

CRIME AND
MISCONDUCT
COMMISSION



QUEENSLAND

Setting the Standard - Reviews of Police Misconduct in Queensland

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Crime and Misconduct Commission

So what's wrong?

“The Queensland police .. discipline and misconduct system is dysfunctional and unsustainable.

Complainants and police are subjected to a complex, administratively burdensome, overly legalistic and adversarial process that is dishonoured by chronic delays, inconsistent and disproportionate outcomes.”

Simple, Effective Transparent Strong, An Independent review of the Queensland police complaints, discipline and misconduct system, Report by Independent Expert Panel May 2011 p.5

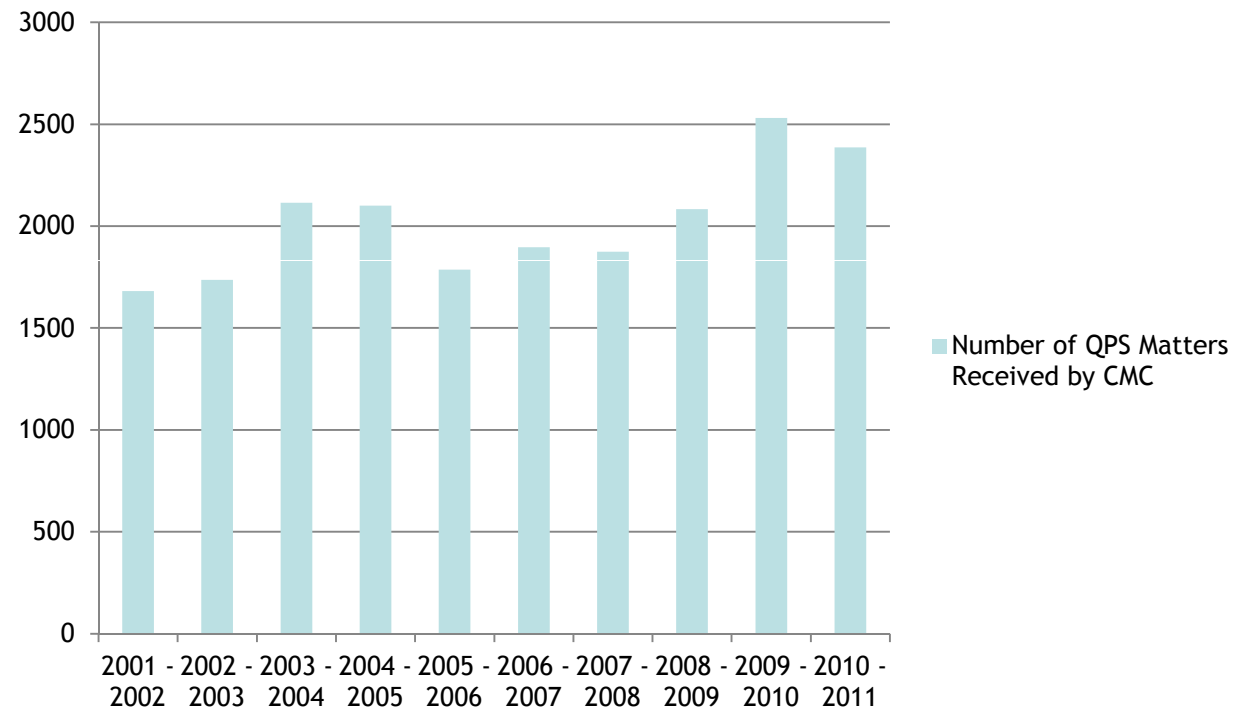
Overview of Presentation

- Queensland Context
- Limitations of the current system
- Recent reviews into Police Discipline in Qld:
 - Setting the Standard and
 - the Independent Review conducted this year
- New approach being proposed; and
- Some of the challenges ahead

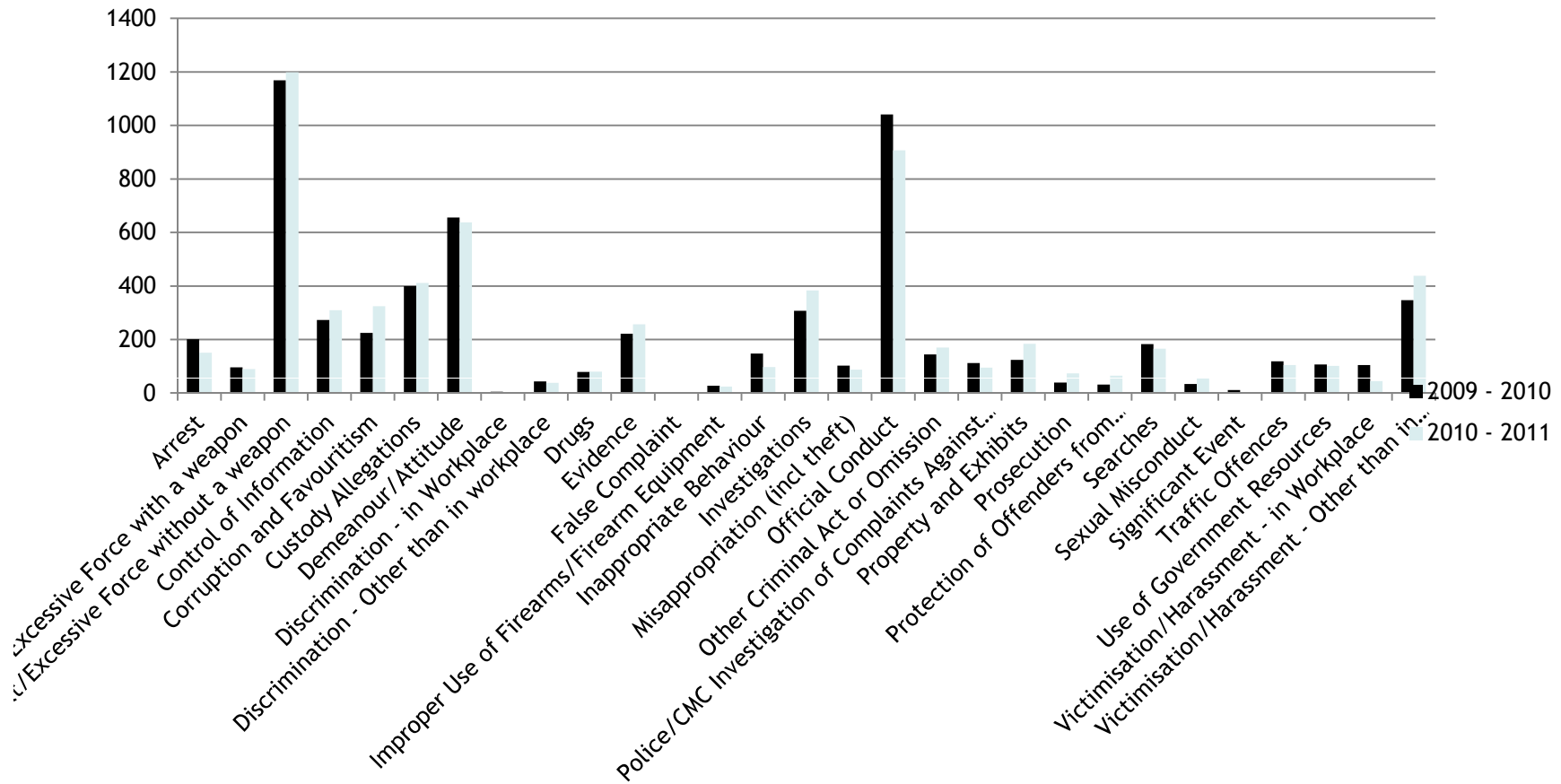
Queensland Context

- ▶ Fitzgerald Inquiry (1987-89)
- ▶ Led to police including Commissioner being convicted of corruption
- ▶ Led to establishment of
 - Electoral and Administrative Review Commission (EARC),
 - the CMC's forerunner the Criminal Justice Commission and
 - Reform of the Queensland Police Force.

QPS Matters Received by CMC 2001/02 - 2010/11



Types of Allegations Received by CMC against Police Officers last 2 years



Legislative Role of CMC regarding police misconduct

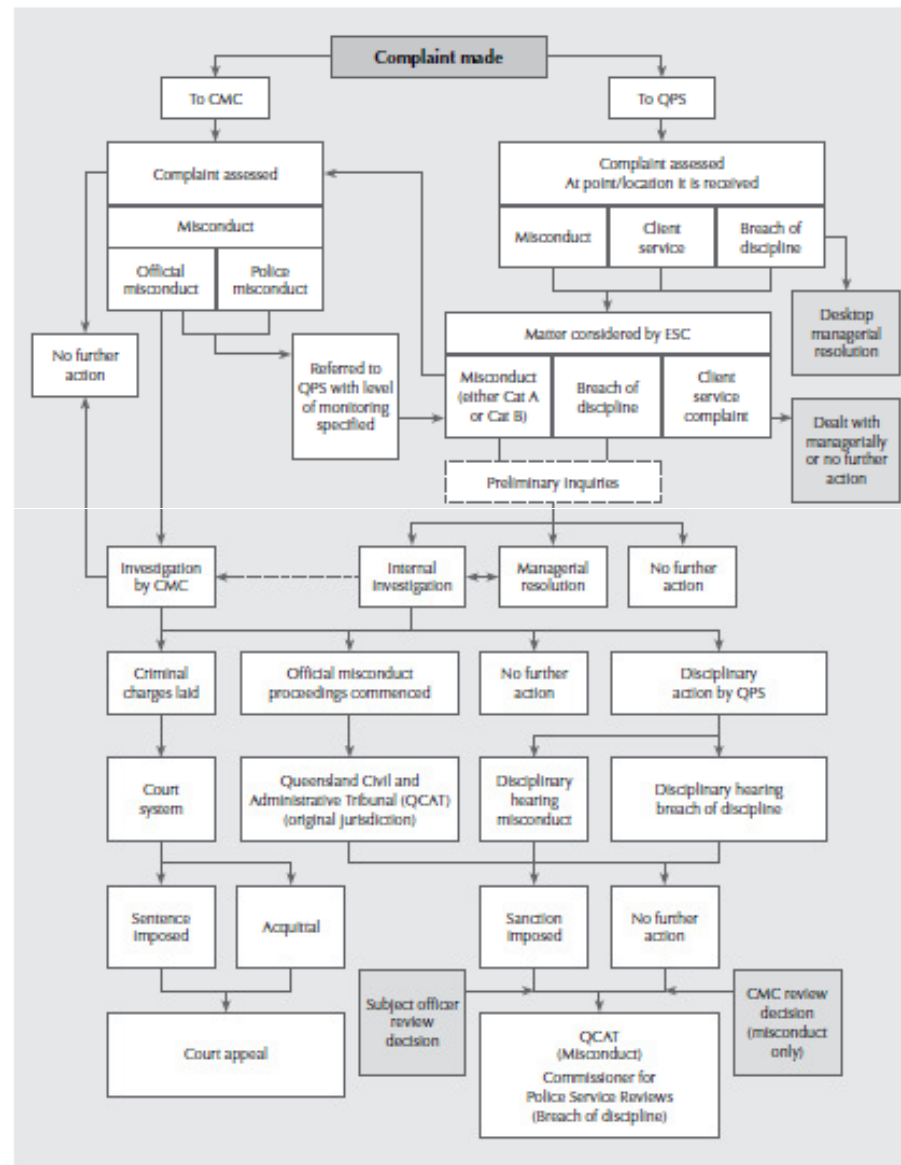
- To raise standards of Integrity and conducts in units of public administration (including QPS) and ensuring complaints of misconduct are dealt with appropriately (*s.33 Crime and Misconduct Act 2001*)
- The Commission applies the following principles when performing its misconduct functions—
 - Cooperation
 - Capacity Building
 - Devolution
 - Public Interest (*s.34 Crime and Misconduct Act 2001*)

Background to Setting the Standard

- 2009 “Integrity and Accountability in Qld”
- Submissions to Government re concerns with police complaints
- Attorney General asked CMC to examine police discipline system
- Dec 2010 CMC released “*Setting the Standard*”

QPS Discipline System

Figure 7: QPS discipline system



Problems with Current System

- Complexity and Workload
- Punitive vs Remedial
- Delays; incl sick leave issues
- Excessively Legalistic and Adversarial

CMC - “Setting the Standard”

Attributes of Good Discipline System

- Simplicity
- Effectiveness
- Transparency
- Strength

Setting the Standard - Dec 2010

www.cmc.qld.gov.au

CMC - “Setting the Standard”

Attributes of Good Discipline System

Simplicity

- Clear about standards and consequences of failure
- Timely action and outcomes
- Demonstrates targeted use of resource

CMC - “Setting the Standard”

Attributes of Good Discipline System

➤ Effective

- System improves performance of individuals, supervisors and the organisation
- Deters future misconduct
- Capable of protecting interests of organisation

CMC - "Setting the Standard"

Attributes of Good Discipline System

▶ Transparent

- Demonstrably fair and free of bias
- Consistent with clearly understandable and logic
- Accountable for its decisions and action

CMC - “Setting the Standard”

Attributes of Good Discipline System

► Strong

- Supported by **ethical leadership** that promotes robust and learning-focused culture
- Reinforced by **pro-active strategies** promoting good behaviour and preventing inappropriate behaviour
- Enables organisation to deal **responsibly** with inappropriate conduct

CMC - “Setting the Standard”

Key Recommendations

- Elevating complaints management to core business and better resourcing Ethical Standards
- Legislation to strengthen system; eg ensure consistency in definition of misconduct
- Police Commissioner be given loss of confidence provisions
- The power to suspend disciplinary sanctions is removed
- Further work be undertaken to develop a revised disciplinary model

Independent Panel

- 57 recommendations responding to 9 CMC recommendations
- August 2011 - Qld Govt overwhelmingly accepted recommendations
- Time frame for implementation - immediate to 2-3 years subject to IT

Report and Government Response:

<http://www.premiers.qld.gov.au>

Simple

- **New Complaints Model (Rec 8.)**
 - This will include reducing Categories of Misconduct from 5 to 3 categories;
 - Serious Misconduct Review,
 - Misconduct Intervention and
 - Local Management Resolution.
- Consistent definitions for Misconduct under various pieces of legislation

Simple (cont.)

- ▶ **Devolution** - Keeping QPS investigations at regional level and not devolving investigations to the operational, local level. (Rec 19)
- ▶ Use of agreed facts and show cause on the papers; action restorative justice
- ▶ Joint Code of Conduct Training with CMC and QPS (rec 2) Code of Conduct and Standard of Practice applies to off duty officers (rec.54)
- ▶ Use of tools and tables detailing an indicative range of sanction (Rec 33)

Effective

- Improving the timeframes for responding to complaints (Rec 14) and process to be more remedially focused (Rec 34)
- An accelerated disciplinary process and 85% of less serious complaints will be dealt with within 28 days (Table 8 p.79)
- Joint Assessment process within CMC and the QPS at initial assessment stage of complaint (rec 13)
- The establishment of regional complaint management teams within 2 years (Rec 19)
- Measures to deal with sick leave during a disciplinary hearing (rec 25)

Transparent

- Publication of substantiated disciplinary information for serious cases (Rec 32)
- Special joint annual report between the QPS and CMC for publication in Parliament
- The QPS and the CMC will be required to submit to Parliament an annual Ethical Health Scorecard for the QPS (Rec 47)
- Memorandum of Understanding between QPS, CMC and Coroner re police-related death (Rec 21)

Strong

- A broader definition of Category A misconduct matters (Rec 10)
- Giving the CMC the power to change police disciplinary decisions and authority to apply to Tribunal for review of disciplinary decisions including a decision not to commence a disciplinary proceeding (Rec 9)
- Developing a business case for targeted drug and alcohol testing of officers (rec 52)
- Civilian Staffing Model for CMC investigations (Rec 1)

Challenges to Implementation

- Adequate Resources
- Model subject to IT solutions
- Reform Fatigue/ Effective Change Management
- Ensuring a Healthy and Robust Relationship between CMC and QPS
- Requirement for Legislative Change