https://www.crimejusticejournal.com/ *International Journal for Crime, Justice and Social Democracy*
Volume **12** (1) 2023 https://doi.org/10.5204/ijcjsd.2745

Methods of Inquiry: Police Corruption, Historical Anti-Corruption Experiences and Implications for Contemporary Practices

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Abstract

Historically, establishing a judicial commission in response to allegations of police corruption has been a regular method used by Australian governments. In Queensland alone, no less than five major inquiries with a remit to examine police corruption took place during the 27 years between 1963 and 1989. By using historical criminology, it is possible to unpack the cyclical need for such commissions as well as the reasons that most were unable to realise their goal to stamp out corruption in the public service and, more specifically, the police. This research reveals several key areas of weakness in the temporary inquiry system, including narrow terms of reference and the potential for obstruction in the investigatory process. Based on this, this article identifies several viable policy proposals centred on a renewed commitment to standing anti-corruption bodies, separate from politics and with a broad remit to investigate police misconduct.

Keywords: Policing; judicial commission; anti-corruption; historical criminology; corruption; Queensland.

Introduction

For its size, Australian policing has been characterised by a disproportionate amount of corruption throughout the country's relatively short history. In 1986, crime journalist Evan Whitton claimed that Sydney was 'the most corrupt city in the western world, except of course for Newark, New Jersey, and Brisbane, Queensland' (1986: 3). One year later, corruption in the Queensland Police Force (QPF) took centre stage as a result of revelations made public via an inquiry into police misconduct led by barrister Gerald 'Tony' Fitzgerald. Held over three years from 1987 to 1989, the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (the Fitzgerald Inquiry) exposed a network of corruption organised and operated by senior members of the QPF—even including the Police Commissioner, Sir Terence Lewis (Dickie 1988; Condon 2015). Unsurprisingly to many, Fitzgerald found that endemic corruption had been practised in the QPF since at least the 1950s when former Police Commissioner Francis 'Frank' Bischof had assumed the role. In the intervening period, there were numerous opportunities to address this corruption. Judicial inquiries into police misconduct were routine in Queensland, with at least four major commissions examining allegations made against Queensland police before the Fitzgerald Inquiry was convened in 1987 (Condon 2013; Dickie 1988; Lucas 1977; Ransley and Johnston 2009). Rather than dealing with police corruption effectively, officers implicated in these inquiries could progress in their careers with the QPF to the point that by the late 1980s, several had risen to some of the highest positions in the force.

Thus, the question remains as to why none of these previous inquiries was successful at revealing and rooting out misconduct in the QPF. The answer to this question has major implications for global police forces that are continuing to go through the process of professionalisation—a period when the organisational culture of policing has not yet formed, and opportunities exist

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to prevent corruption from becoming a tacitly accepted subcultural practice. It is with this in mind that Queensland stands as a premier example both of the conditions that allow corruption to become engrained in police culture and, conversely, of how a force that has experienced such endemic misconduct can adopt reforms allowing it to overcome decades-long trends of corruption. The *Queensland example* is one where five separate attempts at holding a judicial inquiry into police corruption can be observed over three decades to varying degrees of success. Focusing on these five inquiries—largely concentrating on the same set of key people of interest across policing, organised crime, politics, and the judiciary—provides a unique opportunity to undertake a historical comparison where the contextual variables are more controlled, allowing for a more *like-for-like* comparison than methodological approaches wherein inquiries are compared across more varied geographical and historical settings. Each inquiry explored in the Queensland example also adds new layers to the exploration of what makes an inquiry successful or, equally importantly, unsuccessful.

Observing the five Queensland inquiries that took place from Gibbs (1963-64) to Fitzgerald (1987-89) reveals a progression from a royal commission seemingly designed to obstruct effective investigation to inquiries with more power, albeit low influence. Finally, the Fitzgerald Inquiry demonstrates how an inquiry can be effective when the factors limiting its predecessors are acknowledged and addressed. As such, the Queensland example is instructive in that it charts the historical path of incremental reform and how, ultimately, this can result in meaningful systemic change. By drawing on the archival evidence, this article sets out to review the failures of judicial inquiries into police misconduct in Queensland to identify the potential pitfalls that impeded their success and provide recommendations to prevent future inquiries of this nature from being similarly frustrated.

Methodology

The use of historical research methodology (and methods) to conduct criminological research is a trans-disciplinary practice that has emerged out of the increasing breakdown in traditional disciplinary boundaries. Criminology has often been described as a ‘rendezvous discipline’ where interdisciplinarity is valued, perhaps more so than in other social sciences (Churchill 2018). Despite this precondition towards interdisciplinarity in criminology, the growth of historical criminology has been comparably slower. Largely, the impetus to develop new understandings of historical criminology has been treated as mostly unnecessary—for historians, crime is no more than another element that is already factored into their analysis of the past, while for criminologists, drawing on historical patterns and trends has always been a fundamental practice in the discipline (Deflem 2015; Lawrence 2012). Yeomans (2018: 456) described one of the central critiques of traditional criminology from historians in arguing that it is ‘often guilty of a “presentism” that sees the past neglected, ignored or misunderstood’.

Recently, attempts have been made to move beyond the construction of history and criminology as a binary proposition, divided between past and present. Bleakley and Kehoe (2021) constructed historical criminology as a spectrum rather than a discrete sub-field. In this model, the ratio between past and present is less important than the approach taken to conducting the research, divided into *methods* and *methodology*. Historical criminology can be defined by research that uses historical research methods (e.g., archival collections and source analyses) alongside an epistemological methodology focusing on applying historical considerations like periodisation and social context (Bleakley and Kehoe 2021; Churchill 2018). Rather than a historical recount or the simple use of historical data, it is a research approach grounded in historical sensibilities that draws a through line from the past to inform about and/or add new understanding to contemporary practices.

The analysis conducted in this article approaches the issue of judicial inquiries into QPF misconduct with the above interpretation of historical criminology in mind. From a practical standpoint, critical source analysis is paramount. As occurs in most legal proceedings, each inquiry resulted in a cache of archival material which is available through entities such as the Queensland State Archives and the State Library of Queensland. The amount of material that is accessible varies greatly from inquiry to inquiry. More transparent, large-scale commissions like the Fitzgerald Inquiry produced thousands of documents and transcripts, whereas the Inquiry into Sexual Offences involving Children and Related Matters (the Sturgess Inquiry), which was more clandestine and on a much smaller scale, offered far less material for evaluation.

In cases where less documentation exists, it has been important to seek out other sources of information, such as contemporaneous news reports and memoirs produced by those involved in the events in question. Additionally, the provenance of archival material has been a matter of concern, given that much of the documentation held by the archives originates from the very government departments under investigation for corruption. As Monkkonen (2002) correctly noted, historical data is ‘opaque’ by its very nature—belying the superficial reading of the material are the complex influences of context, period, and author bias. Applying a historical criminology approach to the archival data on judicial inquiries requires a concerted effort to account for the competing agendas of the individuals and organisations that produced the documentation that its conclusions are based on.

Literature Review

The literature on anti-corruption-focused judicial inquiries has generally been sceptical of the idea that commissions established by governments are ever truly independent and apolitical. Writing more than a decade before the Fitzgerald Inquiry launched its investigation of the QPF, Gavin Drewry (1975: 49) described this as ‘the deeply entrenched myth of separateness’—a constitutional division between law and politics that is mostly performative, especially in situations where the judiciary is called on to investigate the misconduct of government agencies like the police. Despite the fact that Drewry disavowed the notion of separateness between politics and the law, he nevertheless supported the pursuit of judicial independence as a ‘healthy exercise’ in democratic systems (Drewry 1975: 49). That said, there are clear incentives for political operators to *manage* the judicial process, particularly when it comes to inquiries into anti-corruption. Salvatore Sberna and Alberto Vannucci (2013) examined the practical results when judicial anti-corruption initiatives are politicised. Their research showed that anti-corruption inquiries were more likely to have electoral repercussions for governments in contexts with more judicial independence. Repercussions like this are a real possibility for a government that gives an independent inquiry free rein to investigate its conduct. It is for this reason that anti-corruption inquiries are often structurally limited by conditions set by governments, such as terms of reference and the amount of time allowed for hearings (Condon 2016; Gilligan 2002).

Independent judicial anti-corruption inquiries present a catch 22 decision for governments: while inherently posing a risk to a government’s ongoing political viability, they are also potential tools of transparency that have a necessary role in securing public confidence in democratic institutions, if not politics. Ian McAllister (2014) conducted a survey of the Australian public to ascertain their views on corruption. His research showed the correlation between individuals personally experiencing corruption and their views on its pervasiveness was minimal—what is more important is their *perceptions* of how pervasive corruption is, driven by the media and (in some cases) high-profile inquiries of misconduct. Judicial inquiries serve an important role in alerting the public to corruption and holding public officials publicly accountable in doing so. Aside from this, judicial inquiries also serve as a deterrent, nominally preventing further corruption from taking place. As David Dixon noted, the experience of anti-corruption in Australia has historically suggested that ‘legal accountability in practice is often weak … [and] political accountability is apparently crucial, but is in practice limited’ (1999: 54). The weakness of these accountability measures can be perceived as a flawed organisational design or, alternatively, as a purposeful measure designed to limit the scope and power of any single oversight agency, which would make it challenging for governments to manage and control.

Much has been written on police corruption in Queensland, particularly in recent years, as more details on historical corruption in the QPF have been increasingly revealed. The main impetus for this renewed interest in QPF corruption has been the series of non-fiction books published by journalist Matthew Condon, dubbed the *Three Crooked Kings* saga. Condon’s initial trilogy—*Three Crooked Kings* (2013), *Jacks and Jokers* (2014) and *All Fall Down* (2015)—traced the career of Police Commissioner Lewis from joining the QPF in the 1940s to the aftermath of his imprisonment for corruption in the 1990s. Condon’s meticulous research drew on archival sources and qualitative interviews, including with Lewis himself. His work built on previous narrative work on this subject, such as Phil Dickie’s *The Road to Fitzgerald* (1988). Dickie’s work is particularly noteworthy, as his investigative reporting for *The Courier-Mail* was a driving factor in pressuring the Bjelke-Petersen government to call the Fitzgerald Inquiry. His book *The Road to Fitzgerald* expanded on his extensive research on the subject and provided a contemporaneous account of the key players and events involved in Queensland police corruption.

Academic research has also explored the Fitzgerald Inquiry, often as a useful case study in anti-corruption. Marni Manning claimed that the utility of the Fitzgerald Inquiry was that it highlighted ‘three broad and inconvenient truths’ about police culture: that it is insular, with ‘an inefficient internal environment’ (organisational culture) that operates within a ‘deficient external environment’ (oversight) (2014: 137). Mark Finnane (1988), who has written much on the Fitzgerald Inquiry, noted that the commission was unique in the sense that it brought together previously disparate threads of criminality. It is important to note that though the Fitzgerald Inquiry has received considerable attention, less has been given to the important judicial inquiries that preceded it. This is both a recognition of the singular success of the Fitzgerald Inquiry and, at the same time, a historical rejection of its ‘failed’ predecessors, from which there is much to learn about what constitutes an effective anti-corruption commission.

Findings

The 1960s: The Gibbs Inquiry (1963 to 1964)

The Royal Commission into Police and the National Hotel (the Gibbs Inquiry), sometimes referred to as the National Hotel Inquiry, was the first judicial inquiry into police corruption after the ascension of Frank Bischof to the position of police commissioner in January 1958 (Dickie 1988; GE Fitzgerald 1989). Bischof’s appointment was controversial. While he had a reputation for closing major cases as head of the QPF’s Criminal Investigation Branch, Bischof also had a reputation for

soliciting bribes and offering protection to illegal bookmakers during his career (Johnston 1993). Bischof was given the job of police commissioner in spite of these allegations, as the newly elected conservative Country–Liberal coalition[1] government led by Frank Nicklin sought to reduce Labor Party control of the public service by passing over more senior Catholic police officers in favour of Bischof—a Protestant Freemason (GE Fitzgerald 1989; Queensland Parliament 1958a). The Labor Party had governed Queensland for most of the century and, in doing so, had 'incrementally taken control of the public service' (including the QPF) through a sectarian appointment process favouring Catholics—Labor's traditional support base (Bleakley 2021: 33; GE Fitzgerald 1989).

Despite Nicklin's apparent efforts to cleanse the QPF of such corruption by naming an *outsider* to lead the QPF, Bischof continued his corrupt practices as police commissioner. In late 1959, Bischof made the unilateral decision to close Brisbane's previously tolerated brothels, forcing sex workers to operate out of bars and hotels instead (Gibbs 1964). One such venue was the National Hotel, a downtown bar frequented by Bischof and his associates. The Gibbs Inquiry was triggered in 1963 when Colin Bennett, Member for South Brisbane, told parliament that 'the Commissioner and his colleagues who frequent the National Hotel, encouraging and condoning the call-girl service that operates there, would be better occupied in preventing such activities rather than tolerating them' (Queensland Parliament 1963: 1062). An inquiry headed by Justice Harry Gibbs was appointed to investigate these claims and sat from late 1963 to early 1964. It found no evidence of police involvement in condoning or profiting from illegal prostitution or vice at the National Hotel (Dickie 1988; Gibbs 1964).

The 1970s: The Lucas Inquiry (1976 to 1977) and Williams Inquiry (1977 to 1979)

It was more than a decade before the next concerted judicial attempts to investigate police corruption in Queensland would occur. This is not to suggest that there was no real cause for police misconduct to be examined in this interim period but, rather, it is a consequence of repeated intervention by the state government to avoid internal investigations that might reflect negatively on the QPF. Indeed, two such events have been attributed as primary drivers of Police Commissioner Raymond Whitrod's decision to resign his position in November 1976. The first was when student protester Rosemary Severin was beaten with a baton by Traffic Inspector Mark Beattie at a demonstration on 29 July 1976. Though Whitrod supported Beattie publicly, he nevertheless ordered an internal investigation that was scuttled directly by the state Cabinet (Kelly 1976; Whitrod 2001).

Shortly after, on 29 August 1976, Queensland police conducted an aggressive raid on a *hippy* commune in North Queensland, in the course of which the settlement was burned down, with excessive force alleged against police officers. Again, Whitrod set out to investigate this allegation in contravention of explicit orders not to do so directly issued by the state premier, Bjelke-Petersen (Whitrod 2001). It was shortly after this, on 15 November 1976, that Whitrod resigned his post, in part because of frustration related to the government's repeated interference in internal attempts to root out corruption and misconduct in the QPF. The same corruption and misconduct went on to be the focus of two separate inquiries conducted in the late 1970s, both of which emphasised (to varying extents) the importance of enhanced anti-corruption oversight in the QPF.

The first of these, presided over by Justice Geoffrey Arthur George Lucas, was called just three days after Whitrod's resignation on 18 November 1976. It was intended as a response to allegations of police corruption in court proceedings that year: *R v Freier, McIntyre, and Herbert* or, as it was popularly referred to, the Southport Betting Case. In this case, senior QPF officers were recorded conspiring to fabricate evidence against two bookmakers and perjure themselves in court (Lucas 1977). The Inquiry into the Enforcement of Criminal Law in Queensland (the Lucas Inquiry) was primarily focused on improving police procedures and was damning in its condemnation of the process corruption that was rampant in the QPF in this era. When he delivered his report in 1977, Lucas recommended a sweeping range of reforms to police practices, from limiting the amount of time officers are allowed to serve in 'high-risk' divisions like licencing or consorting to the mandatory recording of all police interviews (Lucas 1977). Queensland was also a focus of the federal Royal Commission of Inquiry into Drug Trafficking (the Williams Inquiry) that ran from 1977 to 1979. Led by Queensland judge Sir Edward 'Ned' Stratten Williams, the commission resulted in the disbanding of the Federal Bureau of Narcotics (FBN) in a move that some contemporary researchers have suggested was part of a plot by corrupt elements of the QPF to avert a bureau investigation into their involvement in drug trafficking (Beckley 2013; Bishop 2012).

The 1980s: The Sturgess Inquiry (1984 to 1986) and Fitzgerald Inquiry (1987 to 1989)

In the mid-1980s, public concern over child sex abuse, fuelled by media allegations that corrupt police protected brothels providing underage prostitution, resulted in the Queensland Government calling on Director of Public Prosecutions Des Sturgess to conduct an inquiry into sexual offences involving children in 1984 (Sturgess 1986). Sturgess was closely associated with many senior Queensland police, even representing several on corruption charges in the past (Bishop 2012; Condon 2013). The report delivered by Sturgess in 1986 had a lack of influence, similar to the Lucas Inquiry before it. The two policymakers with the most power to implement his recommendations, state Premier Joh Bjelke-Petersen and Lewis, both admitted to not having read the Sturgess Inquiry report, reinforcing the perception that judicial inquiries in Queensland were a matter of show

rather than substance (Dickie 1988). The failure of the Sturgess Inquiry to affect change was largely rendered moot just one year later, after the Fitzgerald Inquiry was called to investigate a broad cross-section of police misconduct. The inquiry began after a report from ABC's *Four Corners* program in which police, sex workers and other members of Brisbane's vice-land revealed the pervasive corruption in the QPF (GE Fitzgerald 1989). Provided with far-reaching coercive powers and, importantly, the authority to offer indemnity from prosecution, the Fitzgerald Inquiry was ultimately able to deliver a report in 1989 which prompted extensive reforms to the QPF in the most significant structural effort to address corruption in Australian policing to that point (GE Fitzgerald 1989).

Discussion

What to Look at, What Not to Look at: Using Terms of Reference to Control Results

The history of anti-corruption activity in Queensland makes it clear that, in many cases, judicial inquiries into police and government misconduct have been compromised before they even began. The key structural reason for this has been political control over the terms of reference that have guided these commissions, dictating the scope and scale that an inquiry has been allowed to take (Elliott and McGuinness 2002; Gilligan 2002). These parameters are set by government ministers, usually on the advice of civil servants from the permanent bureaucracy who provide ministers with recommendations ranging from the suggested terms to a shortlist of potential commissioners to lead the inquiry (Pratt and Gilligan 2004). Terms of reference are a necessary element in the design of a judicial inquiry—without clear terms of reference, a commission runs the risk of tangential deviations that detract from its ability to effectively fulfil its purpose.

For this reason, terms of reference cannot simply be abandoned in favour of an unguided, counterproductive investigation. Though an important element, the process of drafting terms of reference provides the first opportunity for a government or bureaucracy to cripple an inquiry from the outset. In his exploration of royal commissions in Australia, Gilligan noted that 'governments normally channel terms of reference very carefully in order to steer [them] into appropriate routes of inquiry' (2002: 298). In his survey of past commissions, Gilligan found that governments were more liberal in drafting an inquiry's terms of reference when they felt the issues under investigation were 'safe' or, in other words, would not negatively affect the government itself. This political calculation indicates a recognition of the potential risk to the government that is posed by judicial inquiries with an open remit to investigate corruption matters, as described by Sberna and Vannucci (2013). Having power over an inquiry's terms of reference allows governments to maintain a sense of control in what is otherwise a firmly independent process.

In the Australian context, there is an apparent correlation between an inquiry's terms of reference and its success in achieving its objectives. As noted above, it is often in a government's best interests to restrict the scope of a judicial inquiry—especially into a contentious issue like anti-corruption, where the chances that politicians and civil servants will be implicated at some point are higher than usual (Maor 2004; Sberna and Vannucci 2013). For this reason, a large number of the inquiries held into such issues in Queensland are focused on singular issues. For example, the Gibbs Inquiry (1963 to 1964) was triggered by Bennett's public allegations of a 'call-girl ring' tolerated by police that operated out of the National Hotel (Queensland Parliament 1963: 1062).

Though his claims in parliament were specific to the National Hotel, closer reading of Bennett's speech suggests that, in context, he likely intended this anecdote to serve as a representative example of a more extensive problem in Queensland. The terms of reference drafted by the solicitor-general on this occasion allowed Gibbs to simply investigate the specific claims of police tolerance of crimes at the National Hotel—a single location—over a period of five years from 1958 to 1963 (Condon 2013; Dickie 1988). Any information provided about police corruption outside this window was treated as outside the scope of the inquiry and could not be used by Gibbs. The terms of reference issued to Gibbs have been described as 'impossibly narrow' and designed to prevent a complete investigation from taking place to the benefit of Bischof and his police colleagues who frequented the National Hotel and other similar Brisbane establishments in this era (Dickie 1988: 9).

Both government and police force had reasons for limiting the terms of reference of the Gibbs Inquiry from the outset. For both parties, it was important to protect Bischof, who was then in his sixth year as police commissioner. As mentioned, Bischof was a political appointment made by Nicklin to wrestle control of the QPF from Labor-affiliated Catholic officers referred to as 'the Green Mafia' (GE Fitzgerald 1989; Queensland Parliament 1958b: 1708). Bischof's appointment came despite a reputation for broad-ranging corruption, from collecting bribes from illegal bookmakers to fabricating evidence in murder cases (Johnston 1993; Queensland Parliament 1958a). If Bischof were to be made the focus of an inquiry, rather than the National Hotel, it would have left the government open to an examination into how much it knew about his conduct before appointing him police commissioner—a line of investigation that had significant potential to embarrass the government, with probable electoral consequences (Condon 2013; James 1974). Limiting the scope of the inquiry to the National Hotel was an expedient

compromise for the government. It gave the public the impression that it was not ignoring the claims made against Bischof and the wider QPF but also took steps to manage the fallout by ensuring that the inquiry was limited to an isolated, controllable case.

While the government ultimately signed off on Gibbs's terms of reference, responsibility for drafting them fell to Solicitor-General Bill Ryan, whom it was later claimed was strongly influenced in this task by Bischof himself. Quoting an anonymous employee of Ryan's office, Condon wrote that Bischof came into the possession of a draft of the Gibbs Inquiry's terms of reference that were far broader than would ultimately be put in place. Condon's source 'clearly recollect[ed] that [Bischof] was agitated and that he stated to Ryan that the terms of reference needed to be narrowed … Bischof was concerned that it was … going to be very difficult for him to manage' (2016: 87). If true, this means that a subject of the inquiry pressured Ryan to revise its terms of reference for the sole purpose of providing him with a greater degree of cover. Condon's source has not been verified, but it is true that the terms of reference that were ultimately issued were highly restricted in a way that was beneficial to Bischof. Gibbs formally vindicated Bischof and, as a result, he was allowed to remain police commissioner for several more years, during which time he is alleged to have continued running a system of graft and corruption that would remain endemic in the QPF until the Fitzgerald Inquiry more than 20 years later (Condon 2013; Dickie 1988; GE Fitzgerald 1989).

Playing for the Right Team: Police Investigating Police in Judicial Inquiries

The terms of reference set for the Gibbs Inquiry performed an important role in shielding corrupt QPF officers from justice in the mid-1960s; however, it was not the only structural feature that was manipulated in an effort to control the investigation's outcome. The selection of an investigatory team in a judicial inquiry is highly important, as this is the group responsible for collecting the brief of evidence that will ultimately inform the commissioner's recommendations (Doig 1995; Maor 2004). In contemporary practice, the challenges of police investigating allegations of misconduct within their own organisation are widely recognised. Not only is the potential for conflict of interest exponentially higher, but the solidarity of the intra-organisational 'blue brotherhood' is such that there are considerable subcultural pressures that prevent internal affairs investigators from taking action (Skolnick 2008).

These factors would apply in any case where an inquiry's investigatory team was selected from the ranks of the police force under investigation. However, in the case of the Gibbs Inquiry, the potential for procedural interference was exacerbated through the secondment of officers to the team who were also facing accusations of corruption before the commission (Condon 2013; R Fitzgerald 1990). A total of 88 former and present officers from the QPF's licencing branch and consorting squad were represented by legal counsel before the Gibbs Inquiry. Effectively, a large proportion of the state's most experienced investigators had identified as being at some risk from the inquiry (R Fitzgerald 1990; James 1974). Despite this conflict, the Gibbs Inquiry allowed many of these officers to participate as members of its investigatory team—essentially, tasking them with collecting evidence against themselves.

Officers assisting Gibbs, while also being under investigation themselves, included Donald 'Shady' Lane, accused of corruption at the Fitzgerald Inquiry and later jailed on corruption charges arising from his subsequent career as a state member of parliament (Condon 2015; R Fitzgerald 1990). Anthony Murphy, a close ally and protégé of Bischof, was 'responsible for shoring up the police case' by investigating witnesses and collecting statements to tender before the inquiry (Condon 2013: 150). Murphy's participation alone provides a key example of how poor staffing choices can have major implications for the outcome of an anti-corruption inquiry.

The Gibbs Inquiry was triggered by allegations made in state parliament by Bennett, who had been informed about the prostitution ring operating out of the National Hotel by a sex worker who was a client of his legal practice, Shirley Brifman (Queensland Parliament 1963, 1971). When Brifman was called before the Gibbs Inquiry, she denied all claims of a police-tolerated prostitution ring at the National Hotel; later, in a 1971 interview with a QPF internal affairs team, she admitted that she lied to the commission at the behest of Murphy and his colleague Glendon Hallahan, both of whom she had a pre-existing, sexual relationship with (Bishop 2012; Condon 2013; Queensland Parliament 1971). Brifman made a fabricated claim to Gibbs that one of the key witnesses against police, David Young, was an illegal abortionist in an attempt to discredit him. She said she 'lied because [she] was told to lie' by Murphy and Hallahan, who coached her in her testimony both prior to and during the inquiry (Queensland Parliament 1971: 1053). On the basis of Brifman's evidence, Murphy was charged with suborning perjury, though the case was dismissed when Brifman was found dead of a barbiturate overdose shortly before trial was scheduled to commence (Bishop 2012).

The Gibbs Inquiry was not the only occasion where Queensland police who were involved in an anti-corruption inquiry were accused of obstruction from within the investigation itself. The Williams Inquiry was a federal investigation into drug trafficking in Australia that sat from 1977 to 1979. It was presided over by Williams, a Supreme Court of Queensland justice

with close ties to Murphy (Condon 2014). Though it was a federal inquiry, several Queensland police officers were selected by corrupt Police Commissioner Lewis to assist with the investigation process, with the information they provided becoming key to Williams' recommendation to disband the FBN. While state police are responsible for the broadest range of law enforcement responsibilities in Australia, national agencies like the bureau also exist, provided with broad jurisdiction allowing them to adopt a holistic perspective on crimes that take place across state and national borders, such as organised crimes like drug trafficking. At the time of the Williams Inquiry, the bureau was in the process of actively investigating former QPF Officer Hallahan on importation charges. Williams' recommendation to disband the organisation forced an end to the investigation, a move that drug trafficker John Milligan, who claimed to have colluded with Hallahan, claims was purposefully designed to protect QPF interests in the drug trade (Bishop 2012). Milligan's assertions were echoed by FBN Chief Harvey Bates, who accused the QPF of purposefully obstructing their investigations in the state (Bates 1979).

Milligan and Bates' claims were also supported by Tim Besley, Head of the federal Department of Business and Consumer Affairs, who advised that he was 'disturbed at the apparent connection between the [Williams] Royal Commission and the Queensland Police … It is a fact that during sittings in Brisbane, Queensland police witnesses gave false evidence in respect of Tewantin' (Besley 1980: 1). Besley's reference to 'Tewantin' alluded to testimony given by QPF officers about an FBN operation on Queensland's Sunshine Coast—the 'false evidence' provided by QPF witnesses contributed greatly to the view that the FBN was not fit for purpose, and justified Williams' ultimate recommendation to disband the organisation. The Williams Inquiry shows that, even in cases where the Queensland Government did not have full control over the establishment of an inquiry, there were opportunities for compromised police to influence an inquiry into misconduct by inserting themselves directly into the investigation. By their very nature, anti-corruption commissions run the risk of investigatory conflict. It may not be possible to avoid this entirely on all occasions; however, to allow officers suspected of corruption to play an active role in directing an investigation is an example of the kind of poor judgement that prevents inquiries from being fully effective.

Lock, Stock, and Barrel: Why the Fitzgerald Inquiry Succeeded Where Others Failed

Despite repeated judicial inquiries into police corruption in Queensland during the second half of the twentieth century, it was not until the Fitzgerald Inquiry was called in 1987 that real action to address corruption began to take place. To a certain extent, this was the product of circumstance. For the majority of his almost 20-year term, Bjelke-Petersen had been the police's staunchest supporter in the Queensland Parliament—he was also its most influential defender via his position as premier. However, at the time the *Four Corners* program aired its allegations of police corruption in May 1987, Bjelke-Petersen was distracted by a quixotic 'Joh for Prime Minister' campaign. Further, the premier had travelled overseas shortly after the *Four Corners* episode debuted, departing on a trip to the United States on 25 May 1987 (Davis and Wanna 1988; Wear 2002).

Bjelke-Petersen's absence gave his deputy premier, Bill Gunn, an opportunity to announce a commission just one day later, on 26 May, promising far more power to investigate corruption than previous inquiries had been afforded (Dickie 1988). The drafting of appropriate terms of reference to allow for such an investigation was the first step in affording Fitzgerald such power and was crucial to the inquiry's success. Initially, like prior anti-corruption commissions, Fitzgerald's terms of reference limited him to exploring the issues arising from the ABC's *Four Corners* documentary on police involvement in Brisbane's criminal underworld (Bigby 1987a; GE Fitzgerald 1989). Had such limited terms of reference remained in place throughout the inquiry, Fitzgerald would have been heavily restricted in his ability to examine corruption in the QPF more broadly.

The first extension in the terms of reference occurred only a month after the Fitzgerald Inquiry was first announced when Gunn made an oral submission to Cabinet requesting Fitzgerald be given the authority to examine evidence of police involvement in organised crime that went as far back as 1977—the beginning of Lewis's tenure as police commissioner (Bigby 1987b; Gunn 1987). The impetus for this decision emerged in the first phase of evidence presented before the inquiry, which made clear that limiting the investigation exclusively to matters raised in the hour-long *Four Corners* program was 'patently inadequate' considering the historical (and endemic) nature of the corruption being alleged (Davis and Wanna 1988: 7). The second and final extension to the terms of reference was even more significant, giving Fitzgerald a virtual carte blanche to investigate 'any other matter or thing appertaining to [corruption and vice]' (Bigby 1988: 1).

It was this expansion to the Fitzgerald Inquiry's terms of reference that allowed the commission to turn its attention to political involvement in organised crime and police corruption, ultimately resulting in the imprisonment of several government ministers on misconduct charges (Condon 2015; Dickie 1988; Lane 1988). By 1988, the only practical limitation in Fitzgerald's terms of reference was that his commission was restricted to events after 1977. While this prevented Fitzgerald from a deep examination of the root causes of corruption in the QPF, it nevertheless was a positive step towards Queensland giving an anti-corruption inquiry the necessary scope of authority to follow the evidence and develop a full understanding of the issues it was created to investigate.

Fitzgerald also recognised the potential risks of using QPF officers to undertake the investigatory work of the inquiry: in his final report, he stated that 'one of the early tasks of the Commission was to obtain a group of trustworthy police officers … not surprisingly, some who were offered by the Police Department were rejected' (GE Fitzgerald 1989: 19). Here, by Fitzgerald's own admission, the QPF continued to attempt the very same strategies it had used since the Gibbs Inquiry, offering potentially conflicted officers to be seconded to an anti-corruption commission where they might have the potential to inappropriately interfere with the investigatory process. The officers approved by Fitzgerald's team had, for the most part, an existing reputation for honest conduct—some, like Detective Inspector John Huey, had been named as an 'enemy' of the corrupt QPF administration since at least 1976 according to documents tendered to the inquiry (Murphy 1976: 4).

While officers were chosen on a very selective basis, Fitzgerald did not stop here in his efforts to mitigate the risk of QPF officers investigating their own organisation. Additionally, the inquiry instituted a process where commission lawyers separate from the QPF played an active role in fieldwork, joining officers in the process of collecting physical evidence and witness testimony (Dickie 1988; GE Fitzgerald 1989). Fitzgerald admitted in his report that this was not a practical approach for day-to-day policing, but for the purposes of an anti-corruption inquiry, it provided an extra layer of oversight designed to ensure that potential conflict was avoided where possible. Unlike in previous inquiries, officers suspected of corruption, like Police Commissioner Lewis, were suspended from duty, preventing them from influencing the investigation in any way or taking reprisal action against officers who did cooperate with the inquiry (Condon 2015; Ransley and Johnstone 2009).

The steps taken by Fitzgerald to address the investigatory challenges experienced by previous judicial inquiries contributed greatly to the commission's overall success. That said, there was (arguably) no single strategy employed by the inquiry that was more important than the prolific exchanging of indemnity for testimony. It is unclear exactly how many police officers and other witnesses were offered immunity from prosecution in return for their testimony to the Fitzgerald Inquiry, but what is known is that many senior members of the QPF who admitted to corruption, like Jack 'The Bagman' Herbert and Assistant Commissioner (Crime) Graeme Parker, did not face criminal prosecution for their self-admitted offences (Dickie 1988; Herbert and Gilling 2004).

Fitzgerald (1989) acknowledged that this was a controversial move, especially considering the community expectation that individuals who misuse the public trust afforded to them are punished. Even so, it was Fitzgerald's view that bringing individual offenders to justice was not the primary purpose of his inquiry—instead, he argued that 'it was less important to punish all who had been involved in the past than to identify them, remove them from their positions of influence, punish as many as possible, and, most importantly, gain [the] knowledge needed to arrive at improvements for the future' (GE Fitzgerald 1989: 12). Offers of indemnity were perceived by Fitzgerald as a catalyst. On some occasions, an indemnified witness was able to corroborate information provided in previous testimony; in other cases, they opened new lines of inquiry that sent the commission's investigation 'into areas of crime and misconduct which would not otherwise have been explored' (GE Fitzgerald 1989: 12).

There is little doubt that the scramble to obtain indemnity was a key factor in breaking the intra-organisational bonds that previously prevented officers in the blue brotherhood from breaking ranks to testify against each other. Having collected enough evidence to support a prosecution for corruption against QPF Officer Harry Burgess, the Fitzgerald Inquiry was able to convince him to testify against his co-conspirators in return for immunity (Burgess 1988; Condon 2015). Securing Burgess's testimony triggered a chain reaction among corrupt members of the QPF: officers he implicated were subsequently offered indemnity for their own testimony, at which point the individuals implicated in *that* testimony were made the same offer for their own. The ability to offer legal indemnity was central to the coercive strategy adopted by the Fitzgerald Inquiry, but its real efficacy depends on how success in anti-corruption operations is measured. If the measure of success is to bring corrupt police to justice for their misconduct, the Fitzgerald Inquiry could be considered to have had its effect severely limited by widespread immunity for those who agreed to provide testimony. This was not the same criteria for success accepted by Fitzgerald, who adopted the utilitarian perspective that the system could only be reformed if there was a thorough, honest understanding of the way it worked—an understanding that could only be obtained if corrupt police felt at liberty to outline their knowledge without fear of repercussions.

Conclusion

There is a potential for corruption in any profession where individuals are given considerable power and authority, with the case of systemic corruption in the QPF providing a clear example of the way such behaviour can reach an endemic level if not dealt with over time. Fitzgerald shone a light on misconduct in the QPF in the late 1980s, disrupting an organisational culture that had tolerated and encouraged corruption for much of the preceding decades (Dickie 1988; Condon 2013). That police corruption existed for such a long period before the Fitzgerald Inquiry is an indictment of anti-corruption measures in Queensland, but more problematic is the fact that action was repeatedly taken to investigate corruption and yet found no reason

for concern (Gibbs 1964; R Fitzgerald 1990). From Gibbs to Sturgess, the judicial inquiries into police corruption that came before Fitzgerald were deeply challenged by structural factors that rendered them ineffective and, for the most part, futile (Beckley 2013; Gilligan 2002).

Fundamental flaws in the inquiry process can be observed at almost every level, from the drafting of terms of reference that limited scope to the selection of the team seconded to collect evidence to present before the commission. A historical analysis of these pre-Fitzgerald inquiries indicates that the same problems recurred in the judicial inquiry process during the twentieth century, yet little attempt was made to reform the system to allow subsequent anti-corruption investigations to be more efficient. It is possible that this was by design, driven by a concerted deficit in political and administrative motivation to expose issues of corruption to the Queensland public.

There are key lessons to be learnt from the Queensland experience when it comes to refining the processes for anti-corruption investigations in other global contexts. As the Fitzgerald Inquiry would ultimately prove, the judicial inquiry system itself is not inherently problematic. Indeed, when Fitzgerald set out to correct the problems of previous anti-corruption commissions in Queensland, he also set a new paradigm for an independent inquiry in this area. Rather than accepting restrictive terms of limitations, Fitzgerald proved the importance of affording inquiries an organic structure that allows them to grow, develop and follow the evidence wherever possible (Bigby 1987b, 1988; GE Fitzgerald 1989). He also sought to address the problem of QPF officers investigating each other, as made clear by the alleged interference of corrupt officers in scuttling the Gibbs Inquiry and, later, the Williams Inquiry (Bishop 2012). Indeed, the claims of political interference that had lingered over previous inquiries were actively acknowledged and addressed from the very beginning with the selection of Fitzgerald as commissioner. Unlike in previous inquiries where control was exerted via the government appointing a judicial figure friendly to police, Fitzgerald was chosen in part *because of* his lack of personal connections with police and politicians, setting him in stark contrast to the QPF's preferred candidate Judge Eric Pratt.

Because of his perceived outsider status, Fitzgerald was able to adopt the position of a truly neutral inquisitor without preconceived notions (or attachments) going into the inquiry. It limited conflicts of interest and meant that Fitzgerald was able to pursue this investigation to natural conclusions, with almost nothing (and no one) off limits—an essential element of his success, given the high positions of authority that the corruption he helped expose ultimately extended to. The offer of indemnity, though controversial, was another step Fitzgerald took to reframe the public concept of what a judicial inquiry into anti-corruption should be—not a punitive expedition but a process of obtaining the truth to inform meaningful change (GE Fitzgerald 1989).

The change brought about by the Fitzgerald Inquiry goes beyond simply exposing corruption and, in turn, forcing rogue operators out of the QPF. As vital as this was, the true measure of his success was the extent to which Fitzgerald's recommendations for reform were adopted by a state government with clear motivation to draw a decisive line under the problems of the past. These reforms were wide-ranging and included acts ranging from a complete organisational restructuring of the force to the (at least partial) legalisation of offences that once attracted corruption, such as sex work, casino gambling and homosexuality (GE Fitzgerald 1989). One of the more consequential of these reforms was the establishment of a permanent anti-corruption body, at first called the Criminal Justice Commission and now, in its most recent incarnation, the Crime and Corruption Commission (CCC). The design and purpose of the CCC were similar to that of the New South Wales Independent Commission Against Corruption (ICAC), which was established in 1988 at the same time the Fitzgerald Inquiry was taking place in Queensland. As in the ICAC model, the CCC was designed (essentially) as a standing royal commission with the same, or similar, powers to Fitzgerald and a more extensive mandate.

While not entirely without its faults, such as occasional suggestions of politicisation and the recurrent concerns around police investigating other police, the mere existence of the CCC as a bulwark against the kind of endemic corruption Fitzgerald exposed is a signal of his inquiry's ongoing resonance in Queensland (GE Fitzgerald 1989; Prenzler 2009). Similar bodies, such as Victoria's Independent Broad-Based Anti-Corruption Commission and South Australia's own ICAC, emerged more recently with similar remits and powers, emphasising the influence those early versions of the standing royal commission model like the CCC had on approaches to anti-corruption in Australia. For jurisdictions where police corruption is still rife, the Queensland experience serves as a cautionary tale. It provides a practical case study of how structural elements of judicial inquiries can leave them vulnerable to being compromised and, at the same time, a way that these factors can be addressed in a manner that contributes to a meaningful examination of misconduct.

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[1] In Australia, the Liberal Party is actually on the conservative side of the political spectrum, with the *Liberal* in its name referring to economic liberalism—not social liberalism or progressive politics.

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