



**Joint Standing Committee on the
Anti-Corruption Commission**

**THE WORKING GROUP OF
PARLIAMENTARY COMMITTEES WITH A
ROLE TO OVERSEE CRIMINAL JUSTICE
AND LAW ENFORCEMENT BODIES**

Second Report
In the Thirty-Fifth Parliament

MAY 1998

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Second Report
In the Thirty-Fifth Parliament

Presented by
**The Hon. Derrick Tomlinson, MLC and
Mr W. Thomas, MLA**

Laid on the Table of the Legislative Council on 28 May 1998 and the Legislative Assembly on
11 June 1998

ORDERED TO BE PRINTED

COMMITTEE MEMBERS

Chairman	Hon. Derrick Tomlinson, MLC
Deputy Chairman	Mr W. Thomas, MLA
Members	Mr R. Bloffwitch, MLA Dr E. Constable, MLA Hon. J. Cowdell, MLC Hon. M Montgomery, MLC Hon. N. Griffiths, MLC Mr M Trenorden, MLA

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*Joint Standing Committee on the Anti-Corruption Commission***TERMS OF REFERENCE**

On Wednesday 18 June 1997 the Legislative Assembly established the Joint Standing Committee on the Anti-Corruption Commission.

- (1) That a Joint Standing Committee of the Legislative Assembly and the Legislative Council be appointed —
 - (a) to monitor and review the performance of the functions of the Anti-Corruption Commission established under the Anti-Corruption Commission Act 1988;
 - (b) to consider and report to Parliament on issues affecting the prevention and detection of “corrupt conduct”, “criminal conduct”, “criminal involvement” and “serious improper conduct” as defined in section 3 of the Anti-Corruption Commission Act 1988. Conduct of any of these kinds is referred to in this resolution as “official corruption”;
 - (c) to monitor the effectiveness or otherwise of official corruption prevention programs;
 - (d) to examine such annual and other reports as the Joint Standing Committee thinks fit of the Anti-Corruption Commission and all public sector offices, agencies and authorities for any matter which appears in, or arises out of, any such report and is relevant to the terms of reference of the Joint Standing Committee;
 - (e) in connection with the activities of the Anti-Corruption Commission and the official corruption prevention programs of all public sector offices, agencies and authorities, to consider and report to Parliament on means by which duplication of effort may be avoided and mutually beneficial co-operation between the Anti-Corruption Commission and those agencies and authorities may be encouraged;
 - (f) to assess the framework for public sector accountability from time to time in order to make recommendations to Parliament for the improvement of that framework for the purpose of reducing the likelihood of official corruption; and
 - (g) to report to Parliament as to whether any changes should be made to relevant legislation.

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- (2) The Joint Standing Committee shall not -
 - (a) investigate a matter relating to particular information received by the Anti-Corruption Commission or particular conduct or involvement considered by the Anti-Corruption Commission;
 - (b) reconsider a decision made or action taken by the Anti-Corruption Commission in the performance of its functions in relation to particular information received or particular conduct or involvement considered by the Anti-Corruption Commission; or
 - (c) have access to detailed operational information or become involved in operational matters.
 - (3) The Joint Standing Committee consist of 8 members, of whom -
 - (a) 4 shall be members of the Legislative Assembly; and
 - (b) 4 shall be members of the Legislative Council.
 - (4) No Minister of the Crown or Parliamentary Secretary to a Minister of the Crown be eligible to be a member of the Joint Standing Committee.
 - (5) A quorum for a meeting of the Joint Standing Committee be 5 members, each House of Parliament being represented by at least one member.
 - (6) The Joint Standing Committee have power to send for persons, papers and records, to adjourn from time to time and from place to place, and, except as hereinafter provided, to sit on any day and at any time and to report from time to time.
 - (7) The Joint Standing Committee not sit while either House of Parliament is actually sitting unless leave is granted by that House.
 - (8) A report of the Joint Standing Committee be presented to each House of Parliament by a member of the Joint Standing Committee nominated by it for that purpose.
 - (9) In respect of matters not provided for in this resolution, the Standing Orders of the Legislative Assembly relating to select committees be followed as far as they can be applied.

TABLE OF CONTENTS

	<i>Page No.</i>
COMMITTEE MEMBERS	i
TERMS OF REFERENCE	ii
1. THE WORKING GROUP OF PARLIAMENTARY COMMITTEES WITH A ROLE TO OVERSEE CRIMINAL JUSTICE AND LAW ENFORCEMENT BODIES	 1
2. APPENDIX ONE – COMMUNIQUE	 3

1. THE WORKING GROUP OF PARLIAMENTARY COMMITTEES WITH A ROLE TO OVERSEE CRIMINAL JUSTICE AND LAW ENFORCEMENT BODIES

Within Australia there exist a number of specialist criminal justice and law enforcement bodies with particular law enforcement or anti-corruption functions. These include –

- the Western Australian Anti-Corruption Commission (ACC);
- the Queensland Criminal Justice Commission (CJC);
- the New South Wales Independent Commission Against Corruption (ICAC);
- the New South Wales Police Integrity Commission (PIC); and
- the National Crime Authority (NCA).

Each of these bodies has been granted special powers and significant resources to perform the functions assigned them. Each is also subject to oversight by a parliamentary committee. The primary function of such committees is to monitor and review the performance of the agencies they oversee and to report to their respective parliaments. The committees established for this purpose are as follows –

- the Joint Standing Committee on the Anti-Corruption Commission;
- the Parliamentary Criminal Justice Committee which oversees the CJC;
- the Joint Committee on the Independent Commission Against Corruption;
- the Joint Committee on the Office of the Ombudsman and the Police Integrity Commission; and
- the Joint Committee on the National Crime Authority.

In September of last year this Committee, the Joint Standing Committee on the Anti-Corruption Commission, met with a number of the specialist agencies listed above and the committees that oversee them. The main purpose of those meetings was to examine the tension that arises between the need for such agencies to maintain the integrity of their operations and the need to ensure that such agencies are properly accountable. Many other themes were also addressed. The information the Committee gathered was consolidated in its First Report: *Confidentiality and Accountability: Parliamentary Supervision of Anti-Corruption and/or Law Enforcement Agencies in Australia*.

One of the outcomes of the meetings was a recognition by the Committee and those with whom it met of the value of meeting and discussing the common issues which confront parliamentary oversight committees. When meeting with the Queensland PCJC the Committee discussed the possibility of establishing a working group of parliamentary oversight committees. The PCJC followed up that suggestion and agreed to host the inaugural meeting of the Working Group. That meeting was held in Brisbane at Parliament House over a day and a half on 26 February and 27 February 1998.

The theme of the meeting was *The Accountability of Law Enforcement and Criminal Justice Bodies*. Each of the Committees and a number of guest speakers presented papers to the Working Group on this theme.

The value of this meeting to all participants is outlined in the Communiqué from the inaugural Working Group meeting (Appendix One).

The Committee is now developing and refining the mechanisms through which it undertakes its task of monitoring and reviewing the ACC. The experience of similar oversight committees has proved invaluable in identifying crucial issues and understanding how bodies like the ACC may be made accountable.

The Working Group has agreed to meet again in September. That meeting will be held in Perth. The theme will be *The Effectiveness of Standing Commissions compared to Royal Commissions in Dealing with Corruption and Serious Misconduct in Australian Police Services and Public Sectors Generally*. All Australian parliamentary oversight committees in Australia, State Parliaments which have not created such specialist agencies and oversight committees and the New Zealand Parliament will be invited to send representatives.

APPENDIX ONE

Communiqué

Working Group of Parliamentary Committees with a role to oversee criminal justice and law enforcement bodies

On 26 and 27 February 1998 the inaugural Working Group of parliamentary committees with a role to oversee criminal justice and law enforcement bodies was held in Queensland.

The objective of the Working Group was to provide members of similar committees with an opportunity to share experiences and consider strategies to address common issues.

The theme of the inaugural Working Group was *The Accountability of Law Enforcement and Criminal Justice Bodies to Parliamentary Committees*.

The parliamentary committees represented at the Working Group were:

- the Commonwealth Joint Committee on the National Crime Authority
- the New South Wales Parliamentary Joint Committee on the National Crime Authority.
- the New South Wales Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission
- the Queensland Parliamentary Criminal Justice Committee and
- the Western Australian Joint Standing Committee on the Anti-Corruption Commission.

Committee perspectives

During the course of the meeting each committee addressed the working Group on a variety of relevant topics.

A broad range of issues were discussed throughout these sessions, including:

- Parliamentary Privilege, and the implications for committee operations;
- the balance between public accountability and the need for confidentiality of sensitive issues;
- strategies for monitoring and reviewing;

- factors which inhibit effective monitoring and review; and
- possible innovations to improve the monitor and review system in some jurisdictions.

Guest Speakers

A number of guest speaker also made presentations to the Working Group, providing members with a number of different perspectives on the challenges being faced by both parliamentary committees and criminal justice bodies. In addition, members were addressed regarding the civil liberties aspects of the current criminal justice system in Queensland.

A brief outline of the issues addressed by guest speakers during the working group is provided below.

Mr Tony Morris QC

Barrister-at-Law

Throughout his career, Mr Morris has been involved in a great many matters connected with the CJC. By drawing on this experience Mr Morris discussed the issues and problems he perceives Parliamentary Committees to be facing in the current system.

He advocated an intermediary level between the committee and the relevant body in the accountability relationship. During his presentation Mr Morris discussed the benefits of such an intermediary level, and how he believes such an intermediary would overcome some of the current problems.

Further, Mr Morris discussed the importance of parliamentary privilege for the parliament as a whole and committees specifically in fulfilling their functions.

Mr Tim Carmody

Crime Commissioner
Queensland Crime Commission

Throughout his presentation Mr Carmody discussed a broad range of issues. One of the subject addressed by Mr Carmody was the comparative benefits and problems associated with private and public hearings. Mr Carmody discussed in detail the need for well-defined criteria for making the hearings public.

As the newly appointed Crime Commissioner Mr Carmody was also able to discuss some of the advantages of the soon to be established Queensland Crime Commission.

Chairperson Mr Frank Clair

Criminal Justice Commission

Mr Clair discussed the external accountability measures in place to ensure that the CJC is accountable. In particular, the CJC's provision of relevant information to the PCJC was discussed. Mr Clair outlined the implications of

the accountability mechanisms for the CJC, as an organisation, thus providing members with a different perspective of the issues involved.

Mr Clair went on to discuss recent changes to these accountability measures, and the anticipated implications of these changes.

Mr Mark Le Grand - Director

Official Misconduct Division
Criminal Justice Commission

Mr Le Grand briefly outlined the role and functions of the Official Misconduct Division for the benefit of the interstate participants.

During his presentation Mr Le Grand discussed a range of current issues and significant recent developments including:

- the increasing sophistication of police corruption;
- legislative support for undercover operations and integrity testing;
- the use of former or serving Queensland Police Service officers to investigate complaints against police;
- police recruitment for the CJC and like bodies;
- police officer/informant relationship;
- misappropriation of drug monies;
- the impact of the CJC on police corruption; and
- trends in complaints.

Mr Terry O'Gorman

President, Australian Council for Civil Liberties
Vice-President, Queensland Council for Civil Liberties

Mr O'Gorman addressed a range of issues with the Working Group participants. He stressed the importance of maintaining, in the long term, strict safeguards on the use of intrusive powers by organisations such as the CJC. Participants discussed a range of safeguards and procedures with Mr O'Gorman.

Mr O'Gorman also discussed the position of Public Interest Monitor, which has been established under the *Crime Commission Act 1997* and stressed to participants the benefits of such a position.

Benefits to participants

By comparing notes, and discussing between themselves particular challenges, and successful strategies, members obtained a valuable insight into the functioning of other committees with similar roles to their own. Participants also received new ideas for how they might improve the system of accountability within their own jurisdiction.

Members found it useful to consider the Queensland model in detail, particularly given the recent changes, which reflect the attempt in Queensland to overcome many of the perceived deficiencies in the accountability relationship previously identified by the committee. The opportunity to hear from senior officers of the Criminal Justice Commission provided members with further insight into the competing factors in the accountability process.

The opportunity for participants to meet their interstate counterparts and hear from a diverse range of speakers proved to be extremely valuable. Future meetings are being planned to continue the work begun at this inaugural meeting.