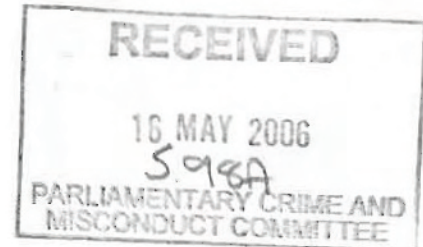


Auditor-General of Queensland

Your ref: S 98
Our ref: 00-3242
Mr J Welsh – 3405 1115

15 May 2006

Mr G Wilson MP
Chair
Parliamentary Crime and Misconduct Committee
Parliament House
BRISBANE QLD 4000



Dear Mr Wilson

Thank you for your letter of 7 March 2006 seeking a submission to the Committee's three year review of the Crime and Misconduct Commission.

The attached submission reflects my views on the Committee's listed terms of reference and my comments in relation to the other considerations noted by the Committee.

Please do not hesitate to contact me on 3405 1103 should you require further information in relation to this submission. Alternatively your Committee staff may wish to contact Mr John Welsh, Acting Director - Audit Policy and Reporting, on 3405 1115.

Yours sincerely

[Original Signed]

Glenn Poole
Auditor-General

Enc.



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Submission to the Parliamentary Crime and Misconduct Committee

Three Year Review of the Crime and Misconduct Commission

GENERAL COMMENTARY

- The Committee has invited submissions to assist in the conduct of its three year review of the Crime and Misconduct Commission (CMC) pursuant to s.292(f) of the *Crime and Misconduct Act 2001* (the Act).
- The Queensland Audit Office (QAO) regularly liaises with the CMC on misconduct issues which have been referred to the CMC or that QAO refers to the CMC which have been identified during the course of audits. This does not extend to the areas of police misconduct or major crime, and as such no comments on these areas have been included in the submission.
- The following submission provides comments from QAO's perspective in relation to the aspects of the CMC's functions, powers and operations and is aimed at assisting the Committee in its deliberations.

COMMENT ON ASPECTS OF CMC'S FUNCTIONS, POWERS AND OPERATIONS REQUESTED BY THE COMMITTEE

Jurisdiction, functions and powers of the CMC

- One of the stated roles of the Crime and Misconduct Commission is to continuously improve the integrity of, and to reduce the incidence of misconduct in, the public sector, however the *Crime and Misconduct Act 2001* precludes the CMC from investigating misconduct in all public sector entities.
- The CMC's authority extends only to "units of public administration" as defined under the Crime and Misconduct Act. This includes entities such as the Legislative Assembly and the parliamentary service; the Executive Council; departments; the police service; a corporate entity established by an Act or that is of a description of a corporate entity provided for by an Act which, in either case, collects revenues or raises funds under the authority of an Act; a non corporate entity, established or maintained under an Act, that is funded to any extent with State moneys or is financially assisted by the State such as universities and local governments; a State court, of whatever jurisdiction, and its registry and other administrative offices; and another entity prescribed under a regulation.
- This does not include entities declared by an Act not to be a unit of public administration. An example of this is s.181 of the Government Owned Corporations Act which gives the CMC specific jurisdiction over statutory Government Owned Corporations (GOCs), but company GOCs are not included. There also appears to be some uncertainty about whether the CMC has jurisdiction over entities controlled by one or more public sector entities. The scope and extent of my Powers as Auditor-General are clearly defined in legislation and extend to a broader range of public sector agencies than are covered by the CMC. This may lead to some confusion as to the oversight undertaken by our respective organisations.
- It is recognised that this is an issue that has previously been considered by the Parliamentary Crime and Misconduct Committee as part of their consideration of the Three Year Review Reports on the Crime and Misconduct Commission in 2001 and 2004.

CMC's handling of complaints of public sector and police misconduct

- Twelve issues of potential official misconduct have been forwarded to the CMC by QAO since 30 June 2001. Some of these issues have arisen during the course of QAO's audits and these were either investigated by the CMC or referred to other agencies such as the Queensland Police Service for further action.

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- The rest were as a result of complaints received from the general public which were incorrectly referred to QAO. In these cases, the CMC has dealt directly with the complainant following the referral of the matter to the CMC by QAO.
 - Overall satisfactory action has been taken by the CMC in relation to the complaints of public sector misconduct that have been referred.

Devolution of responsibility for prevention of and dealing with misconduct

- A memorandum of understanding has been in place between QAO and the CMC since 1994. This memorandum sets out agreed conditions for mutual cooperation, information sharing, cooperative operations and preservation of information between the two agencies while maintaining their independence.
- In recent years, the CMC have more frequently referred issues to QAO for investigation. On occasion, a number of these issues have been outside of the scope of QAO's audit and would be difficult and costly to investigate if this was indeed the CMC's expectation.
- Ongoing liaison with the CMC has been essential to ensure that the requests that the CMC are forwarding continue to be appropriate for QAO and are within the boundaries of QAO's mandate. A liaison officer role is in place in both entities to ensure that action to be taken is agreed upon. This arrangement is operating effectively.
- Officers from QAO's local government audit area also meet with CMC officers on a quarterly basis to discuss accountability issues in the local government sector.

CMC's lead role in building the capacity of the public sector, including the Queensland Police Service, to prevent and deal with misconduct

- *Facing the Facts* – a CMC guide for dealing with suspected misconduct in public sector agencies provides a comprehensive guide to assist agencies in deciding how to deal with suspected misconduct and conducting an investigation and is a useful reference. The CMC's website also has a section dedicated to misconduct prevention which contains reference material on key issues such as conflicts of interest, purchasing and tendering, sponsorships, etc to assist agencies.
- The CMC's liaison officer's meeting is a valuable forum for updating liaison officers on the activities that the CMC is undertaking in relation to public sector misconduct as well as providing presentations on better practice from other agencies.
- More regular activities such as the seminar on fraud and corruption control strategies held on 6 April 2006 would be helpful in educating the public sector agencies on their responsibilities in respect of misconduct and on preventive measures which can be instigated.

CMC's research role

- The CMC has released a number of relevant publications to assist the public sector, in particular, the guidelines for *Managing Conflicts of Interest in the public sector* and the *Councillors Information Kit*.
- The CMC's publication *Fraud and Corruption Control – guidelines for best practice* is particularly useful in providing better practice advice to agencies on how to develop a framework for preventing fraud and corruption. When QAO did a review of fraud control plans which was reported in the Auditor-General's Report to Parliament No. 10 for 2002-03, it was found that few agencies had fraud control policies or plans in place. The CMC followed up on this issue and released these guidelines to assist agencies to be more accountable in this area.

Overall performance of the CMC

- Overall, the CMC appears to be performing adequately but may be even more effective if provided more resources to carry out their investigative responsibilities so that they did not necessarily have to rely on public sector agencies to carry out these on their behalf.