



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

**ANNUAL REPORT
2001-2002**

**Report No. 1
In the Thirty-Sixth Parliament**

2002

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Joint Standing Committee on the Anti-Corruption Commission

ANNUAL REPORT 2001-2002

Report No. 1 In the Thirty-Sixth Parliament

Presented by:

**Hon. Derrick Tomlinson, MLC, and
Mr John Hyde, MLA**

Laid on the Table of the Legislative Council and the Legislative Assembly
on Thursday 17 October 2002

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Chair

Hon. Derrick Tomlinson, MLC
Member for East Metropolitan

Deputy Chair

Mr John Hyde, MLA
Member for Perth

Members

Dr Elizabeth Constable, MLA
Member for Churchlands

Hon. Cheryl Edwardes, MLA
Member for Kingsley

Hon. Sue Ellery, MLC
Member for South Metropolitan

Hon. Graham Giffard, MLC
Member for North Metropolitan

Ms Jaye Radisich, MLA
Member for Swan Hills

Hon. Barbara Scott, MLC
Member for South Metropolitan

COMMITTEE STAFF

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COMMITTEE'S FUNCTIONS AND POWERS

Under Legislative Assembly Standing Order 290 the functions of the Committee are:

- (1)
 - (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 cooperation 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:
 - (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.

The general provisions for standing and select committees also apply to the Joint Standing Committee.

CHAIRPERSON'S FOREWORD

The Joint Standing Committee on the Anti-Corruption Commission (JSCACC) commenced the year with six new members, four of whom were elected to Parliament for the first time in February 2001. This meant not only that half the members were unfamiliar with Parliamentary practice and procedures, but also that the majority of members had to be made familiar with the *Anti-Corruption Commission Act 1988*, the relationship between the Anti-Corruption Commission (ACC) and the JSCACC, and the JSCACC's practices and procedures. For those reasons, much of the first year was given to briefings from the ACC, the Ombudsman, the Parliamentary Commissioner for Public Sector Standards, and the Auditor-General. Each of these bodies falls within the auspices of the Committee's responsibility for advising government on public sector accountability.

The appointment of the Royal Commission to inquire whether there has been corruption within the Western Australian Police Service also influenced the direction of the JSCACC's work this year. The Royal Commission took up issues relating to police misconduct that dominated the JSCACC's deliberations in the previous Parliament. This enabled the JSCACC to turn its attention to other matters, in particular, assessing the framework of public sector accountability.

To this end, in December 2001, the JSCACC conducted a workshop on its functions and its relationships with agencies responsible for the public sector accountability. The outcomes of the workshop and follow-up deliberations form the basis of a separate report to Parliament.

The JSCACC continues to be concerned about the limitations on its powers. The JSCACC's primary purpose is to monitor and review the performance of the functions of the Anti-Corruption Commission, but the Committee is not allowed to investigate matters relating to particular information received by the Commission in the performance of its functions. The JSCACC cannot have detailed operational information nor become involved in operational matters. These limitations on the JSCACC's powers, together with the obligations of confidentiality imposed upon the JSCACC by section 52(7) of the *Anti-Corruption Commission Act 1988*, have caused some apprehension in aspects of the JSCACC's work this year.

Complaints received from time to time about different aspects of the ACC's functions have caused particular concern. There is little the JSCACC can do other than refer complaints to the Commissioners and request their explanation. On some occasions this has caused continuing complaints from aggrieved people that the JSCACC has ignored or failed to address their concerns. In previous reports to Parliament, the JSCACC has recommended the appointment of a Parliamentary Inspector with power to review detailed operations of the ACC. This matter will be addressed in future reports of Parliament.

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 the 28 June 2001 and met for the first time on the 1 August 2001. Between August 2001 and June 2002, the JSCACC examined the roles and structures of key agencies responsible for ensuring the conduct and accountability of public sector agencies.

To facilitate this, during the course of this reporting period (Table 1), the JSCACC:

- Held several deliberative meetings;
- Conducted formal evidence hearings and briefings; and
- Hosted a visit by a Tanzanian parliamentary delegation.

The Tanzanian parliamentary delegation included members of the Tanzanian Public Accounts Committee and the African Parliamentary Network Against Corruption (18 September 2001).

Table 1. Summary of activities of the Joint Standing Committee on the Anti-Corruption Commission.

Description	Activity
Briefings	8
Deliberative meetings	17
Formal evidence hearings	9
Witnesses appearing	15

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 nine closed hearings, taking evidence from numerous witnesses to assist with its deliberations (Table 2). Details of two of these meetings have not been disclosed because of confidentiality.

Table 2. *Closed and In camera hearings of the Joint Standing Committee on the Anti-Corruption Commission.*

Date	Witness	Position	Organisation
10 April 02	Mr Terry O'Connor Mr Don Doig Mr Robert George Mr Graeme Charlwood	Chairman Member Member CEO	ACC
08 May 02	Mr Terry O'Connor Mr Don Doig Mr Robert George Mr Graeme Charlwood	Chairman Member Member CEO	ACC
04 June 02	Various (Not for disclosure)	(Not for disclosure)	(Not for disclosure)
26 June 02	Various (Not for disclosure)	(Not for disclosure)	(Not for disclosure)

1.3 BRIEFINGS

In addition to gathering evidence during the formal hearings, the JSCACC received a number of informal briefings from selected key agencies responsible for ensuring the conduct and accountability of public sector agencies (Table 3). The agencies were the Anti-Corruption Commission (ACC); the Office of the Auditor General (OAG); the Office of the Commissioner for Public Sector Standards (OCPSS); the Office of the Parliamentary Commissioner for Administrative Investigations (Ombudsman); the Office of the Director of Public Prosecutions (DPP); and the WA Police Service (WAPS). The WA Police Union (WAPU) were also invited to brief the JSCACC. The briefings were used to gain information in relation to the JSCACC's review of its role and function.

In particular, the briefings focussed on the interaction of the ACC and these other public sector agencies, including consideration of the effectiveness of these interactions.

The ACC, the OAG, the OCPSS, and the Ombudsman are agencies which report directly to the Parliament, operate under parliamentary authority, and have been established to ensure the operating standards and the appropriate conduct of public sector agencies and their officers. While by statute an independent office, the DPP reports via the Attorney General; the Police Commissioner reports via the Minister for Police.

Table 3. *Private briefings provided to the Joint Standing Committee on the Anti-Corruption Commission.*

Date	Person	Position	Organisation
22 Aug 01	Mr Terry O'Connor	Chairman	ACC
	Mr Don Doig	Member	ACC
	Mr Robert George	Member	ACC
	Mr Graeme Charlwood	A/CEO	ACC
5 Sept 01	Mr Des Pearson	Auditor General	OAG
	Mr Kerry O'Neil	Deputy Auditor General	OAG
5 Sept 01	Mr Don Saunders	Commissioner for Public Sector Standards	OPSSC
5 Sept 01	Mr Murray Allen	Ombudsman	Ombudsman
14 Oct 01	Mr Robert Cock	Director of Public Prosecutions	DPP
14 Nov 01	Mr Mike Dean	President	WA Police Union
	Mr Ken Sees	General Manager	WA Police Union
	Ms Carol Adams	Legal Officer	WA Police Union
21 Nov 01	Mr Barry Matthews	Commissioner of Police	WAPS
	Mr Graeme Lienert	Assistant Commissioner (Professional Standards)	WAPS
	Mr Mal Shervill	Superintendent	WAPS
25 May 02	Mr Don Saunders	Commissioner for Public Sector Standards	OPSSC

1.4 WORKSHOP ON THE COMMITTEE'S FUNCTIONS

In December 2001, the JSCACC held a workshop to discuss its functions. A preliminary discussion paper summarised information given in briefings by the ACC, the Ombudsman, the Commissioner for Public Sector Standards, and the AG. The issues the Committee considered included:

- relationships among the separate and complementary powers of those bodies;
- the efficacy of memoranda of understanding between the ACC and the other agencies;
- the relationship of the agencies with Parliament, in particular in reporting about their operations; and
- the role of Parliamentary Committees in monitoring the functions of all four agencies.

The Committee observed that only the ACC has a Standing Committee to monitor the performance of its functions. However, it did note that the Public Accounts Committee has established over time a working relationship with the Auditor General through a "Statement of Understanding", but there is no statutory or other requirements for oversight of the functions of the Auditor General. Like the AG, the other two agencies have discretionary reporting powers. All four agencies are obliged by the *Financial Administration and Audit Act 1985* to report annually, but, apart from the ACC, there is no provision for Parliamentary oversight of their functions. The Committee raised the question "Should there be Parliamentary oversight?"

In this context, the Committee reviewed its own functions under the Legislative Assembly Standing Orders and the limitations of its powers. Under the Standing Orders and the terms of the *Anti-Corruption Commission Act 1988*, the JSCACC can receive information from the Commission, but is constrained in what it might report to Parliament.

These matters, and others raised by the JSCACC in the workshop and in its subsequent deliberations, will be discussed in separate reports to be presented to Parliament. (see section 1.7)

1.5 INVESTIGATIVE TRAVEL

The JSCACC did not undertake investigative travel in the reporting period.

1.5.1 Conferences

While the Committee did not undertake investigative travel, the Principal Research Officer attended two conferences.

- *Governance & Justice 2001*, and the *Police Reform: Building Integrity 2001*, July 2001, Brisbane, Queensland, hosted by: Key Centre for Ethics, Law, Justice & Governance at Griffith University, the Queensland Police Service, and the Criminal Justice Commission; and
- *Together Against Corruption: Designing Strategies, Assessing Impact, Reforming Corrupt Institutions, 10th International Anti-Corruption Conference (IACC)*, October 2001, Prague, Czech Republic, organised by Transparency International.

1.6 REPORTS TABLED

The JSCACC did not table a report during the period 1 July 2001 – 30 June 2002.

1.7 WORK IN PROGRESS

The JSCACC is currently in the process of preparing a series of reports to be tabled in Parliament. The range of issues to be covered in the Committee's proposed reports include:

- A review of the *Anti-Corruption Commission Act 1988*;
- An examination of anti-corruption oversight bodies in other jurisdictions within Australia and overseas;
- Consideration of the future roles and responsibilities of the ACC and the JSCACC respectively; and
- A review of the roles and responsibilities of other key agencies responsible for ensuring the conduct and accountability of public sector agencies.

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 2001-2002 (in accordance with Standing Order 276) is detailed below:

Conferences (Registration)		\$5,900
Protocol (Food, Beverages, Gifts)		\$700
Travel		
Staff Fares	\$2,200	
Staff Allowances	<u>\$2,900</u>	\$5,100
	TOTAL	\$11,700

Notes:

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