

PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE
ANNUAL REPORT 2011/2012
REPORT NO. 88

The Parliamentary Crime and Misconduct Committee (the PCMC or Committee) is a multi-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 CMC Chairperson and Commissioners. 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.

THIS REPORT

The reporting period includes the 53rd and 54th Parliaments, and consequently the 8th and 9th PCMCs. There were a number of changes to the Committee's membership during the reporting period. The Committee continues in existence upon the dissolution of the House by virtue of section 300 of the *Crime and Misconduct Act 2001*. Following the 2012 State election, four members did not retain their seats and, consequently, their Committee membership lapsed. On 18 April 2012, the Leader of the Opposition appointed four members to the Committee pursuant to section 301 of the *Crime and Misconduct Act 2001*.

On 17 May 2012, the Legislative Assembly appointed the current members of the Committee of the 54th Parliament, or the 9th PCMC. Membership details are provided on page 8.

As in previous annual reports, the Committee commends the CMC on its co-operative and responsive approach in dealing with the Committee.

THE COMMITTEE

The Committee is established under section 291 of the *Crime and Misconduct Act 2001* as the parliamentary committee responsible for overseeing the operations of the CMC. The Committee's functions under that Act are to:

- monitor and review the performance of the CMC's functions;
- report to the Legislative Assembly where appropriate;
- examine reports of the CMC;
- participate in the appointment of the Chairperson and Commissioners;
- conduct a review of the activities of the CMC at the end of the Committee's term (the Three Yearly Review); and
- issue guidelines and give directions to the CMC where appropriate.

PUBLIC INTEREST DISCLOSURES

As a proper authority within the meaning of the *Public Interest Disclosure Act 2010*, the Committee may accept disclosures under that Act in certain circumstances. The Committee received one public interest disclosure during the reporting period, which it referred to the CMC, as the appropriate body to consider the disclosure.

In July 2012, the Committee tabled *Report No. 87, A report on the Crime and Misconduct Commission's assessment of a public interest disclosure*, which appended a report of the CMC on its consideration and assessment of the disclosure.

THE CRIME AND MISCONDUCT COMMISSION

The CMC is created under the *Crime and Misconduct Act 2001*, which commenced on 1 January 2002. That Act merged the Criminal Justice Commission (CJC) and the Queensland Crime Commission (QCC) into the CMC. [The CJC was established in 1990 following a 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
- 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 range of coercive powers under the *Crime and Misconduct Act 2001*, including 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;
- use surveillance devices; and
- intercept telecommunications.

MONITORING AND REVIEWING THE CMC

The Committee actively monitors and reviews the operations of the CMC by:

- holding regular Committee meetings;
- carefully examining the confidential reports provided by the CMC every two months which provide detailed information about the activities of the CMC during the relevant period;
- considering the confidential minutes of meetings of the CMC and its executive;
- holding bi-monthly *in camera* meetings with the Chairperson, part-time Commissioners, and Assistant Commissioners of the CMC during which

Committee members may question Commissioners about the activities 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;
- meeting regularly with the Parliamentary Crime and Misconduct Commissioner to discuss the Commissioner's activities;
- examining the appropriateness of the CMC's performance measures; and
- examining the CMC's performance against its performance measures.

THREE YEARLY REVIEW OF THE CMC

In addition to its usual oversights of the CMC, in May 2011, pursuant to section 292(f) of the *Crime and Misconduct Act 2001*, the Committee commenced its three yearly review of the CMC by calling for submissions. The Committee received and considered 20 submissions and obtained further evidence through its own research and two public hearings held in November 2011.

The Committee tabled its report on the review, *Report No. 86, Three Yearly Review of the Crime and Misconduct Commission*, in May 2012.

REPORTING TO THE LEGISLATIVE ASSEMBLY

The Committee considered various 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 those reports because they contained confidential material that was considered inappropriate for tabling.

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

As required by legislation, the Committee also tabled a range of documents provided to it by the CMC and the Parliamentary Crime and Misconduct Commissioner during the year, including:

- Two reports of the Parliamentary Crime and Misconduct Commissioner on the results of his inspection of the records of the CMC pursuant to section 362 of the *Police Powers and Responsibilities Act 2000* (surveillance device warrants);¹
- A report of the Parliamentary Crime and Misconduct Commissioner on the work and activities of the CMC under chapter 11 of the *Police Powers and Responsibilities Act 2000* (controlled operations);²
- Annual reports from the CMC on compliance requirements under the *Police Powers and Responsibilities Act 2000* for assumed identities and surveillance devices;³ and
- An annual report from the CMC on activities of the Controlled Operations Committee under the *Crime and Misconduct Act 2001*.⁴

EXAMINING REPORTS OF THE CMC

Section 69 of the *Crime and Misconduct Act 2001* allows the Committee to direct that certain reports of the CMC be given to the Speaker and tabled in the Legislative Assembly.

The Committee made no directions to the CMC to provide reports to the Speaker during this reporting period.

The Committee also considered the following CMC reports which were tabled shortly before the commencement of the reporting period:

- *Regulating Prostitution – A follow-up review of the Prostitution Act 1999*, dated June 2011; and
- *Operation Tesco – Report of an investigation into allegations of police misconduct on the Gold Coast*, dated June 2011.

¹ Tabled on 4 August 2011, 16 February 2012 as required by section 363(5) of the *Police Powers and Responsibilities Act 2000*.

² Tabled on 30 November 2011 as required by section 269(6) of the *Police Powers and Responsibilities Act 2000*.

³ Tabled on 4 August 2011 as required by sections 314(3) and 358(5) of the *Police Powers and Responsibilities Act 2000*.

⁴ Tabled on 4 August 2011 as required by section 138(3) of the *Crime and Misconduct Act 2001*.

PARTICIPATING IN THE APPOINTMENT OF COMMISSIONERS

The CMC is headed by five Commissioners. The Chairperson is a full-time Commissioner and there are four part-time Commissioners who are community representatives.

In any appointment or reappointment of the Chairperson or a part-time Commissioner, the responsible Minister (the Attorney-General) must consult with the Committee. Any nomination by the Minister requires the bipartisan support of the Committee before the nominee may be appointed.

During the reporting period, the Committee considered and provided its bipartisan support for the nomination and appointment of Mr Ross Martin SC as Chairperson, the nomination of Mr George Fox, and the reappointment of Mr Philip Nase as part-time Commissioners.

ISSUING GUIDELINES TO THE CMC

Under section 296 of the *Crime and Misconduct Act 2001* the Committee may issue guidelines to the CMC about the conduct and activities of the CMC.

The Committee did not issue any guidelines to the CMC in this reporting period.

COMPLAINTS ABOUT THE CMC

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

Considering complaints about the CMC and its officers assists the Committee in its oversight role by providing a valuable insight into the CMC's operations and activities.

The Committee does not have jurisdiction over any organisation other than the CMC and therefore cannot consider original allegations of official or police misconduct itself. 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 CMC or any of its officers has acted inappropriately and will, where appropriate, make recommendations to the CMC. Analysis of complaints, even where specific allegations against the CMC are not substantiated, may assist the Committee identify procedural or systemic deficiencies that the Committee may recommend the CMC address.

Complaints from members of the public

Most complaints about the CMC or its officers come to the Committee directly from members of the public. The Committee 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 section 329 of 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. Knowledge of such conduct might come to the Chairperson via a complaint made to the CMC about a CMC officer or from officers within the CMC itself referring the conduct to the Chairperson.

At present, the Committee receives frank and prompt advice from the CMC Chairperson concerning conduct of CMC officers which the Chairperson suspects involves, or may involve, 'improper conduct'.

COMPLAINTS CONSIDERED 2011-2012

During the reporting period, the Committee received 27 complaints against the CMC or CMC officers from the public. The Committee finalised 24 complaints during the reporting period.

In most cases, the Committee determined that the complaints made against specific officers were not substantiated or that it was not satisfied that the CMC had acted inappropriately.

On various occasions the Committee requested further information from the CMC and in other cases requested the CMC 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 CMC and, if the matter has been referred to the Parliamentary Commissioner, any reports from the Parliamentary Commissioner.

Issues that the Committee considers in determining whether or not the CMC has acted inappropriately include (but are not limited to):

- timeliness in the handling of complaints and investigations;
- whether the CMC has made appropriate inquiries before determining not to pursue a matter;

- whether the CMC has considered all relevant facts and material;
- whether a determination by the CMC to refer a matter back to the relevant public sector agency to deal with was appropriate;
- whether the CMC has acted without bias in making its determinations;
- whether the CMC has been responsive and timely in its communications with complainants and with subject officers;
- whether the CMC's conclusions and determinations are appropriate; and
- whether the CMC has acted within its legislative powers.

NOTIFICATIONS FROM THE CHAIRPERSON 2011-2012

During the reporting period the Committee received 10 notifications from the Chairperson of the CMC under section 329 of the *Crime and Misconduct Act 2001*.

While the Chairperson of the CMC is the final decision maker in relation to any disciplinary action that may or may not be taken against CMC employees, the Committee monitored the processes undertaken by the CMC and was kept informed at all times of the Chairperson's intended actions relating to the relevant CMC officers.

There were no instances during the reporting period where the Committee was not satisfied with the actions taken by the Chairperson of the CMC in relation to the matters referred to the Committee under section 329 of the *Crime and Misconduct Act 2001*.

MECHANISMS AVAILABLE TO THE COMMITTEE

Under the *Crime and Misconduct Act 2001* and the *Parliament of Queensland Act 2001* the Committee has a range of powers that enable it to carry out its functions, including to:

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

PARLIAMENTARY CRIME AND MISCONDUCT COMMISSIONER

The Committee is assisted in its role of monitoring and reviewing the CMC by the Parliamentary Crime and Misconduct Commissioner (the Parliamentary

Commissioner). The Parliamentary Commissioner undertakes a range of functions on behalf of the Committee.

The Parliamentary Commissioner is an experienced senior lawyer, appointed on a part-time basis, for a period between two and five years, by the Speaker of the Legislative Assembly with the bipartisan support of the Committee.

On 22 August 2011, the Speaker appointed Mr Paul Favell as the Parliamentary Crime and Misconduct Commissioner for a period of three years. The Speaker appointed Mr Mitchell Kunde, Principal Legal Officer, Office of the Parliamentary Crime and Misconduct Commissioner, as the Acting Parliamentary Commissioner from 18 May 2011 until Mr Favell's appointment, and from 16 to 28 September 2011 whilst Mr Favell was absent from the State.

Role and functions of the Parliamentary Commissioner

Under section 314 of 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 may conduct hearings in limited circumstances but only with the bipartisan authorisation of the Committee.

The Parliamentary Commissioner also conducts an annual review of the intelligence data held by the CMC and the Queensland Police Service.

The Parliamentary Commissioner has a number of other statutory roles under the *Police Powers and Responsibilities Act 2001*. 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 Committee;
- auditing the CMC's records relating to assumed identities at least once every six months.
- the Parliamentary Commissioner also has statutory duties under the *Telecommunications Interception Act 2009* which include:
- regularly carrying out inspections of the records of the CMC to determine the extent of the CMC's compliance with the legislative requirements relating to telecommunications interception; and
- providing reports on inspections to the responsible Minister and the Committee.

Assistance provided by the Parliamentary Commissioner in this reporting period

The Committee receives a bi-monthly briefing paper from the CMC to assist the Committee identify issues for examination.

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

During the reporting period the Committee referred issues involving the CMC's actions in two matters to the Parliamentary Commissioner for review. The Committee received the reports of three matters that had been referred to the Parliamentary Commissioner, including one matter that had been referred to the Parliamentary Commissioner in the previous reporting period.

The Parliamentary Commissioner also provided the Committee with advice relating to the performance by the Committee of its functions under the *Crime and Misconduct Act 2001*.

These activities are in addition to the statutory reporting responsibilities of the Parliamentary Commissioner outlined above.

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.

The Committee conducts these meetings *in camera* to provide for candid discussion. The Committee has found these meetings 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; and minutes of internal CMC meetings. The Committee 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 who reports to the Committee 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 day-to-day running of the Office of the Parliamentary Commissioner.

During this reporting period the Committee met 31 times including:

- five joint meetings with the CMC;
- four meetings with the Parliamentary Crime and Misconduct Commissioner; and
- two public hearings.

CONFERENCES AND MEETINGS WITH OTHER AGENCIES

The Committee did not attend any conferences during this reporting period.

The Committee visited the CMC during this reporting period.

BUDGET AND EXPENDITURE

The total budget allocation for the Committee in 2011/2012 was \$327,361⁵ The Committee's total actual expenditure for 2011/2012 was \$288,245.⁶

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

Salary costs ^a	\$213,981.24
Salary related taxes/accruals ^b	68,409.70
Business travel	340.39
Printing, & production	2,535.43
Telephone costs	1,743.78
Hospitality	971.22
Stationery & consumables	263.54
TOTAL⁷	\$288,245.30

a) Includes temporary assistance, higher duties, overtime and allowances.

b) Includes Superannuation, FBT, payroll tax and Workcover premiums.

Mrs Liz Cunningham MP

Chair

August 2012

⁵ This compares with the Committee's budget allocation for 2010/2011 of \$251,265.00.

⁶ This compares with the Committee's total expenditure in 2010/11 of \$243,984.28.

⁷ The Committee's total expenditure 2011/12 was \$39,115.70 under budget.

MEETING ATTENDANCE
2011-2012 Meeting Attendance Record – 8th PCMC (53rd Parliament)

DATE	PURPOSE	Alexander Douglas	Evan Moorhead	Grace Grace	Andrew Powell	Mark Ryan	Peter Wellington	Stephen Wettenhall
21 July 2011	PCMC (interview)	✓	✓	✓	✓	✓	✓	X
3 Aug 2011	PCMC	✓	✓	✓	✓	✓	✓	✓
4 Aug 2011	PCMC / CMC	✓	✓	✓	✓	✓	✓	✓
DATE	PURPOSE	Alexander Douglas	Evan Moorhead	Grace Grace	Vaughan Johnson	Mark Ryan	Peter Wellington	Stephen Wettenhall
24 Aug 2011	PCMC / CMC	✓	X	✓	✓	✓	X	✓
7 Sept 2011	PCMC / Parliamentary Commissioner	✓	✓	✓	✓	✓	✓	✓
7 Sept 2011	PCMC	✓	✓	✓	✓	✓	✓	✓
12 Oct 2011	PCMC	✓	✓	✓	✓	✓	✓	✓
12 Oct 11	PCMC / CMC	✓	✓	✓	✓	✓	✓	✓
26 Oct 2011	PCMC	✓	✓	✓	X	✓	✓	✓
26 Oct 2011	PCMC / Parliamentary Commissioner	✓	✓	✓	X	✓	✓	✓
3 Nov 2011	PCMC	✓	✓	✓	X	✓	✓	X
3 Nov 2011	PCMC	✓	✓	✓	X	X	✓	X
3 Nov 2011	PCMC (Public Hearing)	✓	✓	✓	X	✓	✓	X
4 Nov 2011	PCMC (Public Hearing)	✓	X	✓	X	✓	X	X
16 Nov 2011	PCMC	✓	✓	✓	✓	✓	✓	✓
17 Nov 2011	PCMC	✓	✓	✓	X	✓	X	✓
30 Nov 2011	PCMC	✓	✓	X	X	✓	✓	✓
30 Nov 2011	PCMC / CMC	✓	✓	✓	✓	✓	✓	✓
16 Dec 2011	PCMC	✓	✓	✓	✓	✓	✓	✓
13 Feb 2012	PCMC	✓	✓	✓	✓	✓	✓	✓
15 Feb 2012	PCMC	✓	✓	✓	✓	✓	✓	✓
15 Feb 2012	PCMC / Parliamentary Commissioner	✓	✓	✓	✓	✓	✓	✓
12 Mar 2012	PCMC	✓	✓	✓	✓	✓	✓	✓
16 Mar 2012	PCMC	✓	✓	✓	✓	✓	✓	✓
DATE	PURPOSE	Alexander Douglas	Vaughan Johnson	Jo-Ann Miller	Tim Mulherin	Anastacia Palaszczuk	Desley Scott	Peter Wellington
24 April 2012	PCMC	✓	✓	✓	✓	✓	✓	✓
04 May 2012	PCMC	✓	✓	✓	✓	✓	✓	✓

2011-2012 Meeting Attendance Record – 9th PCMC (54th Parliament)

DATE	PURPOSE	Liz Cunningham	Ian Berry	Alex Douglas	Ian Kaye	Jo-Ann Miller	Jackie Trad	Peter Wellington
1 June 2012	PCMC	✓	✓	✓	✓	✓	✓	✓
8 June 2012	PCMC	✓	✓	✓	✓	✓	✓	✓
8 June 2012	PCMC/CMC tour	✓	✓	✓	✓	✓	✓	x
22 June 2012	PCMC / Parliamentary Commissioner	✓	✓	✓	✓	✓	✓	✓
22 June 2012	PCMC	✓	✓	✓	✓	✓	✓	✓

COMMITTEE MEMBERSHIP – 54TH PARLIAMENT (FROM 17 MAY 2012)

Chair	Mrs Liz Cunningham MP, Member for Gladstone
Deputy Chair	Mrs Jo-Ann Miller MP, Member for Bundamba Mr Ian Berry MP, Member for Ipswich (to 11 July 2012) Dr Alexander Douglas MP, Member for Gaven Mr Vaughan Johnson MP, Member for Gregory (from 11 July 2012) Mr Ian Kaye MP, Member for Greenslopes Ms Jackie Trad MP, Member for South Brisbane Mr Peter Wellington MP, Member for Nicklin

COMMITTEE MEMBERSHIP – 53RD PARLIAMENT

Chair	Dr Alexander Douglas MP, Member for Gaven
Deputy Chair	Mr Evan Moorhead MP, Member for Waterford (to 4 April 2012)
Deputy Chair	Ms Anastacia Palaszczuk MP, Member for Inala (from 18 April – 16 May 2012) Ms Grace Grace MP, Member for Brisbane Central (to 4 April 2012) Mr Vaughan Johnson MP, Member for Gregory (from 4 August 2011) Mrs Jo-Ann Miller MP, Member for Bundamba (from 18 April – 16 May 2012) Mr Tim Mulherin MP, Member for Mackay (from 18 April – 16 May 2012) Mr Andrew Powell MP, Member for Glass House (to 4 August 2011) Mr Mark Ryan MP, Member for Morayfield (to 10 April 2012) Ms Desley Scott MP, Member for Woodridge (from 18 April – 16 May 2012) Mr Peter Wellington MP, Member for Nicklin Mr Stephen Wettenhall MP, Member for Barron River (to 4 April 2012)

CONTACTING THE PCMC

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STAFF

Acting Research Director Amanda Honeyman (from 28 May 2012)

Research Director Brook Hastie (to 8 May 2012)

Principal Research Officer Peter Rogers (from 6 August 2012)

Principal Research Officer Michael Gorringer (to 6 August 2012)

Executive Assistant Iolene Kokay (from 31 October 2011)

Acting Executive Assistant Tanja Dullemond (to 9 September 2011)