

Final review of the WA Police Force response to an incident in the lock up of a country town

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Corruption and Crime Commission

Postal Address	PO Box 330 Northbridge Post Shop WA 6865	Email	info@ccc.wa.gov.au
		Website	www.ccc.wa.gov.au
Telephone	(08) 9215 4888 1800 809 000 (toll free for callers outside the Perth metropolitan area)	Twitter	@CCCWestAus
		Office Hours	8.30 am to 5.00 pm, Monday to Friday
Facsimile	(08) 9215 4884		

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Introduction

- [1] On 21 March 2018, the Commission reported to Parliament on its review of the response of the WA Police Force to an incident involving the use of force incident in a country town.¹
- [2] The report raised concerns about the use of force incident and additional issues. Four recommendations were made.
- [3] Following its first report, the Commission conducted a further review.
- [4] On 9 April 2020, the Commission reported to Parliament on its further review. The Commission considered that three of the four recommendations had been addressed and closed.²
- [5] This final review considers the WA Police Force's further response to the outstanding recommendation.

The Commission's first review

- [6] The underlying incident involved the excessive use of force by a police officer against a man following his arrest. The Commission was concerned that the officers did not consider that he had suffered a 'bodily injury' although the man told the officers he was in pain and had an injury. As a result, no medical assistance was provided and the use of force was not reported.
- [7] The Commission did not re-investigate the incident but reviewed the investigation undertaken by the WA Police Force to ensure it was adequate and that the conclusions reached were open to be made on the available evidence.
- [8] The Commission found that the WA Police Force investigation into the subject officers' actions was adequate. However, broader concerns were identified about:
 - custody recordkeeping and management;
 - use of force reporting and aftercare;
 - supervision of junior officers; and

¹ Corruption and Crime Commission, *Review of Police response to an incident in a country town where excessive force was used and an arrested person's details not recorded*, 21 March 2018.

² Corruption and Crime Commission, *Further review of the WA Police Force response to an incident in the lock-up of a country town*, 9 April 2020.

- management of officers who demonstrate repeat behaviour in excessive use of force.
- [9] Due to the concerns raised, the Commission made four recommendations for changes to policy and improvements to officer training.
- [10] The recommendations were:
- Consideration be given to 'bespoke training' being provided to individuals who demonstrate a pattern of behaviour in excessive use of force, along with close monitoring and management.
 - The WA Police Force should consider whether the deficiencies in custody records and management, including use of force reporting and aftercare, are isolated to this incident or reflect a more general lack of understanding within the force.
 - Consideration should be given to ensuring that custody officers have sufficient training and experience to carry out their duties. In particular, consideration should be given as to whether probationary constables should carry out the duties of a custody officer without direction from a more experienced senior officer.
 - In scenarios where officers do not identify 'bodily injury', but the subject is clearly in severe discomfort following a use of force incident, it is recommended that such a scenario is reflected within the purpose and intent of the policy to record the incident in a use of force report.
- [11] On 19 April 2019, the Commission informed the WA Police Force it was undertaking a review of the response to the recommendations.³
- [12] On 7 June 2019, the WA Police Force provided the Commission with a response outlining initiatives being implemented or proposed to address each recommendation.
- [13] On 9 April 2020, the Commission reported to Parliament on its review of the WA Police Force's response. The review considered the actions taken by the WA Police Force and noted the significant commitment to address the issues.
- [14] The Commission closed the first three of the recommendations set out above.
- [15] The outstanding recommendation was about reporting use of force incidents.

³ *Corruption, Crime and Misconduct Act 2003* s 41.

- [16] The WA Police Force informed the Commission that a working group had been established to identify possible amendments to the use of force policy.
- [17] As the Commission was unable to determine whether the proposed response would be sufficient to address the concerns, the recommendation was kept open.
- [18] The WA Police Force was told that the Commission would follow up on the implementation of the recommendation in one year's time.

The WA Police Force's latest response

- [19] On 9 February 2021, the WA Police Force informed the Commission relevant changes to the use of force policy had been made.
- [20] Previously, a use of force report was required when an officer used empty hand tactics on a subject and caused bodily injury requiring medical care.
- [21] Under the amended policy, a use of force report is required if bodily injury is identified by an officer or identified or claimed by the subject. This is regardless of whether medical care was received or declined by the subject.
- [22] On 5 August 2020, the changes were gazetted.

The Commission's final review

- [23] The Commission has been provided with a copy of the relevant changes.
- [24] The changes appear to provide clearer instructions for when a use of force report is required to be submitted by officers and addresses the concerns arising from the initial incident.
- [25] Significantly, a use of force report is now required where it can be reasonably suspected that bodily injury has occurred.
- [26] The Commission notes the identification or claim of bodily injury is still key in prompting the submission of a use of force report.

Conclusion

- [27] In 2018, the Commission had concerns with the WA Police Force's use of force policy. It was ambiguous and open to interpretation as to when an officer was required to submit a use of force report.

- [28] The WA Police Force has now implemented changes to this policy. The Commission recognises the efforts of those involved in developing and effecting the revised policy.
- [29] The Commission acknowledges that the true test of the changes implemented, can only be determined through the application of the policy by officers.
- [30] As the oversight agency of the WA Police Force, the Commission remains committed to monitoring the changes to this policy and the impact it has on use of force reporting and the associated risks.
- [31] **The Commission considers this recommendation is complete.**