

MEDIA RELEASE

21 March 2018

Mixed results for WA Police Force in CCC use-of-force investigations

The Corruption and Crime Commission has reviewed WA Police Force investigations into two serious incidents where officers used excessive force – with two very different results and important lessons for WA Police Force.

The detail of the Commission’s oversight of the investigations is the subject of separate reports tabled in State Parliament today (Wednesday, 21 March) – [A Report into a Tasering Incident on 31 March 2017 at Fremantle](#) and the second, detailing the Commission’s [Review of Police Response to an Incident in a Country Town where Excessive Force was used and an Arrested Person’s Details not Recorded](#).

The Commission has also released graphic vision of both incidents.

The incidents themselves were investigated by the Commission, in order to assess the appropriateness and adequacy of the WA Police Force investigation, but were not the Commission’s primary focus.

The identity of some police officers, members of the public involved in the incidents and the country town are not revealed in the reports. Substitute names have been given to members of the public and the police officers in the country town for the purposes of reporting.

[A Report into a Tasering Incident on 31 March 2017 at Fremantle](#)

The first incident involved a driver, his wife and friend who were heading to a Fremantle restaurant for dinner – but ended up with the driver being tasered in his vehicle for no good reason, arrested and locked up. The friend recorded the evening’s events on his mobile phone.

There were three Police investigations into the incident – a criminal investigation by the Traffic Enforcement Group, a managerial review, and a Professional Conduct Investigation Unit review – and all of them, in the Commission’s view, were flawed.

The tasering incident involved a Senior Constable who used the taser and was the most senior officer; and another Senior Constable who later produced a Statement of Material Facts (an important legal document) that varied considerably with what the recorded vision of the incident shows.

The Commission’s oversight of the investigation raised significant concerns including:

- the use of the three investigations as opportunities to identify and apply reasons that would make the use of force lawful and justified;

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- the inadequacy of the criminal investigation which, in the Commission’s opinion, barely skimmed the surface of the issues;
- disparities between the description of events accepted by investigators and the vision of the incident;
- inappropriate weight given to evidence of the Senior Constable who used the taser, in particular, the retrospective justification of his actions, and the inadequate action taken against him, particularly when compared to the rigorous action taken against the other Senior Constable; and
- failure to identify contraventions of WA Police Force policies and procedures relating to the use of tasers.

The Commission does not suggest that the investigations were influenced by improper motives but does detail how they were nonetheless flawed.

The concerns raised about the Police investigations during the Commission’s active monitoring process led it to commence an independent investigation into the incident.

The Commission formed an opinion of serious misconduct in respect of the most Senior Constable, considering his actions in tasering, then arresting the driver were unlawful. Moreover, they were unreasonable and oppressive.

As a result of the Traffic Enforcement Group investigation, the other Senior Constable was charged under the Police Act 1892 (s 23). This process is still underway. Given that, the Commission has made limited comment and not formed any opinion of serious misconduct.

Review of Police Response to an Incident in a Country Town where Excessive Force was used and an Arrested Person’s Details not Recorded

By contrast, the Commission formed the view that the WA Police Force’s investigation into the excessive force used in the country town, following an arrest was appropriate. So too were the conclusions arrived at by the Police investigation and the approach taken to managing the particular officer involved. However, police officers failed at every stage to enter the person into custody records.

Following its oversight of that investigation, the Commission has recommended that consideration be given to bespoke training for individuals who demonstrate a pattern of behaviour in excessive use of force, as well as close monitoring and management.

More generally, the Commission recommends there should be sufficient training and experience for custody officers to carry out their duties and that consideration be given to whether probationary constables should carry out the duties of a custody office without direction from a more experienced senior officer.

The WA Police Force should also consider whether the deficiencies in custody records and management, including use of force reporting and after care, are isolated to this incident or reflect a more general understanding within the Force.

The Commission works closely with the WA Police Force – and particularly those units dedicated to the review and investigation of Police conduct – and will continue to do so, despite occasional differences of views which will inevitably arise from time-to-time.

Most notifications and allegations about Police conduct come to the Commission from the Police Force itself, and only a small proportion require intervention by the Commission.

Related materials

Report - [A Report into a Tasering Incident on 31 March 2017 at Fremantle](#)

Vision - [Tasering Incident on 31 March 2017 at Fremantle](#)

Report - [Review of Police Response to an Incident in a Country Town where Excessive Force was used and an Arrested Person's Details not Recorded](#)

Vision - [Review of Police Response to an Incident in a Country Town where Excessive Force was used and an Arrested Person's Details not Recorded](#)

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