



## QUEENSLAND POLICE SERVICE

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Our Ref:

Your Ref:

28 March 2022

The Honourable Tony Fitzgerald AC QC and  
The Honourable Alan Wilson QC  
Commission of Inquiry relating to the  
Crime and Corruption Commission  
[submissions@cccinquiry.qld.gov.au](mailto:submissions@cccinquiry.qld.gov.au)

Dear Commissioners

I refer to your letter of 2 March 2022 inviting the Queensland Police Service (QPS) to provide information to the Commission of Inquiry into specific matters relating to the Crime and Corruption Commission (CCC).

Thank you for the opportunity to assist the Commission of Inquiry and contribute to the improvement of the CCC. Please find **enclosed** the QPS submission, for your consideration.

The QPS is a key partner agency to the CCC and, together, play a crucial role in the prevention, disruption, response and investigation of major criminal and corrupt behaviour. The QPS welcomes further consultation throughout the Inquiry.

If you require any further information, please do not hesitate to contact my chief of staff, Acting Superintendent Graeme Paine [REDACTED] or email [REDACTED]

Yours sincerely



**KATARINA CARROLL APM**  
**COMMISSIONER**

Enc.



# QUEENSLAND POLICE SERVICE

Submission to

Commission of Inquiry into specific matters  
relating to the Crime and Corruption  
Commission



March 2022



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## 1. INTRODUCTION

This submission is to assist the Commission of Inquiry (COI) into specific matters relating to the Crime and Corruption Commission (CCC).

In addition, the submission responds to the particular matters of interest identified in correspondence from the COI received by the Queensland Police Service (QPS) on 2 March 2022 (COI reference 602456/1, 6119271).

The Commissioner of Police appreciates the opportunity for the QPS to provide information to the COI and contribute to the continuous improvement of law enforcement activities in Queensland.

The functions of the QPS are provided in section 2.3 of the *Police Service Administration Act 1990* (Qld) and include the preservation of peace and order, the protection of all communities and the detection of offenders and bringing offenders to justice.

The QPS is a key partner agency to the CCC. Both the QPS and the CCC play a crucial role in the prevention, disruption, response and investigation of major criminal and corrupt behaviour and keeping the Queensland community safe.

Through the ability to utilise a hybrid matrix of CCC investigative powers and police powers efforts have been focused on detecting and disrupting the serious criminals and criminal organisations who seek to cause significant harm to the community and shining a light on serious and systemic allegations of corruption in the public sector.

The QPS welcomes further consultation throughout the Inquiry.

Seconded police officers to the CCC play a strategic role in the execution and delivery of both the CCC Major Crime Function and the CCC Corruption Function.

## 2. MAJOR CRIME FUNCTION

Major Crime investigations are initiated through the Crime Reference Committee (CRC) of the CCC. The CRC may approve two kinds of referrals and two kinds of investigation:

- A Specific Referral
- A General Referral
- A Specific Intelligence Operation
- An Immediate Response Investigation

Subject to the oversight of the CRC, the CCC Chairperson or the Senior Executive Officer (Crime) may approve one or more Particular Investigations under the authority of a General Referral.

The QPS Commissioner may ask the CRC to make a Specific Referral and, a police officer may also ask the Chairperson or Senior Executive Officer (Crime) to approve a Particular Investigation. The CCC is engaged in these investigations to exercise powers (usually limited to investigative hearings) which are not ordinarily available to the police.

Where the Senior Executive Officer (Crime) asks the CRC to make a Specific Referral, or a Commission Officer (including a seconded QPS officer) asks the Chairperson or Senior Executive Officer (Crime) to approve a Particular Investigation, for reporting purposes, the CCC describes both these kinds of investigations as CCC Crime Investigations.



Relevantly, the CRC may approve a Specific Intelligence Operation or an Immediate Response Investigation on its own initiative, or upon a request by the Senior Executive Officer (Crime). The CCC will be the lead agency for a Specific Intelligence Operation.

### 3. CORRUPTION FUNCTION

Seconded police officers to the CCC play a strategic role in the execution and delivery of the CCC Corruption Function, specifically the investigation of a complaint about, or information or a matter involving, corruption.

The CCC is Queensland's anti-corruption body and deals with corruption that affects the state's public sector, using special powers under the Crime and Corruption Act and the *Police Powers and Responsibilities Act 2000* (Qld).

The CCC corruption jurisdiction is broad and diverse, including state government departments, the QPS, local government, government-owned corporations, universities, prisons, courts, tribunals, and elected officials. The CCC investigates only the most serious or systematic corruption allegations itself and refers other allegations to relevant public sector agencies for investigation but oversees many of these allegations.

The purpose of a corruption investigation is to:

- determine whether people should be charged with criminal offences or face disciplinary action within their agency;
- clear a person's name, if no evidence has been found to support allegations made against them, particularly where the matter has been made public; and
- identify vulnerabilities and gaps in agency policies and systems and advise agencies about possible corruption risks and recommend solutions to address them.

The CCC is also Queensland's police integrity oversight body and deals with complaints against police, is a key partner in the police discipline system, and is advised of and may attend serious police-related incidents such as shootings or deaths in custody.

### 4. SECONDMENT OF POLICE OFFICERS TO THE CCC

The secondment of police officers to the CCC provides the capacity for an investigation to utilise both existing police powers and also the powers of the CCC.

#### 4.1 ORGANISATIONAL ARRANGEMENTS

The QPS has a Crime and Corruption Commission Police Group (CCC Police Group), led by a commissioned officer of the rank Detective Chief Superintendent.

Currently the responsibilities of the Chief Superintendent as outlined in the QPS Operational and Procedures Manual (OPM)<sup>1</sup> section 1.4.3 are:

- i. directing operational command of the C&CC (Police Group) including supervision and discipline;
- ii. liaising with the Commissioner and members of the Service;
- iii. collaborating with other law enforcement agencies;
- iv. organising and maintaining the collection, collation and dissemination of criminal intelligence;
- v. advising the Chairman of the C&CC (Police Group) in relation to vetting procedures and police matters generally;

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<sup>1</sup> The OPM is issued pursuant to the provisions of section 4.9 of the *Police Service Administration Act 1990* (Qld).



- vi. liaising with other divisions of the C&CC (Police Group), such as the Research and Intelligence divisions;
- vii. other duties that may from time to time be assigned by the executive directors, Crime and Corruption divisions; and
- viii. fostering an inclusive workplace where health, safety and wellbeing are promoted and prioritised.

Please note that section 1.4.3 is presently subject to review.

The CCC Police Group falls under the Crime, Counter-Terrorism and Specialist Operations Command led by Deputy Commissioner Tracy Linford APM.

A memorandum of understanding exists between the QPS and the CCC to provide for high-level cooperative arrangements for the secondment of police officers to the CCC to enable the CCC to perform legislated functions pursuant to the Crime and Corruption Act. The MOU accords with section 255 of the Crime and Corruption Act.

The memorandum is provided at **Attachment 1**.

There are currently 85 police officers seconded to the CCC, to support the CCC crime and corruption functions.<sup>2</sup> **Attachment 2** provides the current organisational chart. It should be noted the number of positions may fluctuate based on operational needs and may differ from the organisation chart at times.

The management of all police officers seconded to the CCC is subject to the joint responsibility of the chief executive officer of the CCC and the most senior police officer seconded to the CCC (a Chief Superintendent) (section 255(3) of the Crime and Corruption Act). It should be noted that section 255(3) does not provide a power to direct an officer to arrest or charge a person; this power rests solely with the Office of Constable and thereby this section should not be read as giving the CCC such power.

Police officers are seconded to the following capabilities:

- Investigations (Crime and Corruption). A cohort of 32 QPS detectives work in multi-disciplinary teams alongside legal, intelligence and financial analysts while utilising the services of the CCC's specialist capabilities which include physical and technical surveillance, forensic computing, telephone intercepts, human source, witness protection, investigative hearings and proceeds of crime. Investigation functions are divided into:
  - a Crime Division which has 14 QPS members.
  - a Corruption Division which has 18 QPS members.
- Physical Surveillance which has 1 QPS members.
- Technical Surveillance which has 1 QPS members.
- Human Source which has 1 QPS member.
- Witness Protection (including an Intelligence capability) which has 1 QPS members.
- Forensic Computing which has 1 QPS members.

There is also a Senior Sergeant, Strategy and Performance Officer.

## 4.2 SECONDMENT POLICY AND OPERATIONAL DOCUMENTS

As referenced in part 9 of the MOU, the QPS and the CCC have developed a Secondment Policy and supporting concept of operations to operationalise the MOU.

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<sup>2</sup> As at 04 March 2022.



The Secondment Policy is provided at **Attachment 3**. The policy outlines capability ownership of certain officers, selection process for vacancies and secondment periods.

The Concept of Operations (Partnership Model) is provided at **Attachment 4**. This document outlines secondment arrangements and the partnership model for the capability areas of physical and technical surveillance, forensic computing and intelligence.

The Concept of Operations (EOI Model) is provided at **Attachment 5**. This document outlines the secondment arrangements and expression of interest model for the capability areas of investigations, strategy and performance, human source and witness protection.

Police officers seconded to the CCC remain subject to existing QPS Service Manuals, including the OPM, Commissioner's Directions and the QPS discipline system. They must also comply with legislation, such as the Police Service Administration Act and the Police Powers and Responsibilities Act.

Secondments to the CCC are generally 5 years with a minimum tenure of 3 years and a maximum tenure of 5 years.

Officers seconded to Witness Protection have a minimum tenure of 3 years and a maximum tenure of 8 years. This extended tenure recognises the significant investment in training officers in witness protection duties prior to their arrival at the CCC.

In certain circumstances secondments can be extended beyond the maximum tenure upon consideration of the Police Resource Committee and approval of the CEO. Such circumstances include officers within 2 years of retirement, exceptional circumstances or where an extension would be operationally beneficial to the CCC.

#### **4.3 RECRUITMENT PROCESSES FOR QPS SECONDMENTS TO THE CCC**

This commentary discusses the recruitment process for the secondment of investigators to the CCC. These secondments are filled via an expression of interest process, with the position advertised in the QPS gazette.

Officers are required to submit a written two-page application addressing the relevant position description and complete a (QPS) QP0073 form which outlines their qualifications, experience and service history.

Officers of the rank of Senior Constable or Sergeant may apply for Sergeant or Senior Sergeant roles respectively, and if successful paid higher duties for the duration of their secondment. The current Secondment Policy has significantly enhanced the application processes.

As noted above, police officers are required to be appointed detectives and desirable experience can include:

- Major and/or organised crime investigations within a multi-disciplinary team environment.
- Investigations into major fraud or corruption/ misconduct/ disciplinary related matters.
- The use and management of various forms of physical and electronic surveillance including telephone intercepts.
- Compilation of complex briefs of evidence which may utilise various forms of electronic surveillance from external law enforcement agencies.
- Cultivation and use of covert human services.

All applicants are assessed via closed merit selection process by a three-member panel comprised a Detective Inspector from the separate Crime and Corruption business areas and a civilian Director from the Corruption business area. The selection process includes an assessment of the written application and due diligence via referee checks and CCC specific corruption vetting. Interviews are generally not undertaken for investigator expressions of interest.



Successful applicants are nominated in a panel convenors report to the Chief Superintendent, CCC Police Command who considers and endorses the selection subject to successful CCC full vetting. Once vetting is undertaken officers are appointed via a Management Initiated Transfer and appear in the QPS gazette.

It should be noted that the process is an expression of interest and not subject to review although the provisions of the QPS policy relating to grievances may apply. Officers are not promoted to the CCC under the expression of interest model, they either transfer at level or on higher duties where they maintain their substantive rank and are appointed to long term higher duties for the duration of their secondment.

This expression of interest process does not include any specific exploration to ascertain the knowledge and understanding of officers about broader areas of law other than criminal law (i.e. regulating disclosures made under the *Public Interest Disclosure Act 2010* (Qld); the role of the Queensland Industrial Relations Commission in relation to those disclosures; and any other areas of administrative law, public law, employment law and public sector corporate governance). However, the transferrable skills honed by these detectives throughout their career coupled with the CCC multi-disciplinary team approach to investigations, allows detectives to apply their transferrable skills to other areas of law. In addition, numerous police officers have tertiary and post graduate qualifications.

The QPS acknowledges there is opportunity for continuous improvement to enhance the investigatory capacity of detectives seconded to the CCC in other areas such as administrative law, public law, employment law and public sector corporate governance. The QPS notes, as identified in the Parliamentary Crime and Corruption hearings, that the CCC have legal officers specifically embedded with investigation groups (or attached to specific investigations) to provide ongoing and timely legal support, advice and guidance in relation to these legal issues

The expression of interest process outlined above is also utilised for vacancies in the Human Source Unit and Witness Protection Unit where interviews may be conducted as appropriate.

Vacancies within the Physical Surveillance, Technical Surveillance, Forensic Computing, and Intelligence capabilities are filled through the QPS open merit process under the partnership model. The CCC is represented on these panels and vacancies can be filled directly from a selection process or officer rotation from the QPS partner capability. Under these circumstances officers are subject to CCC vetting and due consideration is given to the rotation via the Focus Maintenance Group (FMG) which consists of representatives from the QPS and CCC.

From time-to-time investigators are appointed to the CCC on short term (operation specific) secondments under s.255 of the Crime and Corruption Act and an operation or investigation specific MOU between the CCC and the relevant QPS command providing the staff. Officers are fully vetted prior any short-term appointment.

#### **4.4 EXPERTISE, QUALIFICATIONS AND TRAINING REQUIRED FOR A POLICE OFFICER TO BE SECONDED TO CCC (EITHER BY THE QPS AND ALSO BY THE CCC)**

##### **INVESTIGATIVE FUNCTION**

Of the 85 police officers seconded to the CCC, 32 police officers undertake a purely investigative function. Investigators seconded to the CCC to support either the crime or corruption functions must hold their detective appointment.

There are 14 detectives seconded to support the CCC crime function and 18 detectives seconded to support the CCC corruption function.



The 32 detectives performing investigative functions are all experienced investigators with significant and diverse policing experience.

Police officers seconded to the CCC bring extensive experience in protracted and complex investigations and have contemporary knowledge which benefits the CCC crime and corruption functions.

The QPS notes that the majority of civilian investigators are ex-police officers or have a law enforcement background, however the benefit of utilising the skills of sworn police officers is their contemporary knowledge. One example of the significant utility of sworn police officers is the statutory overseeing role of a death in a police operation, where investigators are required to be aware of and understand current QPS police training, policies and procedures, which civilian investigators generally do not possess.

## DETECTIVE STATUS

Before being eligible to be appointed to the status of detective, police officers are to:

- have the highest standard of integrity
- be highly disciplined
- display the highest levels of investigative knowledge and skills.

The below criteria are to be considered for the assessment of the officers' behaviour, skills and knowledge for appointment to detective status:

- i. completion of a minimum three years (36 months) competent performance in an investigative field, with the understanding that the Detective Appointment Board (DAB) may approve a lesser period in specific cases;
- ii. successful completion of the Detective Training Program (DTP). Note: successful completion of DTP also results in the issue of the nationally accredited Advanced Diploma of Police Investigations (POL65115);
- iii. breadth and depth of experience in the investigation of a wide range of criminal offences;
- iv. experience in the preparation of full briefs of evidence;
- v. demonstrated commitment to self-development;
- vi. demonstrated use of contemporary strategies in the investigation, prevention and disruption of crime;
- vii. maintenance of a high standard of personal and professional integrity;
- viii. professional attitude towards duties, colleagues, superiors and members of the public;
- ix. obtain supporting recommendations from:
  - a. Officer in Charge; and
  - b. Detective Inspector (or equivalent); and
  - c. Regional Crime Coordinator (or equivalent).

The DTP has three primary phases and is based on a cyclic training process of attendance at a training course, practical experience and submission of an e-Workbook demonstrating the required competencies. The DTP embeds theory with practical operational skills to develop the required behaviours, skills and knowledge of contemporary investigators.

The phases of the Program are:

- Phase One: Investigative Processes and Procedures.
- Phase Two: Crime Specific Processes and Procedures
- Phase Three: Case Investigation Management Skills; and
- Post Phase Three: e-Workbook that must be submitted within 12 months after successfully completing Phase Three.



Phase One is intended to develop the skills and attributes of recently appointed QPS plain clothes investigators. The course introduces participants to fundamental investigative skills, legislation, policies and procedures that are crucial to the conduct and management of criminal investigations in Queensland.

This phase places a heavy emphasis upon the practical skills required by investigators. These include:

- Conducting and managing investigations
- Police powers and safeguards
- Interviewing and taking statements from witnesses/victims
- Preparation of Crime Scene Warrants
- Problem solving, critical decision making, tactical and operational planning
- Preparation of Crime Scene search warrants
- Preparation and execution of search warrants
- Control and management of Crime Scenes
- Understanding and managing coronial and sudden death scenes
- Briefing and debriefing
- Full brief of evidence preparation
- Court and offender management procedures
- Contemporary evidence gathering
- Apply innovative approaches enhancing community safety through disruption and prevention techniques
- Ethical decision making
- Offender identification techniques
- Mechanics and rules of evidence
- Offences against the person module
- Property and robbery module.

Phase Two is to develop participant's knowledge in the mechanics of law relating to property, robbery and sexual offences. Participants are taught to identify criminal offences and understand the relevant policy, law and legislation while linking this knowledge to the workplace of a QPS investigator. Participants will also receive training in both witness and suspect interviewing skills as they are applied to serious and complex investigations. The phase two components include:

- Mechanics and rules of evidence
- Financial Crime Investigations
- Understanding sexual crimes and victim support
- Sex offences
- Drug offences
- Apply innovative approaches enhancing community safety through disruption and prevention techniques
- Conversation Management Module for suspect interviewing and
- Problem solving, critical decision making, tactical and operational planning

Phase Three places particular emphasis on the investigation of serious and complex crime. A major component of the course involves a practical exercise with emphasis on the management of investigations; incident scenes and the ability to case manage and apply investigation processes in accordance with jurisdictional law, policy and organisational procedures.

The course content relates to:

- Proceeds of crime and the confiscation of profits
- Extradition and extra-territorial warrants
- Homicide and homicide related investigations
- Conducting and managing investigations
- Preparation of complex reports



- Problem solving, critical decision making, tactical and operational planning
- Contemporary evidence gathering
- Briefing and Debriefing
- Ethical decision making
- Crime scene management and coordination
- Engaging with internal and external stakeholders
- Major incident room management
- Major case management and recording structure
- Media and communication strategies

The eWorkbook is a collation of workplace examples where officers demonstrate and apply the knowledge learned during the three phases of the Detective Training Program. The eWorkbook confirms a participant's ability to apply investigative processes and techniques, contemporary management principles and administration practices in the context of case investigation within the Queensland Police Service.

The eWorkbook consists of eight competencies which incorporate:

- Investigative strategies and techniques
- Objection to bail for a serious criminal offence
- Gathering and analysing intelligence to implement action through a search warrant
- Management and coordination of incident scenes
- Conversation Management module for suspect interviewing
- Human Source Management
- Victim support for a serious indictable offence
- Proceeds of crime and the confiscation of profits

#### 4.5 ONGOING TRAINING REQUIREMENTS

Investigators are continually mentored by more senior police officers and are also able to avail themselves of various development opportunities including courses relating to economic crime, drug related crime, homicide investigations and counter-terrorism.

Once seconded to the CCC, police officers are required to undertake any training arranged by the CCC.

In addition, all police officers are required to undertake mandatory firearms training every calendar year together with other mandatory QPS training on specific issues such as domestic and family violence, psychological first aid and other modules which maintain relevance, currency and changes in legislation and policy across a number of disciplines.

## 5. COMMENCEMENT OF CRIMINAL PROCEEDINGS

The successful investigation of alleged offences and management of incidents is dependent on timely and accurate information being passed to investigating officers. Police officers who receive complaints or reports of offences and incidents are responsible for the accurate collection, recording and dissemination of information.

The powers of the CCC are set out in Chapter 3 of the Crime and Corruption Act. Importantly, it must be noted that the CCC have no powers of arrest or power to charge persons other than to proceed against a police officer or public servant for corruption within the Queensland Civil and Administrative Tribunal (QCAT) (s. 50 of the Crime and Corruption Act).

The commencement of criminal proceedings rests solely with prosecuting authorities (for example the QPS). While the Director of Public Prosecutions (DPP) may usually be considered a prosecution authority and can commence proceedings by way of *ex officio* indictment, section 49(5) of the Crime and Corruption Act expressly excludes the DPP from the definition of prosecuting authority for such referrals.



Notably, section 26 of the Crime and Corruption Act prescribes that the CCC performs its crime function by gathering evidence **and liaising with** prosecuting authorities, while section 35 provides a similar limitation in its corruption functions, namely the gathering of evidence etc.

Importantly, section 49 of the Crime and Corruption Act prescribes that the CCC may report on the investigation of corruption matters to relevant entities including as appropriate, (a) a prosecuting authority, for the purposes of any prosecution proceedings the authority considers warranted.

### SECTION 3.4 OPERATIONAL PROCEDURES MANUAL (OPM)

**Attachment 6** provides an extract from chapter 3 of the QPS internal OPM (Issue 86, Effective 11 February 2022 pages 387 to 391). A summary is provided below.

Section 3.4 of the OPM provides that the QPS policy to commence proceedings is drawn from the Office of the Director of Public Prosecutions, Director's Guidelines (Director's Guidelines) and based on a two-tiered test:

- i. Is there sufficient evidence? And
- ii. Does the public interest require a prosecution?

The QPS position is that the Director's Guidelines should be complied with (see section 3.4.5 of the OPM).

There is no inconsistency between the application of the two-tiered test by officers seconded to the CCC or officers within the QPS as a whole. A two-tiered test is always applied by police officers in deciding whether to commence criminal prosecutions.

Training on the two-tiered test is fundamental and commences during recruit training and is woven through many facets of ongoing training, such as detective training.

Police officers are required to make decisions on a case-by-case basis as not all offences brought to the attention of the Service will be prosecuted.

The decision to institute proceedings against a person for an offence initially rests with the arresting officer, upon being satisfied on reasonable grounds:

- i. an offence has been committed;
- ii. the person against whom prosecution is proposed has committed that offence;
- iii. a statutory authority to prosecute for that offence exists;
- iv. any statutory limitations on proceedings have not expired; and
- v. the elements of the intended charge can be proven.

## 5.1 SUFFICIENCY OF EVIDENCE TEST

The primary test for the decision to prosecute is the 'sufficiency of evidence' test. This test will be satisfied if there is sufficient admissible evidence to prove the charge against the defendant. A prima facie case is essential but is not enough. There must be a reasonable prospect of the defendant being found guilty of the offence.

Once the sufficiency of evidence test has been satisfied, police officers must then consider the 'public interest' test.

Section 3.4.3 of the OPM outlines the factors for consideration when evaluating the sufficiency of evidence test and the public interest test.

In evaluating the sufficiency of evidence, police officers are required to consider all aspects of the evidence to be presented, including:



- i. admissibility of evidence;
- ii. reliability of evidence, including identification;
- iii. possible defences;
- iv. the extent of any contradictory evidence;
- v. competency of witnesses;
- vi. compellability of witnesses;
- vii. credibility of witnesses;
- viii. availability of witnesses;
- ix. whether witnesses will be hostile, adverse, or cooperative; and
- x. where the Court Brief (QP9) or Brief of Evidence is not provided to the relevant prosecution corps in the required time frame,

## 5.2 PUBLIC INTEREST TEST

In considering the public interest test, the factors relevant to whether the public interest requires a prosecution will vary. Generally, the more serious the offence the more likely the public interest will require a prosecution. The proper decision in most cases will be to proceed with the prosecution if there is sufficient evidence.

Police officers are instructed that the factors which arise for consideration in determining whether the public interest requires a prosecution include:

- i. the seriousness or, conversely, the triviality of the alleged offence or it is of a 'technical' nature only;
- ii. any mitigating or aggravating circumstances;
- iii. the youth, advanced age, intelligence, physical health, mental health or special infirmity of the alleged offender, a witness or a victim;
- iv. the alleged offender's antecedents and background, including culture and ability to understand the English language;
- v. the degree of culpability of the alleged offender in connection with the offence;
- vi. whether the prosecution would be perceived as counter-productive to the interests of justice;
- vii. the availability and efficacy of any alternatives to prosecution (including a restorative justice process)
- viii. the prevalence of the alleged offence and the need for deterrence either personal or general;
- ix. whether or not the alleged offence is of minimal public concern;
- x. any entitlement or liability of the victim or other person or body to criminal compensation, reparation or forfeiture, if prosecution action is taken;
- xi. the attitude of the victim of the alleged offence to a prosecution with regard to the seriousness of the alleged offence and whether the complainant's change of attitude has been activated by fear or intimidation;
- xii. the cost of the prosecution relative to the seriousness of the alleged offence;
- xiii. whether the alleged offender is willing to cooperate in the investigation or prosecution of others, or the extent to which the alleged offender has done so, subject to the Director's Guidelines, particularly Guideline 35: 'Immunities';
- xiv. the necessity to maintain public confidence in such institutions as the Parliament and the courts;
- xv. the effect on public order and morale;
- xvi. pending the outcome of any other prosecution from the same circumstances (including in a civil jurisdiction);
- xvii. whether the prosecution for the class or type of offence has been discouraged by the courts in the course of judicial comment;
- xviii. whether the prosecution will result in hardship to any witness, particularly children; and
- xix. vexatious, oppressive or malicious complaints.



The two-tiered test is applied rigorously by officers seconded to the CCC as an investigation is considered within a multi-disciplinary team, that can include the investigating officer, the Team Director, the Executive Director, Senior Executive Officer (SEO), commission lawyers, and the Chairperson. However, despite section 255(3) of the Crime and Corruption Act, and in accordance with the inherent duties and responsibilities conferred by the common law Office of Constable<sup>3</sup>, the decision to arrest and/or commence proceedings or not solely remains with the investigating officer, even if the Chairperson or any other officer or staff member of the CCC has been briefed and/or expressed a view on the investigation.

In addition, if a team of civilian investigators have recommended criminal charges should be laid and the brief of evidence is provided to a police officer who has not been involved in the investigation, the police officer will make an independent assessment of the matter by reviewing the brief of evidence and applying the two-tiered test prior to determining whether to arrest or charge any person.

While each police officer has independent rights and duties in the arrest and charging of offenders, there are also processes to ensure independent oversight of a decision to charge a person with a criminal offence. There is a chain of command in the review and consideration of criminal charges. There may be occasions where an external legal opinion or the DPP is consulted to inform a decision to charge.

When officers are making a decision to prosecute, they are to make the decision with impartiality and not to be influenced by matters such as:

- i. race, religion, sex, national origin or political views;
- ii. personal feelings concerning the offender or the victim;
- iii. possible political advantage or disadvantage to the government or any political group or party; or
- iv. the possible effect of the decision on the personal or professional circumstances of those responsible for the prosecution.

At a fundamental level, a police officer seconded to the CCC, cannot at law, and is not in practice, directed to charge a person with an offence. However, the police officer may be directed to investigate a matter or to undertake investigative action (such as attend a search warrant). Further, day to day directions could be given to a police officer either formally or informally.

In making a decision to charge a person with an offence, there will be no difference in the end product of a brief of evidence that is progressed to the DPP or the Chairperson of the CCC. It should be noted that it is rare for a matter to be referred to the DPP for an assessment of the brief of evidence.

Investigations conducted at the CCC, either in a major crime or corruption function, may be protracted and typically involve multidisciplinary teams. This approach allows for legal observations to be made over the brief of evidence and inform a police officer's decision to prosecute.

There is a standard practice at the CCC for legal observations to be made over corruption investigation briefs of evidence.

In relation to briefs of evidence for major crime investigations, obtaining legal observations is not a requirement, but it should be noted that each investigation team has, during the course of the investigation, an assigned legal officer who provides advice and guidance.

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<sup>3</sup> As maintained by section 3.2 *Police Service Administration Act 1990*



## 6. OTHER INFORMATION

### SECTION 382(2) OF THE PPRA

The QPS notes the reference in the COI letter to section 382(2) of the PPRA as an example. The QPS rejects that there is any inconsistency between a direction to police officers to apply the two-tiered test and any other criteria that police officers are required to apply in deciding whether to commence criminal prosecutions. This subsection does not remove the requirement for the investigating officer to make a decision to prosecute based on the sufficiency of evidence and public interest tests. The investigating officer must have a reasonable suspicion the person has committed or is committing an offence.

Subsection (2)(b) was introduced in 2007<sup>4</sup> as an administrative amendment to allow an investigating police officer to ask another police officer to issue and serve a notice to appear, for example, in circumstances where the investigating officer is unable to serve a notice to appear. It is noted as per the second reading speech for the amendment Bill that the requesting police officer remains the complainant in the matter.<sup>5</sup>

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<sup>4</sup> Via passage of the *Police and Other Legislation Amendment Act 2007*

<sup>5</sup> See [https://documents.parliament.qld.gov.au/events/han/2007/2007\\_04\\_18\\_WEEKLY.PDF](https://documents.parliament.qld.gov.au/events/han/2007/2007_04_18_WEEKLY.PDF) at p1311



## 7. ATTACHMENTS

1. Memorandum of Understanding between the Commissioner of the Queensland Police Service and Chief Executive of the Crime and Corruption Commission
2. Organisational Chart – CCC Police Group
3. Policy: Secondment of Police Officers to the CCC
4. Concept of Operations (Partnership Model)
5. Concept of Operations (EOI Model)
6. OPM Extract 3.4



## **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**COMMISSIONER OF THE QUEENSLAND POLICE SERVICE**

**AND**

**CHIEF EXECUTIVE OFFICER OF  
THE CRIME AND CORRUPTION COMMISSION**

## **WHEREAS:**

The parties desire to enter into a Memorandum of Understanding (MOU) to facilitate the secondment of Queensland Police Service (QPS) officers to the Crime and Corruption Commission (CCC) and their return to the QPS at the end of a secondment.

## **IT IS AGREED AS FOLLOWS**

### **1. COMMENCEMENT**

This MOU shall commence on the date of execution by the parties and continue until it is terminated by either party in accordance with clause 2.

### **2. TERMINATION**

Notwithstanding any other provision of this MOU, a party may by written notice to the other party, terminate this MOU.

Unless otherwise agreed, twenty eight (28) days notice shall be provided to the other party of the intention to terminate this MOU.

### **3. PARTIES**

The parties to this MOU are:

- a) Commissioner, Queensland Police Service and;
- b) Chief Executive Officer, Crime and Corruption Commission

#### **4. PURPOSE**

High level agreement exists between the QPS and the CCC for the secondment of police officers to the CCC. The purpose of this MOU is to establish the cooperative arrangements between the QPS and CCC for the secondment of police officers to the CCC to enable it to perform its legislated functions as defined in the *Crime and Corruption Act 2001* and for their return to the QPS at the end of a secondment.

#### **5. DEFINITIONS/INTERPRETATION**

“CCC” means the Crime and Corruption Commission.

“CEO” means the Chief Executive Officer of the Crime and Corruption Commission as defined in the *Crime and Corruption Act 2001*.

“Commissioner” means the Commissioner of the Queensland Police Service as defined in the *Police Service Administration Act 1990*.

“Member/s” includes staff members of the Queensland Police Service or a Police Officer.

“MOU” means this Memorandum of Understanding.

“Parties” collectively means the Commissioner of the Queensland Police Service and the Chief Executive Officer of the Crime and Corruption Commission or their representatives.

“Police Officer” means a member of the Queensland Police Service as defined in the *Police Service Administration Act 1990*.

“QPS” means the Queensland Police Service.

## **6. GUIDING PRINCIPLES**

The parties agree that the cooperative arrangements between them are based on mutual respect, cooperation and shared principles in relation to the secondment of police officers to the CCC and their return to the QPS at the end of a secondment.

## **7. OPERATION OF THE MOU**

This MOU describes the party's commitment to working together for their mutual benefit. It is not intended to be, nor is it, legally binding on the parties and it does not override any other legal or contractual obligations of the parties.

This MOU is to be read in conjunction with, and is subject to the *Crime and Corruption Act 2001* and the *Police Service Administration Act 1990*.

## **8. STATUTORY RESPONSIBILITIES**

Pursuant to section 4.8 of the *Police Service Administration Act 1990*, the Commissioner is responsible for the efficient and proper administration, management and functioning of the Police Service in accordance with law. This includes the responsibility for the control of human, financial and other resources of the QPS.

Under the *Crime and Corruption Act 2001*, the CCC has the responsibility to combat and reduce the incidence of major crime and to reduce the incidence of corruption in the public sector.

Pursuant to section 255 (1) of the *Crime and Corruption Act 2001* the CEO may arrange with the chief executive officer of a department for the services of officers to be made available to the CCC. Pursuant to section 255(4) of the *Crime and Corruption Act 2001* if police officers are seconded to the CCC their efficient deployment is to be the joint responsibility of the CEO and the most senior police officer seconded to the CCC.

## 9. MANAGEMENT OF SECONDED POLICE OFFICERS

The parties agree that:

- a) QPS Members will be seconded to the CCC for a duration to be agreed upon by the Commissioner and CEO and such secondment shall be pursuant to the *Crime and Corruption Act 2001*.
- b) QPS Members will be seconded to Investigative, Physical Surveillance, Technical Surveillance, Forensic Computing, Strategy and Performance, Intelligence, Human Source or Witness Protections capabilities or any other such capabilities that the Commissioner and the CEO agree.
- c) At the conclusion of a secondment QPS Members will return to the QPS and be placed into a mutually agreed position commensurate with their skills, experience and qualifications. The agreement will be between the QPS, the CCC and the Member. If agreement is unable to be reached the parties will undertake dispute resolution.
- d) The QPS and the CCC will develop a joint secondment policy and supporting concept of operations to operationalise this MOU and facilitate the transition of Members between the CCC and QPS. Such documents will include administrative, human resource, financial and logistical matters and be developed with contributions from representatives of the parties.
- e) The QPS and the CCC will ensure appropriate separation between QPS and CCC operations to maintain the independence of the CCC as an agency with legislated oversight obligations of the QPS.

#### **10. SECURITY/CONFIDENTIALITY/EXCHANGE OF INFORMATION**

Any confidential information exchanged between the parties and/or any third party will be in accordance with any relevant statutory provisions and each organisation's guidelines.

#### **11. DISPUTE RESOLUTION**

Where there is disagreement between the parties over an issue covered by this MOU, or a related issue, the parties will seek to resolve the matter through negotiations between nominated representatives of the parties.

#### **12. VARIATION**

Where, during currency of this MOU, any of the parties desire the variation of its terms, the other party will participate in negotiations in good faith upon the issue. Amendments to this MOU may be made at any time with mutual written agreement of the parties.

#### **13. REVIEW**

Both parties will jointly review this MOU at intervals of not more than twelve (12) months to ensure that the overall objectives are being achieved.

#### **14. ENTIRE AGREEMENT**

This MOU constitutes the entire agreement of the parties with respect to the subject matter of this MOU and supersedes all prior agreement, representations, understanding and negotiations (either written or oral) with respect to such subject matter.

**15. NOTICES**

Unless otherwise agreed by the parties, a notice or other communication which can be given to or served shall be deemed to be given or served if it is in writing and signed on behalf of the party and is either delivered by hand, email or posted to the business address of the other party.

**16. EXECUTION**

IN WITNESS WHEREOF the parties have executed the Memorandum of Understanding on the dates indicated below:

SIGNED

KATARINA CARROLL  
COMMISSIONER  
QUEENSLAND POLICE SERVICE

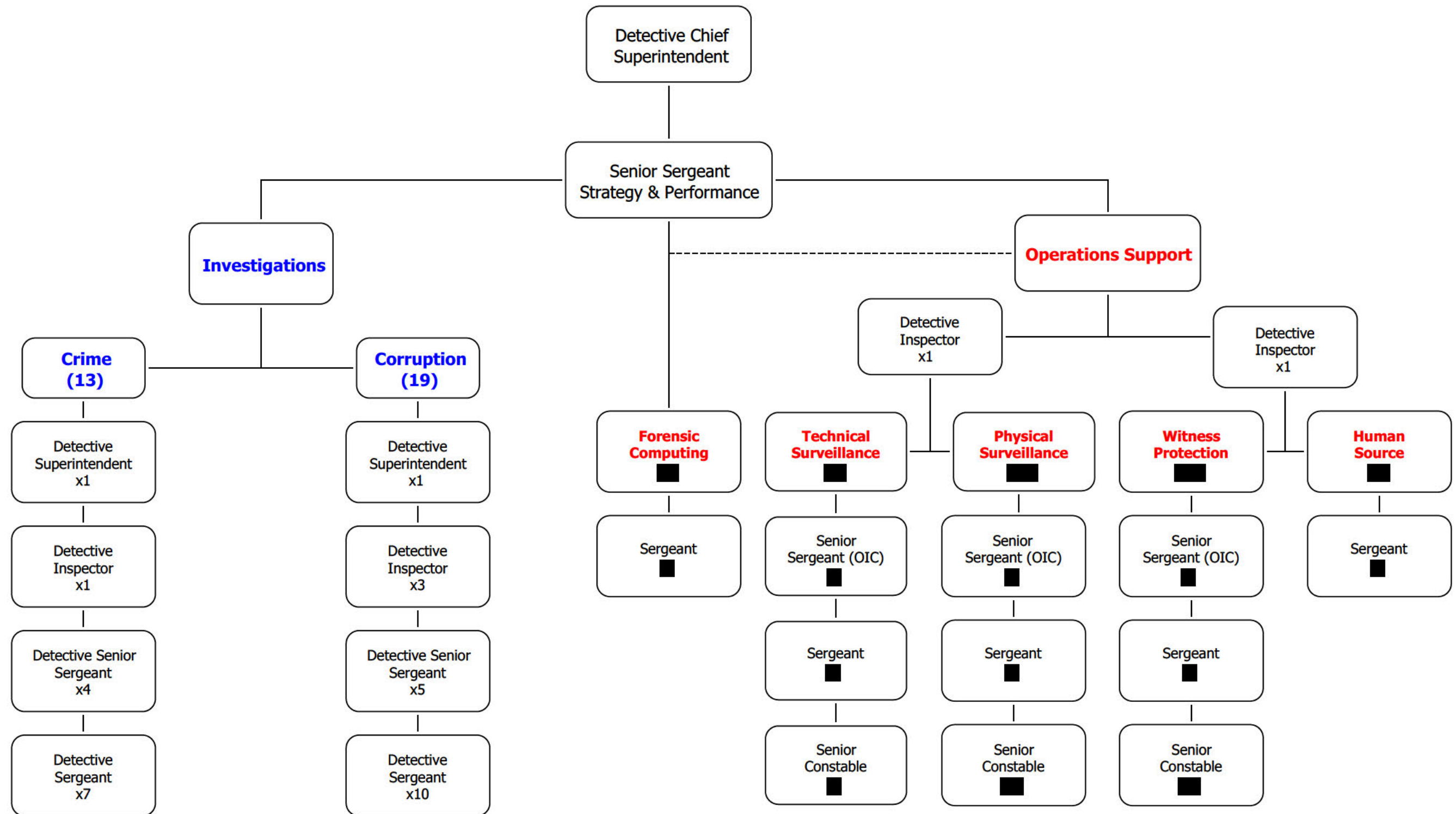
DATE: 24 / 9 / 2020

SIGNED:

JEN O'FARRELL  
CHIEF EXECUTIVE OFFICER  
CRIME AND CORRUPTION COMMISSION

DATE: 24 / 9 / 2020

## Organisational Chart Crime and Corruption Commission Police Group



Date: 24-Sep-2020



# Policy: Secondment of Police Officers to the Crime and Corruption Commission



## 1. Application

This policy applies to Queensland Police Service (QPS) officers seconded to the Crime and Corruption Commission (CCC) under section 255 (1) of the *Crime and Corruption Act 2001*. This policy does not apply to the establishment of a police task force or police officers who are part of a police task force.

## 2. Policy statement

The purpose of this policy is to facilitate the secondment of QPS officers to the CCC while ensuring these arrangements benefit individual officers, both agencies and the wider Queensland community. The effective recruitment, placement and return of QPS members will identify the CCC as an attractive workplace for members endeavouring to develop and enhance their skillset for future career advancement, both within and external to the QPS.

Under the authority of a Memorandum of Understanding this policy represents a commitment by both parties to establish contemporary and sustainable arrangements while improving outcomes for seconded officers. The QPS Service Alignment Program Board has approved a hybrid partnership model for the secondment of Technical and Physical Surveillance, Forensic Computing and Intelligence capabilities and an Expression of Interest (EOI) model for the Strategy and Performance, Investigative, Witness Protection and Human Source capabilities. A Concept of Operations has been developed recognising the unique nature of these arrangements where the QPS partnership and EOI models will be applied to the CCC as an external agency.

In the context of these models it is necessary that sufficient separation exists between the CCC and QPS to ensure the integrity and security of CCC operations and preserve public confidence in the independence of the CCC as an integrity agency with oversight of the QPS. This sterile corridor approach, distinct from the general QPS partnership model, will enable the efficient transition of officers between the two agencies while maintaining appropriate separation between command, control and operational functions.

## 3. Concept of Operations

In recognition of the two secondment models, separate Concept of Operations documents have been developed to support the administrative, logistical and human resource arrangements to operationalise this policy. These documents, developed through consultation with representatives from the QPS and CCC, deliver the strategic intent of this policy and may be amended upon approval of the Detective Chief Superintendent, CCC.

## 4. Partnership Model

### 4.1 Partnership Strategy

Officers within the Intelligence, Forensic Computing, Technical and Physical Surveillance capabilities are seconded under a partnership model where ownership of the capability rests with the QPS. This will ensure consistency in methodology, capability development, recruitment and training while facilitating the efficient allocation of resources across both agencies. Officers are appointed to the CCC Police Group where command, control and independence is maintained by the CCC. Selection for Sergeant and Senior Sergeant vacancies within

these capabilities will be undertaken pursuant to the *QPS Standard: Merit Selection*. Panels will be convened by the Central Panel Unit (CPU) including representation from the QPS and CCC. This recruitment process will also include a requirement that officers may be required to perform duties at either the QPS or CCC work unit and comply with any specific CCC employment conditions.

#### **4.2 Conditions**

Officers seconded under partnership arrangements are entitled to the same employment conditions and allowances as officers within the QPS owning capability and may participate equitably in the QPS owning capability work unit roster.

#### **4.3 Secondment Period**

Secondments will not be subject to a minimum time period. The QPS owning capability, in consultation with the Detective Chief Superintendent, CCC and the officer may rotate an officer between agencies at their discretion. Unless approved by the Chief Executive Officer, CCC a single secondment period will not exceed 5 years. Subsequent secondments may be considered however officers are required to return to the QPS owning capability in between secondments for a period of time as determined by the Detective Chief Superintendent, CCC.

#### **4.4 Return to QPS - Partnership Model**

Officers seconded under partnership arrangements will return to the QPS owning capability at the end of a secondment exclusive of the lateral transfer process. The QPS owning capability will ensure the CCC staffing commitment is maintained and officers are rotated to the CCC as required.

### **5. Expression of Interest Model**

#### **5.1 Expression of Interest Strategy**

Officers seconded to Investigative, Strategy and Performance, Human Source or Witness Protection capabilities will apply for vacancies through an expression of interest (EOI) advertised in the QPS Gazette. Selection will be by closed merit and not subject to review however the provisions of the *QPS Grievances Policy 2015/01* may apply. The composition of a panel convened for an EOI will be at the sole discretion of the Detective Chief Superintendent, CCC. For the purpose of establishment management, appointments under this section in excess of 12 months are considered permanent placements and officers will vacate their substantive QPS position upon appointment.

#### **5.2 Higher Duties**

At the discretion of the Detective Chief Superintendent, CCC, an EOI vacancy may be identified as a higher duties position. Officers appointed in a higher duties capacity will receive higher duties payments and entitlements for the duration of their secondment in accordance with the *QPS Standard: Higher Duties and Relieving*. These positions are not considered brevet ranks and therefore officers are unable to progress pay points at the relieving rank.

#### **5.3 Secondment Period**

Generally officers seconded under an EOI will be subject to a minimum secondment period of 3 years. At the discretion of the Detective Chief Superintendent, CCC a secondment period not exceeding 12 months may be offered. Under these circumstances an officer does not vacate their substantive QPS position and the officer's release will be subject to negotiation between the Detective Chief Superintendent, CCC and the relevant QPS decision maker. The maximum secondment period is determined by the CCC Police Resource Committee under the authority of the Chief Executive Officer, CCC and is prescribed in the Concept of Operations - EOI Model.

#### 5.4 Commissioned Officers

The transfer of commissioned officers between the QPS and CCC will be managed by the Detective Chief Superintendent, CCC in consultation with the Chief Executive Officer, CCC in accordance with the QPS lateral transfer of commissioned officer arrangements.

#### 5.5 Return to QPS - EOI Model

Prior to appointment an undertaking will be provided to an officer to ensure they return to their capability and District/Command of origin at the end of their secondment.

In the event of significant personal, operational or organisational factors affecting an undertaking for placement, the Detective Chief Superintendent CCC, the officer and the CCC HR Business Partner will negotiate a position which best meets the need of the officer and Service. In this circumstance, an "*Application for Placement*" is furnished identifying three preferable locations by capability. The member will allocated a position, consistent with their preferences and organisational requirements. Officers seconded to the Witness Protection capability will be managed through the CCC Witness Protection Reintegration Program which also includes the nomination of three preferable locations or a return to their District/Command and capability of origin if applicable.

### 6. Transitional Arrangements

Transitional arrangements for officers seconded to the CCC at the date of effect of this policy are included in the relevant Concept of Operations documents. The intent of this policy is to preserve all employment conditions and entitlements to the extent that officers will not be disadvantaged by the introduction of this policy.

### 7. Relevant Legislation

*Crime and Corruption Act 2001*

*Police Service Administration Act 1990*


### 8. Endorsement

This policy rescinds all previous policies, directions and arrangements relating to the secondment of police officers to the Crime and Corruption Commission.

SIGNED: 

DOUG SMITH  
DEPUTY COMMISSIONER  
QUEENSLAND POLICE SERVICE

DATE: 22/9/2020

SIGNED:   
JEN O'FARRELL  
CHIEF EXECUTIVE OFFICER  
CRIME AND CORRUPTION COMMISSION

DATE: 18/9/2020





## **Concept of Operations**

**Crime and Corruption Commission and Queensland Police Service**

**Secondment Arrangements**

**Partnership Model**

**Physical and Technical Surveillance**

**Forensic Computing**

**Intelligence**

## 1 Endorsement and Authorisation

This document is issued under the authority of the Detective Chief Superintendent, Crime and Corruption Commission as prescribed by the *Secondment of Police Officers to the CCC Policy*.



.....  
Darryl Johnson APM  
Detective Chief Superintendent  
Crime and Corruption Commission Police Group

## 2 Version Control and Amendments

### Version Control

This document may be amended from time to time after consultation with the relevant Queensland Police Service (QPS) and Crime and Corruption Commission (CCC) parties and upon approval by the Detective Chief Superintendent, CCC.

### Amendment Register

Ver. No.	Date	Comments	Approved By
1	7/10/20	Version 1	Darryl Johnson

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### 3 Purpose

The purpose of this document is to establish a Concept of Operations that will govern the implementation the Partnership Model alignment of the QPS and CCC Physical and Technical Surveillance, Forensic Computing and Intelligence capabilities under the auspices of the QPS Service Alignment Program (SAP).

- CCC Physical Surveillance Unit to QPS Operations Support Command, Covert and Specialist Operations Group - Surveillance Operations Unit;
- CCC Technical Surveillance Unit to QPS Operations Support Command, Covert and Specialist Operations Group - Technical Surveillance Unit;
- CCC Forensic Computer Unit to QPS Operations Support Command, Forensic Services Group - Electronic Evidence Unit; and
- CCC Intelligence Unit to QPS Crime and Intelligence Command, State Intelligence Group.

This Concept of Operations also operationalises the joint QPS and CCC *Secondment of Police Officers to the CCC* policy. This document sets out the administrative, logistical and human resource functions to facilitate the secondment of police officers to the CCC and should be read in conjunction with the policy as it relates to the Physical and Technical Surveillance, Forensic Computing and Intelligence capabilities. Information relating to covert policing methodologies is not be included in this document.

### 4 Background

Since its inception in 1989 the Crime and Corruption Commission (CCC) has maintained a cohort of Queensland Police Service (QPS) officers seconded to support its strategic and operational objectives. These unique arrangements facilitate the secondment of QPS officers to the CCC under a policy established in 2015 for a period not exceeding 5 years in capabilities that include Forensic Computing, Physical Surveillance, Technical Surveillance and Intelligence. As the 2015 policy evolved, officers experienced difficulties returning to suitable positions in the QPS resulting in considerable anxiety and concern for those officers. This was in part, due to the incorrect perception that officers performing duties within the CCC lose relevance and currency of contemporary policing methodologies. Furthermore the issue has created reputational damage to the CCC Police Group as a desirable work location to the extent that there are now difficulties in attracting suitable officers to work at the CCC. This has future strategic implications as the QPS may be unable to meet the commitment to maintain a contingent of 86 officers across all CCC capabilities. Extensive consultation with the current cohort of officers, past officers and senior management at both agencies established a need and willingness to develop contemporary arrangements to meet the evolving needs of both agencies and improve outcomes for officers who are seconded to the CCC.

In 2019 the QPS Strategic Review recommended the redesign of the Central Functions Model with a philosophy of transitioning accountability for deployment of local resources to the Districts, whilst still maintaining the realised benefits of the Central Function approach. Planning for a re-designed Central Function Model commenced under the Service Alignment Program (SAP) and in 2020 the SAP Board approved an addition to the current Central Function Model, with the inclusion of a Partnership Model where some capabilities would be transitioned to district control under a partnership arrangement.

It was evident that the current CCC secondment arrangements fell broadly within the scope of the Partnership Model and an opportunity existed to realise significant benefits to both agencies and

individual officers using hybrid Partnership Model to facilitate the secondment of police officers to the CCC. Under these arrangements the relevant QPS capability retains ownership of the capability while supporting a shared approach to centralised functions such as capability development, research and development, training and recruitment.

The success of these arrangements relies on the commitment, maturity and flexibility of all parties through a shared responsibility to manage the secondment and rotation of officers between the QPS and the CCC.

## **5 Evaluation / Review**

Evaluating the success of the Partnership Model alignment is seen as a critical element to embedding the organisational structure as best practice in delivering the strategic and operational objectives of the QPS and CCC. A Focus Maintenance Group has been established to drive regular evaluation and advise the Chief Superintendent, CCC on any adjustments to this document as the partnership arrangements evolve.

## **6 Partnership Strategy**

### **6.1 General Provisions**

Officers within the Intelligence, Forensic Computing, Technical and Physical Surveillance capabilities are seconded under a partnership strategy where ownership of the capability rests with the QPS. Command and control will be retained by the CCC for the duration of the secondment thereby ensuring a sterile corridor is maintained. Selection for vacancies within these capabilities will be undertaken pursuant to the QPS *Standard: Merit Selection*. This recruitment process will include provision that officers may be required to perform duties at either the QPS or CCC work unit. Where it is necessary to convene a panel for open merit selection for Sergeant and Senior Sergeant vacancies, such panel will be convened by the Central Panel Unit (CPU) and include representation from the QPS and CCC as appropriate.

Recruitment for the Physical and Technical Surveillance selection program will be coordinated by the Covert and Specialist Operations Group with representation from the CCC as appropriate. The advertisement for vacancies will include any necessary employment conditions or specialist skills required to perform duty at either agency. Officers seconded to the CCC will occupy a substantive QPS position number attached to the CCC Police Group establishment list for the duration of their secondment. Upon rotation to the QPS capability the officer will be placed into a substantive QPS position within the respective capability.

Officers seconded under partnership arrangements are entitled to the same employment conditions and allowances as officers within the QPS capability, e.g. operational shift allowance (OSA) and may participate equitably in the QPS capability work unit roster.

### **6.2 Authority for secondment**

Section 255 of the CC Act provides that the CCC may second the services of members of the QPS if;

- The secondment is approved by the Minister of the Crime and Corruption Commission and the Minister administering the *Police Service Administration Act 1990*; and
- The secondment is arranged between the relevant decision maker of the CCC and the QPS.

Section 257 of the CC Act prescribes a police officer who is seconded to the CCC under s.255 of the Act:

- Remains a member of the QPS; and
- Is entitled to their existing and accruing rights as if employment as an officer of the CCC were a continuation of employment with the QPS; and
- Continues to be required to contribute to any superannuation scheme to which the person is required to contribute as a member of the QPS; and
- Continues to be a police officer for all purposes and to have the functions and powers of a police officer without being limited to the performance of the CCC's functions.

### **6.3 Minimum Secondment Period**

Secondments will not be subject to a minimum time period as it relates to the placement at the CCC. The QPS capability, in consultation with the officer and the Detective Chief Superintendent, CCC may rotate an officer between agencies at their discretion. Officers will be subject to the minimum tenure requirement as it relates to the QPS capability.

### **6.4 Maximum Secondment Period**

Subject to section 6.3 officers will be seconded under a partnership arrangement for a period not exceeding 5 years. Subsequent secondments may be considered however officers are required to return to the QPS capability in between secondments for a period of time as determined by the Detective Chief Superintendent, CCC in consultation with the QPS capability owner.

### **6.5 Return to QPS**

Officers seconded under partnership arrangements will return (rotate) to the owning capability work unit within the QPS at the end of the secondment. The QPS capability will be responsible for ensuring the CCC staffing commitment is maintained.

The rotation of officers between QPS and CCC capabilities will be managed through an 'Administrative Transfer' submitted to the Principal HR Business Partner, CCC by the Strategy and Performance Officer, CCC in consultation with the relevant decision makers and KPOC's.

### **6.6 Transitional Arrangements - Partnership Model**

In recognition of the complexities and changes to the work environment, officers seconded to these specialist capabilities, excluding Intelligence, will have the option of extending their secondment from a maximum of 5 years to 8 years. Such an extension will only apply to those officers seconded to the CCC at the date of effect of the *Secondment of Police Officers to the CCC* policy. All officers will also retain their original employment conditions and allowances unless they elect to accept the conditions and allowances in place at the owning command, e.g. a non OSA officer will not be compelled to transition to OSA. Officers may use the *QPS Flexible Working Arrangements Policy 2018/04* to maintain their current working conditions where there is a conflict with conditions in place at the QPS capability.

Officers relieving in higher duties positions at the date of effect of this policy may remain in those positions until such time as they vacate the position. At this time the position will be advertised as prescribed by section 6.1 of these arrangements.

Officers substantively attached to a QPS capability at the date of effect of these arrangements will not be directed to work at a CCC work unit, however future recruitment processes will include such a requirement.

## **6.7 Vetting**

Prior to appointment, all officers seconded to the CCC are required to undergo vetting as prescribed by the CCC *Personnel Security Policy and Procedure*.

## **6.8 Confidentiality**

Officers seconded to the CCC are bound by the secrecy provisions prescribed in s. 213 of the *Crime and Corruption Act 2001*. The provisions of this section are to be considered when exchanging information between the QPS and CCC.

# **7 Individual Work Unit Administrative Functions**

## **7.1 Physical and Technical Surveillance**

### **7.1.1 CCC Work Unit Descriptor**

The CCC Physical Surveillance Unit comprises 24 sworn officers including 1 x Detective Senior Sergeant (OIC), 3 x Detective/Plain Clothes Sergeants and 20 x Senior Constables. All positions are substantive under the CCC Police Group establishment list and receive OSA, clothing allowance, OIC allowance and Detective/PC allowance where applicable. 3 x Sergeants are currently relieving in higher duties appointments for a maximum period of 5 years and may be subject to an extension to 8 years as prescribed by section 6.6.

The CCC Technical Surveillance Unit comprises 6 sworn officers including 1 x Senior Sergeant (OIC), 2 x Sergeants and 3 x Senior Constables. All positions are substantive under the CCC Police Group establishment list and receive OSA, clothing allowance and OIC allowance where applicable. The Senior Sergeant OIC and 1 x Sergeant are currently relieving in higher duties appointments for a maximum period of 5 years and may be subject to an extension to 8 years as prescribed by section 6.6.

### **7.1.2 Decision Maker**

- Detective Chief Superintendent, General Manager Operations Support. (CCC)
- Detective Superintendent, Covert and Specialist Operations Group. (QPS)

### **7.1.3 Key Point of Contact**

- Senior Sergeant, Strategy and Performance. (CCC)
- Director (Insp), Operations Support - Surveillance. (CCC)
- Inspector, Surveillance Operations Unit. (QPS)
- Inspector, Technical Surveillance Unit. (QPS)

#### **7.1.4 Rostering and Operational Shift Allowance (OSA)**

The QPS and CCC Surveillance work units will operate on separate rosters with preparation, management and audit functions undertaken by the respective work units in isolation. Officers at the CCC and QPS surveillance units are currently in receipt of OSA, this will continue with equity maintained within each individual roster.

#### **7.1.5 Cross Operations, Short Term Assistance and Relieving**

To maintain a sterile corridor all operational activity will occur in isolation. Ad-hoc, short term or operation specific assistance between agencies may occur upon approval of the relevant decision makers provided that such assistance does not require the physical attendance by an officer at the other agency's covert premises. Formal assistance and temporary relieving opportunities at the CCC will require formal CCC vetting, CCC induction and approval by the CCC Chief Executive Officer.

#### **7.1.6 Leave Management**

Leave will be managed, approved and recorded by individual work units. The relevant decision maker for each agency is the accountable officer with respect to meeting leave liability targets as prescribed by QPS policy. All ESS functions will be managed within individual work units.

Relief from the QPS capability for CCC officers accessing leave entitlements is not required with absences managed within the CCC capability. Upon agreement by the relevant decision makers, temporary appointments may be made subject to staff availability, in these circumstances all costs will be met by the CCC.

#### **7.1.7 PDA and Supervision**

All officer performance (PDA) and accoutrement inspections will be maintained by individual work units within existing supervisory structures.

#### **7.1.8 Training**

All officers will meet the formal training requirements of the QPS capability prior to appointment to Surveillance work units. The cost of initial training, e.g. Physical Surveillance Course will be met by the QPS. On-going training and development will occur at individual work unit level where costs will be met by each unit. Joint training activities and development opportunities may occur upon approval of the relevant decision maker with costs shared commensurate with the level of agency representation.

#### **7.1.9 Rotation**

The rotation of staff between the QPS and CCC work units will be managed by the Detective Inspector Surveillance Operations Unit, Detective Inspector Technical Surveillance Unit and the Director (Insp) Operations Support, consistent with the secondment period limits identified in section 6 of this document.

#### **7.1.10 Backstopping**

Each work unit will maintain their current backstopping arrangements in isolation. Upon rotation between agencies officers will be issued with a new assumed identity.

### **7.1.11 Finance**

The police cohort at the CCC is funded through the Department of Justice and Attorney-General and this concept of operations will have no impact on the current budgetary arrangements. Higher duties, and any operational costs incurred through cross operational activity or short term relieving will be met by the requesting work unit.

## **7.2 Forensic Computer Unit (CCC) - Electronic Evidence Unit (QPS)**

### **7.2.1 CCC Work Unit Descriptor**

The Forensic Computer capability at the CCC includes 2 sworn QPS officers who occupy substantive Sergeant level positions under the CCC Police Group establishment list. The positions which are currently vacant, receive clothing allowance and report to a civilian Director. The positions also report to the Senior Sergeant, Strategy and Performance, CCC for the purpose of managing ESS, PDA/Ignite and other specific QPS functions. Both positions are currently non-OSA and will move to OSA status during this transition.

### **7.2.2 Decision Maker**

- Detective Chief Superintendent, General Manager Operations Support. (CCC)
- Superintendent, Forensic Services Group. (QPS)

### **7.2.3 Key Point of Contact**

- Senior Sergeant, Strategy and Performance. (CCC)
- Executive Director (Civilian), Operations Support - Forensic Computing and Property. (CCC)
- Inspector, Electronic Evidence Unit. (QPS)

### **7.2.4 Rostering, Operational Shift Allowance (OSA) and On-Call**

QPS officers seconded to the CCC Forensic Computer Unit (FCU) will participate equitably in the QPS Electronic Evidence Unit (EEU) roster. To maintain the integrity of rostering practices, CCC FCU officers will also equitably participate in QPS on-call (phone divert referral / advice) arrangements, provided that such on-call arrangements do not require physical examination or attendance by CCC FCU officers. On-call costs will be met by the QPS through cost centre acquittal via ESS.

### **7.2.5 Cross Operations, Short Term Assistance and Relieving**

To maintain a sterile corridor, all operational activity will occur in isolation. Short term operation specific assistance and professional development placements between agencies may occur upon approval of the relevant decision makers. Such placements at the CCC are also subject to formal CCC vetting, CCC induction and approval of the CCC Chief Executive Officer.

### **7.2.6 Leave Management**

Leave will be managed, approved and recorded by individual work units. The relevant decision maker for each agency is the accountable officer with respect to meeting leave liability targets as prescribed by QPS policy. Leave, overtime and other ESS functions will be approved by the Senior Sergeant, CCC

Strategy and Performance in consultation with the Executive Director, CCC Forensic Computing and Property.

Relief from the QPS capability for CCC officers accessing leave entitlements is not required. Such absences are managed within the CCC capability and may be off-set through the use of contract or temporary appointments managed and funded by the CCC.

#### **7.2.7 PDA and Supervision**

All officer performance (PDA) and accoutrement inspections will be maintained by individual work units within existing supervisory structures. Officers seconded to the FCU, CCC will have their PDA and accoutrements managed by the Senior Sergeant, CCC Strategy and Performance in consultation with the Director, CCC Forensic Computing and Property.

#### **7.2.8 Training**

On-going training and development will occur at the individual work unit level. Joint training activities may occur upon approval by the relevant decision makers with costs shared commensurate with the level of agency representation.

#### **7.2.9 Rotation**

The rotation of staff between the QPS and CCC work units will be managed by the Inspector, Electronic Evidence Unit and the Director, Forensic Computing and Property consistent with the secondment period limits identified in section 6 of this document.

#### **7.2.10 Civilians**

The use of civilian EEU staff to fill vacancies at the CCC FCU may be considered upon consultation with the relevant decision makers and approval of the Chief Executive Officer, CCC.

#### **7.2.11 Finance**

The police cohort at the CCC is funded through the Department of Justice and Attorney-General and this Concept of Operations will have no impact on the current budgetary arrangements. Any operational costs (exclusive of base wage costs) incurred through cross operational activity or on-call arrangements will be met by the receiving work unit. Officers performing short term relieving at the CCC will have their wages and operational costs met by the CCC provided such officer occupies a CCC position number. Where a CCC placement occurs as 'surplus', the base wage cost will be met by the QPS with operational costs, e.g. overtime met by the CCC.

### **7.3 Intelligence**

#### **7.3.1 CCC Work Unit Descriptor**

The intelligence capability at the CCC includes 2 x QPS officers who occupy substantive Sergeant positions under the CCC Police Group establishment list. The officers currently seconded to the CCC are Senior Constables who are relieving in long term higher duties appointments for a maximum period of 5 years. The officers are currently embedded in the Witness Protection Unit (OSA) and the Corruption Division (non-OSA) and both receive Det/PC and clothing allowance. During the transition the non-OSA officer will move to OSA.

### **7.3.2 Decision Maker**

- Detective Chief Superintendent, General Manager Operations Support. (CCC)
- Detective Chief Superintendent, State Intelligence Group, Crime and Intelligence Command (QPS)

### **7.3.3 Key Point of Contact**

- Senior Sergeant, Strategy and Performance Officer. (CCC)
- Director (Insp), Operations Support - Witness Protection. (CCC)
- Executive Director (Supt), Corruption Division. (CCC)
- Detective Superintendent, State Intelligence Group, Crime and Intelligence Command. (QPS).

### **7.3.4 Rostering, Operational Shift Allowance (OSA)**

The QPS officer seconded to the CCC Intelligence (Witness Protection - Covert) currently participates equitably in an OSA roster and will continue to do so. The QPS officer seconded to the CCC Intelligence capability (Corruption) is currently non-OSA. During the transition this officer, subject to section 6.6 of this document, will participate equitably in the QPS State Intelligence Group roster. To maintain the integrity of rostering practices, both officers will also participate in Q-Desk duties at Police HQ. These duties will include 3 night shifts, 4 times a year. The cost of NOSA will be met by the QPS through cost centre acquittal via ESS.

### **7.3.5 Cross Operations, Short Term Assistance and Relieving**

To maintain a sterile corridor all operational activity will occur in isolation. Short term operation specific assistance and professional development placements between agencies may occur upon approval of the relevant decision makers. Such placements at the CCC are also subject formal CCC vetting, CCC induction and approval of the CCC Chief Executive Officer.

### **7.3.6 Leave Management**

Leave will be managed, approved and recorded by individual work units. The relevant decision maker for each agency is the accountable officer with respect to meeting leave liability targets as prescribed by QPS policy. Leave, overtime and other ESS functions will be approved by the OIC, Witness Protection and the Inspector, Corruption Division as appropriate.

Relief from the QPS capability for CCC officers accessing leave entitlements is not required. Such absences are managed within the CCC capability and may be off-set through the use of contract or temporary appointments managed and funded by the CCC.

### **7.3.7 PDA and Supervision**

All officer performance (PDA) and accoutrement inspections will maintained by individual work units and within the existing supervisory structures. Officers seconded to the CCC will have their PDA and accoutrements managed within the Witness Protection Unit and Corruption Division as appropriate.

### 7.3.8 Training

On-going training and development will occur at individual work unit level however joint training and professional development activities may occur upon approval by the relevant Inspector / Director with costs shared commensurate with the level of agency representation.

### 7.3.9 Rotation

The rotation of staff between the QPS and CCC work units will be managed by the Inspector, State Intelligence Group and the Detective Chief Superintendent, CCC consistent with the secondment period limits identified in section 6 of this document.

### 7.3.10 Finance

The police cohort at the CCC is funded through the Department of Justice and Attorney-General and this Concept of Operations will have no impact on the current budgetary arrangements. Any operational costs (exclusive of base wage costs) incurred through cross operational activity or on-call arrangements will be met by the work unit receiving the benefit. Officers performing short term relieving at the CCC will have their wages and operational costs met by the CCC provided such officer occupies a CCC position number. Where a placement occurs as 'surplus', the base wage cost will be met by the owning agency with operational costs, e.g. overtime met by the CCC.

## 8 Focus Maintenance Group

### 8.1 Purpose

The Focus Maintenance Group (FMG) will play a key role in the on-going evaluation of these arrangements and provide advice to the Chief Superintendent, CCC on amendments required. The FMG will also consider and support the rotation of officers between the QPS and CCC work units. A collaborative approach to problem solving will ensure issues are identified and resolved in the spirit of the Partnership Model and to the benefit of both agencies.

### 8.2 Establishment

The FMG is established and membership is approved under the authority of the *Secondment of Police Officers to the CCC* policy.

### 8.3 Membership

Role	Position and Agency
Chair	Detective Chief Superintendent, CCC
Member	Director (Inspector) Surveillance, CCC
Member	Executive Director (Civilian) Forensic Computing, CCC
Member	Detective Inspector, Surveillance Operations Unit, QPS

Member	Detective Inspector, Technical Surveillance, QPS
Member	Inspector, Forensic Imaging Section, QPS
Member	Inspector, State Intelligence Group, QPS
Member	PSBA Senior HR Business Partner, CCC & CIC
Member	PSBA Senior HR Business Partner, OSC
Secretariat	Strategy and Performance Officer, CCC

## 8.4 Governance

The FMG will meet monthly or as determined by the Chair. Members may appoint a proxy to attend in their absence and guests may attend upon approval by the Chair.

Meetings may be in person or by electronic means, e.g. Teams / teleconference. Minutes will be kept by the Secretariat to record the business and decisions of the group. Urgent or incidental matters may be dealt with through the use of a flying minute where it is not practical for the group to meet. At the discretion of the Chair, separate meetings by individual capability may occur.

Amendments to this Concept of Operations will be noted in the minutes, approved by the Detective Chief Superintendent, CCC upon recommendation of the FMG and recorded in the amendment register. The consideration of individual staff rotations will also be noted in the minutes.

END



## **Concept of Operations**

**Crime and Corruption Commission and Queensland Police Service**

**Secondment Arrangements**

**Expression of Interest Model**

**Investigations**

**Strategy and Performance**

**Human Source**

**Witness Protection**

# 1 Endorsement and Authorisation

This document is issued under the authority of the Detective Chief Superintendent, Crime and Corruption Commission as prescribed by the *Secondment of Police Officers to the CCC Policy*.



.....  
Darryl Johnson APM  
Detective Chief Superintendent  
Crime and Corruption Commission Police Group

# 2 Version Control and Amendments

## Version Control

This document may be amended from time to time after consultation with the relevant Queensland Police Service (QPS) and Crime and Corruption Commission (CCC) parties and upon approval by the Detective Chief Superintendent, CCC.

## Amendment Register

Ver. No.	Date	Comments	Approved By
1	7/10/20	Version 1	Darryl Johnson

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### 3 Purpose

The purpose of this document is to establish a Concept of Operations to operationalise the joint Queensland Police Service (QPS) and Crime and Corruption Commission (CCC) *Secondment of Police Officers to the CCC* policy. This document sets out the administrative, logistical and human resource functions to facilitate the secondment of police officers to the CCC and should be read in conjunction with the policy as it relates to the Strategy and Performance, Investigations, Human Source and Witness Protection capabilities.

### 4 Background

Since its inception in 1989 the Crime and Corruption Commission (CCC) has maintained a cohort of Queensland Police Service (QPS) officers seconded to support its strategic and operational objectives. These unique arrangements facilitate the secondment of QPS officers to the CCC under a policy established in 2015 for a period not exceeding 5 years in capabilities that include Strategy and Performance, Human Source, Investigations and Witness Protection. As the 2015 policy evolved, officers experienced difficulties returning to suitable positions in the QPS through the lateral transfer system resulting in considerable anxiety and concern for those officers. This was in part, due to the incorrect perception that officers performing duties within the CCC lose relevance and currency of contemporary policing methodologies. Furthermore the issue has created reputational damage to the CCC Police Group as a desirable work location to the extent that there are now difficulties in attracting suitable officers to work at the CCC. This has future strategic implications as the QPS may be unable to meet the commitment to maintain a contingent of 86 officers across all CCC capabilities. Extensive consultation with the current cohort of officers, past officers and senior management at both agencies established a need and willingness to develop contemporary arrangements to meet the evolving needs of both agencies and improve outcomes for officers who are seconded to the CCC.

### 5 Evaluation / Review

Evaluating and reviewing these arrangements is seen as a critical element in establishing an organisational structure to deliver the strategic and operational objectives of the QPS and CCC. A Focus Maintenance Group (FMG) has been established to drive regular evaluation and advise the Chief Superintendent, CCC on any adjustments to this document as the arrangements evolve.

### 6 Expression of Interest Strategy

#### 6.1 General Provisions

Officers seconded to Investigative, Strategy and Performance, Human Source or Witness Protection capabilities will apply for vacancies through an expression of interest (EOI) advertised in the QPS Gazette for a period as prescribed in sections 6.3 and 6.4 of this document. Selection will be by closed merit and not subject to review, however the provisions of the QPS *Grievances Policy 2015/01* may apply. The composition of a panel convened for an EOI will be at the sole discretion of the Detective Chief Superintendent, CCC. For the purpose of establishment management, appointments under this section in excess of 12 months are considered permanent placements and officers will vacate their substantive QPS position upon appointment.

## **6.2 Higher Duties**

At the discretion of the Detective Chief Superintendent, CCC a vacancy may be identified as a higher duties position. Officers appointed in a higher duties capacity will receive higher duties payments and entitlements for the duration of their secondment in accordance with the *QPS Standard: Higher Duties and Relieving*. These positions are not considered brevet ranks and therefore officers are unable to progress pay points at the relieving rank.

## **6.3 Minimum Secondment Period**

Officers seconded under this section will be subject to a minimum secondment period of 3 years.

At the discretion of the Detective Chief Superintendent, CCC a secondment period not exceeding 12 months may be offered. Under these circumstances an officer does not vacate their substantive QPS position and the officer's release will be subject to negotiation between the Detective Chief Superintendent, CCC and the relevant QPS decision maker. Where there is agreement to extend a secondment beyond 12 months the officer will vacate their substantive QPS position and the secondment will default to a 3 to 5 year period with the initial 12 month period of duty included in the total period.

## **6.4 Maximum Secondment Period**

Unless an alternative secondment period is identified, officers seconded to the Investigative, Human Source and Strategy and Performance capabilities will be seconded for an initial period of 3 years with a possibility of an extension of 2 years where the total secondment period will not exceed 5 years.

Officers seconded to the Witness Protection capability will be seconded for an initial period of 3 years with a possibility of an extension of 5 years where the total secondment period will not exceed 8 years. This extended period recognises the significant training requirements and highly specialist nature of Witness Protection duties.

An optional 2 or 5 year extension is activated by default unless a reason, e.g. performance, organisational / unit restructuring or career development, is identified by exception. In such circumstances the extension will be determined by the Chief Executive Officer (CEO), CCC in consultation with the CCC Police Resource Committee. An officer may return to the QPS at any time after the activation of an extension subject to section 6.7 and 6.8 of this document.

## **6.5 Additional Secondments**

The CCC supports subsequent secondments, however these will be assessed on a case-by-case basis. Where an officer, who has returned to the QPS after a secondment makes application (EOI) at a later stage for an additional secondment to the CCC, this will be considered in line with the existing secondment process and subject to approval of the CCC Police Resource Committee. Additional secondments or transfers between capabilities within the CCC will reset the secondment period limits identified in section 6.3 and 6.4 of this document.

## **6.6 Secondment Period - Commissioned Officers**

Commissioned officers seconded to the CCC are subject to a maximum secondment period of 5 years unless an extension is approved. The transfer of commissioned officers between the QPS and CCC is managed by the Detective Chief Superintendent in consultation with the Chief Executive Officer, CCC in accordance with the QPS lateral transfer of commissioned officer arrangements.

## **6.7 Return to QPS - EOI Model**

Prior to appointment, an undertaking will be provided to an officer to ensure they return to their capability and District/Command of origin at the end of their secondment.

If significant personal, operational or organisational factors affecting an undertaking for placement exist, the Detective Chief Superintendent, the officer and the CCC HR Business Partner will negotiate a position which best meets the need of the officer and the QPS. In this circumstance, an *Application for Placement* is furnished 8 months prior to the end of a secondment identifying 3 preferable locations by capability and District/Command. The officer will then be allocated a position consistent with either an undertaking or preferences as prescribed by section 6.8.

An officer who returns to the same capability at their location of origin does not recommence a new tenure.

## **6.8 Ending a Secondment**

An officer's secondment is considered rescinded and may end under the following circumstances;

- Officer has reached their minimum secondment requirement and applies for a placement at the QPS pursuant to section 6.7;
- Officer has reached their maximum secondment requirement and an application for extension has not been supported;
- Officer gains a position on merit at the QPS;
- Separation from the QPS; and
- An officer's secondment is rescinded by the CEO as prescribed by the CC Act.

To return to the QPS an officer will furnish an *Application for Placement* no earlier than 2 years and 4 months from commencement or any time thereafter. Officers wishing to remain for the maximum secondment period will furnish an *Application for Placement* 8 months prior to the expiry date consistent with section 6.7.

An *Application for Placement* will be endorsed by the Chief Superintendent, CCC and referred to the CCC HR Business Partner who will negotiate and consult with the relevant Business Partner and QPS relevant decision maker. Officers will be allocated a QPS position no later than 8 months following the submission of an *Application for Placement* at either the location of their undertaking or a location nominated as a preference as prescribed by section 6.7. If there are no vacancies the officer will be placed into a position (surplus) as approved by a Deputy Commissioner, pending substantive placement into the next available vacancy at the location.

Where agreement cannot be reached to place an officer following the submission of an *Application for Placement*, the matter will be referred to a Deputy Commissioner for a decision.

Witness Protection officers will participate in the Witness Protection Reintegration Program and the principles of this section also apply to the transition of these officers to a substantive position within the QPS.

## 6.9 Transitional Arrangements

Officers seconded to the CCC at the date of effect of the *Secondment of Police Officers to the CCC* policy will return to the QPS upon the submission of an *Application for Placement* as prescribed by sections 6.7 and 6.8 of this policy exclusive of the provisions relating to an undertaking. These officers will nominate a minimum of three preferred locations by capability and District / Command following negotiation with the Detective Chief Superintendent, CCC and CCC HR Business Partner.

# 7 Administration

## 7.1 Authority for Secondment

Section 255 of the CC Act provides that the CCC may second the services of members of the QPS if;

- The secondment is approved by the Minister of the Crime and Corruption Commission and the Minister administering the *Police Service Administration Act 1990*; and
- The secondment is arranged between the relevant decision maker of the CCC and the QPS.

Section 257 of the CC Act prescribes a police officer who is seconded to the CCC under s.255 of the Act:

- Remains a member of the QPS;
- Is entitled to their existing and accruing rights as if employment as an officer of the CCC were a continuation of employment with the QPS;
- Continues to be required to contribute to any superannuation scheme to which the person is required to contribute as a member of the QPS; and
- Continues to be a police officer for all purposes and to have the functions and powers of a police officer without being limited to the performance of the CCC's functions.

## 7.2 Generic Recruitment

Subject to the provisions of section 8 of the *QPS Standard: Merit Selection* and at the discretion of the Detective Chief Superintendent CCC, generic recruitment may occur where an applicant identified as meritorious during an EOI process, may be appointed to subsequent vacancies within 6 months of the EOI closure date.

## 7.3 Extending a Secondment

The CEO CCC decision maker may extend the secondment of a police officer for a further period beyond the maximum period. Such extensions will be considered on a case-by-case basis, and generally be dependent on one of the following;

- Operational outcomes will be significantly and negatively impacted by the return of the police officer at the specified end date; or
- Extenuating personal circumstances (ill health, within 2 years of retirement) mean that it is reasonable for the police officer to continue to perform existing duties with the CCC for a further period of time.

#### **7.4 Existing Specialist Skills Maintenance**

Officers seconded to the CCC may possess specialist qualifications or skills, e.g. negotiator, dignitary protection. Such officers will be afforded the opportunity to participate in skills maintenance training or requalification as necessary. It is incumbent on the officer and their manager to plan such training to minimise the impact on CCC operational activity.

#### **7.5 Professional Development**

Officers are encouraged to attend external courses and training opportunities whether they be QPS courses, CCC sponsored courses or privately sourced opportunities. Preference will be given to officers applying for training courses relevant to their CCC duties, however it is recognised that officers may apply for unrelated courses or development opportunities to enhance their future career prospects upon return to the QPS. In these circumstances preference will be given to officers who have reached the minimum secondment period with attendance subject to operational commitments.

#### **7.6 External Secondments and Placements**

Under certain circumstances and subject to the approval of the CEO CCC, officers may participate in external placements for the purpose of professional development to enhance their future career prospects upon return to the QPS. As a general rule, officers who have completed the minimum secondment period will be given preference and release will be subject to operational requirements. This section should be read in conjunction with the Witness Protection Reintegration Program which applies specifically to members of the Witness Protection Unit.

#### **7.7 Vetting**

Prior to appointment, all officers seconded to the CCC are required to undergo vetting as prescribed the CCC *Personnel Security Policy and Procedure*.

#### **7.8 Confidentiality**

Officers seconded to the CCC are bound by the secrecy provisions prescribed in s. 213 of the *Crime and Corruption Act 2001*.

### **8 Focus Maintenance Group**

#### **8.1 Purpose**

The Focus Maintenance Group (FMG) will play a key role in the on-going evaluation of these arrangements and provide advice to the Chief Superintendent, CCC on amendments required to this document.

#### **8.2 Establishment**

The FMG is established and membership approved under the authority of the *Secondment of Police Officers to the CCC* policy.

### 8.3 Membership

Role	Position and Agency
Chair	Detective Chief Superintendent, CCC
Member	Detective Superintendent, Crime, CCC
Member	Detective Superintendent, Corruption, CCC
Member	Detective Inspector, Ops Support (WPU & HSU), CCC
Member	PSBA Senior HR Business Partner, CCC
Secretariat	Strategy and Performance Officer, CCC

### 8.4 Governance

The FMG will meet monthly or as determined by the Chair. Members may appoint a proxy to attend in their absence and guests may attend upon approval by the Chair.

Meetings may be in person or by electronic means, e.g. Teams / teleconference. Minutes will be kept by the Secretariat to record the business and decisions of the group. Urgent or incidental matters may be dealt with through the use of a flying minute where it is not practical for the group to meet.

Amendments to this Concept of Operations will be approved by the Detective Chief Superintendent, CCC upon the recommendation of the FMG. All recommendations will be noted in the minutes (resolutions) and be recorded in the Amendment Register.

END

[illegible]

This decision should be considered on a case by case basis as not all offences brought to the attention of the Service will be prosecuted. Where a minor offence is detected, and the offender is an otherwise law-abiding citizen, prosecution for the offence may be counterproductive. Diversionary alternatives, such as restorative justice process and cautioning, may be appropriate in the circumstances and may prevent a disproportionate use of prosecution resources (see ss. 3.3: 'Adult Restorative Justice Conferencing', 3.2: 'Cautioning adults' and 5.5: 'Cautioning process' of this Manual).

### 3.4.2 The decision to institute proceedings

The decision to commence proceedings against a person for an offence initially rests with the arresting officer. Generally, an officer may commence proceedings without seeking further advice or approval, upon being satisfied on reasonable grounds:

- (i) an offence has been committed;
- (ii) the person against whom prosecution is proposed has committed that offence;
- (iii) a statutory authority to prosecute for that offence exists, including any authority referred to under s. 3.5.1: 'Responsibility to establish authority to prosecute' of this chapter;
- (iv) any statutory limitation on proceedings has not expired; and
- (v) the elements of the intended charge can be proven.

Where investigating officers are satisfied an offence can be proven but it may not be in the public interest to commence proceedings, they are to update the relevant QPRIME occurrence by submitting an Occurrence Enquiry Log Entry, and include particulars of the offending conduct, results of any investigation and the reasons why proceedings should not be commenced. Officers are to submit a QPRIME task to their OIC seeking advice.

Arresting officers should select an offence which accurately reflects the nature and extent of the criminal behaviour under investigation and which is supported by the admissible evidence. Where the circumstances of a particular case indicate two or more alternative charges may be made out, the offence carrying the greater penalty should be preferred, subject to the Director of Public Prosecutions (State) Guidelines. Charges should not be laid with the intention of providing scope, for subsequent bargaining.

### 3.4.3 Factors to consider when deciding to prosecute

#### Sufficiency of Evidence

The primary test for the decision to prosecute is the 'sufficiency of evidence' test. This test will be satisfied if there is sufficient admissible evidence to prove the charge against the defendant. A prima facie case is essential but is not enough. There must be a reasonable prospect of the defendant being found guilty of the offence. A detailed evaluation of how strong the case will be when presented in court should be undertaken as part of this test.

In evaluating the sufficiency of evidence, it is necessary to consider all aspects of the evidence to be presented, including:

- (i) admissibility of evidence;
- (ii) reliability of evidence, including identification;
- (iii) possible defences;
- (iv) the extent of any contradictory evidence;
- (v) competency of witnesses;
- (vi) compellability of witnesses;
- (vii) credibility of witnesses;
- (viii) availability of witnesses;
- (ix) whether witnesses will be hostile, adverse, or cooperative; and
- (x) where the Court Brief (QP9) or Brief of Evidence is not provided to the relevant prosecution corps in the required time frame,

(see Guideline 4: 'The decision to prosecute' subsection (i): 'Sufficient evidence' of the Director of Public Prosecutions (State) Guidelines (DPPG)).

Before charging a person with an offence, the investigating officer is to ensure there is sufficient admissible evidence to prove the charge to the requisite standard. The admissible evidence must be clearly articulated in the QP9 to enable a prosecutor to deal effectively with the matter, including case conferencing, at the first appearance (see s. 3.7.2: 'Documentation at first appearance' of this chapter).

## Public Interest

Once the sufficiency of evidence test has been satisfied, the next test to be applied is the 'public interest'. This test involves determining whether, in light of the facts and the surrounding circumstances of the case, the public interest will be served in pursuing a prosecution.

The factors relevant to whether the public interest requires a prosecution will vary. In most cases there will be public interest factors supporting a prosecution and competing public interest factors supporting a decision not to prosecute. Generally, the more serious the offence the more likely the public interest will require a prosecution. The proper decision in most cases will be to proceed with the prosecution if there is sufficient evidence. Mitigating factors can be put to the court at sentence.

Factors which arise for consideration in determining whether the public interest requires a prosecution include:

- (i) the seriousness or, conversely, the triviality of the alleged offence or it is of a 'technical' nature only;
- (ii) any mitigating or aggravating circumstances;
- (iii) the youth, advanced age, intelligence, physical health, mental health or special infirmity of the alleged offender, a witness or a victim;
- (iv) the alleged offender's antecedents and background, including culture and ability to understand the English language;
- (v) the degree of culpability of the alleged offender in connection with the offence;
- (vi) whether the prosecution would be perceived as counter-productive to the interests of justice;
- (vii) the availability and efficacy of any alternatives to prosecution (including a restorative justice process)
- (viii) the prevalence of the alleged offence and the need for deterrence either personal or general;
- (ix) whether or not the alleged offence is of minimal public concern;
- (x) any entitlement or liability of the victim or other person or body to criminal compensation, reparation or forfeiture, if prosecution action is taken;
- (xi) the attitude of the victim of the alleged offence to a prosecution with regard to the seriousness of the alleged offence and whether the complainant's change of attitude has been activated by fear or intimidation;
- (xii) the cost of the prosecution relative to the seriousness of the alleged offence;
- (xiii) whether the alleged offender is willing to cooperate in the investigation or prosecution of others, or the extent to which the alleged offender has done so, subject to the DPPG, particularly Guideline 35: 'Immunities';
- (xiv) the necessity to maintain public confidence in such institutions as the Parliament and the courts;
- (xv) the effect on public order and morale;
- (xvi) pending the outcome of any other prosecution from the same circumstances (including in a civil jurisdiction);
- (xvii) whether the prosecution for the class or type of offence has been discouraged by the courts in the course of judicial comment;
- (xviii) whether the prosecution will result in hardship to any witness, particularly children; and
- (xix) vexatious, oppressive or malicious complaints.

(See Guideline 4: 'The decision to prosecute' subsection (ii): 'Public Interest Criteria' of the DPPG).

## Impartiality

### ORDER

When officers are making a decision to prosecute they are not to be influenced by matters such as:

- (i) race, religion, sex, national origin or political views;
- (ii) personal feelings concerning the offender or the victim;
- (iii) possible political advantage or disadvantage to the government or any political group or party; or
- (iv) the possible effect of the decision on the personal or professional circumstances of those responsible for the prosecution,

(See Guideline 4(iii): 'Impartiality' of the DPPG).

### 3.4.4 Withdrawal of charges

Unless indicated otherwise, this section does not apply when action is taken under s. 3.16: 'Case conferencing' of this chapter.

**ORDER**

When an officer determines the sufficiency of evidence test or the public interest test is no longer satisfied, the officer is to immediately complete:

- (i) a QP 0626: 'Request for authority to withdraw charges' in the relevant QPRIME case file and submit to the member's OIC; and
- (ii) a QPRIME 'For your information' task from the relevant case file via the member's OIC to the relevant prosecution corps.

Prior to withdrawing a charge, the victim is to be consulted whenever it is reasonably practicable (see s. 6B: 'Charter of victims' rights' of the *Victims of Crime Assistance Act*).

Officers are to consider s. 3.4.3: 'Factors to consider when deciding to prosecute' of this chapter (sufficiency of evidence test and the public interest test) when determining whether a prosecution should proceed.

The following officers have authority to approve the withdrawal of a charge:

- (i) a commissioned officer or senior sergeant:
  - (a) supervising the station or establishment to which the arresting officer is attached;
  - (b) supervising the police prosecution corps responsible for the prosecution of the particular charge (includes commissioned officers and senior sergeants attached to the Prosecution Services, Legal Division); and
  - (c) performing the role of district or command brief manager;
- (ii) a detective inspector or detective senior sergeant, operations leader, CIC exercising supervision over the work group responsible for the particular charge;
- (iii) where a defendant is not legally represented, and it is apparent a prosecution will not be successful having regard to the sufficiency of evidence test, authorised officers appointed under s. 3.16 of this chapter may approve the withdrawal or the offering of no evidence in relation to a charge;
- (iv) in the case of traffic infringement notices see s. 8.7: 'Waiving and cancellation of infringement notices' of the TM;
- (v) in the case of camera detected offences, the Director, Road Safety Camera Office, Road Policing and Regional Support Command; and
- (vi) in the case of any other infringement notice (e.g. Marine Infringement Notice), whether or not that infringement notice has proceeded to SPER, the administering authority.

**ORDER**

The officer in any of (i) to (iii) above authorising the withdrawal of a charge is to ensure the relevant QPRIME occurrence is amended recording the grounds for withdrawing the charge.

In the case of a withdrawal of a summons resulting from an infringement notice where a prosecutor is not involved, the officer approving the withdrawal of the summons is to:

- (i) arrange the necessary notifications to be made to the relevant court; and
- (ii) note the time, date and method of communicating such advice on the relevant prosecution file.

Where a type 1 or type 2 vehicle related offence is withdrawn the relevant flags are to be cancelled (see s. 16.18: 'Infringement notice or charges withdrawn or dismissed' of the TM).

A member of the Service performing prosecution duties, who receives authorisation to withdraw a charge, or who intends to withdraw a charge is to inform the defendant or their legal representative of the prosecution's intention to withdraw the matter at the earliest practicable time. The member is to note the time, date and method of communicating the advice on the relevant prosecution file.

A member of the Service performing prosecution duties does not require authorisation to amend a charge.

**3.4.5 Director of Public Prosecutions (State) guidelines**

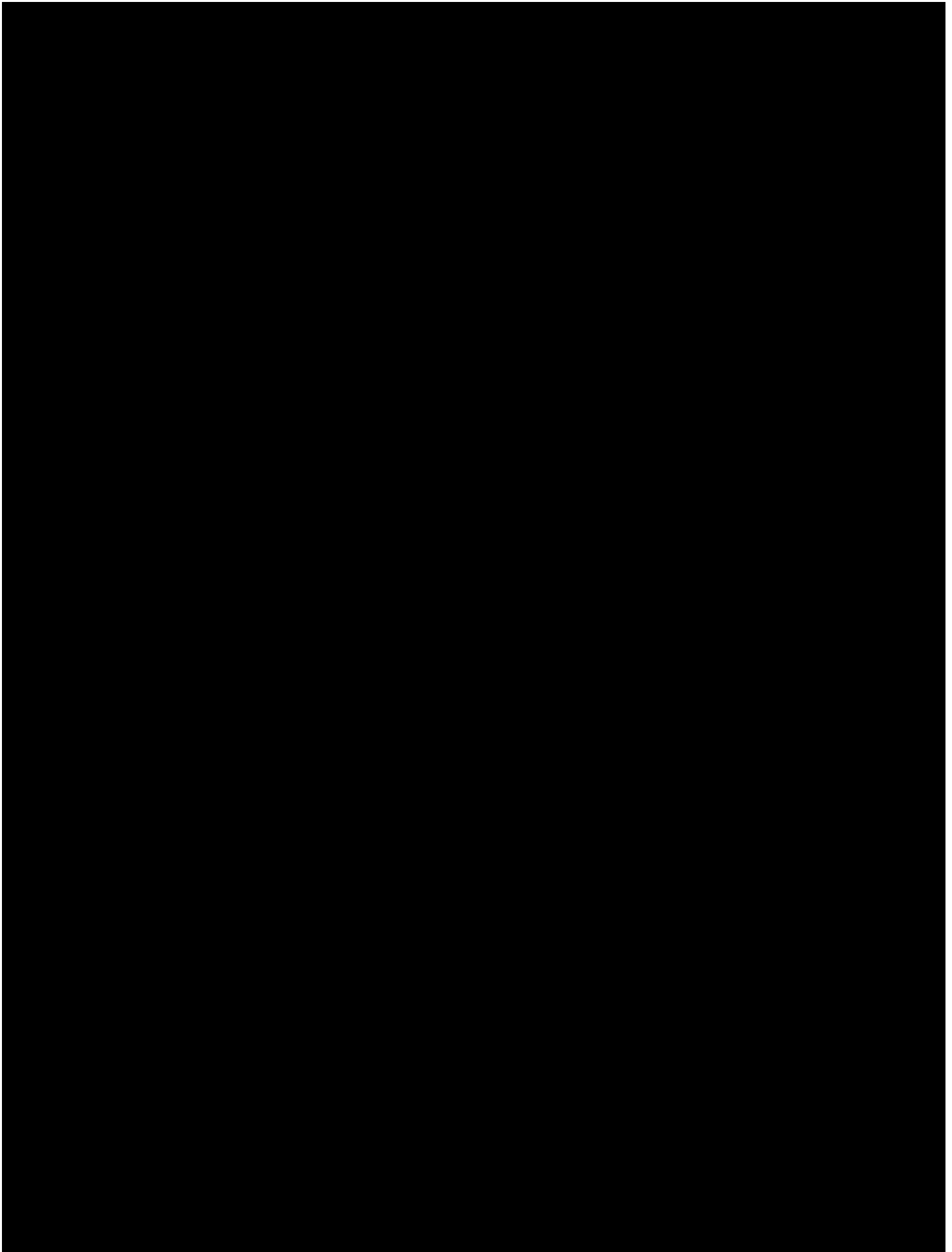
Section 11: 'Powers of Director' of the *Director of Public Prosecutions Act* empowers the Director of Public Prosecutions (State) (DPP) to issue guidelines to the Commissioner in respect of:

- (i) prosecutions for particular offences; and
- (ii) offences or classes of offences to be referred to the DPP for the institution and conduct of proceedings.

The Director of Public Prosecutions (State) Guidelines (DPPG) should be complied with.

Members who have identified significant operational matters related to the DPPG or the standards of communication and assistance between the two organisations, should attempt to resolve those issues at a local level. Where such

attempts have not resolved the issue, members should refer the matter through their chain of command to their district officer or branch manager for consideration and referral to the ODPP Interdepartmental Liaison Committee via the Superintendent, Prosecution Services, Legal Division.





## QUEENSLAND POLICE SERVICE

COMMISSIONER'S OFFICE  
200 ROMA STREET BRISBANE QLD 4000 AUSTRALIA  
GPO BOX 1440 BRISBANE QLD 4001 AUSTRALIA



Our Ref:

Your Ref:

4 May 2022

The Honourable Tony Fitzgerald AC QC  
Chairperson and Commissioner  
Commission of Inquiry relating to the  
Crime and Corruption Commission

Brisbane Q 4001

Email:

cc. The Honourable Alan Wilson QC  
Commissioner

Dear Chairperson

I refer to your letter of 26 April 2022 requesting the Queensland Police Service (QPS) provide further information to the Commission of Inquiry (CoI).

In response to your request, the QPS provides the following information.

**1. With respect to the position of Detective Chief Superintendent (DCS), Crime and Corruption Commission (CCC) Police Group please advise:**

**• To whom at the CCC does the DCS (in their capacity as General Manager of the Operations Support Division) report – the Chairperson, the CEO or another position within the CCC?**

The DCS CCC reports to the Chief Executive Officer (CEO).

**• To which position at the QPS does the DCS report?**

The DCS CCC reports to the Deputy Commissioner, Crime, Counter-Terrorism, and Specialist Operations (CCTSO) for administrative (human resource) matters.

The DCS CCC does not report to the Deputy Commissioner, CCTSO in relation to operational matters of the CCC.

**• Does the DCS participate in broader QPS governance groups or bodies? If so, please explain the role of the DCS in these QPS governance groups or bodies.**

The DCS CCC is a member of the QPS Executive Leadership Team (ELT).

The purpose of the QPS ELT, in relation to which the DCS CCC is a member, is to influence and operationalise strategy and to drive performance.

The role of the QPS ELT, in relation to which the DCS CCC is a member, is to:

- influence strategic and operational planning development;
- oversee the development of strategies and frameworks that support the Service which are not subject to another strategic governance committee;
- oversee and guide Service-wide activities to improve policing operations, responses and capabilities;
- operationalise strategies with a coordinated approach and steer the organisation towards achievement of strategic goals and objectives;
- identify and address strategic operational issues and risks collectively;
- oversee and guide organisational change management for matters of strategic importance; and
- drive performance with a focus of benefits realisation.

(see s 4.2 of the QPS Strategic Governance Manual Issue 3; 15 March 2022).

**• Who is responsible, whether in the QPS or the CCC, for monitoring the performance of the DCS, and how is this performance managed?**

The CEO, CCC manages performance of the DCS.

**• What is the role of the DCS in relation to police officers seconded to the CCC, specifically with reference to police seconded to the Crime Division and Corruption Division, as compared to police seconded to the Operations Division?**

The DCS CCC has responsibility for all police officers seconded to the CCC from a human resource perspective.

The DCS CCC has direct supervision and control of officers within Witness Protection, Technical Surveillance, Intelligence, Physical Surveillance and Forensic Computing (within Operations Support Division).

The DCS CCC has no operational oversight or direct supervision of officers allocated to the Crime Division and Corruption Division, who are responsible to their respective Senior Executive Officer, CCC.

- **What role does the DCS play in directing or having oversight over staff involved in CCC investigations relating to crime and corruption?**

None.

- **What authority does the DCS have over all QPS officers seconded to the CCC?**

The DCS CCC is responsible for seconded police in terms of attraction, recruitment, welfare, professional development and transitioning to the QPS at the cessation of their tenure. Those seconded police performing duties within the Operations Support Division (Intelligence, Forensic Computing, Strategy and Performance, Human Source, Witness Protection, Physical Surveillance and Technical Surveillance) are managed directly by the DCS in their role as General Manager, Operations Support Division.

Seconded police within Crime Division and Corruption Division are managed by their respective Senior Executive Officer.

- **What is the relationship between the DCS and other members of the CCC's Executive Leadership Team (ELT), including those ELT members with oversight over the Corruption and Crime divisions of the CCC?**

The DCS CCC is a member of the CCC ELT

The QPS cannot otherwise comment on the internal governance arrangements of the CCC.

- **What is the relationship between the DCS and the Detective Superintendent (Crime)?**

There is no operational relationship between the DCS CCC and the Detective Superintendent (Crime), apart from the responsibility for Operations Support provision of support services.

- **What is the relationship between the DCS and the Detective Superintendent (Corruption)?**

There is no operational relationship between the DCS CCC and the Detective Superintendent (Corruption), apart from the responsibility for Operations Support provision of support services.

**2. The Concept of Operations (Partnership Model) documentation provided with your March 2022 submission states that the “ownership of the capability rests with the QPS. Command and control will be retained by the CCC for the duration of the secondment thereby ensuring a sterile corridor is maintained”. Please provide clarification as to:**

- **The practical difference between ownership (retained by QPS), and command and control (retained by CCC), and**

The QPS is responsible for maintaining Physical Surveillance, Technical Surveillance, Forensic Computing and Intelligence capabilities.

Capability refers to maintaining and building the skills and knowledge required for the specialised tasks. Officers seconded to the CCC within these areas come under the command and control of the CCC. The operational taskings and priorities are determined by the CCC.

- **What is meant by the term “capability”?**

The term capability relates to maintaining and building skills and knowledge for work groups, for example, Investigations, Intelligence, Physical Surveillance, Technical Surveillance, Human Source Witness Protection, Strategy and Performance, and Forensic Computing.

**3. The Concept of Operations (Partnership Model) provided with your March 2022 submission refers to “the incorrect perception that officers performing duties within the CCC lose relevance and currency of contemporary policing methodologies”. Please advise if, and if so how, this perception has shifted.**

This comment relates to the historic difficulties in transitioning officers from the CCC to the QPS at the end of their tenure. Due to the confidential nature and legislative requirements of officer secondments to the CCC, there is limited exposure to the operations officers have been involved with. This unfamiliarity has led to a false perception of officers seconded to the CCC as not having currency in contemporary policing methodologies. The partnership model has improved the pathways for police returning from the CCC, to the QPS.

Following implementation of the current Secondment Policy, a marketing campaign targeting QPS officers was initiated by the DCS CCC to promote the work and development opportunities available at the CCC. Investigators applying under the Expression of Interest model subsequently increased significantly

**4. Your submission dated March 2022 states that the “management of all police officers seconded to the CCC is subject to the joint responsibility of the chief executive officer of the CCC and the most senior police officer seconded to the CCC (a Chief Superintendent) (section 255(3) of the Crime and Corruption Act)”. Please advise:**

- **How do the CEO and DCS jointly oversee the role of seconded police within the CCC?**

The MOU between the QPS and the CCC provides that where police officers are seconded to the CCC, their efficient deployment is to the joint responsibility of the CEO and the most senior police officer seconded to the CCC.

The DCS CCC has human resource responsibility for all police officers seconded to the CCC.

The CEO, CCC and the DCS CCC oversee the secondment arrangements within the CCC. The concept of ‘jointly’ reflects that whilst officers are seconded to the CCC and are subject to the direction and control of the CEO CCC, they remain employees of the QPS. In accordance with sections 255(5) and 257 of the *Crime and Corruption Act 2001* (CC Act), police officers seconded to the CCC remain members of the QPS. The QPS (Commissioner) also remains responsible industrially for the administration, human resource management and welfare of seconded officers (s 4.8 *Police Service Administration Act 1990*).

- **What mechanisms are in place to facilitate this joint responsibility?**

The CCC has established a Police Resource Committee to oversight secondment arrangements within the CCC.

**5. With respect to the position of Senior Sergeant (Strategy and Performance) detailed in Attachment 2 of your submission dated March 2022, please advise what role this officer plays within the CCC Police Group.**

The Senior Sergeant, Strategy and Performance Officer (SPO) is required to plan and manage the strategic and performance functions of the CCC Police Group and facilitating the HR requirements, including recruitment for the Group, whilst maintaining reporting relationships with the QPS.

**6. Your submission dated March 2022 refers to a “chain of command in the review and consideration of the criminal charges”. Please advise how this chain of command is operationalised, including how the chain of command operates in practice. Please provide any documentation which explains how this chain of command works in practice, including any instructional or procedural information provided to seconded police officers at the CCC.**

The ‘chain of command’ is a general reference within the context of QPS operations to supervisors and/or persons with responsibility under service policy for the oversight of investigations from an quality and/or and accountability perspective.

Officers regularly seek guidance and/or advice with respect to a decision to arrest or charge a person from senior more experienced officers where there is some uncertainty about whether there is sufficient evidence to arrest or charge. Similarly, where a level of oversight and accountability is considered appropriate with respect to the ‘quality control’ of investigations and/or an officers decision to commence proceedings, or a decision not commence a proceeding (for example, see sections 3.4.2 and 3.4.4 of the OPM with respect to decisions to commence proceedings or to withdraw a charge). Ultimately, it remains an officer’s individual discretion as to a decision to arrest or charge.

There is no specific documentation provided by the QPS to officers seconded to the CCC with respect to the ‘*chain of command*’, and the QPS is not privy to the governance arrangements at the CCC.

Should you require any further information, please contact Simon James, Acting Director, Strategic Policy Branch, Policy and Performance Division, QPS [REDACTED]

Yours sincerely

[REDACTED]  
**KATARINA CARROLL APM**  
**COMMISSIONER**



## QUEENSLAND POLICE SERVICE

COMMISSIONER'S OFFICE  
200 ROMA STREET BRISBANE QLD 4000 AUSTRALIA  
GPO BOX 1440 BRISBANE QLD 4001 AUSTRALIA



10 May 2022

Our Ref:

Your Ref:

The Honourable Tony Fitzgerald AC QC  
Chairperson and Commissioner  
Commission of Inquiry relating to the  
Crime and Corruption Commission

[REDACTED]  
Brisbane Q 4001

Email: [REDACTED]

cc. The Honourable Alan Wilson QC  
Commissioner

Dear Chairperson

I refer to your letter of 3 May 2022 requesting the Queensland Police Service (QPS) provide further information to the Commission of Inquiry (CoI).

In response to your request, the QPS provides the following information.

**1. The first limb of the two-tiered test of the DPP Guidelines requires that there be "sufficient evidence". This is said to be *more than* just a prima facie case. The Guidelines state that "sufficient evidence" will exist only if there is a "reasonable prospect" of conviction, having regard to the persuasive strength of the admissible evidence.**

The QPS agrees with the comments made in paragraphs 2 and 3 of your letter.

Section 382 of the *Police Powers and Responsibilities Act 2000* (PPRA) achieves the objective of providing an alternate means for commencing proceedings against a person, and which reduces the need for the person to be placed into custody associated with an arrest, or involve the delay associated with issuing a complaint or summons (ie. by way of a Notice to Appear).

Section 365 of the PPRA provides for the powers of arrest for a police officer without warrant, including the relevant test, and which reflects the 'reasonable suspicion' test referred to in s 382 of the PPRA.

365      *Arrest without warrant*

(1)      *It is lawful for a police officer, without warrant, to arrest an adult the police officer reasonably suspects has committed or is committing an offence if it . . . . .*

The 'reasonable suspicion' test for the commencement of proceedings in sections 365 and 382 of the PPRA, is the minimum prescribed legal requirement that must be met for the commencement of proceedings against a person, whether by way of arrest or via a Notice to Appear.

As identified in *George v Rockett*, police are granted extraordinary powers of apprehension, search, detention and arrest which are an invasion of a person's interests and which the common law has always valued highly and the common law and legislature have gone to great lengths to protect. Similarly, the commencement of proceedings against a person potentially impacts a number of fundamental human rights, many of which are now statutorily protected by the *Human Rights Act 2019*.

The commencement of criminal proceedings against a person can have significant and long lasting personal, professional and financial consequences. It is not uncommon for a person to pursue claims against individual officers, the QPS, and/or the State of Queensland, where they consider the commencement of proceedings to be unjustified or unwarranted.

The QPS considers that a higher degree of satisfaction should be demonstrated (i.e. the sufficiency test) and applied to the assessment of the available evidence, before applying the second tier of the test, and whether proceedings are warranted in all of the circumstances, having regard to the significant financial and other costs imposed on the limited resources of the individual, the QPS and the criminal justice system. This approach also supports individual officers, the QPS, and the State of Queensland with respect to, and to defend, claims of malicious prosecution.

The QPS does not ascribe to, or endorse, that an officer merely has a 'reasonable suspicion' as the threshold for the commencement of proceedings, notwithstanding this is the minimum position lawfully permitted by sections 365 and 382 of the PPRA.

On this basis, the Queensland Police Service maintains that there is no inconsistency between section 382 of the PPRA, and the direction under section 4.9 of the *Police Service Administration Act 1990* which requires the application of the two tiered test in the DPP Guidelines.

**2. How are police officers trained to apply both section 382 of the PPRA and the two tiered test in the DPP Guidelines when deciding whether to issue a notice to appear?**

Officers are provided with training at a number of stages throughout their careers.

*Recruit Training*

Section 382 of the PPRA and the two tiered test is introduced as part of the Arrest and Alternatives and Statutory Interpretation components of recruit training. The concepts are explained in more detail during the Evidence component of recruit training (**Attachment 1** contains extracts from the training material).

*First Year Constable Program (FYC Program)*

The FYC Program reinforces academy learning through frontline-based training that requires new Constables to demonstrate operational competency across a number of workplace activities that are aligned to national competency standards. The program has three components:

- (i) an ePortfolio of compulsory workplace activities (WPAs) that are completed and assessed under supervision, and includes *Investigation Skills and Court Process* and decision-making and correct application with respect to the commencement of proceedings (eg. WPA 7 *Drugs* – policing task 2 examines the commencement of proceedings for drug offences including drug diversion, and refers to section 3.5 of the OPMs (Commencement of proceedings) and section 382 of the PPRA);
- (ii) training days that cover 11 topic areas in face-to-face instruction, in relation to which two days cover the commencement of proceedings, preparation of briefs and giving evidence in court; and
- (iii) FYCs complete a number of self-paced, compulsory learning products, which include QCP047\_2 *Court Brief QP9 2<sup>nd</sup> Edition* addressing the relevant law, policy and procedure related to the commencement of proceedings and preparation of court documents. Additionally, FYCs perform operational duty under close supervision, initially with a mentor and later with Field Training Officers, where the exercise of powers and application of law is continually supervised and assessed.

### *Detective Training Program and Specialist Investigations Training (DTP)*

Phase 1 of the DTP has a specific lesson (Conducting and Managing Investigations) which primarily addresses the importance of the relationship between balance of probabilities, reasonable suspicion, reasonable doubt, DPP Guidelines and OPM 3.4.3 concerning the two tiered test, and how those issues relate to conducting and managing investigations. These concepts are also examined during the 'foundation studies' module of the DTP (**Attachment 2** contains extracts from the training material).

In addition, a further eight hours of curriculum is spent discussing these concepts through another 14 modules, and which contribute to the Advanced Diploma in Police Investigation.

The decision to prosecute is differentiated as a separate test to reasonable suspicion, which is used for grounding search warrants and justifying the use of other police powers.

**3. Are they trained that a reasonable suspicion under section 382 of the PPRA is not the same state of mind as required for the first limb of the two tiered test?**

Yes.

### *Recruit Training*

Reasonable suspicion under the PPRA is explained in the lesson with respect to the PPRA. The sufficiency of evidence test is explained in the lesson with respect to Arrest and Alternatives. The training material highlights the distinction between the two (**Attachment 3** contains extracts from the training material).

### *Detective Training Program and Specialist Investigations Training (DTP)*

This is a topic that is well explained in two modules of the DTP specifically addressing the issue. The Advanced Diploma in Police Investigation also discusses these concepts through many other crime class lectures.

**4. Are they trained that the first limb of the two tiered test must be based upon admissible evidence, whereas reasonable suspicion may be based on inadmissible evidence?**

Yes. See also previous answers.

#### *Recruit Training*

The sufficiency of evidence test must be based on admissible evidence.

Reasonable suspicion may be based on subjective and objective elements.

#### *First Year Constable Program (FYC Program)*

WPA 2 *First Response* – policing task 8a, explains an officer's responsibilities when conducting an investigation, including reference to section 2.5.1 of the OPM (Commencement and conduct of investigations), in particular:

*... 'Officers who believe an offence has been committed, are to ensure they are satisfied sufficient and admissible evidence can be obtained to prove the offence and justify the commencement of proceedings (see s. 3.4.3: 'Factors to consider when deciding to prosecute' of this Manual).'*

Note: section 3.4.3 of the OPM discusses the two tiered test.

Reasonable suspicion is also covered in PPRA and Drug Investigations training days which are run locally by District Education Training Offices. The PPRA training day is run during the mentor phase (first eight weeks after induction) and the Drug Investigations training day is run within the first four months of induction.

#### *Detective Training Program and Specialist Investigations Training (DTP)*

See previous answers. There are 10 hours of tuition within 16 modules of DTP addressing these concepts and form part of the Advanced Diploma in Police Investigation.

**Attachment 4** contains an extract from the training material with respect to reasonable suspicion.

**5. Are they trained that reasonable suspicion is insufficient to satisfy the first limb of the two tiered test?**

Yes. See also previous answers.

**6. Are they trained that they *may not* issue a notice to appear if the first limb of the two tiered test is not satisfied, even though they have formed a**

**reasonable suspicion of the commission of an offence, as required by section 382 of the PPRA?**

Yes. See also previous answers.

*Recruit Training*

The sufficiency of evidence test must be satisfied to justify the commencement of proceedings (see also **Attachment 1**).

*First Year Constable Program (FYC Program)*

WPA 9 *Investigations* – Policing Task 3a, requires the completion and submission of a QP9 within the required time frame, with reference to the section 2.5.1 of the OPM (Commencement and Conduct of Investigations) and section 3.5.3 of the OPM (Proceedings by way of Notice to Appear). Further, Policing Task 3b, requires the correct completion of a Full Brief of Evidence within the required timeframe, with reference to section 3.4.5 of the OPM (ODPP Guidelines).

*Detective Training Program and Specialist Investigations Training (DTP)*

The ODPP guideline is discussed in three parts of the DTP as is section 3.4.3 of the OPM, which explains the DPP Guideline.

**End**

Should you require any further information, please contact Simon James, Acting Director, Strategic Policy Branch, Policy and Performance Division, QPS [REDACTED]

Yours sincerely

[REDACTED]  
**STEPHAN GOLLSCHESKI APM**  
**ACTING COMMISSIONER**

## Attachment 1

A Notice to Appear (NTA) is a form that can be used:

- to commence proceedings against a person where the need for custody of a person can be reduced (PPRA s. 382); and
- instead of the delay that occurs by having a complaint and summons sworn and issued.

The form must (PPRA s. 384):

- state the type of offence, and when and where it is alleged to have been committed (PPRA s. 386)
- state the full details of person
- state whether the person was, at the time of the alleged offence, an adult or a child
- require that person to attend court on a specified date at least 14 clear days from the date of offence or, with the person's written agreement a stated shorter time, after the notice is served. For example, if an offence occurs on the 2nd of October, the earliest appearance date would be the 17th of October, unless the offender agrees to a shorter time period.
- be signed by the police officer serving the notice to appear.

**QUEENSLAND POLICE SERVICE**  
**NOTICE TO APPEAR**  
 Police Powers and Responsibilities Act 2000 Section 382

1234562

**ADULT/CHILD OFFENDER'S DETAILS** C/F No. Occurrence #

Family name: **TRAD** Occurrence #

Given name(s): **ANTHOS**

Address: **16 NEWNOME ROW** Postcode: **4213**

Suburb/Town: **TALLAI**

Date of birth: **30/11/92** (if supplied) Place of birth: **SYDNEY** (if supplied)

**YOU ARE ACCUSED OF THE FOLLOWING OFFENCE(S):**  
 (provide offence type (e.g. assault), and time, date and place for each offence.)

**AT 6am on THU 12th of February 2015 you were unlawfully driving a white Holden Astra at 105 BAKER ROAD TALLAI.**

(These are general particulars of the offence(s) only)

**YOU ARE REQUIRED TO APPEAR BEFORE A COURT OF SUMMARY JURISDICTION SITUATED AT** (Full street address of court)

**13-23 COLLEGE RD, MARRIMONGHIE NSW,**

**ON 26/2/15 AT 8:30 am**

(Date) (Time)

\* I agree with the above date being set for my appearance

(Signature of adult offender)

\* If date is less than 14 days, adult offender must agree and sign.

You are advised to see a solicitor before your court appearance. If you do not go to court you may be arrested.

**A COPY OF THIS NOTICE WAS ISSUED AND SERVED PERSONALLY ON THE ABOVE NAMED AT**

**9:00 am 12/2/15 TALLAI** (Time) (Date) (Place of service)

BY **P. TAILOR** (Signature) **51654-10954** (Mag. no.)

**MARCO CUNDORE** (Police station of member serving notice)

† Delete as applicable \* Adult offenders only

## Before commencing proceedings

Because police officers act separate to the judiciary, their actions are highly scrutinised by the courts. If police officers instigate action to bring an offender before the court, an officer needs to consider the evidence they have collected as well as their actions in obtaining that evidence and whether or not their actions and decisions will stand up to prosecutorial and judicial scrutiny. It's ultimately the courts and not police officers that determine the guilt or otherwise of the offender.

Before an officer commences proceedings, the officer needs to ask themselves:

**Is there sufficient evidence?**

**Is the action I take in the public interest?**

**Am I acting with impartiality?**

**Do I have the required standard of proof?**

**Is my evidence relevant, reliable, and admissible?**

**Have I acted in compliance with the law?**

You will learn more about these concepts in Phase 2.

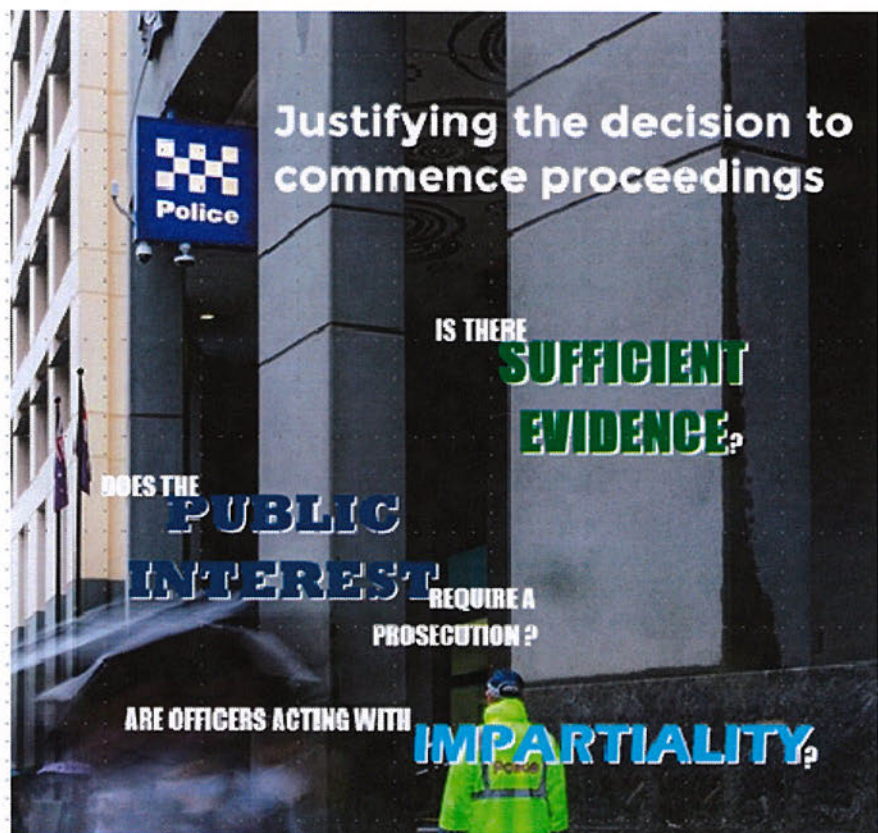
The decision to commence proceedings on an offender is based on three tests.

Officers who believe an offence has been committed, are to ensure they are satisfied sufficient and admissible evidence can be obtained to prove the offence and justify the commencement of proceedings.



The decision to commence proceedings on an offender is based on three tests.

If there is sufficient reliable evidence of an offence, the issue then is whether, in light of the facts and the surrounding circumstances of the case, the public interest will be served in pursuing a prosecution.



## Sufficiency of Evidence Test



### (i) Sufficiency of Evidence Test

- A prima facie case is necessary but not enough.
- There must be reasonable prospect of Defendant being found guilty of offence.

Consider all aspects and the strength of the evidence including –

- Admissibility and reliability of evidence,
- possible defences,
- extent of conflicts between witnesses,
- competency and compellability of witnesses
- Any other credibility issues
- Availability of witnesses – whether hostile, adverse or cooperative



MUST ensure sufficient and admissible evidence to prove the charge beyond reasonable doubt.

## Public Interest Test



### (ii) Public Interest Test

Is it in the public interest to pursue a prosecution?

The factors will vary from case to case.

The seriousness of the offence and the need for deterrent are ever present factors for consideration in sex offence matters.

The proper decision in most cases will be to proceed with the prosecution if there is sufficient evidence. Mitigating factors can then be put to the court at sentence.

There is a long list of discretionary factors investigators can consider (refer OPM 3.4.3), when applying the public interest test:-

i.e -

- the level of seriousness, or whether or not it is of a 'trivial' or "technical " nature only;
- the existence of any mitigating or aggravating circumstances;
- the degree of culpability of the alleged offender in connection with the offence.
- whether or not the prosecution would be perceived as counterproductive to the interests of justice;
- the prevalence of the alleged offence and the need for deterrence, either personal or general;



## Attachment 3



### REASONABLE SUSPICION

#### REASONABLE SUSPICION HAS BOTH SUBJECTIVE AND OBJECTIVE ASPECTS

The subjective element refers to the state of the mind of the officer involved. The objective element refers to the reasonableness of that suspicion.

#### BASED ON FACTS

Reasonable suspicion is defined as 'a suspicion based on facts which, objectively seen, are sufficient to give rise to an apprehension of the suspected matter ... more than a mere matter of idle speculation or mere imagination'.

Reasonable suspicion is further explained in *Gough v. Braden* [1993] Qd r 100. The court held that 'reasonable suspicion' means that there must be something more than imagination or conjecture. It must be the suspicion of a reasonable man, warranted by facts from which inferences can be drawn, but is something which falls short of proof.

#### ENSURING COMPLIANCE WITH PPRA

In ensuring compliance with the PPRA and other Acts, investigators must, where required, ensure that 'reasonable suspicion' exists **PRIOR** to enacting any provided powers.

## Sufficiency of evidence



The primary test for the decision to prosecute is the 'sufficiency of evidence' test.

Before charging a person with an offence, the investigating officer is to ensure there is sufficient admissible evidence to prove the charge to the requisite standard of proof.

A prima facie case is essential but is not enough. There must be a reasonable prospect of the defendant being found guilty of the offence.

## Relevance and admissibility

The question of admissibility is a question of law, rather than fact.

A judge or magistrate may be called upon to determine the admissibility of evidence.

The general rule is that evidence which is **relevant** is admissible—all evidence sufficiently relevant to the issue before the court is admissible and all that is irrelevant or insufficiently relevant should be excluded.



## Subjective vs Objective

- The process of you satisfying REASONABLE SUSPICION to carry out a power is a SUBJECTIVE one...

*"...I think because of all those facts, I have enough to search the car..."*

**But don't be confused...**

- The COURT will judge your act via an OBJECTIVE TEST...

*"...If I gave a REASONABLE PERSON the same FACTS on which I based my REASONABLE SUSPICION, would they come to the same conclusion?"  
(Grandma Test)*