—Yes.

Senator PARRY—You made a comment about starting up originally with police officers. To me, that would be more dangerous than bringing the odd police officer into a new culture. Do you have any comment about that?

Prof. Prenzler—I think it just depends on the circumstances. You can advertise for non-police investigators, but you have to take the best applicants or the best people you can find. The preference, the priority, should always be for a majority of investigators and staff who have not been police. That is really about perceptions of independence.

Senator PARRY—Thank you for that. You mentioned this being not centralised, that you would like to see a diversification of offices, as well as having them staffed. Can you just expand

on why you do not think it needs to be centralised? I preface your comments with the fact that I have the view that centralisation sometimes assists because of the physical passing of information. If you have people in remote locations, that free flow of information does not occur to the same extent. Could you bear that in mind with your answer?

Prof. Prenzler—Again, I think it depends on the circumstances. We can take Queensland as a case study. You have a mix of urban centres. You have a very large state. Obviously, you need a central office, but unfortunately the CMC, as an example, is overly centralised. It does not have any permanent representation in any major cities outside Brisbane, such as Toowoomba, the Gold Coast or Cairns. It is therefore limited in its accessibility. Also, it is not particularly easy for ordinary people to access where it is located. I do not think it would be particularly difficult for it to diversify its presence.

Senator PARRY—I will just play devil's advocate here. What if you had CMC offices, say, in Townsville that had been there for a number of years, that have started to be a part of the community and that know the people they are dealing with? Wouldn't it be easier to have a fresh team come in from Brisbane and go to Townsville to conduct the investigations and inquiries, to have that independence, that clarity of thought, without being involved with personalities?

Prof. Prenzler—I think those sorts of issues have to be judged on the basis of their merits depending on the circumstances. If there was a perception that staff were becoming overly familiar with the people they were potentially investigating then they could be moved. If there were more serious cases, you would probably have to send in flying squads to either work with the local people or take over from them. One of the advantages of having a CMC type body that is an integrated agency that covers the whole public sector is that it is large and therefore you can have staff movements between regional offices and central offices as opposed to a smaller agency that is just dedicated to police.

Senator PARRY—I have got lots of other questions but I should give my colleagues some time. You mentioned in your submission the six assistant police commissioners who marched on the minister's office. That was one example of the CJC at that stage, in 1996, not fulfilling its role or not being able to control issues. The tenor of that particular section was also about tenure of senior officers and there is a debate at the moment—is the Bingham in there Sir Max Bingham?

Prof. Prenzler—Right.

Senator PARRY—Sir Max has been in the media within the last four or five months promoting the fact that there has been a breakdown in senior public servants as well as police officers in that there is no frank and fearless advice anymore because they are on tenure and they give advice basically to satisfy what they think the minister wants to hear in order to secure favour for tenure. I am not saying that is correct; that is what Sir Max asserted. Do you have a view about that? If you do, what is the best model for employing commissioners of police and possibly the next two levels down of deputies and assistants? Is the contract method bad or good? Also, should there be another way of appointing senior public servants so that you can be removed from office but not removed from office lightly and you have security of tenure?

Prof. Prenzler—The contract model for very senior police was a Fitzgerald recommendation. A similar kind of recommendation I believe was made in relation to Corrective Services here in Queensland following a parallel review, the Kennedy review. I guess it was kind of flavour of the decade in the late 1980s, using contracts as an accountability tool. I do not think it has worked very well. I think it is better to employ people on a permanent basis and if they do not perform then have mechanisms for removing or demoting them. Although I used that example in that study, I do not actually advocate contract employment even for very senior positions. I think it is better, for example, for an oversight agency to have a capacity to remove senior staff if they are not performing. In that case there was quite a lot of evidence on integrity and other matters from the CJC that these police senior police were not performing but their contracts were renewed.

Mr CHESTER—To take up a point that Senator Parry raised regarding decentralisation that you referred to, would you expand a bit more in terms of community confidence and access point you made? I think you referred to it in your opening comments.

Prof. Prenzler—One of the reasons a lot of anti-corruption agencies do not investigate matters themselves is because they are relatively minor matters and they really concern police outside the major city. Therefore they are happy not to travel, and travel is expensive. If you think of somebody in North Queensland who has a complaint against a police officer and expects it to be independently investigated, potentially the person doing that investigation would be 2,000 kilometres away. So it is an entirely unsatisfactory process. I believe that if an anti-corruption agency had more of a regional presence it would encourage reporting of misconduct and support public confidence. Unfortunately we do not have any models of that in Australia at present to test this theory, so it is a hypothesis at the moment.

Mr CHESTER—Queensland is probably one of the most obvious states where you do have such major regional centres dispersed over that few thousand kilometres of coastline. I have got a view that if you embed people in a community they will get a better understanding and they may even find items of concern. Then you probably still need oversight from the central office. The benefit you have achieved by having someone in the community understanding their community could then be restricted by the fact that they know everyone in the community, and we know what small communities are like. Could you see a model where you could have a regional office but still involve investigators from the central office to oversight? Is that a shandy effect almost?

Prof. Prenzler—I think that is feasible. You have to keep in mind, though, that regional centres in Queensland are very large. The Gold Coast, for example, has about 400,000 people, so you cannot really get to know local people. As I indicated before, I think that is an issue that needs to be monitored. There are ways of getting information about whether or not that is working, if there are problems that need rectifying.

Mr CHESTER—You referred to police forces with a demonstrated high-risk profile for misconduct. Can you expand on that? What is that profile that you have seen through your work?

Prof. Prenzler—There are lots of sources of information about potential or possible misconduct—for example, journalists, lawyers, public complaints, various scandals or exposes

that are perhaps revealed in the press. They vary a lot from jurisdiction to jurisdiction. For example, in the New South Wales police, in particular in the Sydney area, you would have to say there is a very long history of quite serious and extensive misconduct there. Consequently, they need a very powerful agency that is highly interventionist. It is not necessarily the same case in, for example, Tasmania, where there has been very limited evidence as far as I am aware of any kind of entrenched, long-term, serious misconduct. The complaints about police and the indicators of police misconduct there are much more low level. So I do not know that you necessarily need to have such an active and interventionist agency in Tasmania, for example, as in New South Wales—but I still think that agency should be tooled up already in case there are any indicators of some pocket of serious drug related corruption in Launceston or something like that that needs to be investigated with covert tactics. And that information could come from informants or from criminals themselves.

Mr CLARE—You outlined your preference for an integrated public service integrity commission. I am interested in your thoughts on the preferred model for the review of those decisions or, where complaints are made about such a commission, what the best model might be for watching the watchers, be that the form that a parliamentary committee might take but more specifically in terms of an independent officer of the Crown that reviews those decisions. I know in Queensland there is a parliamentary commissioner that I understand only acts on requests by the parliamentary committee. It might be different in other states where they act independently and can take complaints and review decisions of their own accord. Do you have a view about how that model should work above the integrity commission itself?

Prof. Prenzler—I think the best model is a cross-party parliamentary committee that has an inspector or a commissioner—I think inspector is a better term—who is a kind of mini standing commission themselves and has all those powers to subpoena witnesses and walk into commission offices and obtain documents or order the release of documents, and can act on request from the parliamentary committee. But I think they should also be able to receive complaints from staff or the public about the integrity commission and be able to investigate those and make reports and to make recommendations for any disciplinary action that might be deemed appropriate to either the public prosecutor or a misconduct tribunal. The experience in Queensland and in other places like WA is that a parliamentary oversight committee must have some sort of executive arm that can act for it, a person who can go out and ask questions.

Mr CLARE—But not necessarily bound to act only on the request of the committee?

Prof. Prenzler—No. I think they should also have an independent own motion power, just like the commission itself.

Mr CLARE—Like the police integrity inspector in New South Wales.

Prof. Prenzler—Right.

Mr CLARE—Do you have some specific thoughts on the powers that ACLEI has at the moment and its own legislative framework and structure? Do you have any recommendations to this committee about the current powers that ACLEI has, the scope of its work and the nature of the bodies that should sit above it to review its activities?

Prof. Prenzler—I do not have a detailed knowledge of ACLEI, I am sorry. In my submission I focused on the question of general models rather than their specific application to ACLEI. Speaking very generally, I like the powers of ACLEI in terms of its capacity to investigate matters. I do not like the fact that it does not have adjudicative powers; it can only make recommendations. I think it works most efficiently for an anticorruption commission to have both those functions—as long as there are particular rights for the subject officers and an appeal process. My research on the operation of anticorruption agencies, particularly in relation to police, is that quality investigations and generally fairly good decisions about police officer conduct are far too easily undermined by the delegation of the disciplinary decision. I could refer you to a large number of reviews and reports, both external reviews of integrity arrangements for police and external oversight and reports by the integrity agencies themselves, commenting on and complaining about police subversion of disciplinary recommendations—that is, either appearing to carry them out and not really doing it in practice or simply rejecting the recommendation. I think it is a particular problem in the United States, where the recommendations are made to police chiefs and they have significant authority. It has not been such a problem in Australia, probably because of higher levels of public scrutiny, but anticorruption agencies such as the CMC here in Queensland and the PIC have repeatedly complained about police not following sufficient numbers of their recommendations in regard to discipline.

Mr CLARE—Is that an issue that is a problem around the country?

Prof. Prenzler—I believe so.

Mr CLARE—Which agencies or which commissions have adjudicative powers?

Prof. Prenzler—There are none in Australia.

CHAIR—In your paper, *Civilian oversight of police in Australia: a test of capture theory*, you outline the issue of regulatory capture and we see that there are often integrity agencies carrying out joint operations with the agency that they are oversighting and close cooperation between the ethics branches of the agency being oversighted and the integrity agency. Do you see that as a significant issue, particularly where the ethics division of the oversighted agency may actually be much better resourced than the integrity agency itself?

Prof. Prenzler—I certainly do think it is a problem. In Queensland we have a particular problem, in my view, with reliance on seconded police officers to the CMC to conduct investigations. They typically have around 90 police working in the CMC conducting investigations. In my view, to a significant extent there is a kind of fraud about the independence of the CMC. It presents itself and it appears to be a wholly independent agency but in fact, particularly in relation to police, most of the hands-on footwork in relation to investigations is done by police. They just happen to be on secondment to the CMC and working out of a CMC office. This creates a perception of bias. It is very difficult to prove bias, but it creates a perception of bias.

I think there are some examples of very successful anticorruption joint operations, particularly from New South Wales, between the police service Ethical Standards Department and the PIC—Police Integrity Commission—for example. They can work. But, again, there is always this

danger of leaks, subversion and perceptions of partiality and preference to police. I think, wherever possible, it is better that the independent, external agency has sufficient resources and sufficient powers to do these operations themselves. At the same time, I think there has to be some leeway and some discretion for the commissioner to make a decision about whether they want to keep it wholly in-house and under wraps and do it all themselves or to work with police.

CHAIR—Thank you. Towards the end of the other article you submitted, *Stakeholder perspectives on police complaints and discipline: towards a civilian control model*, you refer to the role of prevention:

A concern with prevention, on the other hand, will lead to the integration of findings from investigations within a larger research-based risk management approach to integrity.

Could you expand a bit on the importance of prevention, in your view?

Prof. Prenzler—I think one of the demonstrated benefits of independent, external anticorruption agencies in relation to police is that they generally take on a research function that police simply do not do. The culture of policing is to conduct investigations and then to move on to the next investigation and to seek prosecutions. They generally do not have a kind of strategic planning or research orientation. That applies to issues of ethics and integrity as well as to normal policing operations. Usually, external agencies are specifically tasked with having a research, evaluation and prevention role, which they need to be explicit about. They need to report on it. They need to produce plans and that sort of thing.

In the last decade or so, police have taken on that role to some extent. The Ethical Standards Department will produce strategic plans and they will do some reporting, but generally never of the calibre of external agencies. Probably the best example of that is here in Queensland. One of the very positive aspects of the work of the CMC is that it has had this large Research and Prevention Division. It has done a lot of survey work and a lot of analysis work. It has often come up with excellent recommendations for improving police practice. Unfortunately, though, it is usually just a set of recommendations, which are then given to the police to take up.

A very good example is high-speed pursuits. We had a major problem, as in many jurisdictions, with people being seriously injured or killed. There have been a lot of injuries and deaths, from high-speed police pursuits, of police officers and innocent third parties as well as the teenage kids driving these cars. The CMC conducted a very well-resourced, very well-constructed review of that problem. A traditional police agency would never do that. They just do not do it. The CMC did it. That is important evidence of what an independent agency can do: produce an excellent set of recommendations for saving lives and reducing injuries. But the police service was not directed to make these changes. They were simply recommendations. For some reason I do not understand, the police really pulled back on implementing the recommendations. We are now in a second crisis about high-speed police pursuits. The problem has continued because the CMC did not direct the police to implement these procedural changes to save lives.

CHAIR—Can they direct the police?

Prof. Prenzler—They do have a power to direct the police. They have never used it.

CHAIR—Okay. We have seen from your submission that you have looked closely at the models in New South Wales and in Queensland. Have you also looked at other state based integrity agencies in Victoria and Western Australia, for example? What is your assessment of the overall comparative effectiveness of those models—briefly?

Prof. Prenzler—It is difficult to say. The situation is constantly changing, as you are probably aware. I think the OPI in Victoria has proved itself to be very effective in the last couple of years. It was kind of slow to get some runs on the board, but I think that was really a matter of appearance. Behind the scenes, it was actually working to set itself up properly to conduct investigations. As far as having a police only type of commission, the OPI is not exactly the model I like. But, regarding its powers and functions, I think it has been fairly successful. It has basically cracked open some quite serious corruption cases which I do not think would ever have come to light through the previous system, which was basically police with some oversight by the Police Ombudsman.

In New South Wales, again, in theory, I do not really like the model because it is a split model. You have got the ICAC dealing with public sector corruption; you have the ombudsman dealing with lower-level police conduct issues and then the PIC. I think it is a little bit messy—I would prefer the integrated model—but at the same time it does appear to have been fairly effective in minimising misconduct and exposing various problems.

In Queensland, the results I think are quite mixed. There are some very positive aspects. Again, there have been exposés of various pockets of police corruption and various problems. I think we can quite confidently say that systematic, entrenched, serious, ongoing police corruption has been eliminated. The CMC can pick up embryonic stages of these sorts of problems and snuff them out, but I do not think it deals adequately with the high volume of complaints from citizens about how they have been treated by police. I do not think that side of things has been managed very well.

CHAIR—Thank you.

Senator PARRY—To come back to your comments about Tasmania—I will declare an interest, being a senator from Tasmania—what are your views on some form of anticorruption body being developed? You would need a minimum staffing level to have his body and I think you said in your comments that you need to have something there in a state of readiness. But the body probably would not have much to do, so what about hiring or fee-for-service, say for Tasmania government and police agencies, an established jurisdiction such as OPI or in fact if ACLEI changed its legislative provisions it could provide some sort of anticorruption investigation capacity? Do you have a view about that?

Prof. Prenzler—I think that is an excellent idea. I think if you did have an integrated public sector integrity commission in Tasmania it would be fairly busy dealing with complaints about local government, for example, and public servants as well as police. But if there were a sudden increase in complaints or some kind of major problem then I think bringing in expertise and personnel is an excellent idea for sure.

Senator PARRY—Have you had any evidence or in your studies any evidence of when you establish a group in a jurisdiction that has limited corruption that they end up becoming, you

know, the murder investigator into the traffic inspector—trying to find the smallest amounts of offence? Do you have experience or knowledge of that?

Prof. Prenzler—I think generally the trend is the other way. I think the big challenge is actually to find staff for these agencies who have a commitment to the more ordinary complaints—people who think they have been treated rudely by a police officer or have a relatively minor complaint about a local councillor, for example. I think, unfortunately, the culture in these organisations is that they really want the headline-grabbing, serious cases—the more dramatic cases.

Senator PARRY—There is a political angle to that, too. The government of the day wants to have an effective body and having an effective body means, yes, they have a high-profile scalp—

Prof. Prenzler—Yes, that is right.

Senator PARRY—which is a danger in itself. Coming into the national theme, have you seen evidence of sophisticated vexatious complaints against, say, senior police officers who may be vying for promotion? Have you seen the anticorruption bodies or the OPIs of this world being used for the purposes of denting promotion chances?

Prof. Prenzler—No, I am not aware of that problem. I cannot think of any examples.

Senator PARRY—Would you concede that it is a possibility that it could be useful that purpose?

Prof. Prenzler—Yes, definitely. One good thing about the work of the CMC here is that they have pursued prosecutions of vexatious complainants and they have communicated those to the police as well.

Senator PARRY—Chair, I can keep going, but I am happy to be interrupted.

Mr CHESTER—On the prevention issue, you mentioned the integrity profiling of officers. Can you expand on that and any successful programs you have seen of that working around the world?

Prof. Prenzler—Complaints profiling or early warning systems or early intervention systems have been in operation for about 40 years, mainly in the United States. They were developed in the United States, focused on this problem of the so-called problem officer. Various inquiries like the Knapp commission inquiry, the Christopher commission inquiry and a whole bunch of other inquiries, when they analyse complaint statistics usually find that a small number of officers attract a large number of complaints. The problem is that often there is insufficient evidence to take any action against these officers but the complaints are often about the same thing, such as assaults, for example. A classic example which was given to me by the Victoria Police was a female motorist making a complaint about a traffic police officer making sexually suggestive comments after the driver has been pulled over. It is a case of he said, she said; there is no objective evidence and no witnesses. The complaint is unsubstantiated. But six months or 12 months later there is a similar complaint, so complaints can build up like that—unsustained, but

there is a pattern. Unless those complaints are analysed for those sorts of patterns, no-one is actually aware that this officer is drawing repeat complaints.

So programs have been set up. There are now computer software packages that can be purchased to maximise the effectiveness of these programs where complaints against officers and also against organisational units, stations or squads, can be profiled on a regular basis. It usually involves a point-and-flag system so that if an officer attracts, say, three complaints in 12 months a flag will come up. Then staff in that unit will develop a more detailed profile of this officer. Usually they will pull the officer in and have a discussion with them. There are a whole lot of complications about due process and all that sort of thing but there are a number of options for intervention for working with the officer, including closer supervision and retraining. Often it is found that simply alerting the officers to the fact that they are being monitored can be enough for the complaints to suddenly stop. That has been shown to be quite effective in reducing complaints overseas. The best system currently is in Victoria. They have been operating that system since about 1997. The New South Wales Police are about to bring in a system. Peter Martin, who is talking to you later, can tell you about the Queensland system: in his own words, it is fairly basic and rudimentary. There are a variety of indicators that can be used apart from complaints, such as sick leave or use of force indicators, use of tasers or weapons and that kind of thing. All these indicators can be crunched and profiles developed of officer complaint histories. So really any larger police department needs to have that system in place now to be doing its work properly.

Mr CLARE—I want to ask some further questions based on the previous questions I asked about the ACLEI model and the parliamentary committee that we belong to. I am interested in whether you think there is a need at the moment in the federal model for an inspector type role between the committee and ACLEI, and more particularly, given our current consideration to the current and future role of ACLEI, what it should investigate into how broad its responsibility should be across the federal Public Service and whether at some time in the future there should be some type of inspector role.

Prof. Prenzler—I think there should always be an inspector available to a parliamentary committee. But they will not be occupied full time even in large jurisdictions, so they have to have some other job. They need to be available and have all the powers available to them so that that power can be activated whenever it is required.

Senator PARRY—I know you said you did not have a thorough understanding about ACLEI. Currently ACLEI has authority to investigate corruption in the Australian Federal Police and the Australian Crime Commission. At some stage we will be asked to come to a considered view about whether that should be expanded to other agencies with coercive or investigative powers such as ATO, Customs et cetera. Do you have a view about that?

Prof. Prenzler—That idea is consistent with my idea of a public sector integrity commission. I think it should be extended to the whole Commonwealth Public Service. I think there should be an ombudsman who simply deals with complaints about administrative decisions and makes recommendations—that traditional ombudsman model—and then a public sector integrity commission that covers the whole public sector. Within that, because of the particular problems with policing, you have to have a dedicated unit or division exclusively for police. Exactly what ‘police’ are is debatable. Obviously it is the Federal Police and the Australian Crime

Commission. I think it is a matter of judgement about whether there are other agencies that are similarly police-like in their powers that should be included in that unit, but certainly an integrity commission should cover them.

Senator PARRY—Changing the theme completely, some police jurisdictions have a difficulty with maintaining the expensive telephone interception units and the covert surveillance equipment and units. If there was a centralised unit for all of Australia, and that unit would outsource services to jurisdictions that wished to use it, do you feel that a model of integrity and anticorruption supervision could be monitored federally or would you consider that to be something that would need to be looked at when they were working on a state-by-state jurisdiction?

Prof. Prenzler—I am afraid it is not something I have thought about. It is an entirely new question for me; I would have to give it some thought. I guess in principle it sounds viable, subject to various controls. The main danger potentially would be leaks.

Senator PARRY—Correct, but then I suppose you might have one jurisdiction that develops a lot of expertise and it might be less susceptible to corrupt activity if it comes from a centralised position rather than a localised state position.

Prof. Prenzler—Yes.

Senator PARRY—Thank you.

CHAIR—Professor, do you have anything you wish to add to what you have already said to the committee?

Prof. Prenzler—No.

CHAIR—As there are no further questions, thank you very much for giving your time to give evidence today.

[11.22 am]

MARTIN, Assistant Commissioner Peter John, Ethical Standards Command, Queensland Police Service

STEWART, Deputy Commissioner Ian Duncan, Specialist Operations, Queensland Police Service

CHAIR—I welcome witnesses from the Queensland police. I invite you to make a short opening statement, at the conclusion of which I will ask members of the committee to ask questions.

Deputy Commissioner Stewart—Thank you, Chair. We have no real opening statement other than to thank you for the opportunity to come before you and discuss matters of mutual interest. We hope that through the question and answer process we can provide you with the information you are looking for.

CHAIR—Thank you. I might start by asking you to provide an overview of your internal integrity arrangements in the Queensland police.

Deputy Commissioner Stewart—Certainly. We might share the floor on this because obviously there are the informal structural processes within the organisation but there are a range of other issues, even outside of the organisation in terms of the role of the CMC, which we believe is part and parcel of the integrity arrangements for our organisation. Do you wish us to brief you on the general governance system within the organisation?

CHAIR—Yes, please.

Deputy Commissioner Stewart—As you would see by any reference to our annual report, there is a strong system of governance that runs right through our organisation, starting with our strategic committee structure and running right down through each of the major areas of the organisation. Part of that structure is not only the governance system and the series of strategic committees and overview committees, including such committees as our risk management committee and our audit committee, but we also have within the organisation the Ethical Standards Command, which is a key to the overall structural arrangements we have for the integrity systems of our organisation. I might get Peter to talk at length about the Ethical Standards Command, which has been in place for more than 10 years now. It is the main interface between us and our overseeing body, the Crime and Misconduct Commission, here in Queensland—and I understand that they are going to talk to you later today. I will pass to Peter for a moment to talk about the Ethical Standards Command, its structure and its major functions.

Assistant Commissioner Martin—Thank you. Regarding the overriding philosophy that exists within the organisation, ultimately the Commissioner of Police, quite naturally, is responsible for issues of professional standards, integrity and professional management of staff and personnel generally. But, in accordance with our delegation, the commissioner delegates those responsibilities to me, and I ultimately have responsibility, on his behalf, for the ethical

standards of the Queensland Police Service. Part of that is the integrity arrangements that exist within the organisation, which is now in the vicinity of 14,000. Our organisation has significantly grown in the last 10 years, as many organisations have. Ten years ago, for example, the Queensland Police Service was an organisation consisting of police officers and staff members of slightly less than 10,000. Today, 10 years later, we have an organisation which is 10,000 sworn officers strong and has 4,000 staff members to make a total organisation of some 14,000. With that growth has come the need to have a very stringent and robust arrangement that sits over that, not only to manage the growth but also to make sure that our standards do not slip. This includes not only managing our standards at the front end, regarding the recruitment of personnel, but also making sure that the arrangements that exist within the organisation are rigorous and robust, as they need to be in light of managing professional standards and integrity issues generally.

CHAIR—How many staff are in the Ethical Standards Command?

Assistant Commissioner Martin—Within the Ethical Standards Command, we have approximately 100 people, but they are separated into three main branches. Naturally enough, I head that particular command. I have a superintendent in charge of each of those three branches. The most widely known branch within most ethical standards commands or their equivalents is probably the internal investigation area, which, naturally enough, responds to issues and allegations as they arise. Generally, the sorts of things that we do as a command, as opposed to those which are devolved to other areas of the organisation, relate to the more serious issues. We certainly do the criminal allegations, the official misconduct and the more serious issues that have with them issues of systemic corruption allegations.

CHAIR—Do you refer them to the CMC at any point?

Assistant Commissioner Martin—All of our matters are referred to the CMC. The CMC have real-time access to all of our indices that record complaints throughout the organisation. The other interesting thing is that all police officers and staff members have an obligation of law to report matters of misconduct, criminal matters and what have you. It is covered in section 7.2 of the Police Service Administration Act. There is a responsibility and requirement upon them, when they have a suspicion with respect to misconduct, to report that matter. We have an internal complaint management system throughout the organisation that enables people to record complaints as they come in and enables commission officers in the organisation to assess that complaint at the appropriate level. Of course, the CMC have access to that information in real time.

CHAIR—Do you have any way of measuring and assessing the impacts of your internal integrity arrangements?

Assistant Commissioner Martin—We regularly, on a day-to-day basis, assess the complaints that are coming in and look at trends and what have you as they arise. The strategies that we have in place fall into three categories: the things that work, the things we do that perhaps do not work and the things that look really promising for the future. One of the issues that looks really promising for the future is the work that we have done on profiling at-risk officers and at-risk work units. My personal view is that that is where the game needs to be played for the future. Already, I have seen some incredibly optimistic work being done in that regard. That is not to

say that we are doing things as well as we possibly can, but I think that, certainly with regard to the future, the opportunity to identify an officer or a work unit that is being overrepresented in complaints or particular types of complaints, the notion of getting more at the proactive end of the problem as opposed to the reactive, is where the game needs to be played. That is where we are investing a great degree of energy at this time.

CHAIR—How do you profile at-risk officers? What are the risk factors, in your view?

Assistant Commissioner Martin—The way that we do that is that ultimately every complaint that comes in is looked at in terms of a previous officer's conduct. If Officer X had a complaint put in late yesterday afternoon, we would look at that within the context of what the recent information holdings tell us with respect to that officer. The numerical value of complaints is only one indicator. We look at the underlying context of the complaints to try to get a sense of whether the genesis of the complaint is, say, alcohol—is that the factor that links these things, or are there some aggression issues that lead that officer to be overrepresented in terms of heavy-handedness in arrests. We try to look for the link that gives us causation or alternatively the things that link the complaints, whether it be a course of conduct or what have you. We do that on an individual basis and we do that on a work unit basis, and it is proving to be reasonably successful at this stage.

Deputy Commissioner Stewart—It is important to note that they are not just profiled. It gets to a stage where, if an officer showing a risk in terms of their profile, that profile is sent to their local management through the chain of command, meaning it will be sent from the AC at Ethical Standards Command to the assistant commissioner in charge of the region or command where the officer is, and they are asked to take action in relation to that. That might result in an officer being removed from an operational position or from the work unit that they are currently working in to assist them and give them guidance and development in relation to what the standard of conduct that we expect is.

Assistant Commissioner Martin—I would hope that the process works in such a way that my command identifies an at-risk officer and that, by the time that we make the approach to the regional command where the officer is based or to the staff member, the region have already picked this up as an issue. It works best where the work that my command does in identifying the officer is virtually a risk assurance process.

Deputy Commissioner Stewart—One of the other keys to our structure is that not only do we have the Ethical Standards Command as a central unit within the organisation that has a range of responsibilities but in every regional command there is also a professional practice manager. It is a specific position within the organisation at each of those points, and they take responsibility for the coordination and management of the complaint processes and, even more broadly, look at issues to do with the integrity of the operations within their regions. So you can see that there is a huge commitment on behalf of the QPS in actually providing physical resources, meaning human resources, to this problem.

Mr CLARE—One of the great challenges can be the balance between maintaining and acquiring corporate knowledge amongst your offices but at the same time ensuring that they do not get captured or become more susceptible to corruption. Forces around the world deal with

that with their transfer policies. Is that something that you find a great challenge, or is it something that you are adequately dealing with?

Deputy Commissioner Stewart—I know Pete will have his view on this. Do you mean not just minimum tenure but maximum tenure?

Mr CLARE—Yes.

Deputy Commissioner Stewart—We have a minimum tenure policy within the Queensland Police Service. We have yet to embark on a maximum tenure one. Partly that is because of the geographic dispersion of our state and the fact that our footprint covers the whole state. In fact, I do not think there is one other government agency that has the footprint that the Queensland Police Service does within the state. We are in every major centre throughout the state and many of the smaller ones. The population of Mungindi is 40 and we have police officers there. But there is a difficulty in having a cut and dried policy of moving people at three years just because you do not want them getting too entrenched in that community or with that particular group of other agencies. The challenge we have is the balance between that notion and community policing, which is the underlying philosophy of the Queensland Police Service, meaning that we only exist with the support of our local community. That is one of the fundamental tenets of policing. If you are moving people regularly, it is very difficult for them to develop the relationships to the level they need to do their job.

Mr CLARE—Has the absence of a maximum tenure policy been an issue raised with you by the CMC?

Assistant Commissioner Martin—Not within the Ethical Standards Command, but certainly that might be something for you to talk to Mr Lambrides about—I understand that you might be talking to him this afternoon—because we have not only people within the Ethical Standards Command but also police officers who are attached to the CMC. I think we have a reasonably fluid process within the Ethical Standards Command but there, at least to my mind, seems to be a more stable group of people at the CMC. They are people who have been there for a considerably longer period than the officers of the ESC. The optimum model, at least to my mind, is one where—taking those two points that you made; they are absolutely so—there are knowledge creation and knowledge management. They are incredibly important. When you bring these people into the command and you inculcate them with the things that they need—the attitudes, the values and the skills to do their job—there is an optimum period at which you get good performance out of them. But, similarly, there is a time when they might have reached their optimum but because of comfort and other reasons they stay there a lot longer than they otherwise should. It is difficult to know what that is. My personal vision is that we need to move those people on because they are incredibly important people to the organisation, and they change attitudes in regions and commands outside the Ethical Standards Command.

Mr CLARE—They grow—

Assistant Commissioner Martin—And they build capacity out there as well. So my personal view is: we bring them in, we train them up in internal investigations and other dimensions of the Ethical Standards Command and then they are incredibly important emissaries in terms of the professional standards arrangements and governance arrangements of the organisation. If we

transition them out to regions and commands, it is incredibly difficult on one hand to let these credentialled and accomplished people go, but it is important to the organisation that we do that. At the moment we do that but it is not done as part of a plan. I could not roll out a road map and say to you, 'This is the plan at the moment'. It happens, but it happens infrequently and it happens ad hoc, depending upon the individual and their needs and what have you.

Mr CLARE—I am interested in exploring in a bit more detail the Queensland Police Service's experience with ACLEI. I am interested in your comments on ACLEI as to any experiences you have had in liaison with ACLEI or its investigations and how they might bear on Queensland Police.

Deputy Commissioner Stewart—Could I ask that we just go back to your last point. We handled two sides of the coin when we answered that. I answered from a much broader perspective about maximum and minimum tenures in terms of that knowledge base and the relationships that our people have in the field. I would like to add to that. Peter has handled it very much from the internal investigative perspective within his command, but there is another side that we probably did not cover—that is, some of our areas are quite high-risk, meaning that there are, for example, people who work in child protection areas, people who work in casino squads and people who work in areas where their interaction is with people of quite distasteful criminal backgrounds. It is mainly in our larger CI branches and the squads and units within those. There is a very strong sense and understanding of the potential for corruption that goes with those; it is seen as high risk. So there are a range of strategies that occur to make sure that some of those people are looked at and we keep an eye on danger signs in relation to how they dress, what they are spending—those sorts of issues. Unlike some other agencies, we do not have a requirement on our people to provide their financials to the organisation, although I do know that some other agencies do that. But certainly our senior people have a good understanding of those sorts of issues and monitor that quite closely. So it is not just that we allow these people to stay in positions for many, many years. Obviously, on a day-to-day basis, they are being assessed and monitored for any signs that could be construed as perhaps leading us down to a further inquiry.

Mr CLARE—Understood. My second point, which is quite a different question, is: what has been your experience with ACLEI?

Assistant Commissioner Martin—I have nothing negative to report—nothing at all. If that were otherwise, I would certainly tell you. We are very happy to contribute to this process and we are very happy to further explore the issues with respect to how we manage people. They might be Queensland Police Service officers who for the time being are working under another arrangement. I understand that that is an issue of interest to you. In the past, 10 years ago, we would not have been having this conversation. I have seen enormous changes over the last 10 years, particularly in the last five years, and I am probably well placed to talk about some of those opportunities that have been created for people within the organisation. We have had overseas deployments under the AFP umbrella. We currently have a group of police officers attached to the AUP, the airport policing, throughout various airports in Queensland. We also have police officers attached to the Australian Crime Commission and other places. In the management of those people, while they might be QPS officers and while they might be working on a leave without pay arrangement, they do not escape our provisions with respect to their obligations or the integrity arrangements. From that point of view I think that there is not one

simple solution. There are a number of bodies that have an interest in that regard and I recognise your interest in that. Certainly, we have a very significant interest in terms of managing those people and working cooperatively with other entities. So we are very interested to see what comes out of this as well.

Mr CLARE—The deployment of state officers to joint taskforces has not proven a complicating factor in terms of the transfer of information where issues of potential corruption might arise?

Assistant Commissioner Martin—I have not picked that up. There are issues in terms of recruitment retention, liaison and what have you. They are not insurmountable and they are at a relatively low level. I do not pick up any issues in respect of the transference of information. That has not been identified as a problem thus far, at least to my mind.

CHAIR—Do you have any arrangements in place, informal or otherwise, to provide information to the Integrity Commissioner, the ACC or the AFP about staff who might have some corruption issues?

Assistant Commissioner Martin—We have various MOUs with a range of entities including the AFP. The AUP model is a very good example of where we clearly articulate in it the responsibilities and the AFP and the Queensland Police Service. We have a clear responsibility there and we make that very known to the officers who are going to be deployed as part of this arrangement in terms of their obligations. In that MOU it is clearly articulated that, despite the fact that a QPS officer on leave without pay working under the AFP umbrella might have an allegation or alternatively might commit an act of misconduct or a criminal matter or what have you, ultimately there is a notification from my counterpart in the AFP and, in the vast majority of cases, that would be referred to us and we would undertake the investigation and ultimately the prosecution of that officer. It would be as if that officer were a QPS member working under the QPS umbrella.

CHAIR—If there were some concern about a particular staff member who was going on secondment to another agency, would you notify that other agency or not second them to the other agency?

Deputy Commissioner Stewart—It would be unlikely, under the sorts of conditions you are mentioning, that that person would go. If someone had a complaint history or had a complaint against them—that is, an open complaint; one that had not been finalised—I could not imagine a circumstance in which we would let that person leave on secondment. Just to give you some insight, Peter mentioned, albeit briefly, the issue of leave without pay. Most of our secondments are in fact not secondments at all. To some agencies they are; there have been secondments to the ACC in the past. But when going to the AFP through the International Deployment Group and also to the Airport Policing Model our people take leave without pay and actually become members of the other agency. They are actually sworn into the other agency. That is part of the agreement that we have which is contracted through the MOU.

Mr CHESTER—In relation to the tracking of complaints—and I am not sure whether this is an issue for you or not—and in terms of the setting of ethical standards and what was acceptable behaviour when you might have started out as a young constable compared to today, is there an

issue, without being too cute about it, in that the expectations of the community have changed in terms of what actually is misconduct? What are the standards expected? How do you manage that? I imagine that would be evolving all the time. Who sets the ethical standards?

Assistant Commissioner Martin—That is a very good point. I joined the Queensland police straight from school as a young 18-year-old boy. That was 30 years ago. On the standard expected of a police officer 30 years ago and the standard expected today, despite the fact that I would like to think I had exactly the same values, the reality is that the expectation from the organisation and the expectation externally have changed considerably. There was a major watershed in Queensland 20 years ago with the Fitzgerald inquiry. It was a very painful experience for the organisation. It was a wonderful cleansing experience, to the extent that it changed the organisation forever in a broad range of dimensions. It is not overstating the case that, had the Fitzgerald inquiry not occurred, I think that I would probably not be sitting here before you today at my current rank. It was very much a seniority-based system; it was a reward for people staying and going the distance. This is pre-Fitzgerald. When Fitzgerald came in it brought in a whole range of reforms, including reforms to police education and training. It developed systems and structures. There was the early forerunner of what is now the ethical standards command. So it was the genesis of many of the systems and structures we have got in place today.

We constantly are alert to the changes in the community and the expectation changes over time and we are aware of that. We pick that up in the media. We certainly pick that up in terms of the changes and expectations of politicians and the broader public sector ethical responsibilities. Internally in the organisation there has been an escalation of responsibility. To give you an example, a police officer on duty or off duty caught drink-driving is dealt with significantly more seriously today than they were two years ago, significantly more than they were dealt with five years before that. The penalty that is imposed sends a very clear message to the organisation about not only what is acceptable but the penalty for these types of things. We have spent huge amounts of energy and resources over the last five to 10 years, particularly the last five years, in conducting education and training at the furthest corner of Queensland, weaving integrity issues into every dimension of police training, whether it be initial recruit training on one hand to senior level management development program training on another, where we tease out the ethical dimension of the particular issues that we are dealing with. I would like to think that that has been very successful in terms of allowing people to think about their own behaviour in the context of how that would appear if all of a sudden that behaviour was on the front page of the *Courier-Mail*.

We have supported and we have sponsored very significantly the SELF test, which is a one-page document that lives on the walls of police stations around the state. I walked into my office this morning, sat at my desk, and the screen that was flashing was a series of images that appear routinely on every computer around the state. One of those is the SELF test, which is an aide memoir for people in terms of a degree of scrutiny over their behaviour. It asks some reasonably basic questions about does your behaviour comply with the law? Is it reasonable? Is it fair? Does it withstand scrutiny? Those types of things. So we have gone to a great degree of re-engineering throughout the organisation post-Fitzgerald in terms of making sure that people look at their behaviours and attitudes within the context of what the organisation will accept but moreover how they will be construed within the broader context of the community.

Deputy Commissioner Stewart—Probably one of most important issues for us is that both selection from day one to be a police officer and selection and promotion within the organisation is merit-based. Part of that merit is your conduct, including prior to coming into the organisation, and we undertake a significant amount of checking on every applicant, as you would expect we would. Also when we go through the promotional process of selecting people for high rank, the very last process in that selection process is a vetting, and if that person again has had a significant history or has got an open complaint that promotion can be deferred or in fact cancelled. Ultimately the authorised officer has to ensure that the person that is being promoted holds the right standards and will promote the right standards within the organisation. That is a significant tenet within the organisation.

You talked about who sets the tone, who sets that standard, and Peter raised the issue about drink driving. You are probably aware that there is basically a national agreement between law enforcement agencies about the types of penalties they will impose on officers who become subject to drink driving, and these precedents have been around for a long time. I have just dealt with one of our officers, who was off duty, who had a very high reading. Unfortunately, he is an alcoholic; there is absolutely no doubt about that, and that mitigates it to some degree. He is only a sergeant, but that is a supervisory role and I felt very strongly that that type of behaviour was just absolutely unacceptable as a standard for someone in that functional area of the organisation. I dropped him a rank.

I hope that that will stand up under the review process. I am sure he will go for review because this will probably be one of the first times that a penalty at that level of severity has been imposed for that type of off-duty—remember, this was private time—behaviour. But he is still a member of the Queensland Police Service and is bound by our codes of conduct. I hope that this will set a new precedent about what is acceptable and unacceptable for that type of behaviour. So if you are asking who sets the level, not only do we have a role in that, in terms of what we do through our discipline process, but the community does through the CMC tribunal that rules on appeals against what we do. We hope that they will stick with us and demonstrate that they also, as the community, agree that we have to have those high standards. That demotion, at the end of the day, will probably cost that officer in the vicinity of \$50,000 to \$100,000 in superannuation payments. That is a fairly big fine.

Assistant Commissioner Martin—As well as the loss of esteem within the organisation. Being demoted occurs very infrequently.

CHAIR—Had there been other measures tried, like counselling?

Deputy Commissioner Stewart—He went through a whole process of issues prior to this. This is a particularly difficult case. You are probably aware that we have a random alcohol process within the organisation. The testing is unannounced and it affects a whole work unit, which is randomly chosen. You may have seen that in other industries; we have that, too. This particular officer was the first officer to fail a random test within our organisation. What was then put in place was a range of support mechanisms for that person, as it was dealt with as a health and welfare issue initially. This came about 12 months later, when he had a relapse. As I said, I took very significant action in relation to that because we cannot afford as an organisation to have that sort of behaviour condoned in any way by our people—it is breaking the law by people who enforce the law.

CHAIR—Yes.

Assistant Commissioner Martin—You mentioned earlier a range of issues in terms of setting the standard, and I mentioned the self-test. I have here the *Corruption prevention plan 2007-2008* for the Queensland Police Service. A significant feature of the plan is that self-test and that is promoted fairly widely throughout the organisation. I would be happy to tender that.

CHAIR—Thank you very much. Do you have other questions, Mr Chester

Mr CHESTER—No. That was excellent, thank you.

CHAIR—I know Senator Parry, as a former police officer and as a very active member of this committee, will have lots of questions for you.

Senator PARRY—Thank you, Chair, for that introduction. Assistant Commissioner Martin, in 1978 I was a secondee to Queensland Police, so we might have been together at the Oxley academy for a short while.

Assistant Commissioner Martin—We may very well.

Senator PARRY—I do not remember you, I must add, and no doubt you do not remember me. I want to go back to the issue of training at the academy. What proportion of the training is devoted now to ethical standards, and for how long?

Assistant Commissioner Martin—That is a very good point. Training in the academies deals with it in a number of ways. There is specific training with respect to professional standards, ethical practice and what have you; there is training with respect to encouraging people to meet their obligations with respect to reporting pursuant to 7.2 of the Police Service Administration Act; and there is training with respect to how to manage reports and issues with respect to how to seek internal witness support and those types of things.

That training is delivered by my people at the Ethical Standards Command. I mentioned before the three branches that exist within the Ethical Standards Command. Internal Investigations Branch is one. Ethical Practice Branch is another. Ethical Practice Branch is the area that conducts the training right across the state. So there is specific training that is conducted with respect to those things, but also there is a general mood and tenet that occurs with respect to training generally. If they are dealing with an issue at the academy and it might relate to property, then they will tease out of that particular issue not only the legal and the policy issues but also the issues of integrity. They will ask: ‘What are the integrity issues associated with not dealing with property appropriately and effectively?’ and what have you.

The point I want to make is that training is dealt with in two ways. It is dealt with very specifically right upfront, telling people through specialist officers coming to every recruit program. In Queensland we actually have two academies. Our main academy is at Oxley, in Brisbane, as you well know and you alluded to a short time ago. We also have an academy campus which is much smaller—it is far more boutique—at Townsville, in the north of the state. My officers from Ethical Practice Branch go to both recruit intakes, irrespective of the number of recruits and irrespective of where that training occurs, to deliver that training. Then we work

with other training in terms of initial service, constable development and management development programs, making sure that an ethical undercurrent is inculcated into training generally right across the organisation.

Senator PARRY—Thank you. I just want to move on to the CMC. We were given an understanding that Queensland police feel as though the CMC may unduly target police rather than other areas of their jurisdiction such as local government. Do you wish to make a comment about that at all? Is it an incorrect perception?

Deputy Commissioner Stewart—I am happy to answer that. Part of my background is that I was the AC of ESC at one stage in my career. We have had a longstanding relationship with the CMC and, prior to that, the CJC. I cannot imagine a time when we will not have an oversight body such as the CMC in existence in this state. I would hate to see it go. We do not always agree—there is absolutely no doubt about that—in relation to particular incidents and events. Sometimes we agree very, very strongly on matters. At other times we differ. But the relationship between us has always been highly professional, in my personal view. It has been a strong relationship because I think we would hate to ever revisit or ever be in a situation where the Queensland Police Service had to be subject to another Fitzgerald inquiry.

I see the role of the CMC—and Peter can comment himself on this—as being that check and balance that assists us in maintaining that integrity within the organisation. It wafts right across the organisation. Do they unfairly target us? I am sure that a significant proportion of their work over the years has been targeted on the Queensland Police Service. But, at the same time, police agencies—and I think you well know where I am heading with this—have significant powers with the office of constable. They are incredibly powerful tools to do good within the community. If they are used inappropriately, for evil or for bad, it can create great concerns within the community, and I think you accept that. Having the CMC as an external body—a body that we can turn to in times when we seek advice and also as a check and balance on whether we are getting it right—I think is an incredibly powerful tool, and I would hate to ever see it not be there, for all those reasons.

Do I think they unfairly target us? No, I do not. In fact, over the last few years we are moving towards a model where most of the complaints received either by them or us are handled by us. You may not have seen it but there was a recent article in the paper here in Brisbane and it related to the recent tabling of the CMC's annual report. Mr Needham, the chair of the CMC, said that he felt that the public service, including the police, was maturing significantly in its ability to deal with complaints and conduct which is unprofessional within their organisations. For that reason a lot of their work is now being farmed back to those agencies, to similar types of areas within those agencies, ethical standards type divisions or units. I am very comfortable that when you talk to Mr Lambrides this afternoon he will give you a similar view, that where we were in 1991-92 when the CMC, or CJC as it then was, first kicked off to where we are today are two very different organisations.

Senator PARRY—That leads into my next question. What is the nexus between the CMC and the internal investigation side and how does that work? Do you investigate everything that comes before you and notify?

Assistant Commissioner Martin—It is quite a complex arrangement. I mentioned before that in terms of the reporting process a matter occurs at this particular juncture somewhere in Queensland with respect to an allegation or a complaint. It is reported by the officer and is put onto the system. It is assessed by a commission officer and it automatically goes to the ethical standards command and it is immediately overviewed at that point and referred to the CMC.

Senator PARRY—Could that be just a minor verbal abuse? What levels are involved?

Assistant Commissioner Martin—We notify them of every matter that amounts to misconduct but we also let them know routinely with respect of matters that amount to breach of discipline. Breach of discipline is really the relatively low level things. It might relate to an infraction with respect to the code of dress and appearance where somebody comes to work dishevelled or what have you, or a reasonably low-level breach of service policy is more breach of discipline.

CHAIR—You notify them of allegations of those things.

Assistant Commissioner Martin—In real time they have access to all of our indices with respect to official misconduct, misconduct or alternatively breach of discipline. They see those low-level things anyway. But breach of discipline is a matter internally for the organisation. That is a matter that I manage in behalf of the commissioner. But everything other than those really incredibly low-level matters falls into the category of misconduct or alternatively criminal, and automatically as a matter of course every single instance is referred to the CMC.

Senator PARRY—Who has the final say as to who will investigate? Does the CMC automatically have to take over certain standards of indiscretion or criminality?

Assistant Commissioner Martin—The CMC will automatically make an assessment on each of those matters and they will determine what the requirements of the organisation are. They fall into a number of categories at that point. If they assess it as the upper echelon of complaints that for whatever reason they want to deal with, and they deal with an incredibly small number of complaints; numerically it is very small. But the vast majority of complaints come back to the organisation with some very clear riding instructions from the CMC on what their expectation is. In some cases, when it falls at the lower end of the scale, they might send it back for us to determine and to advise them of an outcome. In other cases it will be to investigate it and advise them of what action we intend to take before we take that action. In other cases it will be a cooperative arrangement with the CMC, where an investigator from the CMC and the QPS conduct an investigation and the matter is subject to determination and discussion between us before action is taken.

Senator PARRY—Is there any automatic referral that cannot come back to you, such as an allegation against commissioner, deputy or assistant?

Assistant Commissioner Martin—That would be a matter, I would imagine, that automatically the CMC would take. They would not refer that back to us. Even as they did refer that back to us, I would be advocating to the CMC that that is a matter that is very much in their domain.

Senator PARRY—So that is everything internal from Queensland police. What about complaints received by a parliamentary joint committee or the CMC directly—what would happen there? Can they still then refer back to you?

Deputy Commissioner Stewart—Yes, and they regularly do. There are a number of channels of complaint. A person can ring or walk into the CMC and make a complaint at their front counter, basically. That is then assessed by the CMC. If it is assessed as something that should go back to the police service, it is immediately passed back to us, and that regularly occurs. Is there any particular level of complaint that is automatically held by them? The answer to that is probably no, and in fact it is getting lower and lower over the years.

Senator PARRY—Who has the final say, then—the CMC?

Assistant Commissioner Martin—The CMC have the final say, except for with breaches of discipline—things at the really low end of the scale. They are things that in other government departments may not even be reported—they may be dealt with locally by way of a manager talking to an individual. Given our significant tier of scrutiny, in our system they would be recorded in terms of a breach of discipline. Everything other than those, where I have jurisdiction on behalf of the commissioner, falls under misconduct and the CMC have jurisdiction. They can choose to deal with the matter themselves or they can send it to us to have it dealt with, and they can put whatever requirements they want with respect to the way we deal with it and the reporting that is wrapped around it.

Senator PARRY—Finally, if you feel as though the CMC, particularly in your capacity, is not working correctly or there is some form of attitude, result or outcome that you are not comfortable with, can you or the commissioner report directly to the minister or to the committee? Is there an arrangement where that can take place?

Assistant Commissioner Martin—There is an arrangement for that to occur. There is the Parliamentary Crime and Misconduct Committee that the commissioner has recourse to. I am not aware that that has occurred in the past, because, in the relationship that exists between the Queensland Police Service and the CMC, multilevel communication occurs. My commissioner talks regularly to the chair of the CMC, Mr Needham. I talk to my counterpart—Steve Lambrides, in his usual role as Assistant Commissioner for Misconduct—at a senior level within the CMC on a weekly basis and, by exception, on other matters that occur. We also have other fora for discussion that occur at a much lower level. Hopefully there is a cascading upward if there is dissatisfaction at a particular level that enables us to resolve matters. Next week the commissioner and I will be giving evidence at the three-yearly review of the Crime and Misconduct Commission. That is facilitated by the PCMC and is an opportunity for us to make a written submission on not only any issues that might cause us angst but any issues that we might want to raise generally about the operation of the CMC. So I am very comfortable that a range of mechanisms exist that enable us to have a say with respect to the operation of the CMC.

Senator PARRY—I gather from your answers that the answer to this question will be yes. You are comfortable with the arrangements—the entire legislative framework that is set up now for anticorruption and misconduct seems to be working exceptionally well?

Deputy Commissioner Stewart—In my view, yes.

Assistant Commissioner Martin—I am satisfied with it at the present time, but I think it is a race without an end and one of those things that we need to look at, given issues of knowledge at the time. In the future—who knows?—there is that expectation, which, as was rightly pointed out, is increasing over time, that there will be a need for a variation on the theme. But, at the present time, I am very satisfied with the oversight and the arrangement that exists between us and the CMC.

CHAIR—Deputy Commissioner, you said that there are some matters on which the Police Service and the CMC do not agree. Could you give us some indication of what kinds of matters you would not agree on?

Deputy Commissioner Stewart—The court is sitting today on a matter where there is a difference of opinion. It is a use-of-force issue, where an officer used a taser on a juvenile, a 16-year-old female. As a result of that incident, and immediately that incident occurred, there was an operational review undertaken of the matter. Internally, within the organisation, the CMC were aware of that, or became aware of that. They have a different view—as opposed to the service’s view—about the use of that level of force in the circumstances. There are a whole range of issues that surround that. It would be very difficult, though, to go into that in depth because it is a matter that is still before the court.

CHAIR—We certainly do not want to—

Deputy Commissioner Stewart—Those sorts of issues are quite topical. There are other times—this works both ways, and I tried to indicate this in an oblique way before when I was talking about our discipline process—where we may impose a particular sanction on an officer. The CMC has the right to appeal our sanctions, and that occurs from time to time. Probably one of the best examples of that was in relation to an officer at the Gold Coast. I think, again, it was a use-of-force issue. The local assistant commissioner disciplined the officer through our normal discipline process. In other words, they had a hearing and all of the issues and processes that surround that, but the sanction was seen by the CMC to be inadequate, and they lodged an appeal in the Misconduct Tribunal, against the sentence imposed. In the particular case that I am thinking of, the officer was ultimately dismissed by the Misconduct Tribunal, if my memory serves me correctly. So it was a considerably different result, on appeal.

CHAIR—So the tribunal, in effect, agreed with the CMC’s view that it was more serious—

Deputy Commissioner Stewart—Absolutely; yes.

CHAIR—than the police department had treated it.

Deputy Commissioner Stewart—Exactly.

CHAIR—Has that led to some sort of change in the police department’s view?

Deputy Commissioner Stewart—Well, it becomes a precedent. That was what I was talking about before. It works both ways. We have had times where our senior officers, including our previous deputies, have sacked people. The individual has gone to review—it is the individual’s right to go to appeal on that—and the Misconduct Tribunal have allowed them to stay within the

organisation. There is a particular case of a young officer—a female officer, not that that makes a difference—who actually stole property. She was sacked by the deputy through the discipline process. On appeal to the Misconduct Tribunal they let her stay in the organisation. Now, where does that leave us? It makes it very challenging at times. But most times I think we get it pretty right, and I think that the level is pretty much supported by both sides—by the CMC and us. Remember that the CMC do not control the tribunal members. The Misconduct Tribunal is a body of its own, but it does reflect, in my view, disparate views.

CHAIR—Does the CMC make recommendations as to penalties?

Deputy Commissioner Stewart—Well, what I am getting at is that they can launch an appeal. If the CMC think we have got it wrong they have the ability to launch an appeal.

CHAIR—But before you have made a decision as to penalty does the CMC make recommendations to the police force as to how they think a particular matter should be resolved?

Deputy Commissioner Stewart—There can be no direction.

CHAIR—No, a recommendation. Do they tend not to do that?

Deputy Commissioner Stewart—No.

Assistant Commissioner Martin—No, not when it is going before a prescribed officer in almost a quasi-judicial role within the organisation, to be determined. But the CMC will make their position known in terms of what they think is a reasonable sanction under the circumstances. I want to make the point that there is a very small proportion of things that we disagree on. In the vast majority of cases—probably 95 per cent or more—there is absolutely no disagreement. There is a normal, professional ebb and flow of material. In fact, we are usually in accord, with respect to our view and that of the CMC. But in a small proportion of cases—and I am referring to the things that I see—we might conduct an incredibly complex investigation, and at the end of that investigation, after we have looked at a broad range of considerations in terms of what is best for the individual and what is best in terms of discipline for the organisation and the work unit having regard to industrial matters and what-have-you, the CMC might look at this solely in terms of actions and an outcome.

There might be times when we say, ‘Having regard to all of these matters the best way to deal with this is to provide the officer with guidance: that they should have done something differently; they should have undertaken a different course,’ but the CMC might have a different view. They may say, ‘Well, no, that person should go before a prescribed officer for a disciplinary offence.’ Then it is a case of us sitting down with them and explaining what our reasons are for recommending a particular course, and to try to reach some consensus. At the end of the day sometimes we just have to agree to disagree, but that happens in a very, very small proportion of cases.

CHAIR—One of the things that is said about police culture is that it encourages loyalty among officers. The nature of the work lends itself to that, of course. I am just wondering whether the training that is now delivered to recruits and to others within the organisation

focuses on the issue of loyalty to the public interest, as opposed to loyalty to the police force per se—your mates.

Assistant Commissioner Martin—Very strongly. That notion of the police culture that featured so prevalently in the Fitzgerald inquiry represented the negative aspects of police culture. Similarly, there are some incredibly positive aspects of the culture. In terms of the training that we provide, particularly to people who are new to the organisation, we speak about that. We say, ‘You’ll be with this group of people, initially, for seven months. You will see these people in the course of a 30- to 40-year career, perhaps. It is important that you have the ability to trust these people operationally, but there is a line, and you have an obligation. You must meet your obligations in this regard.’

One of the things that gives me great hope—both now, and into the future—is that I regularly pick up, through the complaint system, police officers making complaints against police officers and police officers accepting complaints from members of the public and meeting their obligations. Particularly the youngest and newest members of the organisation are meeting their responsibilities in this regard. In one of the examples that we have given today, within the context of police drink-driving—as disappointing as it might be, and as much as it pains us to sit here and to talk about police officers drink-driving—the reality is that it was a police officer who intercepted these people, both on-duty and off-duty, and that individual met their obligations by reporting it. They could have turned a blind eye to these situations—they could have taken another course—but they did not. The reason that they did not turn a blind eye was that they knew what the organisational expectation was and, for whatever reason, they met their obligations and then some.

It would be an incredibly foolhardy person, in this current day and age, who turned a blind eye to a police officer caught drink-driving, or committing other forms of misconduct or more serious matters. I am not going to sit here before you and suggest that it is incredibly rosy and that we do not have any concerns in that regard, but it is race without an end point. There are a whole range of things that we can do as an organisation, and it is more than just producing strategy documents and policy and what have you. It is management and leadership, and it is modelling behaviour; it is education, training and mentoring. It depends on a broad range of things, but there are a lot of indicators that tell me that we have that reasonably right.

Deputy Commissioner Stewart—And it is not just at the lower end. We have an example right at this moment of an officer who heard some conversation in a meal room. That particular officer probably had about eight years service. She was a senior constable. She overheard a conversation in a meal room and as a result of that she made some inquiries—as we would expect any of our officers to do—about what she overheard, picked up that there was some truth to what she was listening to, and reported the misconduct. Two officers are now before the court on stealing charges. In fact, they are former officers now because both have resigned. This is the criminal level—the high-end level—and that gives us great confidence that we are getting the mix right.

So it is not only our junior constables but also people at all levels of the organisation who understand very clearly their obligations to the organisation. Blind loyalty is something that may have been around 20 years ago but I think it is not there today. I think people have a very good

understanding of where the line is, and that line comes down to people who cross it and who break the law, whether it is the law of policy and procedure or the law as it stands.

Mr CHESTER—Do you do much work on community attitudes towards policing? Can you tell us what expectations there are and the feedback you are getting? Have you seen improvement over a 10- to 20-year period?

Deputy Commissioner Stewart—Every year the service contracts a longitudinal survey and that is run again through one of the big surveying firms—I think it is Anderson who do it at the moment. It looks specifically at satisfaction with the organisation on service delivery, professional standards, conduct of officers and all those key areas. Certainly whilst it moves somewhat, it is quite high. I cannot give you the percentages of that, but we could provide that information should you wish it.

Assistant Commissioner Martin—We benchmark performance against other agencies in terms of the report on government services that looks at comparisons of client satisfaction surveys and so on. It measures the regard that police are held in and whether they believe that their complaint has been productively pursued or investigated. There is a basis of comparison there. We look at that regularly and, in terms of our operational performance review, client service is a very significant feature. I am not sure whether you are aware of the operational performance review arrangements that we have within the organisation, but police districts come before the commissioner and senior executives of the organisation and talk about a range of performance issues twice a year. One of those issues is client service and client service standards; also, professional conduct is a dimension of that.

Deputy Commissioner Stewart—There are seven key dimensions and twice a year our major operational units—that is, our police districts—come before the organisation head and explain their performance. One of the key factors is professional conduct.

Mr CHESTER—In relation to the ‘at risk’ areas, you also mentioned that there are emerging trends whereby officers are going to be exposed now and in the future to areas where there will be temptations for corrupt behaviour. Are there clear areas, or are we moving in certain directions, where organised crime has become so much more sophisticated that the temptation could be put before officers in different ways than it has been in the past?

Deputy Commissioner Stewart—I think it is true that in the next 10 years there will probably be things that we cannot even think of today that will be called ‘risk’ to the organisation. I do not say that lightly. The emerging areas are probably all those surrounding the internet that our officers have to deal with and one area is pornography—in particular the hard-core or child related pornography. There are the scams that go on and people who have a very good understanding of electronic systems and are able to manipulate information. I would imagine an area that, unless we have significant safeguards in place—and we do—would be the ability for people to get highly sensitive information out of the organisation. We guard that very carefully. As the sophistication of our IT systems grows, so does the risk to the organisation of people being able to potentially manipulate those systems to get access to it—and I am talking about internally.

Mr CHESTER—A fee-for-service type of arrangement?

Deputy Commissioner Stewart—Yes, absolutely. So that is probably the area of greatest risk at the moment. Also—and it is very interesting—it is usually lower level issues. Specialist areas do tend to sometimes get under the radar and you will suddenly find that you have an issue occurring. One that I recall from my earlier days at Ethical Standards was our armoury. We have an armoury and we have police armourers—because of the nature of the business we have guns. It turned out that two men who were working there, one was an officer and I think the other was a civilian member, were doing quite illegal things as part of their work. Were they selling guns to people outside the organisation? No, not that we were aware of, but they were certainly doing things that were completely unlawful. It was a supervisory issue. I make that point simply because sometimes those units can have their own culture and generate their own internal subculture. That is something that we have to always be very aware of and we do have processes in place to manage that.

Assistant Commissioner Martin—I was going to raise another issue that might be of interest to you given your interest in some of those disparate law enforcement entities that you work with. One of the issues for me for the future in looking at overseas trends is the inculcation into the organisation of people with very different values who might be a long-term plant. They might represent a criminal or an outlaw motorcycle gang or some other organised crime group and infiltrate the organisation within the context of ascertaining information or what have you. The point that was made very well in terms of the sophistication of our systems and what have you is that, while we have good checks and balances in place at present, we do have enormous amounts of information. If people were entering the organisation specifically to do those things, that would be a very significant risk for the organisation, and it is something that I think we are starting to see come up overseas. We have not seen any significant evidence within Queensland, certainly, but it is an issue that I am conscious of for the future.

Mr CHESTER—Thank you.

CHAIR—As there are no further questions, I thank you very much, Deputy Commissioner and Assistant Commissioner, for giving your time to give evidence today.

Deputy Commissioner Stewart—Thanks, Chair, and thanks for the opportunity of speaking with you today.

Proceedings suspended from 12.27 pm to 1.27 pm

LAMBRIDES, Mr Stephen Homer, Acting Chairperson, Crime and Misconduct Commission

CHAIR—Mr Lambrides, I note that you have provided a statement. Do you have a short opening statement in addition to that?

Mr Lambrides—I apologise for not getting the statement to you earlier. Can I make a short statement about my background so you understand where I am coming from when I answer any questions that you may ask and the context in which I respond? I was crown prosecutor until 1987 when the Fitzgerald inquiry started. I was seconded to the Fitzgerald inquiry where I was junior counsel. I stayed with the Fitzgerald inquiry until the end when the Criminal Justice Commission was created which was the result of the Fitzgerald inquiry. I stayed with the Criminal Justice Commission until its demise, as it were, when it merged with the Crime Commission to become the Crime and Misconduct Commission. So I have been there from day one, and am the only person who has been there from day one. This is my 21st anniversary in the game—a long time.

CHAIR—Congratulations.

Mr Lambrides—Or commiserations—whichever way you look at it!

CHAIR—No doubt you will be a rich source of information.

Mr Lambrides—I have set out in brief terms some of the aspects I thought you were seeking further detail on: the overview of the commission and its governing body. Its governing body is quite different from any other governing body in Australia in that it has a five-member commission, equally powered. This means that, although there is a chairperson who is the CEO, when it comes to commission meetings he or she has no more power than the other four commissioners. To me that is sometimes a practical difficulty, because I think it is very important that you get a chairperson of some stature and somebody with some gravitas—if I can use that expression—and when they come to the position of chairperson and they realise they have only one-fifth of the power it sometimes creates some issues in terms of personalities. I think that is the biggest practical difficulty with that model. Basically it is a good model to ensure that there is fresh blood coming through the organisation, because the commissioners can stay for no longer than five years. It is staggered. What happens is that you have fresh blood coming in on a regular basis, which is a significant protection against capture within the organisation, if I can use that term.

Senator PARRY—It is no different from a board of directors where you have five equal directors and one happens to be elected as chair.

Mr Lambrides—The difference is that the chairperson is also the CEO. The CEO has to make day-to-day operational decisions and yet those decisions are, in fact, the decisions of the commission. They have delegated those powers to the CEO.

Senator PARRY—But, again, that is no different from a board of five with a chairman who is also the managing director; it is identical.

Mr Lambrides—Except that board members do not make operational decisions. This board does. That is the big difference. This board has the responsibility for making operational decisions.

Senator PARRY—Okay, thanks.

Mr Lambrides—They have delegated the less significant decisions but they still retain to themselves the strategic direction—which a board would do—and also the most significant operational decisions. All public reports have to be approved by the commission.

Senator PARRY—By the board per se.

CHAIR—I am looking at the organisational chart and wondering where the promotion of high standards of integrity in the public sector is located. Is it located generally throughout the organisation?

Mr Lambrides—We have the Research and Prevention branch that is certainly part and parcel of the Misconduct Investigations area and the Complaints Services area. I am sorry—I have not set out that structure here. We have the Crime area, which I will not bother you with as it is beyond the interest of this committee. We have what is called a Misconduct function. My substantive position is the most senior position in the Misconduct function; I am Assistant Commissioner of Misconduct. I am responsible for raising integrity in the public sector. Directly under me is the Misconduct Investigations area and the Complaint Services area, but I am also responsible for all the other outputs which are relevant to misconduct. For example, in Research and Prevention we have crime prevention. We also have general prevention within the public sector. I am responsible for prevention in the public sector, although I am not directly responsible for the staff. It is a strange matrix. My role is to coordinate all the resources across the commission which are relevant to the Misconduct function and that includes the one you mentioned previously: raising standards.

CHAIR—Does training come under your section?

Mr Lambrides—That comes under the prevention area.

CHAIR—Does the CMC go to the public sector and conduct the training itself?

Mr Lambrides—It does. In fact, we are looking at charging for the first time in the next financial year so that we can increase the services in that area, because it is a pretty resource-intensive area and we can only do it on a limited basis with the staff we have in the prevention area. The other issue we have is the problem of recruiting experienced staff. We are supposed to be at the cutting edge and unfortunately we have difficulty retaining good staff because they go either to the private sector or to our own Public Service as it offers more money than we can pay. We have fallen behind in remuneration. It is very difficult to recruit experienced, competent people.

CHAIR—In relation to that area, I understand that police are often seconded to the CMC.

Mr Lambrides—Not in the prevention area; they do all the witness protection and all the operational support. They are also used in misconduct investigations and are civilian investigators, financial investigators, intelligence officers and lawyers. There are also a couple in complaints services who assist in making inquiries, getting information in the police service and sometimes going out and doing interviews.

CHAIR—How long would they spend on average within the CMC?

Mr Lambrides—That is a very interesting question. I have been quite outspoken about it recently. You are probably aware that most of the integrity agencies do not have current or seconded police officers working within their organisations, but I have been a very strong advocate of it in Queensland for two reasons: first of all so that there is currency in the sense that people within the commission have officers who are familiar with what is happening in the police services, but more importantly so that police officers can rotate through the commission and take what they have learnt there and the ethos back to the Police Service. I think that is a very valuable thing. Most of the senior police officers within the Queensland Police Service now have been through the commission or the Ethical Standards Command within the Police Service, and I think that is very valuable.

One of the problems has been that it is an easy life for a police officer compared to being out in the streets. So we get police officers who come to the commission and they like it very much—and I do not blame them—compared to the horrible job that they have. They have one of the worst jobs in society, so they get very comfortable and do not want to go back to the Police Service. What happens is that we cannot force them back and they stay, I think, far too long. Trying to get a secondment process whereby they only stay for a fixed period of time has been almost impossible in 20-odd years.

CHAIR—Why is that, do you know?

Mr Lambrides—Because of the union. Primarily it is a union issue. Like Victoria, we have a very strong union and it is very hard to rotate them, which is one of the purposes of having them there. It is very, very frustrating. As I was saying before the hearing, I am a lawyer and, as you indicated before, the senior officers are basically all lawyers, and it is perceived to be a lawyer versus police thing, so any attempt to get rid of police results in, ‘Oh, it’s the lawyers trying to dominate,’ when that is not the purpose of trying to get rid of them; it is a question of trying to rotate them, having fresh skills come in and them taking what they have learnt back to the service.

CHAIR—Does the parliamentary committee have any say or role in this?

Mr Lambrides—They are aware of it, but they have no control over it. It is really something for the Police Service and the union to come to some agreement on which will allow us to second officers for a fixed period of time.

Mr CLARE—You could legislate to that effect.

Mr Lambrides—You could legislate to that effect, but, once again, the union is such a powerful organisation in this state. Governments of both persuasions have been most reluctant to tackle it head-on.

Mr CLARE—What time frames are you talking about?

Mr Lambrides—I have police officers who have been there for 10, 12 or 13 years.

CHAIR—It defeats the very purpose of having them there.

Mr Lambrides—Exactly.

Mr CHESTER—What is the operational impact of that? How is not being able to rotate them on a day-to-day basis affecting the performance of the CMC?

Mr Lambrides—I do not want limit it to police officers. I think that if people are in the same positions for a long period of time they become stale, no matter what discipline they are. So I am not going to confine it to police officers. I think fresh blood coming into an organisation is very useful. Having said that, of course, I have been there for the whole of its existence, so it is a bit inconsistent—

Senator PARRY—You need some corporate history!

Mr Lambrides—There is in fact a 10-year time limit on my position as assistant commissioner. I think that is far too long. I made that clear when the government legislated to make it 10. I thought it should be eight years. I will go back a little step: at one stage there was no limit on it. As a result of a perception that the senior officers in CJC had been there for too long, they put a time limit on it of eight years. As soon as that occurred the people down the line thought, ‘This is no place for me to stay,’ and left, and there was a brain drain which has never been rectified. That applied not only to assistant commissioners but also to senior officers—that is, SES officers—so that is a fair whack of our senior staff. We made an impassioned plea to our parliamentary committee to increase it from eight years to 10 years and in fact have no limit with respect to the SES officers and only limit the assistant commissioners’ tenure. They increased them all to 10, with the capacity to extend in certain circumstances. It is a difficult area to be in for a long period of time. I think eight years is ample time at the senior levels. That is my personal view.

Mr CHESTER—On the staffing type issues, notwithstanding the current financial situation it is still going to be a tight labour market going forward. Is there any link between the remuneration being paid to your employees and the risk of corruption?

Mr Lambrides—I do not think there is any link at all, to be perfectly honest.

Senator PARRY—I have a couple of questions about your structure. Do you feel as though the CMC is impeded by having organised crime investigations as a part of what is really crime and misconduct? I refer to your organised crime detection unit.

Mr Lambrides—That has been a much debated issue for the 20 years of the CJC, when it was split up to form the Crime Commission and subsequently when it was merged again with the CJC to become the CMC. My view is that there is value in having one organisation with the same common resources. That allows you sometimes to move them from one area to the other. This is a very expensive business. If you had a separate surveillance and separate technical area for both areas, that would make it even more expensive. What we have at the commission is the best of both worlds, whereby we can switch resources from one area to another when the need exists. There is certainly no suggestion in my experience that having one function has diminished the effectiveness of the other function. There is no evidence of that at all. Because our organised crime area uses task forces from the Queensland Police Service, the suggestion is it is very hard for you to use them as your staff members and then have an oversight as well, but we have separated it fairly well. As far as I am concerned I do not think it is a real issue, even though it was at one stage thought to possibly be an issue.

Senator PARRY—If you have separated them very well, why not separate them completely and just have them back within the police jurisdiction?

Mr Lambrides—The answer to that is the organised crime area has coercive powers that the Police Service does not have. Clearly there has been a legislative decision that you cannot trust those coercive powers with the Police Service. They wanted an independent body. Once you have an independent body you have to resource it. How best to resource it?

Senator PARRY—Attach it to another body.

Mr Lambrides—I think the model is pretty good.

Senator PARRY—Moving on to another area, it has been suggested to us—and not by police, I stress—that the CMC has a weighted concentration on the Police Service compared to other areas such as local government areas. Do you have a comment on that?

Mr Lambrides—Absolutely true.

Senator PARRY—Explanation?

Mr Lambrides—Basically because it is the biggest risk for the community. The police are the ones with the extraordinary powers and they, as the number of complaints shows, are the ones that are more likely to abuse those powers.

Senator PARRY—What sorts of complaints are you getting from the local government area, in particular council officers or local government elected officials?

Mr Lambrides—I might start by saying what we do not get, which is probably surprising. We do not get many complaints about favouritism of certain developers. There have been a number in New South Wales recently. We have had virtually none of those allegations substantiated in 20-odd years within the commission. We do not seem to have the same problem as certainly exists in New South Wales. We get plenty of allegations—many of which are substantiated—of material personal interest. That is where councillors vote on an issue in which they have a personal interest through either their family or a related person. We have plenty of those, and

also plenty of conflict of interest situations where there might not be a financial benefit but there might be some other kind of benefit that accrues from the decision. That and the release of confidential information are by far the majority of complaints in the local government area.

Senator PARRY—Is there any compulsion on the part of the Local Government Association or even a mayor or deputy mayor of a council or shire to report to the CMC?

Mr Lambrides—The CEO has the obligation.

Senator PARRY—But what if the CEO is not aware? A member of the public, for example, might not be aware that the CMC looks after local government and they might not complain, or they might complain to the Local Government Association or talk to the mayor.

Mr Lambrides—The mayors are fully aware of the obligations of the CEO. There is no question about that. In fact, CEOs have an obligation to report complaints against the mayor and that creates some—

Senator PARRY—Why is it only the CEO? Why don't all councillors have that obligation to report?

Mr Lambrides—It is strange you should say that because they are introducing in the Queensland parliament at the moment a bill which will require councillors to report other councillors' conflicts of interest. At the moment that does not exist.

Senator PARRY—That might increase your complaints. On a percentage basis, would over 75 per cent of your work be police focused?

Mr Lambrides—No, just over 50 per cent.

Mr CLARE—I would like to go back to the line of inquiry Senator Parry was following a moment ago about the organised crime element that is embedded within the organisation. It seems that in its previous guise it was very similar to the New South Wales Crime Commission, and Senator Parry was making the argument about the rationale for it being in one organisation. I am interested in who investigates allegations of corruption by those officers?

Mr Lambrides—If they are within the commission?

Mr CLARE—Yes.

Mr Lambrides—There is a requirement upon the chairperson of the commission to report suspected misconduct, so as soon as there is any allegation of misconduct there is an obligation on the chairperson to report to the parliamentary committee. The parliamentary committee can do a number of things. They can refer it back to us and ask for us to investigate it and report back to them. There is also a parliamentary commissioner and they can refer it to the parliamentary commissioner, who has plenary power to investigate it him or herself and then report back to the parliamentary committee.

Mr CLARE—How does that work in practice? Have there ever been any instances of that?

Mr Lambrides—Allegations are made quite regularly. Fortunately, mostly they are not substantiated.

Mr CLARE—So they have not been the subject of an investigation by the parliamentary commissioner?

Mr Lambrides—They have. The other thing that happens is that members of the public might complain about the way that Misconduct has investigated a certain matter. That can be investigated by the parliamentary commissioner and then he or she would make either a public report or a report to the committee, depending on the outcome. We are then asked our views about whether it should be published and our view is always if it is a matter for the committee.

Mr CLARE—But there are two very different types of investigations. One is reviewing an investigation and a decision by the commission itself.

Mr Lambrides—No, that is not right. He conducts interviews. He collect evidence. He can go—

Mr CLARE—He uses the same powers, but conducting an investigation from the ground up in the case of the organised crime investigation units in your organisation would be very different from conducting an investigation after there has been a complaint made about an investigation you have already done.

Mr Lambrides—Quite so. The nature of the complaints is quite different—almost invariably. The complaint normally in relation to the organised crime area is that police officers have exceeded their authority or that they have not acted objectively; whereas in the misconduct area it is most often the allegation that we have leaked information. That is by far the most common allegation the parliamentary commissioner has to investigate. Fortunately, there has never been one substantiated. I genuinely believe that we do not leak and that is why the media do not particularly like us—they come to us and they get absolutely nothing, and that is anathema to them.

Mr CLARE—I am thinking about the resources available to the parliamentary commissioner.

Mr Lambrides—The parliamentary commissioner can also ask us to make some inquiries and report back to him or her.

Mr CLARE—To investigate yourself?

Mr Lambrides—To do a rudimentary interview and then report back on the outcome of the interview. Of course, the parliamentary commissioner himself can do the interview if he or she chooses to. I keep saying ‘he’ because currently it is a ‘he’ but it has in previous years been a ‘she’.

CHAIR—Following up on an earlier question, do you believe that the parliamentary commissioner should have powers to initiate their own investigation, rather than it being from the committee?

Mr Lambrides—No, I do not.

CHAIR—Why is that?

Mr Lambrides—I am very firmly of the view that they are representatives of the parliamentary committee. What I see happening in Western Australia is that the parliamentary commissioner is in effect being the commissioner of the commission over there because he claims to have the final say. Why have a chair of the commission if you have a parliamentary—

Mr CLARE—It is like an inspectors role or model.

Mr Lambrides—Where it is tasked—where there is a specific inquiry asked of the inspector by the parliamentary committee.

Mr CLARE—Harking back to New South Wales again, the PIC inspector can act independently, I think.

Mr Lambrides—Our parliamentary commissioner has certain statutory functions like auditing, for example. He has got to audit our records. That is statutorily imposed; the parliamentary committee do not determine that. But other than that he only acts upon what the parliamentary committee direct him to do. Now, if he or she finds something in the course of their travels, there is absolutely no reason why they cannot go back to the parliamentary committee and say: ‘This is the situation. I think this should be investigated further.’ And they would then get a direction. I think that is a far more appropriate model than having the full discretion available to the parliamentary commissioner or inspector where the risk of personalities is far greater. Whether you like it or not, personalities play a huge part in these things. We have had our own experience where parliamentary commissioners’ personalities have played a part in the relationship between us and our parliamentary committee.

Mr CLARE—We are looking at future models for ACLEI, which is one of the reasons for this hearing. I am interested in your thoughts about the issues that come with the expansion of an organisation from one which deals with one thing specifically and then becomes more generic or an all-in-one type of organisation, a bit like the one that you are now responsible for. We heard evidence earlier today from Professor Prenzler from Griffith University about the benefits of having a public sector integrity commission type model. We are taking evidence and listening to people’s views and advice about a broader ACLEI one that looks at other organisations within the federal public service that have law enforcement type powers. Do you have any thoughts on the expansion of ACLEI and the problems, or issues or challenges that that would create?

Mr Lambrides—Certainly I cannot see any rational objection to it having jurisdiction over more of the Commonwealth agencies. You might need to resource it a bit more but other than that I cannot see why it would complicate it at all. That is my view. Can I say that, with the greatest respect to Professor Prenzler and to people who are not practitioners, there is a finite amount of resources that government can bring to bear on this issue. We cannot be blind to that. You can have a perfect organisation if you had unlimited funds, but we have got to be practical about this. Our budget is around about \$40 million in ballpark figures; it is a lot of money. We do a lot of things; we do the same as about five organisations in New South Wales. But there is a limit to how much money government can throw at these organisations.

If you want to have five separate organisations that are resourced to the nines, it will cost you an awful lot of money. I sometimes doubt whether we can afford to have a Rolls Royce model when I think the Statesman is pretty damn good, if I can use the crude expression.

CHAIR—Do you see the Queensland model as the optimum model for Queensland? Would you see it as having benefits in other places as well?

Mr Lambrides—I think it is the optimum model. That is my personal view. I have worked with it for a long time. There have been bad times and good times. With the model we have at the moment, there is a parliamentary commissioner. Strangely enough, our biggest problems arose when we did not have a parliamentary commissioner, because the accusation always was: ‘Who’s guarding the guards?’ Whilst there is a parliamentary commissioner who can make independent inquiries on behalf of the parliamentary committee, we have had no such allegations. We give the parliamentary commissioner blank access to anything. We never, ever oppose it if he wants to look at anything. We have created a relationship where he knows that he will get whatever he wants. If he asks for something, he will get everything on the subject matter. There is no question of trust. That is a huge issue, and it was not always the case in the early days of the organisation. I will not go into the reasons, but trust is an extraordinarily important thing in these relationships. If you do not have trust, it is fraught with disaster.

CHAIR—The deputy commissioner of the Queensland Police Service who we heard from today referred to the very good working relationship that exists between the police and the CMC. He did say, however, that there are some areas of difference—things like penalties for officers and staff who have been found to have done something wrong. What could you say about the relationship and the areas of difference?

Mr Lambrides—Certainly the relationship between the upper echelon of the QPS, the Queensland Police Service, and the upper echelon of the CMC is very strong. I agree with that completely. I am not sure, as you go down the line, that the relationship is as strong, and that is because I do not think the trust is as great. If I am told something by, for example, Deputy Commissioner Stewart, I believe it absolutely. Similarly, when I say something, he accepts it absolutely. You do not have to agree with everything, but you can certainly have intelligent discourse on any subject and know that you are getting the full story. That is very helpful. When you go bit lower, that level of trust does not exist. A lot of it comes from me being there for so long. There are other officers who are more junior, and I am not talking about police officers. Most of the interchanges with officers of the ESC and the QPS have not been there for as long. Similarly, with regard to the people who are dealing with them within the Queensland Police Service, their liaison officers have not been doing that job for as long, so the level of trust is not nearly as strong as it is at the higher echelons of the commission.

Regarding the issue of whether we expect greater penalties, I think that is true in a sense but not completely. The philosophy I have always at the commission is that dealing with a particular case does not solve the wider issue. It is more important to focus on the wider issues, the systemic issues, that arise out of any complaint. Whilst you are focused on an individual’s conduct and not the root cause for the conduct, you will not address future conduct; you will not be preventing misconduct. My philosophy is very much not aimed at individual offices and the penalties they get. Having said that, sometimes the penalties that are given do not, in my view, send the right message from the point of view of deterrence and prevention. That is my

concern—not the penalty itself but whether it sends the right message—that is, whether, from the police perspective, they are saying, ‘This is acceptable conduct’ or ‘This is not acceptable conduct.’ That is the issue, not whether we want them all to be sacked. We do not want them all to be sacked. We do realise that they have a very hard job and there are many pitfalls in it.

CHAIR—Professor Prenzler noted the fact that the CMC has a very large research and education division and that the CMC has the power to direct police to follow up on research findings but that it has never actually used these powers. He gave an example of research into high-speed car chases and noted that the police have not implemented the recommendations that the CMC has made in that regard.

Mr Lambrides—Can I say that I agree with his assessment about the research area being a large area, and the prevention area is a large area, but it is also a very important area. I had cause to discuss with a colleague the major changes in the Police Service that have occurred in recent times. The changes arose not from individual complaints that were the kinds of things Investigations investigated but from the work that Research did and the accumulated information and intelligence gathered from all complaints, not just individual matters. For example, dog bites—we had a dramatic fall in dog bites after the commission published its report on police dog bites. We made a number of recommendations which they adopted, and the number of bites by police dogs has fallen dramatically. Serious assaults in watch-houses have fallen remarkably over the years because of reports that have come out of Research and Prevention based upon analysis of complaint data and the like. On the subject of pursuits, police have made absolutely huge inroads with respect to pursuits. When I was investigating pursuits back in 1993, we would have, say, 50 or 60 complaints a year of police officers involved in high-speed pursuits catching up with the drivers of the offending vehicles, pulling them out of the car and punching them—beating them up. That does not happen anymore for two reasons: first of all, the number of pursuits is much, much lower and, secondly, there are much greater controls in relation to pursuits. That has arisen from and been driven by the CMC’s research area.

So to say the police have not adopted the recommendation is true in the sense that there are some they have not adopted, but there are many that they have. One area that they certainly did not adopt, and to this day have not adopted, are the recommendations out of the inquiry involving release of confidential information from the Nerang police station. We made a raft of recommendations about how police officers should record the reasons for them accessing information from the police computer, because information was going to private investigators left, right and centre—and it was literally like, ‘Oh, that’s a good-looking girl; I’ll see where she lives,’ so they would get the registration number and find out where she lived. That was the full range of breaches of confidentiality, so we made a raft of recommendations, none of which have been adopted, on the basis that the technology is such that it is too difficult for them to implement.

CHAIR—Do you have the power to direct the police to do these things?

Mr Lambrides—No.

CHAIR—So that is not correct.

Mr Lambrides—We do not have the power to direct them to do anything.

CHAIR—Do my colleagues have any further questions?

Mr Lambrides—Can I just add one thing. We do always have the power, of course, to say: ‘We made these recommendations two years ago. We’ve reviewed the situation; you haven’t adopted any recommendations and we’re publishing a report to say you haven’t adopted the recommendations.’ That is something we can do.

Senator PARRY—Embarrassment rather than coercion?

Mr Lambrides—Yes.

Mr CHESTER—On the issue of technology and information security, I would imagine you would have got significant and sensitive databases. Regarding unauthorised access to material within your organisation—and you have just referred to the QPS—how are you managing that in an environment where the technology is always moving on and getting more sophisticated and you have to keep ahead of the criminal element, where information is gold?

Mr Lambrides—We have been very fortunate. We have had an IT director who has been there for most of the time that I have been there. Sometimes it causes us great frustration because it is sometimes inconsistent with easy access by the commission staff itself. We have such barriers—we have only recently got general access to the internet within the commission, for fear of, first of all, improper use but also the transmission of improper material and the ease of getting stuff out of the commission and into the commission. We have been very robust in our attempts to stop information getting out and getting in and contaminating our information. There has never been an issue at all in that regard—never—in the CMC or the CJC.

Mr CHESTER—But within the QPS, in terms of the integrity of their databases—

Mr Lambrides—It is an ongoing problem. I do not think the problem is information being taken from outside the organisation; it is information being leaked from inside the organisation. It is still one of the most significant problems the police service has and I am sure the Commissioner of Police would tell you that if he were here.

Mr CHESTER—Is it on a fee-for-provision basis or on a curiosity factor for the pretty girl walking down the street?

Mr Lambrides—I think you will find both.

CHAIR—The CMC’s *Strategic Plan 2006-10* outlines performance indicators for the timely and quality completion of misconduct assessments and investigations in relation to police corruption. To what extent are time frame targets achievable? To what extent does the nature and complexity of individual investigations determine the length of time necessary to complete these?

Mr Lambrides—It is an interesting question. It really raises the larger question of how you measure performance in a misconduct prevention area.

CHAIR—Yes.

Mr Lambrides—Is the conviction of a person the ultimate outcome, or is clearing a person's name the ultimate outcome? I would have thought that if it were a false allegation, clearing someone is just as important as convicting someone, at the end of the day. Measuring performance for that area is very difficult. Timeliness is a real issue for us—it always has been. We have improved dramatically in that area but there will still be investigations which, because of their very nature, are protracted.

Most of those involve financial inquiries. By the very nature of financial inquiries you have to go in little segments. You just cannot go to the bank and say, 'Give us all the information you have got on everything.' You ask for statements first, then you look through the statements and see which of those seem to be of any interest to you. You then ask for vouchers and then cheques. You do that successively—you cannot do them all at the one time. That takes a lot of time because the banks have to collect the stuff and provide it to us and we then have to analyse it to see whether it is relevant. Then we have to take the next step of summoning further documents. That kind of investigation is invariably protracted.

In covert inquiries, where there is no specific complaint, you are looking to get information from covert sources and build a case against police officers—for use of drugs in particular—and that is extraordinarily time-consuming and very expensive. If you were to ask if it is worth the cost of the investigation, then what is the cost of any investigation worth? What should be the cost of an investigation? I do not know the answer to that question after 21 years. I do not think that looking at the cost of an investigation or the time taken for investigation, is particularly fruitful in determining whether it was worth doing or not. There are a lot of other factors you have to take into account in the utility of doing that investigation.

When we determine to investigate a matter at the commission—and we only do about 100 a year now—we look at factors like whether any other organisation can do it, whether it is in the public interest or confidence, or whether we need to do it because of our coercive powers. They are the questions that you need to ask, and it may well be that, at the end of the day, you answer all those with: 'Yes, we need to do it,' knowing full well that the chances of getting a successful outcome—whatever 'successful' may mean—are pretty remote. Does that mean that the investigation will not be worth it? The answer is probably not, because you are obliged to do it. If you do not attempt to do it, and do it thoroughly, that raises issues about the organisation—especially if it is a political complaint against one side of politics. The accusation is that you are either running dead or you are trying to get the other side or whatever.

For years, we were accused of being a Labor Party agency. If there was a Bible here, I would say it on oath: I have never seen a political decision in 21 years at that establishment. It does not mean we are not alive to the political ramifications of decisions, because I think you have to be aware—not only must justice be done, it must be seen to be done. Sometimes it is harder making sure that what you produce does not give the appearance of being biased when it is not biased. It takes a lot of time and experience to get that right. Sometimes we still get it wrong, and it looks as if we may have acted in a partisan way because of the way we have presented our outcome when, in fact, we have not.

CHAIR—Thank you. Finally, I am not sure how much you are aware of ACLEI, its structure and how it was set up, but has been set up on what has been called a building-block approach.

Mr Lambrides—You mean a shoestring.

Senator PARRY—No, it is quite well funded, actually.

CHAIR—It has been established with quite basic capabilities, with a view to establishing further capabilities over time as the needs are better understood. Given your very long experience in this area—and ACLEI has identified certain building blocks that it believes it needs—I would like to ask you which of those you believe are necessarily required in-house, assuming that others could be purchased from other integrity or law enforcement agencies. Those that have been identified by ACLEI are: infrastructure for hearings and investigations, such as a secure hearing room, evidence vault et cetera; legal support services; operations and convert information gathering, such as telecommunications and data interception capability, assumed identity capability, integrity-testing capability, personnel security considerations, witness protection arrangements et cetera; prevention capabilities, such as a corruption risk assessment and research program; and strategic direction capabilities, such as a policy program, corporate governance arrangements et cetera. I know that is a lot.

Mr Lambrides—Look, the situation is that you can get a lot of those offshore—outside the organisation. It depends on the number of jobs you have and the amount of work you have. Sometimes it is just not worth having personnel there within the organisation when they are just not going to be engaged sufficiently. On the technical side of things, I am not sure that they have enough work at the moment. I do not know. I do not get told what work they have got, but I am not sure that they have enough work to justify it. We have two surveillance teams. That costs a fortune. I cannot imagine how you could justify having two surveillance teams in that area, for example. We do not have TI at the moment, but legislation has just been passed in the Commonwealth sphere which will allow us to have it eventually in Queensland. We are now looking to see whether we should be, in effect, attaching ourselves to one of the Commonwealth bodies and paying them for the incremental service that would be required to assist us or having an in-house service ourselves. It is not easy. It really comes down to the demand on the organisation for that particular service. That will depend on basically what demand there is for the services that are produced by that organisation. I really cannot help you much more than that. But it certainly is not axiomatic that it should all be in-house. Maybe I can put it that way.

CHAIR—What about, for example, a secure hearing room?

Mr Lambrides—I think you need a secure hearing room. The one thing that distinguishes our organisation from the Police Service is coercive hearings. You will rely more and more on coercive hearings if you are doing your job properly. I think you do need to have dedicated hearing rooms for that purpose, and you need to develop expertise in that area, because it does require expertise.

CHAIR—Thank you. Do you have anything else you would like to say to the committee?

Mr Lambrides—No.

CHAIR—I thank you very much for taking the time to give evidence today.

Mr Lambrides—My pleasure.

CHAIR—I would like to thank all witnesses who have given evidence to the committee today.

Committee adjourned at 2.14 pm