



***JOINT STANDING COMMITTEE ON
THE ANTI-CORRUPTION
COMMISSION***

ANNUAL REPORT 2002 - 2003

Report No. 5

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Joint Standing Committee on the Anti-Corruption Commission

Annual Report 2002 - 2003

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Report No. 5

Presented by:

Hon Derrick Tomlinson, MLC

Mr John Hyde, MLA

Laid on the Table of the Legislative Council and Legislative Assembly
on 11 September 2003

COMMITTEE MEMBERS

Chairman	Hon Derrick Tomlinson, MLC Member for East Metropolitan
Deputy Chairman	Mr J.N. Hyde, MLA Member for Perth
Members	Dr E. Constable, MLA Member for Churchlands Mrs C.L. Edwardes, MLA Member for Kingsley Hon Sue Ellery, MLC Member for South Metropolitan Hon Graham Giffard, MLC Member for North Metropolitan Region Ms J.A. Radisich, MLA Member for Swan Hills Hon Barbara Scott, MLC Member for South Metropolitan

COMMITTEE STAFF

Principal Research Officer	Katherine Galvin BSW (Feb 03 onwards) Melina Newnan BA, LLB (Aug 02- May 03) Dr Ray Wills BSc (HONS) PhD (Until July 2003) Amanda Millsom-May, DIP teach (Aug-Dec 02)
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COMMITTEE'S FUNCTIONS AND POWERS

On 28 June 2001 the Legislative Assembly and the Legislative Council agreed to establish the Joint Standing Committee on the Anti-Corruption Commission. The Joint Standing Committee's functions and powers are set out in the Legislative Assembly Standing Orders 289, 290 and 264.

- 290 (1) It is the function of the Committee:
- (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 Standing Order 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 other functions 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.

- (2) The Joint Standing Committee will not:
- (h) investigate a matter relating to particular information received by the Anti-Corruption Commission or particular conduct or involvement considered by the Anti-Corruption Commission;
 - (i) 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
 - (j) have access to detailed operational information or become involved in operational matters.

The Legislative Council has agreed to a resolution which has the same functions and powers as set out in the above Standing Orders of the Legislative Assembly.

The Standing Orders of the Assembly relating to standing and select committees are also followed as far as they can be applied.

CHAIRMAN'S FOREWARD

The tabling in Parliament of the Interim Report of the Royal Commission¹ and subsequently the Corruption and Crime Commission Bill² during this reporting period, forecasts major change in the operational framework for corruption prevention within the Western Australian public sector.

In August 2002, the JSCACC resolved to prepare a series of reports considering the issue of *Integrity within the Public Sector*. These included the *Review of the Anti-Corruption Commission*; *Review of Regulatory Agencies*; *Ethics Education in the Public Sector*; *Integration of Oversight Agencies and the Role of the Parliamentary Committee*. The Committee tabled the first of these reports, *Review of the Anti-Corruption Commission*, in Parliament on 19 December 2002. The report highlighted earlier concerns expressed by the JSCACC in relation to the legislative deficiencies of the Anti-Corruption Commission Act 1988, particularly those relating to accountability, confidentiality and the coercive powers of the Anti-Corruption Commission (ACC).

In October 2002 members of the Committee attended the International Institute for Public Ethics, Biennial Conference 2002, in Brisbane. This informed the Committee of current directions in ethics education in the public sector. The Committee also took the opportunity to meet with relevant anti-corruption bodies in both Sydney and Brisbane, principally as a means of informing its integrity inquiry.

In February 2003 the Hon. Dr Geoff Gallop MLA, Premier, tabled in Parliament the Interim Report of the *Royal Commission Into Whether There Has Been Any Corrupt Or Criminal Conduct By Western Australian Police Officers*³.

The Report encompassed many of the recommendations of the JSCACC including extending the power of the Anti-Corruption Commission to enable it to function more effectively, whilst ensuring appropriate levels of accountability through the appointment of a Parliamentary Inspector and an enhanced role for the Parliamentary oversight Committee.

In noting the flaws in the powers and structure of the ACC, the Royal Commission recommended it be replaced by a new external oversight agency called the Corruption and Crime Commission (CCC).

¹ Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers, Interim Report, December 2002.

² Corruption and Crime Commission Bill 2003, presented to Parliament 15 May 2003 by the Hon Jim McGinty, MLA

³ Royal Commission Into Whether There Has Been Any Corrupt or Criminal Conduct by Western Australian Police Officers, Interim Report, December 2002.

The Interim Report was explorative in relation to a range of issues canvassed by the JSCACC for inclusion in its *Integrity Within the Public Sector Series* and as detailed recommended structural changes to the anti-corruption framework. This negated the Committee's requirement to progress the reports pertaining to review and integration of regulatory agencies. The absence of legislation for the Corruption and Crime Commission was seen at that time as providing an opportunity for the Committee to comment on the role of the Parliamentary committee under the new structure and the foundation for ethics education in the public sector.

In April 2003, I in conjunction with the Principal Research Officer of the Committee Secretariat, undertook investigative travel to anti-corruption bodies in New South Wales and Queensland to determine best practice models for the Committee's operation under the new structure.

On 15 May 2003 the Hon. Jim McGinty MLA, Attorney General of Western Australia, presented the Corruption and Crime Commission Bill to Parliament. Whilst the Bill remains under debate, it would not be opportune for the Committee to comment formally in relation to either its role or the form ethics education should take in the public sector. The Committee continues however to develop protocols and procedures for its operation under the new anti-corruption framework.

HON DERRICK TOMLINSON, MLC
CHAIRMAN

CHAPTER 1 COMMITTEE ACTIVITIES

1.1 Introduction

The Joint Standing Committee on the Anti-Corruption Commission (JSCACC) of the 36th Parliament of Western Australia was appointed on 28 June 2001 and met for the first time on 1 August 2001. Under its terms of reference the JSCACC is required to monitor and review the performance of the ACC and to report to Parliament on issues affecting the prevention and detection of corruption in the public sector of Western Australia.

During the course of this reporting period (Table 1.1) the JSCACC:

- Commenced one inquiry into *Integrity Within the Public Sector*;
- Held 22 deliberative meetings;
- Held 2 hearings with the Anti-Corruption Commission;
- Held 2 briefings with directors of Western Australian regulatory agencies; 13 separate briefings with interstate anti-corruption bodies; and three with an external consultant contracted to prepare the report entitled *Review of the Anti-Corruption Commission Act 1988*;
- Made two investigative trips to New South Wales and Queensland; and.
- Attended the International Institute for Public Ethics, Biennial Conference 2002.

Table 1.1

Summary of activities on the Joint Standing Committee on the Anti-Corruption Commission, 1 July 2002 - 30 June 2003

Description	Activity
Briefings	18
Deliberative meetings	22
Formal evidence hearings	2
Witnesses appearing	10
Reports tabled	4
Report findings tabled	Nil
Report recommendations tabled	Nil

1.2 Hearings

Pursuant to Assembly Standing Order 264, the JSCACC has power to send for persons, papers and records. During the reporting period, the JSCACC conducted one closed and one open hearing with the Anti-Corruption Commission, and took evidence from several witnesses to assist with its deliberations. Proceedings of the closed hearing have not been disclosed because of confidentiality. Hansard of the open hearing dated 7 April 2003 is available on the Committee website.

Table 1.2

Hearings of the Joint Standing Committee on the Anti-Corruption Commission, 1 July 2002 - 30 June 2003

Date	Witness	Position	Organisation
21-Aug-02	Mr Terence O'Connor QC	Chairman	Anti-Corruption Commission
	Mr Donald Doig	Commissioner	Anti-Corruption Commission
	Mr Robert George	Commissioner	Anti-Corruption Commission
	Mr Graeme Charlwood	Chief Executive Officer	Anti-Corruption Commission
	Mr Terry Lewis	Executive Officer	Anti-Corruption Commission
07-Apr-03	Mr Terence O'Connor QC	Chairman	Anti-Corruption Commission
	Mr Donald Doig	Commissioner	Anti-Corruption Commission
	Ms Moira Rayner	Commissioner	Anti-Corruption Commission
	Mr Graeme Charlwood	Chief Executive Officer	Anti-Corruption Commission
	Mr Terry Lewis	Executive Officer	Anti-Corruption Commission

1.3 Briefings

In addition to gathering evidence during the formal hearings, the JSCACC received two informal briefings from selected key agencies responsible for ensuring the conduct and accountability of public sector agencies (Table 1.3). The agencies were the Office of the Public Sector Standards Commissioner (OPSSC) and the office of the Parliamentary Commissioner for Administrative Investigations (Ombudsman). With both positions being recently filled the Committee met to discuss their respective roles, their approach to that role and their perceived relationship with the Anti-Corruption Commission.

Both these agencies report directly to Parliament and ensure appropriate conduct of public sector agencies and their officers.

Table 1.3

Private briefings provided to the Joint Standing Committee on the Anti-Corruption Commission

Date	Person	Position	Organisation
14-Aug-02	Ms Maxine Murray	Commissioner	Office of Public Sector Standards Commissioner
11-Sept-02	Ms Deirdre O'Donnell	Parliamentary Commissioner for Administrative Investigations	Ombudsman

1.4 Investigative Travel

Representatives of the JSCACC undertook investigative travel to regulatory agencies and Parliamentary oversight committees of anti-corruption bodies in both New South Wales and Queensland on 7-8 October 2002 and on 14-16 April 2003. The travel in October 2002 was to inform the *Integrity Within the Public Sector* Inquiry, whilst the April travel was to contribute to debate on the role of the Parliamentary Committee under the proposed new anti-corruption framework.

Conferences

As detailed the Committee attended the International Institute for Public Ethics, Biennial Conference 2002.

1.5 Reports Tabled

During the reporting period the JCACC tabled four reports. These included:

- *Annual Report 2001-2002, Report No. 1.*
- *Integrity Within the Public Sector: Review of the Anti-Corruption Commission, Report No.2*
- *Explanatory Report: Integrity Within the Public Sector*
- *Report on Hearing with the Anti-Corruption Commission on 7 April 2003*

1.6 Work in Progress

During investigative travel in April 2003, the need for regular formalised information sharing between equivalent Parliamentary oversight committees of anti-corruption agencies was mooted. In the past working group meetings of these committees have been held on an annual basis and the information obtained has been viewed as valuable in informing future directions for the various contributing states. Given the current developments in anti-corruption in Western Australia and the opportunities to inform and learn from this process, the JSCACC has committed to hosting a conference of Committees in late 2003. Parliaments and relevant regulatory bodies throughout Australia and New Zealand have been invited to attend. The Committee Secretariat has been involved in considerable preparatory work to progress this.

CHAPTER 2 FINANCIAL STATEMENT

The JSCACC does not have its own formal budget and is funded out of the budget of the Legislative Assembly. Approval for major expenditure is required on a case-by-case basis and is entirely at the discretion of the Speaker.

The Committee's expenditure for the financial year 2002 - 2003 (in accordance with Standing Order 276) is detailed below:

Advertising		\$4,700
Conference Fees		\$4,400
Consultant's fees		\$10,000
Miscellaneous		\$100
Couriers and postage		\$600
Printing		\$600
Protocol (Food and Beverage)		\$1000
Travel		\$34,300
Members' Fares	\$18900	
Members' Allowances	\$7300	
Staff Fares	\$5100	
Staff Allowances	\$3000	
Witness Expenses		Nil
	<u>TOTAL</u>	<u>\$55,700</u>

Notes:

- Figures rounded off to nearest \$100.
- Salaries of committee staff are not included.
- Costs of shared administrative expenses, including lease costs for committee accommodation, not included.