



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

**REPORT ON THE HEARING WITH
THE ANTI-CORRUPTION
COMMISSION ON 29 MARCH 2004**

Report No. 8

2004

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Joint Standing Committee on the Anti-Corruption Commission

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Report No. 8

Presented by:

Hon Derrick Tomlinson, MLC

Mr John Hyde, MLA

Laid on the Table of the Legislative Council and Legislative Assembly
on 13 May 2004

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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:
- (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 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 SIGNATURE

**HON DERRICK TOMLINSON, MLC
CHAIRMAN**

ABBREVIATIONS AND ACRONYMS

“ACC”	Anti-Corruption Commission (WA)
“CCC”	Corruption and Crime Commission (WA)
“IT”	Information Technology
“JSCACC”	Joint Standing Committee on the Anti-Corruption Commission (WA)
“QC”	Queen’s Counsel
“TI”	Telecommunications Interception

CHAPTER 1 INTRODUCTION

1.1 Background

Under its Terms of Reference, the Joint Standing Committee on the Anti-Corruption Commission (JSCACC) is required to monitor and review the performance of the Anti-Corruption Commission (ACC) and report to Parliament on issues affecting the prevention and detection of corruption. To ensure effective oversight, the Committee holds regular, usually quarterly hearings with the Commissioners and the Chief Executive Officer of the Anti-Corruption Commission.

The JSCACC convened a hearing with the ACC on 29 March 2004. The Committee considered both a quarterly and six monthly report of the Commission's activities, for the periods 1 July - 30 September 2003 and 1 July - 31 December 2003 respectively. The Commission was required at the hearing to respond to a number of questions on notice pertaining to the reports. The delay in consideration of the report for the July - September quarter occurred due to the Committee's understanding that the ACC was to cease operational activities on 31 December 2003. The Government subsequently extended this date to allow additional time for the establishment of the ACC's successor, the Corruption and Crime Commission.

A number of witnesses from the ACC provided evidence at the hearing, details are provided at Appendix One.

A transcript of the hearing with the ACC is available on the Parliamentary website at www.parliament.wa.gov.au.

1.2 ACC Reports

The ACC Reports: 1 July - 30 September 2003 and 1 July - 31 December 2003 are provided as appendices.

The 1 July - 30 September 2003 Report, apart from standard statistical tables intrinsic to Commission reports, contains an overview of activities and achievements to 25 November 2003¹. In this section, the ACC provides additional information on issues raised in the quarterly hearing with the Commission on 25 August 2003. This pertains mainly to the impact of the activities of the Royal Commission² on the ACC, delays in criminal proceedings by the Department of Public Prosecutions, allegations of assault within the Department of Education and Training and the employment status of ACC staff.

¹ Letter from the ACC to the JSCACC, 28 November 2003.

² Royal Commission Into Whether There Has Been Any Corrupt Or Criminal Conduct By Any Western Australian Police Officer.

Given the provision of comprehensive operational information in the 1 July to 30 September 2003 Report, the 1 July - 31 December 2003 report is limited to statistical and “summary information about final actions taken in relation to those matters where allegations were substantiated...”³. It should be noted that the Corruption and Crime Commission assumed responsibility for all new misconduct matters from 1 January 2004. The substantial increase in certain statistics, principally summarised on page two of the report⁴, exemplifies the ACC’s commitment to finalising matters in order to reduce the burden on the Corruption and Crime Commission during its establishment phase. Importantly, it should be acknowledged that this has occurred with a smaller staffing contingent due to the Commission’s impending closure.

1.3 Outstanding matters

Chairman O’Connor QC indicated that 160 of the 517 “Total Active” Matters⁵ on record for the subject six monthly period are not finalised and that any outstanding matters will be transferred to the CCC upon cessation of the ACC. He detailed that the ACC was “cognisant” of the problems of “backlog” it faced as a result of the transfer of matters from its own predecessor, the Official Corruption Commission, stating it was aiming to minimise these problems for the CCC. Chairman O’Connor QC was not able to advise on when the ACC would disband, although he intended to pursue this matter with the CCC⁶.

1.4 Referrals to the ACC by individuals

The Committee expressed concern at a perceived decline in the level of reporting to the Anti-Corruption Commission by individuals, amounting to 8% of new matters reported for the 1 July - 31 December 2003 period⁷. Chairman O’Connor QC detailed that this was not consistent with previous reporting levels by individuals for 2001-2002, totalling 17%⁸. He attributed the decrease to the Royal Commission’s role as an alternative option for reporting in respect of Police and the announcement at the commencement of 2003 of the ACC’s dissolution⁹. Commissioner Rayner ascribed the decline to a lack of trust on the part of individuals in relation to their protection post

³ Letter from the ACC to the JSCACC, 17 February 2004.

⁴ Page 29 of this report.

⁵ *ACC Operational Activity: 1 July - 31 December 2003*, “Total Active” Matters on ACC records, in the period, p.2. (Page 29 of this report)

⁶ Chairman O’Connor QC, Transcript of Evidence, 29 March 2004, p.2.

⁷ *ACC Operational Activity: 1 July - 31 December 2003*, “New” Matters reported to ACC, in the period, p.2 (Page 29 of this report)

⁸ Chairman O’Connor QC, Transcript of Evidence, 29 March 2004, p.2.

⁹ *Ibid*, p.3.

disclosure¹⁰. Despite this trend, the ACC advised that it had encouraged individual reporting through the press and via its website, with the website promoting a range of reporting options¹¹.

1.5 Budget expenditure

The Committee queried the level of operational expenditure by the ACC, 70% as at 31 December 2003¹². Mr Graeme Charlwood, Chief Executive Officer, attributed the increase to a planned upgrade of the Commission's Telecommunications Interception facility, required to accommodate technology changes implemented by the service provider¹³. The Committee notes mention of this upgrade in the 1 July - 30 September report¹⁴.

1.6 Matters reported to the ACC in respect of local Government

The Committee queried what it perceived to be low levels of reporting of misconduct within local government, noted as 11% of new matters reported for the period 1 July 2003 - 31 December 2003.¹⁵ It viewed the figure as minimal given the attention to this issue within the media and Government established boards of inquiry.

Commissioner Rayner described corruption and serious improper conduct within local government as a "systemic issue", arising from councils' inability to understand "basic concepts" such as "conflicts of interest" and the need to "implement proper checks and balances on the use of powers and discretions" by officers and councillors. She suggested a "collaborative" educational exercise between the Commission and the local government politic, noting the importance of the local government body embracing that education¹⁶.

¹⁰ Commissioner Rayner, Transcript of Evidence, 29 March 2004, p.17.

¹¹ Chairman O'Connor QC, Transcript of Evidence, 29 March 2003, p.2/3 and Questions on Notice, Appendix Four, Question 1.

¹² *ACC Operational Activity: 1 July - 31 December 2003*, Administration, Budget 2003-04: Expenditure to 31 December 2003, p.8. (Page 35 of this report)

¹³ Mr Graeme Charlwood, Transcript of Evidence, 29 March 2004, p.3.

¹⁴ *ACC Operational Activity: 1 July - 30 September 2003*, Status of ACC Operations - November 2003, Operational matters, p.8/9. (Page 21/22 of this report)

¹⁵ *ACC Operational Activity: 1 July - 31 December 2003*, "New" Matters reported to ACC, in the period, p.2. (Page 29 of this report)

¹⁶ Commissioner Rayner, Transcript of Evidence, 29 March 2004, p.5/6.

Chairman O'Connor QC detailed the Commission's focus on several substantial matters of corruption within local Government¹⁷. According to information provided by the Commission post hearing, this has involved considerable physical surveillance, intelligence analysis and more recently, "electronic surveillance and telecommunication interception"¹⁸.

He cited both the constraints of the *ACC Act 1988* and Commission resources as hindering the conduct of educational programs to date. He viewed a further problem as a lack of capacity within local government to investigate certain misconduct matters internally. He observed that an increase in the number of investigators within the Department of Local Government and Regional Development was desirable¹⁹.

In information submitted following the hearing, the ACC stated that despite these constraints, the Commission had been "well equipped to deal effectively with complex local government corruption issues over the past 2 and a half years"²⁰.

1.7 Defining "other outcomes"

The Committee noted that 172 out of 290 matters finalised by the ACC for the period 1 July to 31 December 2003 resulted in "other outcomes"²¹. The Committee queried whether "other outcomes" was synonymous with those matters being "without substance"²². Commissioner Rayner stated that this was not necessarily the case, that the Commission may have been limited by its legislation in investigating the matter or it was being more appropriately investigated elsewhere²³.

1.8 Differences in outcomes for Police compared to general public officers

The Committee observed that the data on substantiated matters for the period 1 July - 31 December 2003 indicated that public officers were more likely to face criminal charges whilst police, administrative or disciplinary action²⁴. In information submitted post hearing the ACC noted that this result was consistent with previous data.

¹⁷ Chairman O'Connor QC, Transcript of Evidence, 29 March 2004, p.4.

¹⁸ Questions on Notice, Appendix Four, Question 2.

¹⁹ Chairman O'Connor QC, Transcript of Evidence, 29 March 2004, p.5/7.

²⁰ Questions on Notice, Appendix Four, Question 2.

²¹ *ACC Operational Activity: 1 July - 31 December 2003*, Total Matters finalised by the Commission, in the period, p.2. (Page 29 of this report)

²² Hon. D.G.Tomlinson, MLC, Transcript of Evidence, 29 March 2004, p.14.

²³ Commissioner Rayner, Transcript of Evidence, 29 March 2003, p.14/15.

²⁴ *ACC Operational Activity: 1 July - 31 December 2003*, Substantiated Allegations (53 Matters), p.5. (Page 32 of this report)

However, given the recent availability of this data, the ACC had not been able to determine whether matters were less serious than those of public officers facing charges. A research project on the latter was not conducted given the impending dissolution of the ACC. The Commission attributes the difference to:

- a demonstrated ability by police officers to conceal improper conduct due to a “better awareness of investigation practices and the justice system than other public officers”; and/or
- a greater inclination by police to deny serious misconduct; and/or
- reluctance by police to prosecute their colleagues.

The ACC has raised this issue with the Commissioner of Police, but considers further research into the matter is warranted²⁵.

1.9 Disclosure of official secrets by police

The Committee noted that the number of matters relating to disclosure of official secrets for the period 1 July - 31 December 2003 appeared high for police, compared to other public officers, although the substantiation rate remained low²⁶. The ACC indicated this could be linked to the culture of concealment of misconduct or “code of silence” within the police force, as well as the hostility of witnesses. The ACC stated that despite sustained advice from the Commission, the police service had “not instituted adequate prevention strategies to combat unauthorised and improper access to and disclosure of confidential information”. The Commission felt this indicated reluctance on the part of some senior officers to address this issue²⁷.

1.10 High rate of referrals relating to serious improper conduct for public officers in government departments.

According to the ACC, the high rate of referrals relating to serious improper conduct in government departments²⁸ was attributable to:

²⁵ Questions on Notice, Appendix Four, Question 4.

²⁶ *ACC Operational Activity: 1 July - 31 December 2003*, Matters received (by Commission): 1 July to 31 December 2003 Alleged Serious Misconduct x Public Authority and Substantiated Allegations (53 Matters) Action Taken x Serious Misconduct x Public Authority: 1 July to 31 December 2003, p.3/6. (Page 30/33 of this report).

²⁷ Questions on Notice, Appendix Four, Question 5.

²⁸ *ACC Operational Activity: 1 July - 31 December 2003*, Combating Corruption: 1 July - 31 December 2003, Matters Reported to the Commission (212), Matters received (by Commission): 1 July to 31 December 2003, Alleged Serious Misconduct x Public Authority, Serious Improper, p.3. (Page 30 of this report)

- The nature of the alleged misconduct engaged in, in particular, sexual assault/harassment and improper conduct; and/or
- Support provided to agencies who consistently report a higher level of allegations due to their size and activities; and/or
- The presence of dedicated units within agencies tasked with investigating and combating misconduct²⁹.

1.11 Loss of investment

The ACC observed that the dissolution of the ACC would result in loss of investment in the event that corporate knowledge and infrastructure were not transferred to the Corruption and Crime Commission³⁰. Commissioner Rayner expressed concern about the manner in which the CCC had commenced operations without employing ACC staff who could contribute to the Commission's corporate knowledge³¹.

The ACC was concerned about a loss of information if the CCC were not to adopt the ACC's information technology (IT), document handling facilities and the incompatibility of the system adopted³². Commissioner Rayner spoke of the difficulties the CCC would have in accessing ACC data, recommending that the CCC run both data systems in parallel for a period, engaging the necessary expertise. Commissioner Rayner could not confirm whether this was the CCC's intention³³.

Chairman O'Connor QC indicated there was a lack of clarity regarding the CCC assuming the ACC's telecommunications interception (TI) capacity. He was concerned given its advanced technology³⁴.

The Committee queried the ACC in relation to alleged funding in the 2003/2004 budget for the Police Service to establish a TI facility. The ACC stated that this project had been placed on hold whilst the Government considers the establishment of a joint facility with the CCC³⁵.

²⁹ Questions on Notice, Appendix Four, Question 8.

³⁰ Transcript of Evidence, 29 March 2004, p.9-12.

³¹ Commissioner Rayner, Transcript of Evidence, 29 March 2004, p.10.

³² Chairman O'Connor QC and Commissioner Rayner, Transcript of Evidence, 29 March 2004, p.11/12.

³³ Commissioner Rayner, Transcript of Evidence, 29 March 2004, p.12.

³⁴ Chairman O'Connor QC, Transcript of Evidence, 29 March 2004, p.4

³⁵ Mr Graeme Charlwood, Transcript of Evidence, 29 March 2004, p.4.

1.12 Levels of assault within the Department of Education and Training

The Committee referred to the high level of substantiated assault, particularly sexual assault, within the general public sector³⁶. Chairman O'Connor QC detailed that the matters derive principally from the Department of Education and Training, more particularly the school sector. He expressed concern at the Department's policies for dealing with assault, believing them to reflect a lack of comprehension of the difference between sexual assault and sexual harassment, colleague on colleague and staff member on student assault³⁷.

The ACC informed the Committee post hearing that they had made recommendations to Government about enhancing vetting procedures in relation to the employment of teachers and others whose employment involves contact with children. Further, they requested that the Department of Education and Training review its policies and procedures to address assaults by teachers towards students. This included consideration being given to engaging consultants to address associated policy, procedural and training issues³⁸.

Commissioner Rayner indicated that even where the policies have been appropriate, they have not always been communicated effectively to the individual³⁹.

Commissioner Rayner was a strong proponent of the need to build an ethical culture within an organisation, Chairman O'Connor QC reiterating the need for the agency to own the problem⁴⁰.

1.13 Department for Community Development

The ACC was queried as to whether they had dealt with allegations in respect to the Department for Community Development, particularly abuse in foster care. The ACC indicated that foster carers are not public officers, hence there is no obligation to report to the ACC⁴¹. The ACC forwarded information on this issue, subsequent to the hearing, this is provided at Appendix Five.

³⁶ ACC Operational Activity: 1 July - 31 December 2003, Substantiated Allegations (53 Matters), Action Taken x Serious Misconduct x Public Authority; 1 July to 31 December 2003, Criminal Charges Laid (19 Matters), Government Departments (9 Matters), p.7. (Page 34 of this report)

³⁷ Chairman O'Connor QC, Transcript of Evidence, 29 March 2003, p.13.

³⁸ Questions on Notice, Appendix Four, Question 9.

³⁹ Commissioner Rayner, Transcript of Evidence, 29 March 2004, p.15.

⁴⁰ Commissioner Rayner and Chairman O'Connor QC, Transcript of Evidence, 29 March 2004, p.16.

⁴¹ Mr Terry Lewis, Transcript of Evidence, 29 March 2004, p.13.

1.14 Increase in substantiated criminal matters relating to police

The Committee noted that there was a significant increase in the number of substantiated criminal matters relating to police between the 1 July 2003 - 30 September 2003⁴² and 1 October 2003 - 31 December 2003 quarters⁴³. Chairman O'Connor detailed that this was a matter of the ACC completing investigations⁴⁴.

1.15 Physical Surveillance

The Committee noted an increase in the level of physical surveillance between the July to September⁴⁵ and October to December 2003 quarters⁴⁶, querying whether this related to the activities of the Royal Commission⁴⁷. The ACC detailed that this related specifically to significant activities of the Commission⁴⁸.

⁴² *ACC Operational Activity: 1 July - 30 September 2003*, Substantiated Allegations (14 matters), Outcome x Public Authority x Serious Misconduct, 1 July to 30 September 2003, p.5. (Page 18 of this report)

⁴³ *ACC Operational Activity: 1 July - 31 December 2003*, Substantiated Allegations (53 Matters), Outcome x Public Authority x Serious Misconduct, p. 5. (Page 32 of this report)

⁴⁴ Chairman O'Connor QC, Transcript of Evidence, 29 March 2004, p.17.

⁴⁵ *ACC Operational Activity: 1 July - 30 September 2003*, Physical Surveillance conducted in support of investigations, p.2. (Page 15 of this report)

⁴⁶ *ACC Operational Activity: 1 July - 31 December 2003*, Physical Surveillance conducted in support of investigations, p.2. (Page 29 of this report)

⁴⁷ Royal Commission Into Whether There Has Been Any Corrupt Or Criminal Conduct By Any Western Australian Police Officer.

⁴⁸ Chairman O'Connor QC, Transcript of Evidence, 29 March 2004, p.7.

1.16 Criticism of the ACC

Chairman O'Connor QC spoke of what he perceived as unreasonable “abuse” of the ACC as a consequence of its limited legislation and expressed pride in the commitment of staff to operations, despite these obstacles. He noted that the majority of matters reported by the Royal Commission were in fact referred by the ACC. He expressed the view that ACC staff was deserving of an apology⁴⁹.

⁴⁹ *Ibid*, p.17/18.

APPENDIX ONE

HEARINGS

Date	Name	Position	Organisation
29 March 2004	Mr Terence O'Connor QC Mr Donald Doig Ms Moira Rayner Mr Graeme Charlwood Mr Terry Lewis	Chairman Commissioner Commissioner Chief Executive Officer Principal Policy Officer	Anti-Corruption Commission

APPENDIX TWO

***ANTI-CORRUPTION COMMISSION
REPORT TO THE JOINT STANDING COMMITTEE ON
THE ANTI-CORRUPTION COMMISSION
1 JULY - 30 SEPTEMBER 2003***

JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

1. ACC OPERATIONAL ACTIVITY: 1 July to 30 September 2003			
Enquiries received by the ACC about alleged serious misconduct			53
'Active' Matters (subject to investigation or other action) carried over from 2002-03			305
'New' Matters reported to ACC, in the period:			118
Reported by -	Public authorities	107	91%
	Individuals	8	7%
	ACC initiated	3	2%
Relating to public officers in -	WA Police Service	57	48%
	Government Departments	46	39%
	Local government	11	9%
	Other Public Authorities	4	4%
Alleged misconduct -	Corrupt	3	3%
	Criminal	41	35%
	Serious Improper	69	58%
	Outside ACC's jurisdiction	4	3%
	Unclassified	1	1%
'Total Active' Matters ^(a) on ACC records, in the period			423
Matters referred to 'other authorities' for action, in the period			32
Review and Audit (by ACC) of 'other authority' Investigation Reports			41
Active Matters under ACC investigation or other action, in the period			55
Matters (under investigation by the ACC) finalised, in the period			10
Total Matters finalised by the Commission, in the period:			116
	Allegations substantiated	14	12%
	Allegations unsubstantiated	25	22%
	Other outcomes ^(b)	77	66%
TI ^(c) Warrants obtained and executed by the ACC, in the period:			7
	Joint operations (ACC and Police Royal Commission)	-	
	ACC-specific operations	7	
			Notices Matters
Notices obtained and executed by the ACC, in the period:			49 13
	Section 37 Notices	6	4
	Section 38 Notices	21	5
	Section 44 Notices	22	4
			Assign's Matters
Physical Surveillance conducted in support of investigations:			4
Relating to -	WA Police Service	7	2
	Other Public Authorities	2	2
	Police Royal Commission	-	-
Matters (referred by the ACC) being considered by the DPP ^(d) :			6
Relating to public officers in -	WA Police Service		2
	Other Public Authorities		4
Matters finalised by the DPP			1
Matters progressed to Court			0

- (a) Active matters are those subject to investigation or other action by the ACC or by appropriate authorities – may include consideration of criminal prosecution by the DPP or court action; ACC case files 'not closed' by the Commission.
- (b) Includes investigations that are inconclusive, where investigation is not in public interest, where investigation is not justified, where the public officer is deceased or transferred, where a matter is outside ACC jurisdiction, or where there is insufficient evidence.
- (c) TI - Telecommunications Interception. (d) DPP - Director of Public Prosecutions (WA).

2. COMBATTING CORRUPTION: 2003-04

MATTERS REPORTED TO THE COMMISSION (118)

Matters received (by Commission): 1 July to 30 September 2003					
Alleged Serious Misconduct x Public Authority					
Alleged Serious Misconduct	Public Authority - matters received*				
	Police	Gov. Dept.	Local Gov.	Other Public Auth.	Total
CORRUPT	1	0	2	0	3
Gifts and favours					0
Association leading to gifts and favours					0
Other	1		2		3
CRIMINAL	29	8	2	2	41
Corruption - abuse of public office for benefit					0
Disclosure of official secrets	12		1		13
Falsification of records by public officer			1		1
Fraud		1			1
Intent to pervert/defeat course of justice	1			1	2
Perjury					0
Stealing	8	5			13
Threats with intent to influence	1				1
Unlawful operation of a computer system	5	2			7
Other	2			1	3
SERIOUS IMPROPER	24	37	7	1	69
Assault	1	12			13
Conducting secondary employment	1				1
Disclosure of information		1	2		3
Drugs	2	1			3
Failure to disclose personal interest/information			1		1
Improper association					0
Improper conduct	9	14	2	1	26
Improper use of computers	1	4			5
Misuse of corporate credit card/Government funds	1	2	1		4
Misuse of leave entitlements	1				1
Sexual assault/harassment	1	3			4
Threats					0
Other	7		1		8
Unclassified				1	1
Outside Jurisdiction	3	1			4
TOTAL	57	46	11	4	118

MATTERS FINALISED BY THE COMMISSION (116)

Matters finalised (by Commission): 1 July to 30 September 2003					
Alleged Serious Misconduct x Public Authority					
Alleged Serious Misconduct	Public Authority - matters finalised*				
	Police	Gov. Dept.	Local Gov.	Other Public Auth.	Total
CORRUPT	4	2	1	1	8
Gifts and favours	1	1			2
Association leading to gifts and favours					0
Other	3	1	1	1	6
CRIMINAL	20	11	3	2	36
Corruption - abuse of public office for benefit	2	1		2	5
Disclosure of official secrets	5				5
Falsification of records by public officer					0
Fraud		2	1		3
Intent to pervert/defeat course of justice	2				2
Perjury					0
Stealing	3	5	1		9
Threats with intent to influence	1				1
Unlawful operation of a computer system	5	3			8
Other	2		1		3
SERIOUS IMPROPER	19	32	9	2	62
Assault		15			15
Conducting secondary employment					0
Disclosure of information	1	1	1		3
Drugs	7	2			9
Failure to disclose personal interest/information			4		4
Improper association		1			1
Improper conduct	7	9	2	2	20
Improper use of computers		1			1
Misuse of corporate credit card/Government funds		1			1
Misuse of leave entitlements	1				1
Sexual assault/harassment	2	2	2		6
Threats	1				1
Other					0
Unclassified				1	1
Outside Jurisdiction	5	2	2		9
TOTAL	48	47	15	6	116

* Matter finalised – ACC case file closed.

OUTCOME OF MATTERS FINALISED BY THE COMMISSION (116)

**Outcome x Serious Misconduct x Public Authority
1 July to 30 September 2003**

Outcome of Matters Finalised										
Public Authority	Allegations Substantiated				Allegations Unsubstantiated				Other	Total
	CC	CrC	SIC	Total	CC	CrC	SIC	Total		
Police	2	2	1	5	2	8	5	15	23	43
Government Departments	1	3	4	8	0	2	1	3	34	45
Local Government	0	1	0	1	1	1	0	2	10	13
Other	0	0	0	0	1	2	2	5	0	5
Unclassified									1	1
Outside Jurisdiction									9	9
Total	3	6	5	14	4	13	8	25	77	116

Note: CC: Corrupt Conduct CrC: Criminal Conduct SIC: Serious Improper Conduct

SUBSTANTIATED ALLEGATIONS (14 matters)

**Outcome x Public Authority x Serious Misconduct
1 July to 30 September 2003**

Public Authority and Outcome	Substantiated Allegations - matters finalised			
	Serious Misconduct *			
	Total	CC	CrC	SIC
Police Service:	5	2	2	1
Administrative Action	3	1	1	1
Disciplinary Action	1	1	-	-
Criminal Charges Laid	1	-	1	-
Government Department's:	8	1	3	4
Administrative Action	1	-	1	-
Disciplinary Action	3	1	-	2
Criminal Charges Laid	4	-	2	2
Local Government:	1	-	1	-
Administrative Action	-	-	-	-
Disciplinary Action	1	-	1	-
Criminal Charges Laid	-	-	-	-
Total	14	3	6	5

* CC: Corrupt Conduct CrC: Criminal Conduct SIC: Serious Improper Conduct

**Total : Administrative Action - 4 matters; Disciplinary Action – 5 matters;
Criminal Charges Laid against public officers – 5 matters.**

SUBSTANTIATED ALLEGATIONS – ACTION TAKEN (14 matters)

**Action Taken x Serious Misconduct x Public Authority
1 July to 30 September 2003**

Alleged Serious Misconduct	Outcome	
Administrative Action Taken (4 matters)		
Police (3 matters)		
Corrupt Conduct - other	CC	Procedures relating to training changed
1.1. Disclosure of official secrets	CrC	Procedures changed in relation to Discipline of Aboriginal police aides
Improper Conduct	SIC*	Application to amend Licence details form redesigned, streamlining of the process required to add personnel to a security company being tailored to the needs of security organisations.
Government Department (1 matter)		
Unlawful operation of a computer system	CrC	PO received a verbal reprimand and was denied future access to the mainframe computer system
Disciplinary Action Taken (5 matters)		
Police (1 matter)		
Gifts and favours	CC	PO charged 3 counts corruption (working secondary employment whilst rostered on duty) and 5 counts of falsifying official records, PO stood down from duty, Subjected to S8 proceedings, matter ongoing
Government Departments (3 matters)		
Gifts and Favours	CC	PO suspended from duty and later resigned
Improper Association	SIC	Disciplinary charges against 2 PO's in relation to signing invoices from computer company involved and for general poor management, department reminded of policy regarding tenders
Improper Conduct	SIC	2 PO's received formal disciplinary letters
Local Government (1 matter)		
Forgery and Uttering	CrC	PO produced false medical certificates, PO dismissed
Criminal Charges Laid (5 matters)		
Police (1 matter)		
Corruption	CrC	PO plead guilty and fined \$500.00
Government Departments (4 matters)		
Stealing by clerks and servants	CrC	PO charged with stealing as a servant and possession of prohibited substance. PO suspended on full pay pending outcome of court action. Action continuing.
Unlawful operation of a computer system	CrC	PO charged 1 count downloading and possessing child pornography from the internet. PO sentenced 18 month intensive supervision order, PO's employment terminated
Assault	SIC	PO Dismissed, court action ongoing
Sexual Assault	SIC	PO charged 1 count sexual penetration without consent. Matter continuing

* Investigated by the Anti-Corruption Commission note: 'PO' – public officer

SUBSTANTIATED ALLEGATIONS (14 matters)**'Significant' Action Taken Against Public Officers
1 July to 30 September 2003**

Action Taken	Public Officers
Criminal Charges laid against public officers	5
Disciplinary Charges brought under Public Sector or Police Service regulations	5
Employment terminated - 3 dismissed, 1 resigned	4
Formal reprimand and/or counselling	2
Employment suspended – in some cases without pay	2
Fines	1
Action taken under s.8 of the <i>Police Act</i> - police officers	1

3. STATUS OF ACC OPERATIONS – NOVEMBER 2003**Overview**

During the September 2003 quarter, ACC Operations (Investigations teams) were dealing with 55 matters, under part III or IV of the ACC Act, with around 25 being subject to 'active' investigation.

Of the 55 matters, 27 related to police officers, 12 to public officers in Government departments, 10 to local government officers, and 6 to officers in 'other authorities'. Criminal conduct was alleged in 28 of the matters, 16 involved alleged serious improper conduct and 11, alleged corrupt conduct.

The ACC commenced investigations in 17 of the matters in 2003, 25 in 2002, and 13 prior to 2002.

Nine (9) of the 55 matters remain active because, following the completion of ACC investigations, the Commission is awaiting advice either from the DPP in respect of prosecutions, or other authorities in respect of disciplinary outcomes

Also in that period the Commission's Complaints, Review and Audit team reviewed 41 investigation reports received from other authorities, on matters referred to them by the Commission for investigation.

As at 25 November 2003, the ACC was actively investigating 22 matters, 7 involving police and 15 involving other public officers. Additionally, 19 investigation reports (by other authorities) were under review and 3 matters were subject to assessment.

Of 94 matters that were, at that date, with other authorities for investigation (referred to them by the Commission), 56 involved allegations relating to police officers and 38, other public officers. The bulk of the 94 matters (85) involving alleged misconduct by police or criminal conduct by other public officers had been referred to the Police Service, and 9 had been directed to 'other public authorities'.

Other public authorities were required to provide advice to the ACC about 'further action being taken in respect of (49) matters that had been the subject of investigation', including 23 matters with the Police Service; 8 matters with the Police Royal Commission; 10 with Government Departments; 3 with Ministers; and 5 with other authorities.

Operational matters

Significant recent and current operational issues and achievements are outlined below.

A particularly complex investigation into alleged serious misconduct (involving substantial fraud and corrupt payments, abuse of public office and possible criminal conduct) that commenced in October 2002 has entailed considerable physical surveillance and extensive intelligence analysis. Following the preliminary interviewing of key witnesses (some particularly reluctant), it has progressed to the use of electronic surveillance devices and telecommunications interception (TI).

Relevant records from financial institutions have been obtained to enable the reconstruction of bank accounts as a key part of piecing together the complex financial web, and for possible prosecution purposes.

The Commission's Memoranda of Understanding (with CMC, ICAC, and PIC) have proved beneficial in this instance by enabling interstate surveillance and other inquiries to be conducted in relation to travel by persons under investigation.

As is often the case in corruption investigations, this matter has spawned other avenues warranting inquiry, involving related behaviours and other public officers.

Two other long-term fraud/corruption investigations have involved the seizure of records (especially financial) from private premises using search warrants. Computer-based records were also seized to circumvent the potential loss of evidence and WA Police Computer Crime Unit specialists assisted with the subsequent imaging of that material. Both these investigations have required the detailed reconstruction of accounts and events.

One of the matters, conducted jointly with the Department of Education and Training, has required extensive intrastate travel, to retrieve records and interview witnesses. In addition, a specialist auditor (formerly with the Auditor General's office) has been engaged to audit company records.

The ACC continues to work effectively with the WA Police Service, particularly in the Professional Standards portfolio (Internal Affairs and Internal Investigations units).

The Commission has responded positively to requests (from IAU) for assistance with physical surveillance in support of a number of investigations, and has also recently approved ACC staff providing specialist instruction to WAPS covert operatives in surveillance and technical operations.

The Commission supported the attendance of 2 police officers from the WAPS training academy at a training course for ACC investigators in 'Cognitive Interviewing and Conversation Management', conducted (at the Police academy) by Charles Sturt University staff, in August 2003

Over the past twelve months the ACC has, on several occasions, provided operational assistance involving use of the ACC's TI facilities in investigations of police misconduct. Use by IAU of the Commission's TI has ensured security and maintained the integrity of the particular investigations. One such investigation recently resulted in the arrest of a serving police officer for drug offences.

During the course of the Police Royal Commission, apart from its considerable involvement with joint operations, the ACC has limited its investigation into police matters. However, with conclusion of the Royal Commission public hearings agenda, the ACC has directed resources, as appropriate, back to police matters.

To maintain currency with the complex legal, regulatory and technical issues associated with the application of TI, the ACC continues to be represented on the national Law Enforcement Advisory Committee (LEAC), whose membership also includes the major communications carriers, the Commonwealth Attorney-General's Department and the Australian Communications Authority.

In August, following a significant software upgrade of the Commission's TI equipment that was required to accommodate mandatory technology changes implemented by the telecommunications carriers, system testing by the ACC revealed technical deficiencies in

Telstra specifications which, when addressed, resulted in major efficiencies for all Australian intercepting agencies.

An investigation into unauthorised release of police operational information was recently concluded. Initially an ACC investigation, the matter became the subject of public examination by the Police Royal Commission, before being finalised by the ACC in conjunction with WAPS. Former detective O'Keeffe and another person, reputed to be a drug dealer, have been charged by summons with conspiracy to pervert the course of justice. O'Keeffe is also being charged with attempting to defeat justice. It is noteworthy that the primary evidence related to these offences resulted from the effective use of telephone interception.

Three of 4 serious police related matters that have been active since 1999 have been subject to close examination by the Police Royal Commission and the other is currently subject of an extensive internal review by WAPS. As indicated previously in this report, these matters can only be further advanced on advice from the other authorities.

In the past two weeks, Rodney Stephen Bridge, a private investigator, pleaded guilty to charges laid as a result of a joint operation conducted between the Police Royal Commission and the ACC. Subsequent to public hearings, briefs of evidence were prepared in a collaborative approach involving WA Police, the ACC and the Police Royal Commission, with the police ultimately laying charges of aggravated burglary and breach of bail. Burglary charges stem from investigations involving (at that time) a serving police officer, who is yet to be tried, with significant evidence being obtained from the use of telephone interception and surveillance devices.

A recently completed ACC investigation has resulted in the arrest of the former Chief Pharmacist at the Fremantle Hospital, Richard Plumridge, who has been charged with multiple counts of stealing in the aggregate \$100,000. The investigation involved the seizure and analysis of computer based records; reconstruction of bank accounts; identification of travel; and obtaining witness statements from eastern states pharmaceutical business representatives, health officials, Commonwealth agencies, and sponsors of research at the Fremantle Hospital. Assistance was also obtained from the Australian Federal Police specialist forensic document examiners, based in Sydney.

WAPS Commercial Crime Division staff, instigated the prosecution action for this matter at the request of the ACC, subsequent to previous discussions held with the DPP and the Police about the most efficient way for the ACC to progress such matters.

In another investigation, charges were recently laid by summons on the Chief Executive Officer of the Shire of Broome, Gregory Powell. The charges relate to the alleged use, and attempted use, of a Council credit card to pay for escort agency services whilst in Perth.

The Office of the DPP presently has carriage of, or is considering, a number of other briefs referred to it by the Commission including the matter of Bruce Whiteman who has been charged with corruption in respect of dealings associated with the Western Australian Trotting Association. This matter has been remanded for a status conference on 12 December 2003.

A brief of evidence that involves a senior public officer is currently subject of consideration by the DPP, however recent advice received is that the matter will not be progressed any further until the outcome of associated proceedings before the Court of Criminal Appeal are concluded.

Close liaison with senior staff in the Office of the DPP over the past 12 months has resulted in the issue of delays that were being experienced in getting decisions on ACC matters, being resolved. Both agencies have contributed to achieving an effective outcome.

The Commission has recently written to the Premier expressing its concern over the allegations of assault, especially sexual assault and harassment, that are being reported within the education system. The ACC has suggested a coordinated approach be adopted to ensure all intelligence holdings on offenders, and suspected offenders, be centralised to facilitate more effective screening of persons who seek to work with children, by enabling the identification of those about whom serious questions have been raised.

The ACC presently has four staff seconded to other agencies for the purpose of assisting with corruption prevention and investigation. The first placement commenced in July 2003 with a Chief Investigator being seconded to the Department of Education and Training to advise on corruption and fraud prevention, education and risk management.

Another investigator has been seconded for 12 months to the Office of the Public Sector Standards Commissioner, with responsibility for education and implementation of practical guidelines for agencies in respect of the Public Interest Disclosure Act (whistleblower legislation).

Two senior investigators have been seconded to the WAPS Royal Commission Investigation Team at the request of the Commissioner of Police. These officers are part of the team examining and investigating specific instances of alleged criminal, corrupt or serious misconduct, that were subject to public hearings by the Police Royal Commission, and making recommendations for prosecution or disciplinary action. The ACC Intelligence Unit is also directly assisting that team with the provision of intelligence.

The ACC continues to be represented at a routine monthly operational review meeting conducted by the Internal Investigations Unit of the Department of Justice.

In August 2003 the Director Operations represented the Commission at the WA Police, Professional Standards Planning Forum. Essentially, the purpose of the forum was to consider, in light of issues raised during the Police Royal Commission including those discussed at the Round Table Conferences, the complaint reporting and investigation process, a service wide corruption prevention plan, and preliminary thoughts as to the potential working relationship between WAPS and the proposed CCC in respect of organised crime investigations.

On 17 November 2003 the Commission met with the Commissioner, Independent Commission Against Corruption, Mauritius (Mr. Beekarry) who was visiting Australia under the sponsorship of the Department of Foreign Affairs and Trade. Commissioners discussed the formation of the Mauritius ICAC in 2002, its powers and jurisdiction and its reporting relationship with a parliamentary committee. The work of the ACC and establishment of the CCC were also discussed.

3. POLICIES AND PROCEDURES:

The 'Standing Operating Guidelines for Investigations', which have been subject to comprehensive review and enhancement over the past 12 months have been approved and are now available to all Commission staff, on the ACC Intranet. Topics addressed in these policy and procedures statements include (among other things):

- The ACC Act
- Investigation files management – allocation and priorities
- Official Requests and Notices (under the ACC Act)
- Power to Enter Premises
- Interviews
- Official Statements
- Physical Evidence
- Liaison with External Agencies
- Briefs of Evidence
- Complaints, Review and Audit (role and functions)

4. COMMISSION MEETINGS:

From 1 July to 30 September 2003 the Commission met on 5 occasions, and to the end of November, 9 occasions. All were regular meetings involving consideration of current operational and administrative matters.

5. ADMINISTRATION:

ACC Budget: 2003-04: Expenditure to 30 September 2003

Source of Expenditure	Budget Allocation 2003-04 (\$'000)	Actual Expenditure and Commitments July to September 2003 (\$'000)
Salaries and Allowances	5,959	1,473
Other Expenditure:		
Executive	648	156
Operations	1,558	514
Business Services	2,890	457
Information Technology	416	104
Royal Commission	-	4
Total Expenditure	11,471	2,708

Human Resources –

As at 30 September 2003 there were 83 persons in the ACC, representing 81.1 FTE.

Area	Persons		
	males	females	total
Commission	2	1	3
Executive	2	2	4
Operations	33	26	59
Investigations	14	19	33
Electronic Surveillance unit	8	1	9
Intelligence unit	3	3	6
Special Projects unit	8	3	11
Business Services	10	7	17
Total	47	36	83

Industrial Relations –

ACC staff employment status

As indicated in the Report to the Committee of 25 August 2003 conferences to address the employment status of ACC staff were held in the WAIRC on 24 and 27 June and also 5 August 2003. A further conference, on 25 August 2003, resulted in a letter (dated 10 September 2003) from the Premier to the Community and Public Sector Union advising:

‘Following a request from Mr Dasey in the Western Australian Industrial Relations Commission on 25 August 2003, I wish to confirm undertakings given by the Department of the Premier and Cabinet in relation to the future arrangements for Anti-Corruption Commission (ACC) staff.

The Government is prepared to commence assessing individual ACC employees who have indefinite tenure at the ACC for registration under the Public Sector Management (Redeployment and Redundancy) Regulations 1994. Such registration will be at the substantive classification levels and subject to the requirements detailed in sub-regulations 11(1) and 11(2) being met.

In addition, for those employees with indefinite tenure at the ACC, Government will arrange for employees who require access to redeployment and redundancy provisions to continue to have such access until voluntary severance is taken or redeployment occurs.

The Government remains committed to ensuring that all public sector employees affected by the decision to establish the Corruption and Crime Commission are treated in a fair and equitable manner.

I trust this advice will address the concerns your members have raised.’

Subsequent to this advice the Department of the Premier and Cabinet (DPC) has reviewed the classification levels of ACC staff and with the exception of 4 positions has agreed on the levels to be used in the event of staff being subject to redeployment and/or redundancy. Discussions on the 4 contentious positions, involving primarily the CPSU and DPC, are yet to be resolved.

One of the officers concerned has had to register for redeployment as a result of their position in the ACC being made redundant. DPC has rejected the application and the CPSU/CSA are currently preparing to take the matter before the WAIRC.

T E O’CONNOR QC
CHAIRMAN
ANTI-CORRUPTION COMMISSION
28 November 2003

APPENDIX THREE

***ANTI-CORRUPTION COMMISSION
REPORT TO THE JOINT STANDING COMMITTEE ON
THE ANTI-CORRUPTION COMMISSION
1 JULY - 31 DECEMBER 2003***

JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

1. ACC OPERATIONAL ACTIVITY: 1 July to 31 December 2003 *			
Enquiries received by the ACC about alleged serious misconduct			119 (66)
'Active' Matters (subject to investigation or other action) carried over from 2002-03			305
'New' Matters reported to ACC, in the period:			212 (94)
Reported by -	Public authorities	192 (85)	91%
	Individuals	17 (9)	8%
	ACC initiated	3 (0)	1%
Relating to public officers in -	WA Police Service	91 (34)	43%
	Government Departments	91 (45)	43%
	Local government	23 (12)	11%
	Other Public Authorities	7 (3)	3%
Alleged misconduct -	Corrupt	5 (2)	2%
	Criminal	78 (37)	37%
	Serious Improper	121 (52)	57%
	Outside ACC's jurisdiction	6 (2)	3%
	Unclassified	2 (1)	1%
'Total Active' Matters ^(a) on ACC records, in the period			517
Matters referred to 'other authorities' for action, in the period			60 (28)
Review and Audit (by ACC) of 'other authority' Investigation Reports			114 (86)
Active Matters under ACC investigation or other action, in the period			68
Matters (under investigation by the ACC) finalised, in the period			26 (16)
Total Matters finalised by the Commission, in the period:			290 (174)
	Allegations substantiated	53 (39)	18%
	Allegations unsubstantiated	65 (40)	23%
	Other outcomes ^(b)	172 (95)	59%
TI ^(c) Warrants obtained and/or executed by the ACC, in the period:			12 (5)
	ACC-specific operations		12 (5)
	Warrants executed on behalf of WA Police Service		
			Notices Matters
Notices obtained and executed by the ACC, in the period:			77 (28) 22 (9)
	Section 37 Notices	12 (6)	5 (1)
	Section 38 Notices	36 (15)	10 (5)
	Section 44 Notices	29 (7)	7 (3)
			Assign's Matters
Physical Surveillance conducted in support of investigations:			28 (19) 11 (7)
Relating to -	WA Police Service	14 (7)	5 (3)
	Other Public Authorities	14 (12)	6 (4)
Matters (referred by the ACC) being considered by the DPP ^(d):			10
Relating to public officers in -	WA Police Service		7
	Other Public Authorities		3
Matters finalised by the DPP			7
Matters progressed to Court			2

* **Note:** Figures in brackets relate to the three months, October to December 2003.

- (a) Active matters are those subject to investigation or other action by the ACC or other appropriate authorities – may include consideration of criminal prosecution by the DPP or court action; includes all ACC case files not yet closed by the Commission.
- (b) Includes investigations that are inconclusive, where investigation is not in public interest, where investigation is not justified, where the public officer is deceased or transferred, where a matter is outside ACC jurisdiction, or where there is insufficient evidence.
- (c) TI - Telecommunications Interception. (d) DPP - Director of Public Prosecutions (WA).

Active Matters as at 31 December 2003 and 4 February 2004

As at 31 December 2003 a total of 227 'active' matters were subject to investigation or other action by the ACC or other appropriate authorities - 42 by the ACC and 185 by other authorities. As at 4 February 2004 there were a total of 202 active matters – 35 subject to action by the ACC and 167 by other authorities. Matters will continue to be subject to Commission oversight until closure of the ACC, at which time they will be transferred to the Corruption and Crime Commission for continued action.

2. COMBATING CORRUPTION: 1 July - 31 December 2003

Matters Reported To The Commission (212)

Matters received (by Commission): 1 July to 31 December 2003					
Alleged Serious Misconduct x Public Authority					
Alleged Serious Misconduct	Public Authority - matters received				
	Police	Gov. Dept.	Local Gov.	Other Public Auth.	Total
CORRUPT	1	1	3	0	5
Gifts and favours		1			1
Association leading to gifts and favours					0
Other	1		3		4
CRIMINAL	49	19	6	4	78
Corruption - abuse of public office for benefit		1	2	1	4
Disclosure of official secrets	14	1	1		16
Falsification of records by public officer	1	2	1		4
Fraud		2			2
Intent to pervert/defeat course of justice	1		1		2
Perjury	2				2
Stealing	11	9	1		21
Threats with intent to influence	4				4
Unlawful operation of a computer system	10	3		1	14
Other	6	1	1	1	9
SERIOUS IMPROPER	37	69	13	2	121
Assault	4	21	1		26
Conducting secondary employment	2				2
Disclosure of information		1	2		3
Drugs	4	4			8
Failure to disclose personal interest/information			2		2
Improper association					0
Improper conduct	14	17	4	1	36
Improper use of computers	1	5			6
Misuse of corporate credit card/Government funds	1	4	2	1	8
Misuse of leave entitlements	1	1			2
Sexual assault/harassment	1	14	1		16
Threats	1				1
Other	8	2	1		11
Unclassified	1			1	2
Outside Jurisdiction	3	2	1		6
TOTAL	91	91	23	7	212

Matters Finalised by the Commission (290)

Matters finalised (by Commission): 1 July to 31 December 2003					
Alleged Serious Misconduct x Public Authority					
Alleged Serious Misconduct	Public Authority - matters finalised*				
	Police	Gov. Dept.	Local Gov.	Other Public Auth.	Total
CORRUPT	7	2	3	2	14
Gifts and favours	1	1	1		3
Association leading to gifts and favours					0
Other	6	1	2	2	11
CRIMINAL	71	28	8	7	114
Corruption - abuse of public office for benefit	3	3	1	3	10
Disclosure of official secrets	17		1		18
Falsification of records by public officer	1	1	1		3
Fraud		6	1		7
Intent to pervert/defeat course of justice	7	1			8
Perjury	3		1	1	5
Stealing	18	9	2	2	31
Threats with intent to influence	2				2
Unlawful operation of a computer system	14	5			19
Other	6	3	1		10
SERIOUS IMPROPER	52	71	16	6	145
Assault	1	25		2	28
Conducting secondary employment		1			1
Disclosure of information	2	2	1		5
Drugs	15	3			18
Failure to disclose personal interest/information		1	4		5
Improper association		2			2
Improper conduct	18	16	4	3	41
Improper use of computers	2	3			5
Misuse of corporate credit card/Government funds		3	2		5
Misuse of leave entitlements	1	2			3
Sexual assault/harassment	4	12	3	1	20
Threats	4				4
Other	5	1	2		8
Unclassified	1			1	2
Outside Jurisdiction	7	3	4	1	15
TOTAL	138	104	31	17	290

* Matter finalised – ACC case file closed.

Of the 290 matters finalised:

- 53 (18%) – allegations were substantiated
- 54 (22%) – allegations were unsubstantiated and
- 172 (60%) – other outcomes were the result

Outcome of Matters Finalised by the Commission (290)

Outcome x Serious Misconduct x Public Authority

Public Authority	Outcome of matters finalised: 1 July to 31 December 2003									
	Allegations Substantiated				Allegations Unsubstantiated				Other (a)	Total
	CC	CrC	SIC	Total	CC	CrC	SIC	Total		
Police Service	4	14	5	23	2	23	18	43	72	138
Government Departments	1	8	14	23	0	5	5	10	71	104
Local Government	1	2	1	4	2	2	1	5	22	31
Other	0	2	1	3	1	3	3	7	7	17
Total	6	26	21	53	5	33	27	65	172	290

Note: CC: Corrupt Conduct CrC: Criminal Conduct SIC: Serious Improper Conduct
(a) Includes matters resolved to be outside ACC jurisdiction and 'unclassified' matters (refer previous table)

Substantiated Allegations (53 Matters)

Of the 53 substantiated matters; 53% (23 matters) involved police officers and 57% (30 matters) involved other public officers. The broad outcomes for the 53 matters were:

Outcome	Matters		
	Total	Police	Other public Officers
Disciplinary action	30	14 (47%)	16 (53%)
Criminal Charges laid	19	6 (32%)	13 (68%)
Administrative action	4	3 (75%)	1 (25%)

Outcome x Public Authority x Serious Misconduct

Public Authority and Outcome	Substantiated Allegations - matters finalised			
	Serious Misconduct *			
	Total	CC	CrC	SIC
Police Service:	23	4	14	5
Administrative Action	3	1	1	1
Disciplinary Action	14	1	10	3
Criminal Charges laid	6	2	3	1
Government Department's:	23	1	8	14
Administrative Action	1		1	
Disciplinary Action	13	1	5	7
Criminal Charges laid	9		2	7
Local Government:	4	1	2	1
Administrative Action				
Disciplinary Action	2		2	
Criminal Charges laid	2	1		1
Other Public Authority:	3		2	1
Administrative Action				
Disciplinary Action	1			1
Criminal Charges laid	2		2	
Total	53	6	26	21

* CC: Corrupt Conduct CrC: Criminal Conduct SIC: Serious Improper Conduct

Substantiated Allegations (53 Matters)

Action Taken x Serious Misconduct x Public Authority: 1 July to 31 December 2003

Serious Misconduct		Action Taken
Administrative Action Taken (4 matters)		
Police (3 matters)		
Corrupt Conduct - other	CC	Procedures relating to training changed
Disclosure of official secrets	CrC	Procedures changed in relation to discipline of Aboriginal police aides
Improper Conduct	SIC*	Application to amend licence details form redesigned, streamlining of the process required to add personnel to a security company.
Government Department (1 matter)		
Unlawful operation of a computer system	CrC	PO received a verbal reprimand and was denied future access to the mainframe computer system
Disciplinary Action Taken (30 matters)		
Police (14 matters)		
Gifts and favours	CC	PO charged 3 counts corruption (secondary employment whilst rostered on duty) and 5 counts of falsifying official records, PO stood down from duty, subjected to S8 proceedings, ongoing
Disclosure of official secrets	CrC	PO stood down from duty
	CrC	PO verbally disciplined
Intent to pervert or defeat justice	CrC	PO counselled in relation to delay of reporting
	CrC	PO dismissed
Perjury	CrC	PO counselled in regards to evidence given at court
Stealing	CrC	PO transferred and under direct supervision – accountability requirements changed
	CrC	2 PO's counselled in respect of their responsibilities to properly record property of persons arrested
Unlawful operation of a computer system	CrC	PO informally counselled in relation to unauthorised access of a computer system
	CrC	2 PO's given verbal guidance
Other – False declarations or statements	CrC	2 PO's charged with breach of regulations and received unfavourable reports
Conducting secondary employment	SIC	PO informally counselled in relation to security of equipment and secondary employment regulations
Improper conduct	SIC	1 PO given unfavourable report for breaching regulations and received verbal guidance, 2 PO's to write apologies to complainants
Sexual assault	SIC	PO pleaded guilty to conduct unbecoming an officer, fined
Government Departments (13 matters)		
Gifts and Favours	CC	PO suspended from duty and later resigned
Corruption	CrC	PO Dismissed
Falsification of records	CrC	PO counselled in relation to breach of procedure
Fraud	CrC	PO formally reprimanded
Stealing	CrC	Officer formally reprimanded and demoted
Other – Forgery and uttering	CrC	PO subjected to internal disciplinary process – awaiting outcome
Drugs	SIC	PO dismissed
Improper Association	SIC	2 PO's subject to disciplinary charges re signing invoices from computer company and general poor management, department reminded of policy regarding tenders
Improper conduct	SIC	PO received a reduction in classification, transfer and reprimand
Improper Conduct	SIC	2 PO's received formal disciplinary letters
Misuse of computers	SIC	PO counselled regarding his behaviour – disciplinary hearing ongoing
	SIC	PO resigned
Misuse of Government Funds	SIC	PO received letter of warning

JOINT STANDING COMMITTEE ON THE ANTI-CORRUPTION COMMISSION

Local Government (2 matters)

Falsification of records	CrC	PO dismissed
Other - Forgery and Uttering	CrC	PO produced false medical certificates, PO dismissed

Other Public Authority (1 matter)

Assault	SIC	PO dismissed
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Criminal Charges Laid (19 matters)

Police (6 matters)

Other – misuse public monies	CC	PO charged 4 counts corruption, 4 counts fraud, 17 counts forgery – PO resigned, PO overseas – awaiting further action
Other – misuse public monies	CC	PO charged 4 counts corruption, 4 counts fraud, 17 counts forgery – 4 years imprisonment, dismissed
Corruption	CrC	PO charged 6 counts corruption – awaiting further action
Corruption	CrC	PO pleaded guilty and fined \$500
Stealing*	CrC	1 PO, 4 years imprisonment, dismissed, 1 PO awaiting further action
Unclassified	Unc	PO charged with use and possess amphetamines, stood down from duty, resigned

Government Departments (9 matters)

Stealing by clerks and servants	CrC	PO charged with stealing as a servant and possession of prohibited substance. PO suspended on full pay pending court action, continuing.
Unlawful operation of a computer system	CrC	PO charged 1 count downloading and possessing child pornography from the internet. PO sentenced 18 month intensive supervision order, dismissed
Assault	SIC	PO Dismissed, court action ongoing
Assault	SIC	PO charged with assault occasioning bodily harm – awaiting further action
Sexual Harassment	SIC	PO charged using a computer service to transmit restricted material – dismissed
Sexual Assault	SIC	PO charged 2 counts of indecently dealing with a child under his authority – awaiting trial
Sexual Assault	SIC	PO charged 1 count of sexual relationship with a child under 16 yrs – suspended from duty
Sexual Assault	SIC	PO charged 1 count sexual penetration without consent, continuing
Sexual Assault	SIC	PO charged 2 counts of indecent assault and 1 count of aggravated burglary – awaiting further action

Local Government (2 matters)

Gifts and favours	CC	PO dismissed
Sexual Assault/Harassment	SIC	PO charged 1 count of Official corruption by a public officer – awaiting further action

Other Public Authority (2 matters)

Fraud	CrC	PO charged 2 counts of Fraud, repaid sum of \$193.07
Stealing	CrC	PO charged with stealing as a servant, pleaded guilty, fined \$500 and 12 month conditional release order

* Investigated by the Anti-Corruption Commission. 'PO' – public officer CC – corrupt conduct
CrC – criminal conduct SIC - serious improper conduct

'Significant' Action Taken Against Public Officers: 1 July to 31 December 2003

Action Taken	Public Officers		
	Police	Other	Total
Criminal Charges laid against public officers	7	13	20
Disciplinary Charges brought under Public Sector or Police Service regulations	3	2	5
Employment terminated – 12 dismissed, 4 resigned	5	11	16
Imprisonment	2	-	2
Formal reprimand and/or counselling	7	9	16
Employment suspended – in some cases without pay	3	3	6
Fines	2	1	3
Action taken under s.8 of the <i>Police Act</i> - police officers	1	-	1

3. COMMISSION MEETINGS:

From 1 July to 31 December 2003 the Commission met on 10 occasions. All were regular meetings involving consideration of current operational and administrative matters.

4. ADMINISTRATION:

Budget 2003-04: Expenditure to 31 December 2003

Source of Expenditure	Budget Allocation 2003-04 (\$'000)	Actual Expenditure + Commitments July to December 2003 (\$'000)
Salaries and Allowances	5,959	2,655 (45%)
Other Expenditure:		
Executive	648	260 (40%)
Operations	1,558	1,083 (70%)
Business Services	2,890	1,042 (36%)
Information Technology	416	168 (40%)
Royal Commission	-	6
Total Expenditure	11,471	5,214 (45%)

Human Resources –

As at 31 December 2003 there were 84 persons in the ACC.

Division	Persons		
	males	females	total
Commission	2	1	3
Executive	2	2	4
Operations -	33	27	60
Investigations	15	18	33
Electronic Surveillance unit	7	3	10
Intelligence unit	3	3	6
Specialist Services	8	3	11
Business Services	9	8	17
Total	46	38	84

As at 16 February 2004 there were 82 persons attached to the ACC (including the 3 Commission members), but 7 staff members were on secondment to the CCC and 5 to other authorities, with 11 of the secondments involving Operations staff (10 Investigative, 1 Intelligence).

T E O'CONNOR QC
CHAIRMAN
ANTI-CORRUPTION COMMISSION
 16 February 2004

APPENDIX FOUR

QUESTIONS ON NOTICE



ANTI-CORRUPTION COMMISSION

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Email: afmail@acc.wa.gov.au
All Correspondence to:
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Western Australia 6831
ABN 18 449 403 086

Joint Standing Committee on the ACC

Hearing: 29 March 2004

Questions on Notice and ACC Response

ACC OPERATIONAL ACTIVITY

1. *Previous reports indicate that around 8-9% of 'new' matters reported to the ACC are received from individuals.*
 - *Have any attempts been made to increase the numbers of complaints received from individuals?*
 - *Have these attempts been successful?*

ANSWER:

Press releases, media articles and the ACC Website (launched in early 2003) have encouraged individuals to make allegations about suspected serious misconduct.

ACC Website provides options for submission of allegations - electronic, forms and reply paid envelopes provided to individuals, personal interview, letter, fax.

Individuals who have contacted the ACC with enquiries about perceived serious misconduct have been encouraged, where appropriate, to report their concerns.

Presentations to public authorities on corruption have highlighted the opportunity for individuals to make reports to the ACC.

Notwithstanding these initiatives, there has recently been a decline in reports to the ACC by individuals (17% in 2001/02 to the current 9%), which may be attributable to a shift in public focus to the Police Royal Commission over the past 21 months.

There is no empirical data available at present to objectively explain the recent trend.

2. *11% of new matters received by the ACC in July-December 2003 related to public officers in local government, with 4 matters substantiated. There has been a lot of media attention on corruption issues in local government in recent times, some of which resulted from ACC investigations.*
- *Do you think the Commission has been effectively equipped to deal with local government issues?*

ANSWER:

ACC has concerns about issues involving local government. The Commission has liaised regularly with the Department of Local Government in relation to allegations received.

ACC has been focussing on several substantial, interrelated matters of alleged local government corruption since October 2002. The investigation has involved considerable physical surveillance, extensive intelligence analysis and more recently electronic surveillance and telecommunication interception.

Despite the lack of powers being a problem, the ACC was otherwise well equipped to deal effectively with complex local government corruption issues over the past 2 and a half years.

3. *Of the 290 matters finalised in the period 1 July 2003-31 December 2003, 60% were neither substantiated nor unsubstantiated, and resulted in "other outcomes".*
- *Can this figure be clarified?*

ANSWER:

The 172 (60%) 'other outcomes' comprised:

Outcome	Matters
Allegations subject of appropriate investigation	97
Insufficient evidence	26
Matters outside jurisdiction	17
Prima facie case exists	10
Allegations subject of prior investigation	6
Inconclusive	6
Allegation withdrawn	4
Investigation not justified	3
Transferred to other appropriate organisation	3

4. *In cases of substantiated allegations, there appears to be a difference in the outcomes for police when compared to general public officers.*
- *Is it more likely for public officers to be subject to criminal charges, while police are more likely to face administrative or disciplinary action?*
 - *Why is this the case?*
 - *Does this inequity relate to comments made in the Jul-Sept 2003 report concerning the DPP's problems in finalising matters referred by the ACC?*

ANSWER:

The ACC has had continuing concerns about the different outcomes (of investigations) for police, found to have acted improperly, when compared to other public officers. But the 'consistency' of that difference has only recently been established through the availability of comparative data relating to several years.

Obviously criminal charges will only be laid in criminal matters where there is sufficient evidence to corroborate allegations.

To date the ACC has not analysed the nature of the conduct that resulted in criminal charges being laid against public officers to determine whether the matters involving police officers who were not charged, were less serious than those involving other public officers who were charged. That analysis has not been done to date because of the lack of comparative data, mentioned (above).

Had the ACC been continuing to operate, that sort of research and analysis would now be carried out.

Police officers have demonstrated a considerable ability to conceal evidence of improper conduct, due to their generally better awareness of investigation practices and the justice system than other public officers.

Police officers have also demonstrated a greater inclination to deny serious misconduct than other public officers.

It would appear police investigators are more reluctant to prosecute their colleagues, than they are to charge other public officers. There does appear to be a tendency by police to resort to 'softer' options, such as disciplinary or administrative action, in the first instance.

ACC concerns about these outcome issues have been raised with the Commissioner of Police and, as mentioned above, should be pursued further now that objective data is available to properly establish the facts.

This issue is not related to comments made in the past about ACC concerns with matters being finalised by the DPP.

5. *The number of matters relating to disclosure of official secrets appears high for police compared to other public officers, but few referrals against police are actually substantiated?*
- *Is there any explanation for this?*

ANSWER:

As mentioned in response to the previous question, obtaining effective evidence in respect of matters involving police can be extremely difficult.

Not only are police officers skilled at concealing misconduct, but also investigators are often faced with hostile witnesses or with the 'code of silence' culture in the Police Service.

There is continued evidence of a sense of obligation on, or peer pressure applied to, officers not to disclose knowledge of alleged misconduct by their colleagues.

There also appears to be a lack of will to seriously address this issue by some officers at the senior management level.

Despite sustained advice and recommendations from the ACC, the Police Service has not instituted adequate prevention strategies to combat unauthorised and improper access to and disclosure of confidential information.

Recommended actions have included changes to management and supervisory approaches, IT systems and/or work practices.

A further concern for the ACC is that, in many instances, alleged improper disclosure of information is linked to alleged improper association with organised crime identities.

6. *86 reviews and audits of "other authority" investigation reports were conducted in the October to December 2003 quarter.*
- *Does this figure reflect efforts to finalise matters?*

ANSWER:

Yes, the ACC has put in a concerted effort, through its own action and by actively encouraging other agencies, to finalise matters as promptly as possible – but without compromising any investigation.

The aim is to limit the number of matters currently being dealt with by the ACC (matters reported to the ACC up to 31 December 2003), which have to be passed to the CCC, so that it (the CCC) is not confronted by an inordinate backlog.

7. *What is the ACC deadline for finalisation of remaining matters?*

ANSWER:

The aim is to finalise as many matters as possible prior to ACC closure.

8. *Is there an explanation for the high rate of referrals relating to Serious Improper Conduct for government departments?*

ANSWER:

The high rate of reports relating to serious improper conduct by public officers in government departments reflects a number of factors:

- the nature of the alleged misconduct being engaged in, particularly assault, sexual assault/harassment, and improper conduct
- the extent of collaboration with and assistance provided by the ACC (including the secondment of ACC investigators) to agencies (such as Department of Education and Training) which consistently report a higher number of allegations because of their workforce size and the nature of their activities
- the presence in those agencies of dedicated units for investigating and combating serious misconduct.

9. *There are a high proportion of alleged assaults in the general public sector, in particular with respect to the Department of Education.*

- *What is the nature of these assaults: are they physical/sexual assault?*
- *Do these substantiated matters relate to that same department?*
- *If so, have recommendations been made for that department to handle this issue?*

ANSWER:

The misconduct referred to is not 'alleged' assaults but substantiated cases (of both physical and sexual assault) on which criminal charges have been laid.

The bulk of the matters relate to public officers employed in the Department of Education and Training.

ACC has made recommendations to the Government about enhanced vetting procedures in relation to teachers and others involved in dealing with children, prior to their employment.

ACC has also made recommendations to the Department about reviewing and enhancing relevant policies and procedures to prevent as much as possible, and deal most effectively with, assaults on students by teachers. Recommendations have included engaging external consultants to address the policy and work practice issues and, extending training across the Department in relation to this issue.

10. *Of the 6 criminal charges laid against police, none are for assault; whilst of the 9 criminal charges laid against other Government Departments, 7 are either assault or sexual assault.*
- *Can you explain?*
 - *Is there a reason for this difference?*

ANSWER:

The information simply reflects the nature of the misconduct for which police and other public officers were subject to criminal charges being laid in the particular period.

Please note that in the recent reporting period (July to December 2003) and the previous full year (2002-03) reports to the ACC of alleged 'assault' and 'sexual assault/harassment' in respect of police and public officers in government departments were:

Alleged serious misconduct	Police		Gov't Dep't	
	July-Dec'03	2002-03	July-Dec'03	2002-03
Assault	4	3	21	26
Sexual assault/harassment	1	2	14	21

The significantly lower number of assault allegations made against police means there is likely to be fewer prosecutions for such conduct.

The 'criminal charges laid' figures in the July to December 2003 report relate mainly to action taken against public officers in the Department of Education and Training.

11. *There has been a significant jump in substantiated criminal matters relating to police between the periods July – September 2003 (2 matters) and October-December 2003 (12 matters).*
- *Why is this the case?*

ANSWER:

The difference in figures between subsequent quarters simply reflects outcomes reached in the investigation process. There is no significant factor that influenced the differences highlighted in the question.

12. There is an increase in physical surveillance in the October-December 2003 quarter.
- *Is it related to the Royal Commission?*

ANSWER:

No, it relates to surveillance activities carried out for matters under investigation by the ACC. The Royal Commission was conducting very few, if any, investigations during this period.

ACC ADMINISTRATION

1. *As at 31 December 2003, the ACC had already used 70% of its budget allocation for operations.*
- *Is this linked to winding up the activities of the ACC?*
 - *Is this problematic?*

ANSWER:

Operations expenditure to December 2003 includes planned expenditure (\$325,000) for upgrading telecommunications interception technology (switching) – necessitated by telecom industry changes - required to enable the continued functioning of ACC telecommunications interception and surveillance facilities.

Expenditure was 'within approved budget', and the ACC is on track to remain within its budget.

2. *Despite a decline in staff numbers at the ACC, it managed to finalise an impressive number of matters.*
- *How was this achieved?*

ANSWER:

ALL ACC staff have continued to apply themselves effectively and efficiently despite the high levels of uncertainty about their current and future employment. The results reflect the professionalism and commitment of staff to the work of the organisation and the agency's ability to effectively prioritise and deploy diminishing resources in the most effective way.

3. *Can you provide an update on the transfer of staff from the ACC?*

ANSWER:

As at 24 March 2004:

Permanent staff	69	
Seconded to the CCC		6
Seconded to other agencies		6
Redeployed		5
Otherwise employed		3
LWOP/Maternity Leave		4
Total placed	24	
Staff remaining to be placed	45	

APPENDIX FIVE

ACC JURISDICTION - STATUS OF FOSTER CARERS IN WESTERN AUSTRALIA



ANTI-CORRUPTION COMMISSION

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ABN 18 449 403 096

Unclassified

ACC Ref: 65091 GOV/REP/013/V01

Your Ref:

22 April 2004

The Hon D Tomlinson
Chairman
Joint Standing Committee on the Anti-Corruption Commission
Legislative Assembly Committee Office
1st Floor - 11 Harvest Terrace
WEST PERTH WA 6005

Dear Mr Tomlinson

ACC jurisdiction - status of foster carers in Western Australia

You will recall that during the Joint Standing Committee meeting of 29 March 2004 the Hon Barbara Scott asked about allegations of child sexual abuse involving foster carers administered by the Department for Community Development, referring also to such issues having been addressed by the Crime and Misconduct Commission (CMC) in Queensland. I advised that similar issues had not been raised with the Anti-Corruption Commission.

Subsequent to the meeting this matter was followed up with the Department for Community Development and the following advice has been provided regarding the status of foster carers, in terms of their 'employment' relationship with the Department.

'Foster carers are not employees of the Department and are considered to have volunteer status. They are recruited and trained by the Department's Foster Care Recruitment Service and supported by local (DCD) District Office placement officers. All foster carers receive a subsidy on behalf of the children in their care, as a contribution towards the day-to-day costs of their care. Centrelink recognises their volunteer status and carers are therefore eligible for benefits such as Family Tax Benefit.'

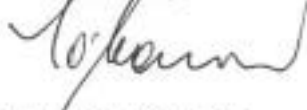
As such, foster carers are not 'public officers' and do not come within the jurisdiction of the ACC. Any matters involving alleged improper conduct by foster carers are investigated by DCD staff and may be referred to other authorities, including the Police. If such an investigation revealed serious misconduct by a DCD officer, then the matter should be reported to the ACC.

Page 2 of 2
Honourable D Tomlinson
22 April 2004

In Queensland, the CMC became involved because of an alleged lack of appropriate action by the State agency with responsibility for administering foster care arrangements in that State, in response to allegations of abuse of children by foster carers.

I trust this explanation clarifies the issues raised.

Yours sincerely



T E O'CONNOR QC
CHAIRMAN

Enc.

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