

# About the CMC

## Some facts about the CMC

- > Came into existence on 1 January 2002.
- > Was created under the *Crime and Misconduct Act 2001*.
- > Carries on the work of the former Criminal Justice Commission and Queensland Crime Commission.
- > Is not a court or an alternative police service, but works with law enforcement agencies to fight crime.
- > Is the only Queensland law enforcement agency with the power to conduct coercive hearings.
- > Investigates the most serious complaints of misconduct in the public service, or those that involve the public interest.
- > Can investigate public servants, but not elected officials, unless their conduct could amount to a criminal offence.
- > Offers the only witness protection service in Queensland.
- > Monitors how public sector agencies, including the police, deal with misconduct.
- > Employs almost 300 staff and has a budget of \$35 million.

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#### The Commission — the board of the CMC

As at 30 June 2006 the Commissioners were (left to right): the Honourable Douglas Drummond QC, Ms Julie Cork, Dr David Gow and CMC Chairperson Robert Needham. (A fifth Commissioner, Ms Ann Gummow, was appointed in August 2006.)

## About the CMC

The CMC protects Queenslanders from major crime and promotes a trustworthy public sector.

The Crime and Misconduct Commission (CMC) is a government-funded body but is independent of the government of the day. It is run by a five-member board (called 'the Commission') and answers ultimately to the people of Queensland through the all-party Parliamentary Crime and Misconduct Committee (PCMC).

The PCMC is a standing committee of the Legislative Assembly with particular responsibility for monitoring and reviewing the CMC's performance. See page 23 for a photograph of the current PCMC.

## Origins of the CMC

Established under the *Crime and Misconduct Act 2001* (CM Act), the CMC began operating on 1 January 2002 with the merger of the Criminal Justice Commission (CJC) and the Queensland Crime Commission (QCC).

The CJC was set up as a result of the Fitzgerald Commission of Inquiry into police corruption, and played a major part in creating a stronger, more accountable police service and public service for Queensland. The QCC, established by the *Crime Commission Act 1997*, forged harmonious and successful partnerships with the Queensland Police Service (QPS) and other law enforcement agencies to combat major crime.

The combination of these two organisations resulted in a powerful new organisation for fighting crime and misconduct and raising public sector integrity in Queensland. The CMC is committed to helping police fight organised and other forms of major crime, and to the continuous improvement of the Queensland public sector, including the police service.

The third function of the CMC — witness protection — dates back to the time of the Fitzgerald Inquiry, when certain witnesses to the inquiry needed to be protected. Witness Protection was established as a unit within the

CJC in 1989, and this responsibility was later taken on by the CMC under the *Witness Protection Act 2000*.

## Management

The CMC is headed by a five-member Commission, which comprises the Chairperson and four part-time Commissioners who represent the community. (See pages 18–19 for details about the Commissioners who served during 2005–06.)

The Commissioners are also eligible to be appointed as Police Service Review Commissioners (see page 84 for details).

Decisions made by the Commission are put into effect by the Strategic Management Group (SMG). The SMG also selects and oversees the major operational and administrative projects of the organisation, in line with corporate priorities, objectives and statutory responsibilities.

The SMG is led by the Chairperson and comprises 11 members, representing all areas of the CMC. It has a charter which outlines its role and responsibilities. Minutes of the meetings are produced to record decisions and actions, and to ensure the charter is adhered to. (See page 20 for more information about the SMG.)

## Outputs

The CMC operates on three main fronts, defined in our strategic plan for the period 2005–09 as 'outputs'. These are:

- > combating major crime
- > reducing misconduct and improving public sector integrity
- > protecting witnesses.

All three outputs contribute to the Queensland Government's priority of Protecting our Children and Enhancing Community Safety. In addition, the CMC's 'reducing misconduct and improving public sector integrity' output contributes to the government priority of Delivering Responsive Government.

### Combating major crime

The CMC works in partnership with the QPS and other law enforcement agencies to combat and prevent major crime. Under the Crime and Misconduct Act, major crime encompasses:

- > **organised crime** – criminal activity undertaken with the purpose of gaining profit, power or influence, and involving offences punishable by not less than seven

years' jail, two or more people, and planning and organisation or systematic and continuing activity

- > **criminal paedophilia** – criminal activity involving sexual offences against children or child pornography
- > **serious crime** – unsolved criminal activity involving offences punishable by not less than 14 years' imprisonment (e.g. murder, arson)
- > **terrorism** (added by an amendment to the Act in 2004)
- > actions taken in preparation for committing criminal paedophilia, organised crime or terrorism, or to avoid detection of, or prosecution for, these crimes.

We are not an alternative police service, but we have special powers not possessed by any other law enforcement agency which help us make a valuable contribution to combating and preventing major crime.

The partnership between the CMC and the QPS allows police investigations to be expedited through the use of our special powers, and gives us access to police resources and the skills and talents of experienced investigators to fight major crime.

Our intelligence work helps us decide what crimes pose the most serious threat to the people of Queensland, and our research and prevention function helps us adopt preventive strategies in addition to making arrests. For performance in 2005–06, see pages 27–42.

### Reducing misconduct and improving public sector integrity

We work in partnership with the QPS, state departments, public sector agencies and local government to reduce misconduct and raise integrity in Queensland. Our ultimate goal is to achieve a commitment to integrity that is shared by all.

To this end, we receive and assess complaints of misconduct, refer some matters to the relevant agency to deal with (subject to our monitoring), and investigate some of the more serious matters ourselves.

Under the Crime and Misconduct Act, 'misconduct' refers to official misconduct (which applies to all public sector officials, including police) or police misconduct (which relates only to police officers). Official misconduct and police misconduct are defined as follows:

- > **Official misconduct** is conduct relating to the performance of an officer's duties or exercise of powers that is dishonest or lacks impartiality, or involves a breach of the trust placed in a person by virtue of their position, or is a misuse of officially obtained information.



Assistant Commissioner, Misconduct,  
Stephen Lambrides

To amount to official misconduct, the conduct must also be a criminal offence or serious enough to justify dismissal. Official misconduct includes conduct by anyone who seeks to corrupt a public officer.

- +> **Police misconduct** is any conduct (other than official misconduct) that is disgraceful, improper or unbecoming a police officer, or demonstrates that person's unfitness to be or continue as an officer, or does not meet the standard of conduct that the community reasonably expects of a police officer.

Our misconduct jurisdiction applies to the Queensland public sector only – which means state government departments, public sector agencies, statutory authorities, tribunals, universities, local governments, the QPS, judicial officers, and Queensland parliamentarians and elected councillors.

The Crime and Misconduct Act encourages all public sector agencies, including the QPS, to deal with the misconduct of their own staff. This is known as the devolution principle. At the same time, the Act empowers the CMC to monitor how public sector agencies handle cases of suspected official misconduct and how the QPS handles allegations of police misconduct and official misconduct. The Act also empowers us to assume responsibility for an investigation if the public interest requires it, or if the relevant agency is not equipped to handle the investigation.

Cases of suspected official misconduct come to our attention through referrals by chief executive officers and police (who have a statutory obligation to report suspected official misconduct to the CMC), through our own initiative and intelligence work, and through complaints made by the public.

We may decide to investigate a matter alone or in partnership with the relevant agency, or we may ask the agency to deal with it subject to some form of monitoring. The 'misconduct' output, like the 'combating major crime' output, relies on the use of multidisciplinary teams. For performance in 2005–06, see pages 43–62.

## Protecting witnesses

The CMC offers Queensland's only witness protection service. To be eligible for protection, a person must be in danger as a result of having helped a law enforcement agency fulfil its responsibilities. For performance in 2005–06, see pages 69–74.

## Engaging in public policy

There is also a fourth front on which the CMC operates. In recent years we have increasingly been engaged in projects with a significant criminal justice and public policy focus. These may originate from investigations, through referral by our minister under the CM Act, or as a requirement in other legislation. For more information about our engagement in public policy, see pages 63–68.

## Chief work areas

The following work areas contribute to the outputs described above.

### Crime

The Crime area conducts specialist, multidisciplinary proactive investigations and performs other law enforcement tasks. For administrative purposes our Proceeds of

Crime Unit, which performs the CMC's civil confiscation function, is located within the Crime area. Civil confiscation involves the restraint and ultimate forfeiture of the proceeds of serious criminal activity to the state.

## Misconduct

The Misconduct area receives and assesses complaints about misconduct, monitors how agencies deal with complaints, and helps build the capacity of agencies to prevent and deal with misconduct. It also investigates the most serious complaints, or those that involve the public interest.

## Witness Protection

The Witness Protection area assesses all witness protection applications from client agencies, assists protected persons to meet their court commitments, provides education and information sessions to client agencies and delivers witness protection training.

## Operations Support

Operations Support, led by the most senior police officer attached to the CMC, coordinates the activities of police working in the CMC, and provides expertise in surveillance, technical services and forensic computing.

## Research and Prevention

The Research and Prevention area performs research into crime, misconduct, policing, and other policy and legislative issues referred by our minister (the Minister for Justice and Attorney-General) or required by legislation. It also provides significant services relating to preventing crime and misconduct and building the capacity of agencies to prevent and deal with misconduct.

## Intelligence

The Intelligence area collects, collates and analyses information and intelligence relevant to our Crime, Misconduct and Witness Protection responsibilities. It identifies and develops targets for CMC investigative action, provides strategic assessments and trends analysis on relevant matters, maintains an intelligence database, disseminates intelligence to law enforcement and government agencies, acts as a bridge between the Crime and Misconduct areas to facilitate exchange of information, and provides tactical information and intelligence support for investigative teams.

## Corporate Support

The Corporate Support area helps all areas of the CMC to operate effectively in the interests of achieving the organisation's goals. Its responsibilities include managing our internal and external accountability systems; providing a secretariat service to the Commission; corporate governance, legal, financial, administrative, human resource and information management; and providing communication services.



Assistant Commissioner, Crime,  
John Callanan



Assistant Commissioner Ron Vincent  
Ron Vincent is Director of Witness Protection and Operations Support, and the most senior police officer attached to the CMC.

## The CMC's special powers

Our Act has given us special powers to enable us to gather vital evidence and information in the fight against crime and corruption. As a result, the CMC may:

- > require a person to produce records or other things relevant to a CMC investigation
- > enter a public sector agency, inspect any record or other thing in those premises, and seize or take copies of any record or thing that is relevant to a CMC investigation
- > apply to a magistrate or judge for a warrant to enter and search premises
- > apply to the Supreme Court for a surveillance device
- > summons a person to attend a hearing to give evidence and produce such records or things as are referred to in the summons.

The search, surveillance and seizure powers form an important aspect of CMC investigative activity, while the power to 'require a person to produce records or other things' is used extensively in misconduct investigations as well as in proactive financial investigations into organised crime and money laundering.

Powers under both the Crime and Misconduct Act and the *Police Powers and Responsibilities Act 2000* are used, depending on operational considerations. (For use of these powers in 2005–06, see Tables 4–6, page 30, and Table 13, page 58.)

## The hearings power

The CMC is the only Queensland law enforcement agency with the power to conduct coercive hearings.

The hearings power is a potent investigative tool because it greatly enhances our ability to break through the 'wall of silence' that frequently characterises major crime and corruption. At the same time, we are conscious of the need to use this power in a discerning way, taking into account the public interest on the one hand and the rights of the individual on the other.

## Public inquiries

Complaints or issues brought to our attention sometimes involve wide-ranging allegations that have the potential to reduce public confidence in fundamental systems of government. Often, in these cases, there are numerous stakeholders who can provide important evidence on the conduct of individuals and insights into the processes adopted within the system.

The holding of public inquiries has a twofold benefit:

- > It allows a wider gathering of evidence on which findings and recommendations can be based than may usually be possible during a normal investigation.
- > It allows the public to be involved in the process of reform.

During this reporting period, a public inquiry was held in relation to the 2004 Gold Coast City Council elections (for details see page 60). Two days of public hearings



Chairperson and CEO Robert Needham

Robert Needham presiding over a public hearing in the CMC's Hearing Room

were also held in September 2005 in relation to regulating outcall prostitution in Queensland (see page 66).

Under the current provisions of the Crime and Misconduct Act, the Chairperson of the CMC is the only person authorised to conduct public inquiries, although the Act is about to be amended to allow greater flexibility in this regard.

## Limitations of CMC powers

The CMC is not a court. It cannot find people guilty or not guilty, or discipline anyone. It cannot investigate:

- > private sector matters, unless they arise out of dealings with the public sector
- > issues arising in other states or territories
- > federal parliamentarians, departments or agencies
- > state parliamentarians and local councillors, unless their conduct could amount to a criminal offence.

## Can the CMC lay charges?

In the context of our crime investigations, we can have people arrested, charged and prosecuted. In the context of our official misconduct functions, we can arrest offenders or refer the matter to the relevant prosecuting authority with a view to criminal prosecution, or to the appropriate chief executive officer to consider disciplinary action. We can also charge public officers with official misconduct in a Misconduct Tribunal.

## Telephone interception powers

Unlike law enforcement agencies, such as the police services of most states, the Australian Crime Commission (ACC) and the Australian Federal Police (AFP), the CMC does not have telephone interception powers. It can gain access to these powers through joint operations, but only when there are federal or cross-border aspects to the investigation. The CMC's priorities, however, sometimes differ from those of Commonwealth and interstate agencies. Hence these important powers are not available in most CMC investigations of major crime and corruption. We will continue to press for these powers.

## Accountability

While independent of the government of the day, the CMC is fully accountable to the people of Queensland through an all-party parliamentary committee known as the Parliamentary Crime and Misconduct Committee or PCMC (see also page 23). The PCMC, which is assisted by the Parliamentary Crime and Misconduct Commissioner, oversees the CMC's activities and investigates complaints against it. See pages 15–26 for more details about the CMC's accountability. Figure 1 (next page) gives a diagrammatic representation of the CMC's structure and accountability.



Terrica Place

The CMC occupies five floors of Terrica Place, 140 Creek Street, Brisbane.

## Our people

The CMC is dedicated to providing the best working environment it can for its staff of lawyers, police, accountants, investigators, intelligence analysts, social scientists, computing specialists, support officers and administrators. It does this by offering state public service working conditions, including enterprise bargaining, and by adhering to government policies on equal employment opportunity and workplace health and safety. In addition, it provides an employee support program, a training service, staff achievement awards, regular internal communication facilities and a mechanism for staff to have their concerns heard by senior management. (For more information about our people and resources, see pages 75–84.)



Records Manager Janet Legg and Project Officer Suzanne Sweeper

**Figure 1. Structure and accountability of the CMC**

