



PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE

ANNUAL REPORT 2006/2007

REPORT NO. 74

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 2001*.

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 Chairperson 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.

CONTACTING THE PCMC

Address: Parliamentary Crime and
Misconduct Committee
Parliament House
George Street
Brisbane Qld 4000

E-mail: pcmc@parliament.qld.gov.au
Telephone: 07 3406 7207
Facsimile: 07 3210 6011

MEMBERSHIP



Mr Paul Hoolihan MP, Member for Keppel (Chairman)



Mr Howard Hobbs MP, Member for Warrego
(Deputy Chairman)



Mrs Liz Cunningham MP, Member for Gladstone



Mr Jack Dempsey MP, Member for Bundaberg



Mr Simon Finn MP, Member for Yeerongpilly



Mrs Christine Smith MP, Member for Burleigh



Hon Dean Wells MP, Member for Murrumba

STAFF

<i>Research Director</i>	Mr Stephen Finnimore
<i>Principal Research Officer</i>	Ms Renée Easten
<i>Executive Assistant</i>	Ms Jenny North

Copies of this report and other PCMC publications are available on the Queensland Parliament's website at:

www.parliament.qld.gov.au/pcmc

INTRODUCTION

THE PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE

The Parliamentary Crime and Misconduct Committee (PCMC) is established under section 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, established in 1990.]

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 below).

The Committee's discharge of its functions has been assisted by the co-operative and responsive approach adopted by the CMC.

The 51st Parliament was dissolved on 15 August 2006, and a general election held on 9 September 2006. The Parliamentary Crime and Misconduct Committee of the new Parliament – the 52nd Parliament – was appointed on 11 October 2006, and the membership of that Committee appears on the front of this report.

The reporting year partly covers the activities of the 6th Parliamentary Crime and Misconduct Committee – the PCMC of the 51st Parliament – the membership of which during the bulk of the reporting period was as follows¹:

- Mr Geoff Wilson MP, Member for Ferny Grove (Chairman)
- Mr Howard Hobbs MP, Member for Warrego (Deputy Chairman)
- Mr Michael Choi MP, Member for Capalaba
- Mr Stuart Copeland MP, Member for Cunningham
- Mrs Liz Cunningham MP, Member for Gladstone

¹ Following the 2006 election, the former Chair of the 6th PCMC Mr Geoff Wilson MP and member Mr Michael Choi MP stood down from the Committee after accepting appointments. Their positions were filled by Ms Carolyn Male MP and Mr Simon Finn MP, both of whom were appointed as casual replacements by the then Speaker on 2 October 2006.

By letter dated 2 October 2006, the then Speaker advised that the then Premier had nominated Mr Hoolihan MP to fill the casual vacancy created on 22 September 2006 when the seat of Noosa was declared, and Ms Molloy was not successful in retaining that seat.

- Mr John English MP, Member for Redlands
- Ms Cate Molloy MP, Member for Noosa

CRIME AND MISCONDUCT COMMISSION

This reporting year has seen the continued operation of the Crime and Misconduct Commission under the *Crime and Misconduct Act 2001* which commenced on 1 January 2002. That 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 key responsibilities of the CMC are:

- to combat and reduce the incidence of major crime (organised crime, criminal paedophilia and other serious crime); and
- to continuously improve the integrity of, and to reduce the incidence of misconduct in, the public sector.

The CMC also undertakes a number of other functions in the areas of research and prevention, intelligence, witness protection, and the civil confiscation of proceeds of crime.

The CMC has a number of coercive powers, including power to:

- conduct hearings at which persons can be compelled to provide evidence;
- compel persons to provide information;
- compel the production of records and things;
- enter and conduct searches of premises (including covert searches);
- seize evidence; and
- use surveillance devices.

THE COMMITTEE'S RESPONSIBILITIES

Under the *Crime and Misconduct Act 2001* 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 of which it might be aware regarding the conduct or activities of the CMC or an officer or former officer of the CMC.

MONITORING AND REVIEWING THE CMC

The Committee utilises a range of mechanisms to "monitor and review" the CMC. 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 CMC 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.

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 determined not to 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.

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

EXAMINING REPORTS OF THE CMC

Section 69 of the *Crime and Misconduct Act 2001* contains a mechanism for certain CMC reports to be tabled in the Parliament. The Committee is required to direct that such a report be given to the Speaker of the Legislative Assembly in order for it to be tabled.

During the reporting year, there were no such directions given by the Committee.

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 (during the reporting period, the Attorney-General and Minister for Justice) must consult with the Committee. Any nomination by the Attorney-General and Minister for Justice requires the bi-partisan support of the Committee before the nominee can be appointed.

During the reporting period, the Committee considered and supported the nomination of one part-time Commissioner.

ISSUING GUIDELINES AND GIVING DIRECTIONS TO THE CMC

The Committee did not issue any guidelines or give any directions to the Commission in the reporting year.

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.

Complaints from members of the public

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

Other complaints about the Commission

Under the *Crime and Misconduct Act 2001* the Chairperson of the CMC is obliged to advise the PCMC of suspected improper conduct by officers of the CMC.² 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".

Complaints considered 2006-2007

In the reporting year the Committee received 23 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 that it 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 Committee, any reports from the Parliamentary Commissioner.

General issues that the Committee considers in determining whether or not the Commission has acted inappropriately can 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 a determination by the Commission to refer a matter back to the relevant public sector agency to deal with was 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 appropriate; and
- whether the Commission has acted within its legislative powers.

² Section 329 of the *Crime and Misconduct Act 2001*.

MISCONDUCT TRIBUNAL VACANCIES

The Misconduct Tribunals 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 (the Attorney-General and Minister for Justice) can appoint a person (nominated by the Minister) to the Misconduct Tribunal. The Committee was not requested to consider any such nominations for appointment during the reporting year.

MECHANISMS AVAILABLE TO THE COMMITTEE

POWERS OF THE COMMITTEE

Under section 293 of the *Crime and Misconduct Act 2001* the Committee has the power to:

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

PARLIAMENTARY CRIME AND MISCONDUCT COMMISSIONER

The former position of the Parliamentary Criminal Justice Commissioner was altered with the commencement of the *Crime and Misconduct Act 2001*. The title of the position was changed and importantly the new legislation made it clear that the Parliamentary Commissioner acts as the agent of the Committee.

A person can only be appointed as Parliamentary Commissioner with the bipartisan support of the Committee.

Mr Alan MacSporran SC commenced in the role of Parliamentary Commissioner on 13 December 2004, on a part-time basis and for a period of two years. His term was subsequently extended to 13 December 2007.

Role and functions of the Parliamentary Commissioner

Under the *Crime and Misconduct Act 2001* 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.

The Parliamentary Commissioner can conduct hearings only with the authorisation of the PCMC.

The Parliamentary Commissioner also now has a number of other statutory roles as a result of amendments made by the *Cross-Border Law Enforcement Legislation Amendment Act 2005*. These include:

- inspection of the records of the CMC to decide the extent of the CMC's compliance with the legislative requirements relating to surveillance device warrants, retrieval warrants and emergency authorisations;
- reporting in writing to the Committee at six monthly intervals on the results of such inspections;
- inspection of the records of the CMC at least once every 12 months to determine the extent of the CMC's compliance with the legislative requirements relating to controlled operations;
- as soon as practicable after 30 June each year, preparing a report of the activities of the CMC relating to controlled operations for the preceding 12 months and providing a copy of the report to the CMC Chairperson and the Chair of the PCMC; and
- auditing the CMC's records relating to assumed identities at least once every six months and providing a report on the results of the audit to the CMC Chairperson.

Assistance provided by the Parliamentary Commissioner in the reporting period

During the reporting period the Committee referred issues involving the CMC's actions in five matters to the Parliamentary Commissioner for investigation. The PCMC also asked the Parliamentary Commissioner to oversee the CMC's investigation of allegations against a CMC officer in another matter.

In October 2006, the Parliamentary Commissioner reported to the Committee on an audit of CMC records for the 2005-2006 year, pursuant to prior reference from the Committee.

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.

PARTICULAR ISSUES CONSIDERED BY THE COMMITTEE

CMC's draft 2007-2011 Strategic Plan

The CMC provided the Committee with a draft of its 2007-2011 Strategic Plan and the Committee made comment upon the draft plan.

Three Year Review – CMC

In March 2006, the 6th PCMC commenced the process of its three yearly review of the Commission. A number of submissions were received and considered, and public hearings were held over two days in July 2006. The Committee tabled its report on the Three Year Review on 9 October 2006.

Other matters

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

MEETINGS

In addition to Committee meetings (held at least once every Parliamentary 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 it and the CMC.

To assist with the 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 matters 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 of 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 27 times including:

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

MEETINGS WITH OTHER AGENCIES

In May 2007, a delegation from the Committee travelled to Sydney to meet with representatives of New South Wales oversight agencies.

Such meetings with oversight agencies, including similar oversight Parliamentary committees, assist the PCMC as they inform the Committee regarding the operations of relevant bodies in other jurisdictions, and allow the Committee to attain a broader appreciation of those aspects of the Queensland regime that are operating well, as well as areas where there is scope for improvement.

MINISTERIAL RESPONSES TO COMMITTEE RECOMMENDATIONS

Section 107 of the *Parliament of Queensland Act 2001* requires a response by the relevant Minister to reports of certain Committees of the Legislative Assembly, including the PCMC, where the report makes recommendations that the government or the Minister take (or not take) particular action.

MINISTERIAL RESPONSE TO REPORT NO 50 – TELECOMMUNICATIONS INTERCEPTION

The 4th PCJC's report 50, in brief, addressed the desirability of Queensland law enforcement agencies (including the then CJC and QCC) being granted the power to use telecommunications interception (phone tapping) accompanied by certain civil liberties protections. It recommended the power be extended to those agencies, subject to strict guidelines.

In previous annual reports the Committee has provided information on interim responses from the then Minister for Police to report 50.

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 together with civil liberty safeguards.

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.

The issue of telecommunications interception was the subject of further recommendations by the 6th PCMC in its report on its Three Year Review of the CMC, tabled on 9 October 2006.

MINISTERIAL RESPONSE TO REPORT NO 71 – THREE YEAR REVIEW OF THE CMC

On 5 April 2007, the Attorney-General and Minister for Justice, Hon Kerry Shine MP, tabled a Ministerial response to the 6th PCMC's report on its Three Year Review of the CMC.

BUDGET AND EXPENDITURE

The total budget allocation for the Committee in 2006/2007 was \$277,451.00³ The Committee's total actual expenditure for 2006/2007 was \$275,898.66⁴.

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

Salary costs ^a	190,233.45
Employee allowances and recruitment expenses	52.86
Salary related taxes/accruals ^b	61,743.46
Business travel ^c	10,426.63
Printing, advertising & memberships	5,544.13
Telephone costs	3,973.42
Books, subscriptions & publications	944.81
Minor equipment and maintenance of equipment	335.46
Hospitality	2,644.44
Other costs	0.00
TOTAL	275,898.66

- a) Includes temporary assistance, higher duties and overtime.
- b) Includes Superannuation, 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.

³ This compares with the Committee's budget allocation for 2004/2005 of \$308,980.00 and for 2005/2006 of \$264,433.00

⁴ This compares with the Committee's actual expenditure for 2004/2005 of \$223,047.68 and for 2005/2006 of \$266,095.88

2006/2007 Meeting Attendance Record – 6th PCMC

DATE	PURPOSE	<i>Geoff Wilson</i>	<i>Howard Hobbs</i>	<i>Michael Choi</i>	<i>Stuart Copeland</i>	<i>Liz Cunningham</i>	<i>John English</i>	<i>Cate Molloy</i>
6 July 2006	PCMC	✓	✓	✓	✓	✓	✓	X
7 July 2006	PCMC	✓	✓	✓	✓	✓	✓	X
9 August 2006	PCMC / Interview	✓	X	X	✓	✓	✓	✓
10 August 2006	PCMC	✓	X	✓	✓	X	✓	✓
		<i>Howard Hobbs</i>	<i>Stuart Copeland</i>	<i>Liz Cunningham</i>	<i>John English</i>	<i>Simon Finn</i>	<i>Paul Hoolihan</i>	<i>Carolyn Male</i>
3 October 2006	PCMC – 3 Year Review Report	✓	✓	✓	✓	✓	✓	✓

2006/2007 Meeting Attendance Record – 7th PCMC

DATE	PURPOSE	<i>Paul Hoolihan</i>	<i>Howard Hobbs</i>	<i>Liz Cunningham</i>	<i>Jack Dempsey</i>	<i>Simon Finn</i>	<i>Christine Smith</i>	<i>Dean Wells</i>
1 November 2006	PCMC	✓	✓	✓	✓	✓	✓	✓
3 November 2006	PCMC	✓	✓	✓	✓	✓	✓	✓
3 November 2006	PCMC / CMC	✓	✓	✓	✓	✓	✓	✓
15 November 2006	PCMC	✓	✓	✓	✓	✓	✓	✓
29 November 2006	PCMC	✓	✓	✓	✓	✓	✓	✓
30 November 2006	PCMC / Parliamentary Commissioner	✓	✓	✓	✓	X	✓	X
7 February 2007	PCMC	✓	✓	✓	✓	✓	✓	✓
9 February 2007	PCMC	✓	✓	✓	✓	✓	✓	✓
9 February 2007	PCMC / CMC	✓	✓	✓	✓	✓	✓	✓
21 February 2007	PCMC	✓	✓	✓	✓	✓	✓	✓
7 March 2007	PCMC	✓	✓	✓	✓	✓	✓	✓
14 March 2007	PCMC	✓	✓	✓	✓	✓	✓	✓
16 March 2007	PCMC	✓	✓	✓	✓	✓	✓	X
16 March 2007	PCMC / CMC	✓	✓	✓	✓	✓	✓	✓
18 April 2007	PCMC	✓	✓	✓	✓	✓	X	✓
19 April 2007	PCMC / Parliamentary Commissioner	✓	✓	✓	✓	✓	X	X
23 May 2007	PCMC	✓	✓	✓	✓	X	✓	✓
25 May 2007	PCMC	✓	✓	✓	✓	✓	✓	✓
25 May 2007	PCMC / CMC	✓	✓	✓	✓	✓	✓	✓
6 June 2007	PCMC	✓	✓	✓	✓	✓	✓	✓
7 June 2007	PCMC / Parliamentary Commissioner	✓	✓	✓	✓	X	✓	✓
28 June 2007	PCMC	✓	✓	✓	✓	X	✓	X