



PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE

Annual Report 2002/2003

Report No. 61



THE COMMITTEE

The Parliamentary Crime and Misconduct Committee is an all-party committee of the Queensland Legislative Assembly constituted under the *Crime and Misconduct Act 2002*.

The principal functions of the Committee are to monitor and review the performance of the Crime and Misconduct Commission (CMC), to report to Parliament on matters pertinent to the CMC (subject to confidentiality constraints), and to participate in the appointment of the Chairman and Commissioners of the CMC.

The Committee has an on-going role in monitoring and reviewing the CMC and also conducts specific inquiries in respect of matters pertaining to the CMC. It is through the Committee that the CMC is accountable to the Parliament and to the people of Queensland.

COMMITTEE MEMBERSHIP

Mr Geoff Wilson MP [Chairman]	<i>Member for Ferny Grove</i>
Mr Howard Hobbs MP [Deputy Chairman]	<i>Member for Warrego</i>
Ms Desley Boyle MP	<i>Member for Cairns</i>
Mr Stuart Copeland MP	<i>Member for Cunningham</i>
Mr Bill Flynn MP	<i>Member for Lockyer</i>
Mr Andrew McNamara MP	<i>Member for Hervey Bay</i>
Mr Kerry Shine MP	<i>Member for Toowoomba North</i>

STAFF

<i>Research Director</i>	Mr Stephen Finnimore
<i>Principal Research Officer</i>	Mr Luke Passfield
<i>Senior Research Officer</i>	Mr Ben McEniery
<i>Executive Assistant</i>	Ms Andrea Musch

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Copies of this report and other PCMC publications are available on the Internet via the Queensland Parliament's home page at:

www.parliament.qld.gov.au/Committees/

1. INTRODUCTION

The Parliamentary Crime and Misconduct Committee (PCMC) is established under s. 291 of the *Crime and Misconduct Act 2001* as the Parliamentary Committee having oversight of the Crime and Misconduct Commission. The PCMC is the successor to the Parliamentary Criminal Justice Committee (PCJC) which was established in 1990.

This reporting year has seen the continued operation of the CMC under the *Crime and Misconduct Act* which commenced on 1 January 2002. The Act merged the former Criminal Justice Commission (CJC) and the former Queensland Crime Commission (QCC) into a new body known as the Crime and Misconduct Commission (CMC).

The CJC was established in 1990 in fulfilment of a major recommendation of the Fitzgerald Inquiry into police and public sector corruption. The QCC commenced operation in 1998.

The Committee is assisted in its oversight process by the Parliamentary Crime and Misconduct Commissioner, a position originally established in 1998 as the Parliamentary Criminal Justice Commissioner (See 3.2 below).

The Committee's role requires it to rigorously examine the activities of the CMC. The Committee might therefore where necessary be critical of the CMC at times. At the same time, the Committee acknowledges the cooperative and responsive approach adopted by the Commission in its dealings with the Committee.

2. THE COMMITTEE'S RESPONSIBILITIES

Under the *Crime and Misconduct Act* the Committee has the following functions:

- to monitor and review the performance of the CMC's functions;
- to report to the Legislative Assembly where appropriate;
- to examine reports of the CMC;
- to participate in the appointment of commissioners;
- to conduct a review of the activities of the CMC at the end of the Committee's term ("the three year review"); and

- to issue guidelines and give directions to the Commission where appropriate.

The PCMC can also receive complaints and deal with other concerns which it may be aware of about the conduct or activities of the CMC or an officer or former officer of the CMC.

2.1. MONITORING AND REVIEWING THE CMC

The Committee utilises a range of mechanisms to "monitor and review" the Commission. These mechanisms include:

- holding regular Committee meetings;
- considering confidential bi-monthly reports from the CMC in relation to its activities;
- considering confidential minutes of meetings of the Commission and its Executive;
- holding bi-monthly in camera meetings with the Chairperson, Commissioners, and Assistant Commissioners of the CMC;
- receiving and considering complaints against the CMC and its officers;
- reviewing CMC reports;
- requesting reports from the CMC on matters which arise (via complaints, the media or other means);
- conducting inquiries into specific or general matters relating to the CMC;
- conducting (either itself or through the Parliamentary Crime and Misconduct Commissioner) audits of various registers and files kept by the CMC concerning the use of its powers;
- seeking independent legal advice to assist the Committee where a particular skill or expertise is necessary;
- examining the appropriateness of the CMC's performance measures; and
- examining the CMC's performance against its performance measures.

2.2. REPORTING TO THE LEGISLATIVE ASSEMBLY

During the year the Committee considered the tabling of a number of reports by the Parliamentary Crime and Misconduct Commissioner on investigations carried out by him at the request of the Committee. The Committee tabled one such report, canvassing the

actions of the CMC in four matters, in the reporting year.

In the other matters reported upon by the Parliamentary Commissioner, the Committee has determined to not table the reports as they generally contained material that was confidential and considered inappropriate for tabling and it was not in the public interest to table the reports. (See 3.2 below)

From time to time, the Committee has, for the information of the Legislative Assembly and the public, tabled publications produced by the CMC.

2.3. EXAMINING REPORTS OF THE CMC

Section 69 of the *Crime and Misconduct Act* contains a mechanism for CMC reports to be tabled in the Parliament. The Committee is required to direct that the report be given to the Speaker of the Legislative Assembly in order for it to be tabled.

During the reporting year, the Committee gave such a direction in relation to the following reports of the CMC:

- *Forensics under the microscope* - October 2002
- *Spending public money : an investigation into how certain government grants and contracts were awarded to a commercial company* - November 2002
- *The Volkert case: examining the conduct of the police and prosecution* - March 2003
- *Seeking Justice: An Inquiry into how sexual offences are handled by the Queensland criminal justice system* - June 2003

In each case, when giving the direction, the Committee did not consider it necessary to make any specific comment in relation to the reports, other than to note that the Committee should not be taken as endorsing or adopting the reports in any way.

2.4. PARTICIPATING IN THE APPOINTMENT OF COMMISSIONERS

The CMC is comprised of a Chairperson and four part-time commissioners. In any appointment or reappointment of the Chairperson or a part-time commissioner, the responsible minister, currently the Premier, must consult with the Committee. Any nomination by the Premier requires the bi-partisan support of the Committee before the nominee can be appointed.

No nominations for appointment as Chairperson or part-time commissioner arose for consideration by the Committee in the reporting year.

2.5. THREE YEARLY REVIEW OF THE ACTIVITIES OF THE CMC

In early 2003, the Committee commenced the process of its three yearly review of the Commission. A number of submissions have been received and considered, and public hearings were held over two days in June 2003. The report of the Three Year Review is in the process of being drafted and the Committee anticipates tabling its report in late 2003 or early 2004.

2.6. ISSUING GUIDELINES AND GIVING DIRECTIONS TO THE CMC

The Committee has not issued any guidelines or given any directions to the Commission in the reporting year.

2.7. COMPLAINTS

Complaints about the CMC or its officers usually come to the Committee in two ways – directly from members of the public or from the Commission itself.

Considering complaints about the Commission and its officers assists the Committee in its oversight role by providing a valuable insight into the Commission's operations and activities. The Committee does not have jurisdiction over any organisation other than the CMC and so cannot itself consider original allegations of official or police misconduct. Further, the Committee is not able to substitute its own decision for that of the CMC in a particular matter.

The Committee examines complaints to assess whether the Commission or any of its officers has acted inappropriately. The Committee will where appropriate make recommendations to the CMC. Analysis of complaints, even where specific allegations against the Commission are not substantiated, can assist the Committee to identify procedural or systemic deficiencies and to take action to have the Commission deal with problem areas.

2.7.1. Complaints from members of the public

Most complaints come to the Committee directly from members of the public. The PCMC accepts only complaints in writing in order to efficiently identify and consider complaint matters and to prevent misunderstanding or misinterpretation as to the relevant facts or circumstances.

2.7.2. Other complaints about the Commission

Under the *Crime and Misconduct Act* the Chairperson of the CMC is obliged to advise the PCMC of conduct by officers of the CMC, where the Chairperson suspects that the conduct may involve “improper conduct”. Knowledge of such conduct might come to the Chairperson via a complaint made to the Commission about a Commission officer. At present, the Committee receives frank and prompt advice from the CMC Chairperson concerning conduct of Commission officers which the Chairperson suspects may involve “improper conduct”.

2.7.3. Complaints considered 2002/2003

In the reporting year the Committee received 39 complaints against the Commission or Commission officers, including matters referred by the Commission itself.

In most cases, the Committee determined that the complaints made against specific officers were not substantiated or was not satisfied that the Commission had acted inappropriately. In several cases the Committee requested further information from the Commission, asked the Commission to review or amend its practices and procedures, or sought comment on particular aspects of a matter.

In considering complaints the Committee takes into account material and submissions provided by the complainant, any reports and other material provided by the Commission and, if the matter has been referred to the Parliamentary Commissioner by the PCMC, any reports from the Parliamentary Commissioner.

General issues that the Committee considers in determining whether or not the Commission has acted inappropriately include:

- timeliness in the handling of complaints and investigations;
- whether the Commission has made appropriate inquiries before determining not to pursue a matter;
- whether the Commission has considered all relevant facts and material;
- whether investigation methods are appropriate;
- whether the Commission has acted without bias in making its determinations;
- whether the Commission has been responsive and timely in its communications with complainants and with subject officers;

- whether the Commission’s conclusions and determinations are justified; and
- whether the Commission has acted within its legislative powers.

2.8. MISCONDUCT TRIBUNAL VACANCIES

The Misconduct Tribunals are established to determine disciplinary charges of official misconduct brought against certain prescribed persons – broadly, police officers and public officers.

Under section 7 of the *Misconduct Tribunals Act 1997* the bi-partisan support of the Committee is required before the responsible minister (currently the Premier) can appoint a person (nominated by the minister) to the Misconduct Tribunal. During the reporting year the Committee considered and gave its support to 3 nominees.

3. MECHANISMS AVAILABLE TO THE COMMITTEE

3.1. POWERS OF THE COMMITTEE

Under section 293 of the *Crime and Misconduct Act* the Committee has the power to:

- call for persons, documents or other things;
- administer oaths to witnesses; and
- examine witnesses on oath.

3.2. PARLIAMENTARY CRIME AND MISCONDUCT COMMISSIONER

The position of the Parliamentary Criminal Justice Commissioner was altered with the commencement of the *Crime and Misconduct Act*. The title of the position was changed and importantly the new legislation made clear that the Parliamentary Commissioner acts as the agent of the Committee.

The present Parliamentary Commissioner, Mr Robert Needham, commenced his appointment as Parliamentary Crime and Misconduct Commissioner on 1 January 2002. Mr Needham’s appointment is on a part-time basis and for a period of two years.

3.2.1. Role and functions of the Parliamentary Commissioner

Under the *Crime and Misconduct Act* the PCMC may require the Parliamentary Commissioner to:

- audit records and operational files of the CMC;

- investigate complaints against the CMC and its officers;
- investigate allegations of a possible unauthorised disclosure of confidential information;
- verify the CMC's reasons for withholding information from the PCMC;
- verify the accuracy and completeness of CMC reports to the PCMC; and
- perform other functions that the Committee considers necessary or desirable.

A major change brought about by the *Crime and Misconduct Act* is that the Parliamentary Commissioner can conduct hearings only with the authorisation of the PCMC.

3.2.2. Assistance provided by the Parliamentary Commissioner in the reporting period

The Committee referred issues involving the CMC's actions in seven matters to the Parliamentary Commissioner for investigation during the reporting period. The Parliamentary Commissioner also continued with his conduct of an audit of the Commission's records and operational files, pursuant to a prior reference from the Committee. In two matters the Committee requested the Parliamentary Commissioner to oversee an investigation by the CMC into concerns regarding conduct by CMC officers.

The Parliamentary Commissioner is provided with a copy of the CMC's bi-monthly briefing paper to the PCMC in order to assist the Committee to identify issues for examination.

4. PARTICULAR ISSUES CONSIDERED BY THE COMMITTEE

4.1. POSSIBLE LEAKS FROM THE CMC

The Committee has on a small number of occasions in the reporting year considered whether or not there has been an unauthorised disclosure of confidential information from the CMC. The Committee was assisted in this regard by the Parliamentary Commissioner. On one occasion, the Committee referred the matter to the Parliamentary Commissioner for investigation.

In none of the cases has the Committee been satisfied that such a disclosure had been made.

4.2. SEARCH WARRANTS

The Committee has considered issues regarding the appropriate manner in which the Commission, when acting pursuant to a surveillance or search warrant, ought to deal with materials which might be protected by legal professional privilege. The matter was the subject of correspondence involving the Public Interest Monitor and the Parliamentary Commissioner as well as the Commission, so that an appropriate approach might be agreed upon.

4.3. CMC'S DRAFT 2003-2007 STRATEGIC PLAN

The Committee considered and commented upon the CMC's draft 2000-2007 Strategic Plan. The Committee made some suggestions for alterations to this document, which were adopted by the CMC.

4.4. OTHER MATTERS

The Committee has considered many issues during the reporting period which, for confidentiality reasons, cannot be discussed in this report.

5. MEETINGS

In addition to Committee meetings (held at least once every sitting week) the Committee holds separate meetings with the Chairperson, Commissioners and senior officers of the CMC on a regular basis, usually every two months.

These meetings are held in camera and provide an opportunity for candid and open discussions. The Committee has found these meetings very valuable for open communication between the Committee and the CMC.

To assist with this meeting process the CMC provides bi-monthly briefing papers on its activities since the previous joint meeting. The Committee also considers minutes of internal CMC meetings. The PCMC asks questions in relation to any matter contained in these documents or any other matter that has come to its attention.

The Committee also meets regularly with the Parliamentary Commissioner (usually bi-monthly). The Parliamentary Commissioner also provides a report on his activities on a bi-monthly basis. This keeps the Committee informed as to the status of matters that have been referred to the Commissioner as well as administrative issues concerning the office of the Parliamentary Commissioner.

During the reporting year the Committee met 35 times including:

- 4 joint meetings with the CMC; and
- 5 meetings with the Parliamentary Commissioner.

6. MEETINGS WITH OTHER COMMITTEES

The Committee met in Brisbane with the Western Australian Committee on the Anti-Corruption Commission in October 2002 and April 2003. These meetings, whilst held at the request of the WA Committee, assisted the PCMC as they help inform the Committee regarding the operations of relevant bodies in other jurisdictions, and allow the Committee to attain a broader appreciation of the aspects of the Queensland regime that are operating well, as well as areas that could be improved.

7. MINISTERIAL RESPONSES TO COMMITTEE RECOMMENDATIONS

7.1. MINISTERIAL RESPONSE TO REPORT NO 50 – TELECOMMUNICATIONS INTERCEPTION

The previous PCJC's report 50, in brief, addressed the desirability of QLD law enforcement agencies (including the then CJC and QCC) being granted the power to use telecommunications interception (phone tapping) and recommended the power be extended to those agencies, subject to strict guidelines.

In previous annual reports this Committee has provided information on interim responses from the Minister for Police to this report.

On 21 June 2002, the Committee wrote to the Premier, referring to the recommendations in report 50 and in the Three Year Review of the previous PCJC (report 55). The Committee urged the government to look favourably on the recommendations of the previous PCJC that the then CJC and QCC (now the CMC) be given the power to use telecommunications interception.

On 17 December 2002, the Premier responded, noting the Committee's views and stating:

I am aware that there may be implications on the Crime and Misconduct Commission's ability to access telecommunications interception flowing from the establishment of the Australian Crime Commission. I can advise you that this and other issues relevant to these changes are under consideration.

8. BUDGET AND EXPENDITURE

The total budget allocation for the Committee in 2002/2003 was \$304,230.00.¹ The Committee's total actual expenditure for 2002/2003 was \$213,755.07.²

The expenses for the Committee are set out in the following table.

Staff salaries and other employee related expenditure ^a	167,711.94
Salary related taxes ^b	9,437.97
Superannuation	20,135.43
Travel and hearing expenses ^c	1,265.34
Telecommunication costs	2,649.60
Legal fees	2,538.50
Meeting expenses	2,223.68
Stores, stationery, consumables and postage	939.16
Freight, miscellaneous & equipment expenses	2,474.64
Printing of reports and binding	3,083.81
Reference books, serial subscriptions, memberships	1,295.00
TOTAL	213,755.07

a) Includes temporary assistance, contracted staff expenses, overtime, extra remuneration, meal allowances and other allowances.

b) Includes FBT, payroll tax and Workcover premiums.

c) Includes travel and other expenses relating to attendance at meetings, hearings and staff travel with, or for, the Committee.

¹ This compares with the Committee's budget allocation for 2001/2002 of \$290,675.06.

² This compares with the Committee's actual expenditure for 2001/2002 of \$225,927.54. Savings in the budget for 2002/2003 were largely due to a staff vacancy which remained unfilled at the end of the reporting period.

9. MEETING ATTENDANCE RECORD: 2002-2003 FIFTH PCMC

<i>DATE</i>	<i>PURPOSE</i>	<i>Geoff Wilson</i>	<i>Howard Hobbs</i>	<i>Desley Boyle</i>	<i>Stuart Copeland</i>	<i>John Kingston³</i>	<i>Andrew McNamara</i>	<i>Kerry Shine</i>
31 July 2002	PCMC	✓	✓	X	✓	✓	X	✓
1 August 2002	PCMC / Parliamentary Commissioner	✓	✓	X	✓	✓	X	✓
5 August 2002	PCMC	✓	✓	✓	✓	X	✓	✓
7 August 2002	PCMC / CMC	✓	✓	✓	✓	X	✓	✓
8 August 2002	PCMC	✓	✓	✓	✓	X	✓	✓
21 August 2002	PCMC	✓	X	✓	✓	X	✓	✓
23 August 2002	PCMC	✓	✓	X	✓	X	✓	✓
18 September 2002	PCMC	✓	✓	✓	✓	✓	✓	✓
19 September 2002	PCMC / CMC	✓	✓	✓	✓	✓	✓	✓
7 October 2002	PCMC / Parliamentary Commissioner	✓	✓	✓	X	X	✓	X
23 October 2002	PCMC	✓	✓	✓	X	✓	✓	✓
25 October 2002	PCMC	✓	✓	✓	✓	X	✓	X
7 November 2002	PCMC / Parliamentary Commissioner	✓	X	✓	X	X	✓	✓
7 November 2002	PCMC	✓	✓	X	✓	✓	✓	✓
27 November 2002	PCMC	✓	✓	✓	✓	✓	✓	✓
4 December 2002	PCMC	✓	✓	✓	✓	X	✓	✓
13 February 2003	PCMC	✓	✓	✓	✓	X	X	✓
26 February 2003	PCMC	✓	✓	✓	✓	X	✓	✓
27 February 2003	PCMC / Parliamentary Commissioner	✓	✓	✓	✓	X	✓	✓
12 March 2003	PCMC	✓	✓	✓	✓	X	✓	✓
24 March 2003	PCMC	✓	✓	✓	✓	X	✓	✓
24 March 2003	PCMC / CMC	✓	✓	✓	✓	X	✓	✓
						<i>Bill Flynn⁴</i>		
26 March 2003	PCMC	✓	X	X	✓	✓	✓	✓
27 March 2003	PCMC (8.34am)	✓	✓	✓	X	✓	✓	✓
27 March 2003	PCMC (2.30pm)	✓	✓	✓	X	X	✓	✓
2 April 2003	PCMC	✓	✓	✓	✓	✓	✓	✓
30 April 2003	PCMC	X	✓	✓	✓	✓	✓	✓
1 May 2003	PCMC / Parliamentary Commissioner	✓	✓	✓	✓	✓	✓	✓
14 May 2003	PCMC	✓	✓	✓	✓	✓	✓	✓
28 May 2003	PCMC	✓	✓	✓	✓	✓	✓	✓
30 May 2003	PCMC	✓	✓	X	✓	✓	✓	X
30 May 2003	PCMC / CMC	✓	✓	X	✓	✓	✓	X
4 June 2003	PCMC	✓	✓	✓	✓	✓	✓	✓
6 June 2003	PCMC (8.37am)	✓	✓	✓	✓	✓	✓	✓
6 June 2003	PCMC (2.28pm)	✓	X	✓	✓	X	✓	✓
13 June 2003	PCMC (teleconference)	✓	✓	✓	✓	✓	✓	✓
19 June 2003	PCMC	✓	✓	X	✓	✓	✓	✓
20 June 2003	PCMC	✓	✓	X	✓	✓	✓	✓

³ On 26 March 2003, consequent upon his resignation as a member of the Legislative Assembly, Dr John Kingston was discharged from the Committee.

⁴ On 26 March 2003, the member for Lockyer, Mr Bill Flynn, was appointed to the Committee.