

LEGISLATIVE ASSEMBLY OF QUEENSLAND

PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

Annual Report
1996/97

Report No. 40

PARLIAMENTARY CRIMINAL JUSTICE Committee

REPORT	DATE TABLED
1. Progress Report of the Committee being the Minutes of Evidence taken on 16 and 17 July 1990 at a public hearing in relation to the Report of the Criminal Justice Commission entitled "Report on Gaming Machines Concerns and Regulations".	22 August 1990
2. The Committee's Report No. 1 Relating to the Report of the Criminal Justice Commission entitled "Report on Gaming Machine Concerns and Regulations".	4 September 1990
3. Progress Report of the Committee being the Minutes of Evidence taken on 6 and 7 August 1990 at a public hearing in relation to the Report of the Criminal Justice Commission entitled "Reforms in Laws Relating to Homosexuality - An Information Paper".	4 September 1990
4. The Committee's Report No. 2 into the Report of the Criminal Justice Commission entitled "Reforms in Laws Relating to Homosexuality - An Information Paper".	2 October 1990
5. Report into Allegations made in South Australian Legislative Council on 10 October 1990 by Mr Ian Gilgillan, Leader of the Australian Democrats against the Criminal Justice Commission's Director of Operations, Commander Carl Mengler.	4 December 1990
6. Report into the issues of legal representation of witnesses at public hearings of the Parliamentary Criminal Justice Committee.	6 December 1990
7. Minutes of Evidence taken on 15 April 1991 at a public hearing between the Parliamentary Criminal Justice Committee and the Criminal Justice Commission and other material provided by the Commission to the Committee in relation to the roles and functions of the Committee and the Commission.	22 May 1991
8. Minutes of Evidence taken on Friday 24 May 1991 in relation to the Committee's review of its monitoring and reviewing functions and related matters.	17 June 1991
9. Review of the Committee's operations and the operations of the Criminal Justice Commission Part A, Submissions, Volume 1 - Public Submissions, Volume 2 - CJC Submissions and Minutes of Evidence taken on 6 and 13 June 1991; 2(a) and 2(b).	16 July 1991
10. Report of the independent investigation into the allegations made by Robert David Butler and Channel 7 regarding former Inspector John William Huey and the Queensland Criminal Justice Commission.	16 July 1991
11. The Term of Sir Max Bingham QC, Chairman of the Criminal Justice Commission.	2 August 1991
12. Report on Prostitution.	12 November 1991
13. Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission.	3 December 1991
14. Report of the names of the members of the 1986-1989 Queensland Legislative Assembly referred to in the Criminal Justice Commission's <i>Report on an investigation into possible misuse of Parliamentary travel entitlements by members of the 1986-1989 Queensland Legislative Assembly</i> (December 1991)	7 February 1992
15. Review of the recommendations arising out of the Criminal Justice Commission's <i>Report on an Investigation into Possible Misuse of Parliamentary Travel entitlements by members of the 1986-1989 Queensland Legislative Assembly</i> .	13 April 1992

16.	Report on the public hearing held on 25 June 1992 into allegations made by Mr Richard Chesterman QC (Past member of the Misconduct Tribunals), on 23 June 1992 in <i>The Courier-Mail</i> and <i>The Australian</i> newspapers.	13 July 1992
17.	The Committee's recommendations on changes to the method of appointment and conditions of service of members of the Misconduct Tribunals.	28 July 1992
18.	Review of the operations of the Parliamentary Criminal Justice Committee and the Criminal Justice Commission. Part C - A report pursuant to section 4.8(1)(f) of the <i>Criminal Justice Act 1989-1992</i> .	13 November 1992
19.	Review of the Criminal Justice Commission's <i>Report on S.P. Bookmaking and Related Criminal Activities in Queensland (August 1991)</i> .	12 October 1993
20.	Review of the Criminal Justice Commission's use of its powers under section 3.1 of the <i>Criminal Justice Act 1989</i> . Part A- Submissions and Minutes of Evidence taken on 30 April 1993.	12 May 1993
	Review of the Criminal Justice Commission's use of its powers under section 3.1 of the <i>Criminal Justice Act 1989</i> . Part B - Comment, Analysis and Recommendations	12 October 1993
21.	Report into allegations made by Robert David Butler and Christopher Charles Adams regarding former Superintendent John William Huey and the Criminal Justice Commission.	9 November 1993
22.	A review of the past twelve months operation of the Parliamentary Criminal Justice Committee of the 47 th Parliament.	10 December 1993
23.	Review of the Criminal Justice Commission's <i>Report on a Review of Police Powers in Queensland</i> Volumes I-III. Part A - Minutes of Evidence taken on 16 and 17 December 1994.	18 February 1994
	Part B - Comment, Analysis and Recommendations	30 August 1994
24.	Report of the unauthorised release and publication of a Committee document.	16 February 1994
25.	Report on the Inquiry into the CJC's failure to account for two copies of the November 1993 monthly report to the Committee and related matters.	5 August 1994
26.	A report of a review of the activities of the Criminal Justice Commission pursuant to s.118(1)(f) of the <i>Criminal Justice Act 1989</i> .	21 February 1995
27.	Report on the Review of the Criminal Justice Commission's Report on a Review of Police Powers in Queensland Volume IV: Suspects' Rights, Police Questioning and Pre-Charge Detention.	23 May 1995
28.	Report on the Review of the Criminal Justice Commission's Report on a Review of Police Powers in Queensland Volume V: Electronic Surveillance and Other Investigative Procedures	23 May 1995
29.	A review of the Criminal Justice Commission's Report on Telecommunications Interception and Criminal Investigation in Queensland.	23 May 1995
30.	A review of the Criminal Justice Commission's <i>Report on the sufficiency of funding of the Legal Aid Commission of Queensland and the Officer of the Director of Public Prosecutions, Queensland</i> .	23 May 1995
31.	The CJC's response to an article appearing in <i>The Sunday Mail</i> newspaper on 28 April 1996	2 May 1996
32.	Report on Operation Melody	15 May 1996
33.	Report on section 23(c) of the <i>Criminal Justice Act 1989</i> (Qld)	16 May 1996
34.	Outstanding Parliamentary Criminal Justice Committee Recommendations	23 July 1996
35.	Annual Report 1995/96	8 August 1996
36.	Report on Operation Melody - No. 2	12 September 1996
37.	Report on a Review of the Criminal Justice Commission's Report on Cannabis and the Law in Queensland	14 November 1996
38.	Report on the Accountability of the CJC to the Committee	9 May 1997
39.	The CJC's Jurisdiction over Elected Officials	11 July 1997

PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

48TH PARLIAMENT
SECOND SESSION

CHAIRMAN:	Hon Vince Lester MLA, Member for Keppel
DEPUTY CHAIRMAN:	Mr Gordon Nuttall MLA, Member for Sandgate
MEMBERS:	Mr Bill Baumann MLA, Member for Albert
	Mr Frank Carroll MLA, Member for Mansfield (appointed 7 May 1997)
	Mr Ray Hollis MLA, Member for Redcliffe
	Mr Stephen Robertson MLA, Member for Sunnybank
	Mr Luke Woolmer MLA, Member for Springwood (resigned 7 May 1997)
RESEARCH DIRECTOR:	Mr David Groth
PRINCIPAL RESEARCH OFFICER:	Ms Kerry Newton
SENIOR RESEARCH OFFICER:	Ms Veronica Rogers
EXECUTIVE ASSISTANT:	Ms Maree Lane

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CHAIRMAN'S FOREWORD

The Parliamentary Criminal Justice Committee is pleased to table its Annual Report for 1996/97. Although the PCJC is required to report to Parliament on the activities of the CJC near to the expiry of three years of its appointment, it is not strictly required to present an annual report. However, we as a committee believe reporting annually on our activities is important to ensure that the Parliament and the public are fully informed as to how we have fulfilled our role and functions.

Under the *Criminal Justice Act 1989* the principal functions of the committee are to monitor and review the discharge of the functions of the CJC, and to report to Parliament on matters pertinent to the CJC. It is through the committee that the CJC is accountable to the Parliament and to the people of Queensland.

The CJC is a unique body in Australia. The CJC has a blend of functions and responsibilities as diverse as the investigation of police and other official misconduct, complaint resolution, corruption prevention, oversight of police reforms, law reform research, the investigation of organised and major crime, intelligence gathering and analysis, and witness protection.

Fitzgerald envisaged that the CJC would be independent but not autonomous and that the CJC would be accountable to the people through the Parliament. The PCJC is the principal means by which the CJC is to be accountable.

During the past year there has been substantial scrutiny of the CJC and its activities. This scrutiny has come from Parliament, through this committee, and from the Executive, through the former Commission of Inquiry into the Effectiveness of the CJC (the former Commission of Inquiry), established in October 1996 and conducted by former Supreme Court Justices, Mr Connolly and Mr Ryan. The role of the former Commission of Inquiry was to examine and make recommendations in relation to the future role, structure, powers and operations of the CJC. The committee did not receive the same media attention as the former Commission of Inquiry, nor has it had access to similar powers, or resources. However, the committee shares the objective of the former Commission of Inquiry to build a more accountable, more efficient and more effective CJC.

This committee is firmly of the view that the CJC has played a valuable role in maintaining high standards of integrity and accountability in the Queensland Police Service and other units of public administration. Further, we believe that the CJC has contributed significantly to the administration of criminal justice in Queensland. However, the committee also firmly believes that the accountability of the CJC can be improved.

In looking for ways to fix the deficiencies, the committee has been required to carefully consider many complex and intricate issues. The committee has used the intimate knowledge it has gained from its unique position and relationship with the CJC to formulate a carefully considered reform package to the accountability of the CJC. This reform package was outlined to the Parliament in May this year in the committee's Report No.38. This report was in effect the first part of the committee's Three Year Review of the CJC.

The key reform which the committee recommended is that the committee be given the power to appoint, by a bi-partisan majority, a Parliamentary Commissioner who is to:

- have jurisdiction to undertake a range of important activities on the committee's behalf and at the committee's direction;
- have all the special powers of a royal commission;
- have unrestricted access to all CJC files including current operations to which the committee has been denied access; and
- be required to report back to the committee.

The committee has recommended other key reforms including granting the committee:

- a greater role in the financial accountability of the CJC, including the conduct of management and performance reviews of the CJC;
- the power to formulate policies and guidelines to be obeyed by the CJC; and
- the power to direct the CJC to investigate matters which fall within its jurisdiction.

The committee believes that this reform package, which contains numerous safeguards, strikes a careful balance between the independence of the CJC, and the need for the CJC to be more accountable to the people through the Parliament.

The present accountability arrangements have required finetuning for some time. It probably deserves repeating that concerns regarding the accountability of the CJC to its watchdog committee have long been expressed by successive PCJCs in reports to Parliament. However, successive Governments of the day have largely refrained from implementing the majority of these recommendations.

The committee feels some sense of satisfaction that the Government has now introduced into the Parliament amending legislation which adopts most of the recommendations made by the committee, as well as important recommendations made by our predecessor committees. If passed, these amendments will serve as a lasting tribute to successive PCJC's who have all contributed to many of these long overdue reforms.

In the coming year the committee will be conducting the second part of its Three Year Review of the CJC. The committee is optimistic that the recommendations emanating from this review will also be seriously considered by the Government.

I would like to formally thank all committee members for their commitment and dedication in what has been a very demanding and often difficult year. I would also like to thank former committee member Mr Luke Woolmer MLA for his dedication and the valuable contribution he made to the work of this committee.

Finally, on behalf of the committee, I would like to thank and acknowledge the work of the committee's staff, Mr David Groth, Research Director, Ms Kerry Newton, Principal Research Officer, Ms Veronica Rogers, Senior Research Officer, Ms Paula Phelan, former Research Officer, and Executive Assistants Ms Maree Lane and Ms Sandy Musch.

Hon Vince Lester MLA
Chairman

1. INTRODUCTION

The Parliamentary Criminal Justice Committee (the committee or PCJC) is established by s.115 of the *Criminal Justice Act 1989* (Qld) and operates under the provisions of that Act and the *Standing Rules and Orders of the Legislative Assembly*.

By resolution of the Legislative Assembly on 18 April 1996, the committee was constituted with the following membership.

- Hon Vince Lester MLA, Member for Keppel (Chairman)
- Mr Gordon Nuttall MLA, Member for Sandgate (Deputy Chairman)
- Mr Bill Baumann MLA, Member for Albert
- Mr Ray Hollis MLA, Member for Redcliffe
- Mr Stephen Robertson MLA, Member for Sunnybank
- Mr Luke Woolmer MLA, Member for Springwood

On 7 May 1997 Mr Luke Woolmer was replaced by Mr Frank Carroll MLA, Member for Mansfield. Mr Woolmer left the committee to take up an appointment as Chair of the Public Accounts Committee following the appointment of the previous Chair, Mr Bob Harper MLA, as Parliamentary Secretary to Mrs Joan Sheldon MLA, Deputy Premier, Treasurer and Minister for the Arts.

This report represents a brief summary of the committee's activities for the 1996/97 financial year. Whilst the committee is technically not required by the *Parliamentary Committees Act* to present an annual report, the committee believes that it is in the spirit of the parliamentary committee system that it so account to the Legislative Assembly and the people of Queensland for its activities.

Section 33(2) of the *Parliamentary Committees Act* requires that annual reports of statutory parliamentary committees must include:

- a list of meetings of the committee and the names of members attending or absent from each meeting;
- a summary of issues considered by the committee, including a description of the more significant issues arising from their considerations;
- a statement of the committee's revenue and spending for the year; and
- a brief description of responses by Ministers to recommendations of the committee.

This report complies as far as possible with these four requirements. However, it should be noted that the requirement in s.24 of the *Parliamentary Committees Act* for ministerial responses to committee reports does not apply to recommendations made in reports of the PCJC. It seems that that requirement was inadvertently omitted as a result of the *Parliamentary Committees Legislation Amendment Act 1996* (Qld), which made some amendments to the *Parliamentary Committees Act* including the re-establishment of a separate Parliamentary Criminal Justice Committee. (During the first session of the 48th Parliament the

Legal, Constitutional and Administrative Review Committee also performed the functions of the PCJC.)

Therefore, whilst the committee may ask the appropriate Minister for a response to recommendations made in its reports, the Minister has no obligations to comply with such a request.

This report addresses the issues considered by the committee during the reporting period in two separate areas as the committee has both a continual role in monitoring and reviewing the CJC and also conducts specific inquiries into certain matters. Chapter 2 of this report explains the manner in which the committee has performed its continual and on-going role. Chapter 3 summarises more significant issues in relation to which the committee has reported to Parliament.

2. THE COMMITTEE'S AREA OF RESPONSIBILITY

Section 118 (1) of the *Criminal Justice Act* sets out the role and functions of the committee as follows:

- (a) *monitor and review the discharge of the functions of the Commission as a whole and of the Official Misconduct Division in particular;*
- (b) *report to the Legislative Assembly, with such comments as it thinks fit, on any matters pertinent to the Commission, the discharge of the Commission's functions or the exercise of the powers of the Commission, a commissioner, or of officers of the Commission, to which the attention of the Assembly should, in the committee's opinion, be directed;*
- (c) *examine the annual report and other reports of the Commission and report to the Legislative Assembly on any matter appearing in or arising out of any such report;*
- (d) *report on any matter pertinent to its functions that is referred to it by the Legislative Assembly;*
- (e) *participate in the constitution of the Commission and the removal from office of a commissioner as prescribed;*
- (f) *at a time appropriate to allow tabling of its report under this paragraph in the Legislative Assembly by which it was appointed, being a time near to the expiry of 3 years from its appointment-*
 - (i) *to review the activities of the Commission during such 3 years; and*
 - (ii) *to report to the Legislative Assembly and to the Minister as to further action that should be taken in relation to this Act or the functions, powers and operations of the Commission.*

Thus, the committee's functions can be broadly divided into three categories:

- monitor and review the CJC;
- report to the Legislative Assembly; and
- participate in the constitution of the CJC.

The manner in which the committee has fulfilled these functions as part of its continuing “monitor and review” role is discussed briefly below.

2.1 Monitoring and reviewing the CJC

The committee’s primary function is to “monitor and review” the CJC or, in other words, ensure its accountability to Parliament. This was clearly the role that Fitzgerald envisaged for the committee.

Whilst the term “monitor and review” is not defined in the *Criminal Justice Act*, the committee has developed a number of procedures in order to discharge this function. [These procedures are described in some detail in PCJC Report No.38 *A Report on the Accountability of the CJC to the PCJC* at pp.9-18.]

In summary, the committee:

- holds bi-monthly, in-camera meetings with the Chairman, commissioners and senior officers of the CJC (Several days prior to these joint meetings, the CJC delivers a confidential written briefing paper to committee members. This paper includes reports from each Division Director of the CJC as well as an overview of the CJC’s activities for the reporting period.);
- receives and considers complaints against the CJC and its officers;
- reviews CJC guidelines and makes suggestions for improvement of CJC practices;
- conducts audits of various registers maintained by the CJC, including registers of powers. Registers maintained in relation to the Official Misconduct Division include the:
 - Search Warrants Register;
 - Arrests Register;
 - Listening Device Register;
 - Notice to Produce Register;
 - Summons to Witness Register;
 - Authority to Enter Public Premises Register; and
 - Notice to Furnish Information Register
- and conducts inquiries into various issues concerning the CJC which arise from time to time whether raised in the media, Parliament or otherwise.

During the current year the committee has, on a continual basis, “monitored and reviewed” the CJC. Activities which the committee has undertaken in fulfilling this role include:

- holding six joint PCJC/CJC meetings with senior CJC officers;
- receiving and considering a number of complaints against the CJC and/or its officers (See paragraph 3.1 of this report for further information about complaints handled by the committee during the year.);

- conducting an audit of the CJC's registers of powers;
- requesting the CJC to report on a number of matters which have appeared in the media or otherwise come to the committee's attention; and
- reviewing the CJC's annual report and querying the CJC as to certain matters arising from that report.

To assist the committee discharge its functions the committee also has numerous powers including the powers to: call for persons, documents and other things; administer oaths to witnesses; and examine witnesses on oath. [See s.118(2) and (3)] During the reporting period the committee has not on any occasion had to use these powers.

2.2 Reporting to the Legislative Assembly

Complementary to the committee's monitor and review function is its function to report to Parliament on the operations and activities of the CJC. More specifically, the Committee can report on:

- any matter pertinent to the CJC, the discharge of the CJC's functions, or the exercise of its powers [s.118(1)(b)];
- the annual and other reports of the CJC [s.118(1)(c)];
- any matter referred to it by the Parliament [s.118(1)(d)]; and
- near to the expiry of its three year term, on the activities of the CJC during such three years, and on the Act, or the functions, powers and operations of the CJC [s.118(1)(f)].

The committee is currently in the preliminary stages of undertaking its three year review of the CJC as required by s.118(1)(f) and plans to shortly call for public submissions in relation to this inquiry.

In 1996/97 the committee tabled the following five reports in Parliament.

- PCJC Report No. 34 Outstanding Parliamentary Criminal Justice Committee Recommendations - Tabled 23 July 1996
- PCJC Report No. 35 Annual Report 1995/96 - Tabled 8 August 1996
- PCJC Report No. 36 Report on Operation Melody - No. 2 - Tabled 12 September 1996
- PCJC Report No. 37 Report on a Review of the Criminal Justice Commission's Report on Cannabis and the Law in Queensland - Tabled 14 November 1996
- PCJC Report No. 38 Report on the Accountability of the CJC to the PCJC - Tabled 9 May 1997

The committee's usual inquiry and report process is detailed in PCJC Report No.38. at pp.18-20.

In Report No. 38 the committee also made a number of recommendations in relation to increasing the powers of the committee so that it may carry out its functions more effectively. The recommendations made by the committee concerning the reporting function included matters such as the requirement for ministerial responses in relation to recommendations made in reports of the PCJC. [See also PCJC Report No. 35 *Annual Report 1995/96* at pp.10-11.]

2.3 Participating in the constitution of the CJC

A final function of the committee is to participate in the constitution of the CJC and the removal from office of a commissioner as prescribed. During 1996/97 the terms of all four part-time commissioners expired. In accordance with the Act the committee was involved in the appointment of the following part-time commissioners.

- Mr James Crowley RFD, QC (appointed from 20 September 1996 to 19 September 1999)
- Ms Dina Browne AO (appointed from 20 September 1996 to 19 September 1999)
- Prof Ross Homel (appointed from 11 April 1997 to 10 April 1999)
- Ms Kathryn Biggs (appointed from 27 June 1997 to 26 June 2000).

3. PARTICULAR INQUIRIES CONDUCTED AND ISSUES CONSIDERED BY THE COMMITTEE DURING THE YEAR

3.1 Complaints

As part of its monitor and review function, the committee receives and considers complaints against the CJC and/or its officers. These complaints are generally of an administrative nature or, in very rare cases, allege that the CJC and/or its officers has committed either misconduct or a criminal offence/s. The range of complaints received by the committee varies but most commonly include allegations against the CJC concerning:

- delay in investigating a matter;
- failure to consider all relevant facts and materials;
- bias in its final determination; and
- the use of improper or inappropriate investigative methods.

A significant percentage of complaints concern matters outside the jurisdiction of the CJC and therefore are also beyond the powers of the committee.

Between 1 July 1996 and 30 June 1997 the committee received 51 new complaints and finalised 25 complaints. At 30 June 1997 the committee had 24 current complaint files.

The committee has adopted certain procedures to ensure the effective and efficient handling of such complaints. Briefly, the committee immediately forwards each complaint received to the CJC and requests a report in relation to the matter. This ensures that the committee hears

“both sides of the story”. Once the CJC’s report is received the committee’s research staff assess all aspects of the complaint, consider what additional information, if any, the committee needs in order to determine the complaint. If necessary the research staff also prepare a briefing paper and draft correspondence at the Chairman’s direction for the committee’s consideration.

At each meeting the Chairman and a member of the committee’s staff brief members on complaints before the committee. Action which the committee may take after such brief is a matter entirely within the committee’s discretion. However, most commonly the committee will either request further information from the CJC, the complainant and/or another body, or respond finally to the complainant.

In the majority of cases the committee does not dispute the CJC’s conclusions regarding complaints. However, in a small percentage of cases the committee may request the CJC to reconsider its decision or to consider a different aspect of the complaint. In exceptional cases complaints may lead to a committee report to Parliament. Reports Nos. 32 and 36 regarding Operation Melody are examples.

When the committee responds finally to a complainant, it may also write to the CJC concerning some particular aspect of its practices or procedures.

The committee’s powers in investigating complaints against the CJC are the same as those available to it in monitoring and reviewing the CJC and reporting to the Parliament. The committee has no separate power to carry out original investigations.

In Report No. 38 the committee made a number of recommendations concerning the handling of complaints against the CJC. These included recommendations that:

- the committee be able to direct the CJC to undertake or pursue an investigation;
- there be certain strict procedures followed in the circumstances where the CJC declines to provide the committee with information on the basis of confidentiality;
- the Act be amended to provide a formalised structure for the PCJC’s handling of complaints which should allow the committee in its discretion to undertake a number of matters;
- the committee be permitted to examine listening device application material; and
- the Act should be amended to provide the committee with the power to appoint a parliamentary commissioner who could undertake a range of matters, including the investigation of complex complaints made against the CJC or its officers which may require access to current operational material files to which the committee is denied access.

The committee believes that the implementation of these recommendations will enhance the current complaints mechanism which has proved to be a valuable tool for monitoring and reviewing the operations of the CJC.

3.2 Outstanding PCJC Recommendations (Report No. 34)

One of the first tasks undertaken by the new PCJC of the second session of the 48th Parliament, was to review those recommendations of its predecessor committees which had not yet been implemented. This process revealed that of the 33 reports which all prior committees had tabled, many contained recommendations that were not only outstanding but had not been the subject of any ministerial response.

Therefore, given the relevance of many of the recommendations to the day to day operations of both the CJC and the committee and the time which had elapsed since their first being reported, the committee resolved to report to Parliament on particular outstanding recommendations. This was done in Report No. 34 *Outstanding Parliamentary Criminal Justice Committee Recommendations*.

Detailed in particular in Report No.34 are those outstanding recommendations:

- specifically relevant to the committee's operations;
- relating to amendments to *the Criminal Justice Act 1989*; and
- specifically relevant to the CJC's structure, responsibilities and procedures.

In that report the committee also recommended that the *Parliamentary Committees Act* be amended to reinstate the requirement for Ministerial responses to recommendations made in reports of the PCJC. That requirement seemed to be inadvertently omitted as a result of the *Parliamentary Committees Legislation Amendment Act 1996* (Qld), which was passed in April 1996 and made some amendments to the *Parliamentary Committees Act* including the re-establishment of a separate Parliamentary Criminal Justice Committee.

3.3 Report on Operation Melody - No. 2 (Report No. 36)

In December 1995 a number of articles appeared in *The Sunday-Mail* concerning the business dealings of Mr X, a person formerly on the CJC's Witness Protection Program. The committee, in its capacity as the body responsible for monitoring and reviewing the CJC, subsequently received a number of complaints concerning the activities of Mr X. (Mr X was referred to as "Melody" by the CJC and subsequently the committee.)

The committee requested the CJC to report to it in relation to this matter and, after receiving and considering reports from the CJC, on 15 May 1996 tabled Report No.32 relating to Operation Melody in Parliament. The purpose of this report was to inform the Parliament and the people of Queensland as to some of the facts surrounding the matter and to provide the CJC's version of events regarding the activities of Melody.

Following the tabling of the committee's report, numerous complainants affected by the actions of Melody again contacted the committee. These complainants alleged that they held further material which showed that the CJC's report was not a complete representation of Melody's activities or the CJC's knowledge of those activities. The complainants further requested that they meet with the committee in order to hand over that material and elaborate on their concerns.

As a result of these further complaints, the committee resolved that the most appropriate action was for the Chairman to meet with the complainants and receive their further evidence. The Chairman was to then report back to the committee. Although a meeting between the committee and complainants is not usually part of the complaints procedure, the committee considered that in this instance extraordinary circumstances existed.

After considering the Chairman's report on the meeting (which included documents handed to him by the complainants), the committee met with Mr Frank Clair, the Chairman of the CJC, and Assistant Commissioner McDonnell, the Director of the Witness Protection Division, to discuss the further information provided by the complainants. The committee also handed to Mr Clair a detailed list of pivotal questions that the committee assessed arose from the complainants material and requested the CJC's written response to these questions.

Following this meeting two senior members of the committee's research staff attended the CJC's offices and inspected the files relating to Operation Melody.

Upon receiving the CJC's written response to the questions posed to it by the committee and the research staff's report on the results of their inspection of the Melody files, the committee further considered the matter in some detail. The committee's conclusions as a result of this deliberation were reported to Parliament in September 1996 (Report No. 36).

In its report to Parliament the committee concluded that it did not believe that the CJC had breached its statutory duty in relation to the protection of Melody, although the committee did have some reservations about whether the CJC should have been on more notice to monitor Melody's business employment activities.

In addition, the committee recognised that the CJC may have a duty of care to ensure that innocent third persons dealing with witnesses on its Protection Program are not placed at a disadvantage. However, the committee did not believe that in this case the CJC had breached any such duty which may exist.

Finally, the committee noted the necessity for a review of certain matters relating to the witness protection legislation and the necessity for this to be conducted in conjunction with a review by the CJC of its procedures with a view to further reducing the risk of prejudice to third parties as a result of a person being accepted on the Witness Protection Program.

With respect to the committee's responsibility to review the Witness Protection Division, the committee concluded that this should form part of its three year review of the CJC which it believed should commence in early 1997.

3.4 Review of the CJC's report on Cannabis and the Law in Queensland (Report No. 37)

In July 1994 the CJC tabled in Parliament its report *Cannabis and the Law in Queensland*. The CJC defined the scope of its report to be "the consideration of legal options for dealing with possession and/or cultivation of cannabis for personal use."

As part of its "monitor, review and report" responsibility, the then PCJC decided to review this report. That committee, and subsequently this committee which resolved to finish the inquiry, undertook an extensive review process which entailed calling for public submissions

in late 1994, holding public hearings, and meeting with representatives of various bodies in relation to the issues. In October 1996 the committee tabled in Parliament its report relating to this issue. (Report No. 37)

In that report the committee recommended that prohibition should remain the legislative option with respect to cannabis, however, the current penalties in relation to small scale cannabis offences should be reviewed.

Thus, the committee went on to recommend that the lowest level cannabis possession and cultivation offences be reduced to the status of simple offences. The committee also made specific recommendations as to which cannabis-related offences should be simple offences, which should be indictable offences and the penalties which should attach to each.

The committee also recommended that:

- in certain circumstances persons guilty of simple cannabis offences should not have a conviction recorded and that certain sentencing options should be open to the court;
- the possession of cannabis paraphernalia should not be an offence;
- certain police powers should not be available in relation to the simple cannabis offences recommended in the report;
- a review be conducted of the current laws in Queensland relating to the confiscation of property and monies received in connection with drug dealing; and
- the government continue to implement properly designed drug education and information strategies and programs, and ensure that they are properly evaluated.

Finally, the committee recommended that it conduct a further review of cannabis laws in Queensland in 1998 in order to assess the operation of the recommendations contained in this report as implemented, and to allow it to consider the results of the further extensive research being conducted in other jurisdictions.

3.5 Report on the Accountability of the CJC to the Parliamentary Criminal Justice Committee (Report No. 38)

Successive PCJCs have expressed concerns regarding the accountability of the CJC in their reports to the Parliament and, as noted by the current committee in Report No. 34, the majority of recommendations embodying these concerns have been left unaddressed by relevant governments of the day.

In the absence of a ministerial response as to Report No.34, the committee was particularly eager to address these accountability concerns as part of its upcoming three year review of the CJC (as required by s.118(1)(f) of the Act).

However, on 7 October 1996 the government announced the establishment of a Commission of Inquiry into the future role, structure, operation and accountability of the CJC (the former Commission of Inquiry). Following this announcement, the committee determined that it would be preferable to address the important issue of the CJC's accountability to the committee separately from its extensive three year review to be conducted in 1997.

Thus, the committee embarked on an extensive review of all facets of the CJC's accountability. In order to assist the committee in its inquiries, the committee also met with representatives from a number of organisations to which bodies similar to the CJC are accountable.

During the period 5-8 November 1996 members undertook a visit to Sydney and Canberra, and during the period 8-12 December 1996 members undertook a visit to Hong Kong, Macau and Guangzhou. During these visits members met with representatives of bodies including:

- the New South Wales Joint Committee on the Office of the Ombudsman and the Police Integrity Commission;
- the New South Wales Joint Committee on the Independent Commission Against Corruption;
- the Joint Committee on the Health Care Complaints Commission;
- the Commonwealth Inspector-General of Intelligence and Security;
- the Joint Committee on the National Crime Authority;
- the Hong Kong Independent Police Complaints Council;
- the Hong Kong Independent Commission Against Corruption; and
- the High Commissioner Against Corruption, Macau.

The information and material obtained in these meetings enabled the committee to further research and critically assess a range of alternative accountability issues and mechanisms and their operation in practice. This process proved critical in developing the committee's recommendations for enhancement and reform of the CJC's current accountability. In addition, the committee took the opportunity of raising at these meetings other issues associated with the committee's upcoming three year review of the CJC.

The committee's detailed Report No.38 resulted from this extensive review process. The committee also forwarded several copies of this report to the former Commission of Inquiry for its assistance.

In its report, the committee recommended a two-step reform of the current accountability arrangements.

Firstly, the committee recommended that the present system of Parliamentary committee oversight be retained and enhanced through implementation of key outstanding committee recommendations. The committee also made a number of new recommendations giving the committee a greater role in the CJC's financial accountability.

Secondly, the committee recommended that in order to assist it to effectively fulfil its statutory responsibility of "monitoring and reviewing" the CJC, it should be given the power to appoint a suitably qualified person as a parliamentary commissioner as the need arises. This person would be an officer of the Parliament and accountable to the Parliament through the committee. The committee made a number of specific recommendations relating to issues including the means of appointment, jurisdiction, range of activities, powers and access to the CJC's material by the proposed Parliamentary Commissioner.

The committee believes that the reforms in this report, if accepted and implemented, will make the CJC more accountable to the Parliament and to the people of Queensland.

3.6 The CJC's jurisdiction with respect to elected officials (Report No. 39)

The CJC's jurisdiction over elected officials is not clear. Whilst the CJC clearly has jurisdiction to investigate allegations of criminal conduct by elected officials, there is doubt as to whether this jurisdiction extends to investigating allegations of non-criminal or disciplinary conduct.

In early 1997 the committee had reason to consider this issue in detail particularly in light of the CJC's stated position that its jurisdiction should be extended in relation to allegations of certain non-criminal conduct by both MLAs and elected local government officials.

The committee further felt that it had a duty to inform the public as to the accountability processes and procedures in place with respect to elected officials and the reason for their existence.

As at 30 June 1997 the committee was preparing to table a separate report in relation to this issue in Parliament.

4. BUDGET AND EXPENDITURE

The committee was allocated its own budget of \$334 049 in 1996/97.

The committee's actual expenditure for 1996/97 is outlined below.

	\$
Salary - Staff ¹	140,141.59
Payroll Tax, Superannuation	20,646.07
Conferences, Seminars, Training	0
Travel Expenses ²	66,352.93
Consultants	3,731.50
Stores, Stationery, Consumables ³	1,046.65
Reference Books, Serial Subscriptions	1,287.00
Printing of Reports	15,156.94
Meeting Expenses, Entertainment ⁴	3,930.15
Witness Expenses	0

Advertising	0
Miscellaneous	302.85
TOTAL	252,595.68

1. Includes temporary assistance, overtime, meal allowance and extra remuneration.
2. Includes travel to meetings and hearings, staff travel with/for the committee and Members' travel outside Brisbane and taxis.
Airfares for those members and one research officer who travelled to New Zealand, Melbourne and Adelaide between 23-28 June 1996 are also accounted for in the 1996/97 budget.
3. Includes postage
4. The only meeting/entertainment expenses incurred were catering costs for light working lunches.

5. MEETINGS AND PUBLIC HEARINGS

From 1 July 1996 to 30 June 1997 the committee met 46 times and held 6 joint meetings with the CJC. Meeting dates and members' attendance at those meetings are contained in the schedule appended to this report.

The committee also held 12 meetings with representatives and officers from other organisations.

6. OUTLOOK FOR 1997/98

The committee's ongoing role of monitoring and reviewing the CJC and reporting to Parliament on matters arising from that process, means that the committee will have no shortage of matters to address in the coming year.

As already noted in this report, the major project that the committee will be undertaking is its three year review of the CJC pursuant to s.118(1)(f) of the *Criminal Justice Act*. Following this extensive review the committee will report to Parliament on further action which it believes should be taken in relation to both the *Criminal Justice Act* and the functions, powers and operations of the CJC.

In order to fully address issues which form part of this review, the committee is also intending to meet with representatives from a number of relevant law enforcement agencies comparable to the CJC and "watchdog" bodies comparable to the committee. This proposed study tour will provide the committee with additional information which is not currently available as written material or through electronic media. It has also been the committee's proven experience that in order for issues to be tackled successfully the committee must not only "look beyond its own backyard" but must also seek to have full and frank discussions in relation to sometimes sensitive issues. This can only occur in a face-to-face meeting environment.

The committee is confident that in 1996/97 it has fulfilled its statutory responsibility in relation to the CJC to the best of its abilities and powers. However, the committee does believe that the accountability of the CJC can be improved. The committee's comprehensive Report No.38

highlights and makes recommendations regarding many concerns which both this committee and its predecessors have held. The committee trusts that these recommendations will be implemented in full and in a timely manner.

The committee intends to address some of its remaining concerns regarding the structure, functions and powers of the CJC in its upcoming three-year review.

PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE

48TH PARLIAMENT SECOND SESSION

(From 1 July 1996 to 30 June 1997)

MEETING ATTENDANCE RECORD						
	BILL BAUMANN	RAY HOLLIS	VINCE LESTER	GORDON NUTTALL	STEPHEN ROBERTSON	LUKE WOOLMER
9 JULY 1996	✓	✓	✓	✓	✓	✓
12 JULY AM	✓	✓	✓	✓	✓	✓
12 JULY JOINT PCJC/CJC	✓	✓	✓	✓	✓	✓
12 JULY PM	✓	✓	✓		✓	✓
23 JULY	✓	✓	✓	✓	✓	✓
26 JULY	✓	✓	✓		✓	✓
6 AUGUST	✓	✓	✓	✓	✓	✓
8 AUGUST	✓	✓	✓		✓	✓
19 AUGUST			✓	✓	✓	✓
26 AUGUST	✓	✓	✓	✓	✓	✓
3 SEPTEMBER	✓	✓	✓	✓	✓	✓
6 SEPTEMBER AM	✓	✓	✓	✓	✓	✓
6 SEPTEMBER JOINT PCJC/CJC	✓	✓	✓	✓	✓	✓
6 SEPTEMBER PM	✓	✓	✓	✓	✓	✓
12 SEPTEMBER	✓	✓	✓	✓	✓	✓
20 SEPTEMBER	✓	✓	✓	✓	✓	✓
8 OCTOBER	✓	✓	✓	✓	✓	✓
29 OCTOBER	✓	✓	✓	✓	✓	✓
31 OCTOBER	✓	✓	✓		✓	✓
4 NOVEMBER	✓	✓	✓	✓	✓	✓
7 NOVEMBER	✓	✓	✓		✓	✓
12 NOVEMBER	✓	✓	✓	✓	✓	✓
15 NOVEMBER	✓	✓	✓	✓	✓	✓
15 NOVEMBER JOINT PCJC/CJC	✓	✓	✓	✓	✓	✓
26 NOVEMBER	✓	✓	✓	✓	✓	✓
28 NOVEMBER	✓	✓	✓	✓	✓	✓
3 DECEMBER	✓	✓	✓	✓	✓	✓
4 DECEMBER	✓	✓	✓	✓	✓	✓
5 DECEMBER	✓	✓	✓		✓	✓
19 DECEMBER	✓	✓	✓			✓
28 JANUARY 1997	✓	✓	✓	✓	✓	✓

30 JANUARY	✓	✓	✓		✓	✓
14 FEBRUARY AM	✓	✓	✓	✓	✓	✓
14 FEBRUARY JOINT PCJC/CJC	✓	✓	✓	✓	✓	✓
14 FEBRUARY PM	✓	✓	✓	✓	✓	✓
3 MARCH	✓	✓	✓	✓	✓	✓
10 MARCH	✓	✓	✓	✓	✓	✓
18 MARCH	✓	✓	✓	✓	✓	✓
25 MARCH	✓	✓	✓	✓	✓	✓
24 APRIL JOINT PCJC/CJC	✓			✓	✓	✓
24 APRIL	✓			✓	✓	✓
29 APRIL	✓	✓	✓	✓	✓	✓
1 MAY	✓	✓	✓	✓	✓	✓
2 MAY	✓	✓	✓	✓	✓	✓
6 MAY	✓	✓	✓	✓	✓	✓
	BILL BAUMANN	RAY HOLLIS	VINCE LESTER	GORDON NUTTALL	STEPHEN ROBERTSON	FRANK * CARROLL
8 MAY	✓	✓	✓	✓	✓	✓
23 MAY PM	✓	✓	✓	✓	✓	
23 MAY PM	✓	✓	✓	✓	✓	
3 JUNE	✓	✓	✓	✓	✓	✓
27 JUNE		✓	✓		✓	✓
27 JUNE JOINT PCJC/CJC		✓	✓		✓	✓
30 JUNE 1997	✓	✓	✓	✓	✓	✓

* AS OF WEDNESDAY 7 MAY 1997, MR LUKE WOOLMER MLA WAS REPLACED ON THE COMMITTEE BY MR FRANK CARROLL MLA