



## **LEGISLATIVE ASSEMBLY OF QUEENSLAND**

### **PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE**

**A report on audits by the Parliamentary Crime and Misconduct Commissioner  
of the records of the Crime and Misconduct Commission for 2003/2004 and 2004/2005**

**Report No. 69  
November 2005**

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**51st PARLIAMENT**

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## CHAIRMAN'S FOREWORD

Under section 314(2)(a) of the *Crime and Misconduct Act 2001* one of the roles of the Parliamentary Crime and Misconduct Commissioner is to conduct, at the request of the Committee, an audit of the records of the Crime and Misconduct Commission (“Commission” or “CMC”).

On 13 November 2003 the Committee requested Mr Robert Needham, the then Parliamentary Commissioner, to conduct an audit of the records kept by the CMC for the 2003-2004 year. By letter dated 9 March 2005, the Committee requested the Parliamentary Commissioner, Mr Alan MacSporran, to conduct an audit of the records of the CMC for the 2004-2005 financial year.

In each reference, the Parliamentary Commissioner was asked to decide the following:

- (i) whether the Commission has exercised [its statutory] power in an appropriate way;
- (ii) whether matters under investigation are appropriate for investigation by the entity investigating or are more appropriately the responsibility of another entity;
- (iii) whether registers are up to date and complete and all required documentation is on the file and correctly noted on the registers;
- (iv) whether required authorisations for the exercise of power have been obtained; and
- (v) whether any policy or procedural guidelines set by the Commission have been strictly complied with.

For reasons of confidentiality, and to protect the integrity of the operations of the Commission, it is not appropriate to table the audit reports themselves. However, the Committee wishes to inform the people of Queensland, through the Parliament, of the outcome of the audits.

The reports on the audits are in generally positive terms. In summary, Mr Needham identified concerns relating to relatively minor cases of non-compliance with statutory requirements and procedural guidelines, and noted that further improvements were possible to facilitate timeliness in misconduct assessments. He otherwise reported favourably.

Mr MacSporran, whilst finding some procedural deficiencies and making recommendations for improvement of Commission processes, reported in generally positive terms. No wilful non-compliance or intentional misleading was identified.

In each case, the Commission has been asked to respond to issues raised in the audit reports. More details of the audit reports and the responses by the Commission are set out in this report.

**Geoff Wilson MP**  
Chairman

10 November 2005

## INTRODUCTION

The Committee has resolved to table its report on the audits conducted by the Parliamentary Commissioner in the Legislative Assembly. It is the practice of the Committee when tabling such a report to provide some background detail regarding the role and powers of both the Committee and the Parliamentary Commissioner.

The Parliamentary Crime and Misconduct Committee (PCMC or the Committee) monitors and reviews the performance of the functions of the CMC. The Committee is established under the Act as a bipartisan committee of the Queensland Legislative Assembly. It has the following functions:

- to monitor and review the performance of the CMC's functions;
- to report to the Legislative Assembly where appropriate on any matters pertinent to the Commission, the discharge of the Commission's functions or the exercise of the powers of the Commission;
- 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 CMC where appropriate.

The Committee is assisted in its oversight role by the Parliamentary Crime and Misconduct Commissioner. The Parliamentary Commissioner has a number of functions under the Act. These include carrying out the following, as required by the Committee:

- conduct audits of records kept by and operational files held by the CMC;
- investigate complaints made about or concerns expressed about the CMC;
- independently investigate allegations of possible unauthorised disclosure of information that is, under the Act, to be treated as confidential;
- report to the Committee on the results of carrying out the functions of the Parliamentary Commissioner; and
- perform other functions the Committee considers necessary or desirable.

To assist in the performance of these functions, the Parliamentary Commissioner has wide powers.

Any decision by the Committee to ask the Parliamentary Commissioner to investigate or review and report on a matter or to conduct an audit must be made unanimously or by a multi-party majority of the Committee.

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.

Mr Robert Needham served as Parliamentary Commissioner from 31 December 2001 until 3 November 2004. The present Parliamentary Commissioner is Mr Alan MacSporran, who was appointed in December 2004.

## BACKGROUND

Under section 314(2)(a) of the *Crime and Misconduct Act 2001* one of the roles of the Parliamentary Commissioner is to conduct, at the request of the Committee, an audit of the records of the Commission. That provision reads:

*“The parliamentary commissioner has the functions, as required by the parliamentary committee, to do the following—*

*(a) audit records kept by the commission and operational files and accompanying documentary material held by the commission, including current sensitive operations, including for the purpose of deciding the following—*

- (i) whether the commission has exercised power in an appropriate way;*
- (ii) whether matters under investigation are appropriate for investigation by the entity investigating or are more appropriately the responsibility of another entity;*
- (iii) whether registers are up to date and complete and all required documentation is on the file and correctly noted on the registers;*
- (iv) whether required authorisations for the exercise of power have been obtained;*
- (v) whether any policy or procedural guidelines set by the commission have been strictly complied with.”*

On 13 November 2003 the Committee requested Mr Robert Needham to conduct an audit of the records kept by the CMC for the 2003-2004 year. By letter dated 9 March 2005, the Committee issued a reference to Mr MacSporran to conduct an audit of the records of the CMC for the 2004-2005 financial year and report to the Committee.

In each case, the Parliamentary Commissioner was asked to decide the five matters, as contained in section 314(2)(a) of the *Crime and Misconduct Act 2001* and set out above.

## AUDIT REPORT FOR 2003/2004

Mr Needham reported on his audit in October 2004. The Parliamentary Commissioner was satisfied that all of the CMC’s crime investigations fell within references by the Crime Reference Committee and accordingly were appropriate for investigation by the CMC. In relation to the Commission’s misconduct function, he concluded that the decisions in the matters in which it was determined that the investigation should be conducted by the Commission itself were appropriate, as were the decisions in the matters in which it was determined that the matter be referred back to an agency. He noted that the CMC was introducing innovations to improve the timeliness of assessments.

The Parliamentary Commissioner noted that the CMC’s monitoring of matters had improved since the previous (2003) audit and that the reviews were generally of a high standard.

Importantly, he reported that CMC officers generally demonstrate a good degree of discernment in deciding whether to utilise the CMC’s various powers, and that the more intrusive powers were used sparingly during the audit period.

Identified concerns related to relatively minor cases of non-compliance with statutory requirements and procedural guidelines.

## **AUDIT REPORT FOR 2004/2005**

In his report dated October 2005, the Parliamentary Commissioner, whilst finding some procedural deficiencies and making recommendations for improvement of Commission processes, reported in generally positive terms. No wilful non-compliance or intentional misleading was identified.

With specific reference to the Commission's crime function, the Parliamentary Commissioner was satisfied that all the CMC's crime investigations fell within references by the Crime Reference Committee and accordingly were appropriate for investigation by the CMC. He also found that determinations to use coercive powers were justified and those powers had generally been appropriately exercised. As regards the Commission's misconduct function, the Parliamentary Commissioner concluded that the decisions in the matters in which it was determined that the investigation should be conducted by the Commission itself were appropriate. Further, the decisions in the matters in which it was determined that the matter be referred back to the Queensland Police Service or unit of public administration, were appropriate.

The report identified various instances of failure to strictly comply with the requirements of the legislation, and the Commission has advised that steps will be taken to amend policies and rectify procedures accordingly. These instances largely related to the issuing of surveillance and covert search warrants, and several instances of non compliance indicated a lack of attention to detail. With the exception of these deficiencies, the audit has revealed that the Commission is generally performing well in the areas the subject of the terms of reference.

The Parliamentary Commissioner reported cooperation from Commission officers in the audit process, and observed that Commission officers generally demonstrate "a good degree of discernment in deciding whether to utilise the various powers of the Commission".

## **RESPONSES OF THE COMMISSION**

### Audit report for 2003/2004

The Commission advised that it was working toward addressing the issues raised by the Parliamentary Commissioner by both refining existing procedures and instituting new ones. The Commission indicated that memorandums had been circulated to staff reminding them of various procedural requirements, which had been highlighted in the report as requiring improvement.

### Audit report for 2004/2005

The Commission has responded positively to issues raised with it by the Parliamentary Commissioner during the audit, and has agreed to implement changes to give full effect to his recommendations. The Committee expects that these changes, if adopted and observed, will improve the Commission's already sound performance in these areas.