

PARLIAMENT OF NEW SOUTH WALES

COMMITTEE ON THE ICAC

***REPORT
ON -***

Visit to Brisbane

02 - 03 November 1992

APRIL 1993

PARLIAMENT OF NEW SOUTH WALES

COMMITTEE ON THE ICAC

R E P O R T O N

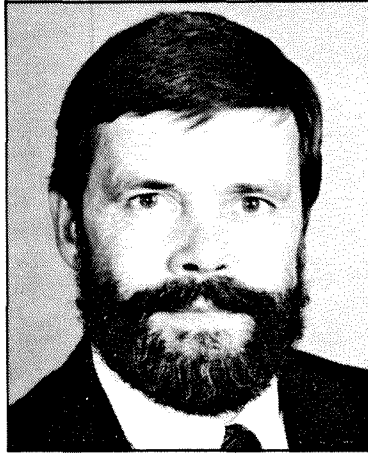
**VISIT TO BRISBANE
02 - 03 NOVEMBER 1992**

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COMMITTEE MEMBERSHIP AND STAFF



**M J Kerr MP
(Chairman)**



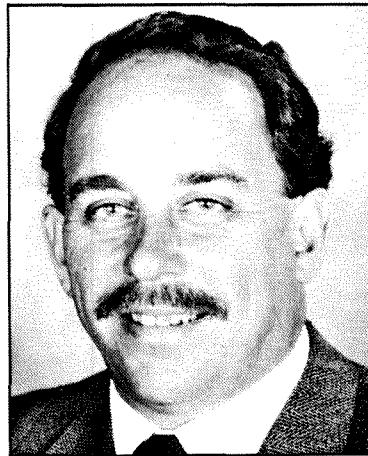
B J Gaudry MP



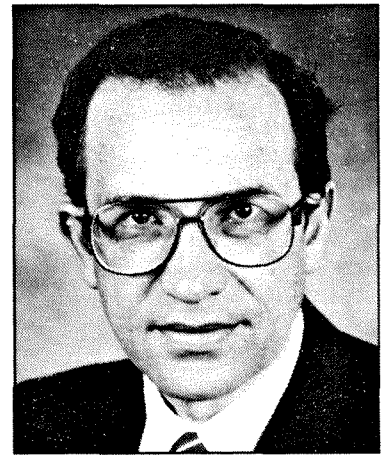
J E Hatton MP



P R Nagle MP



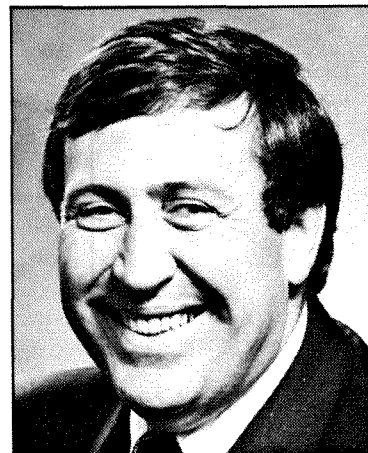
J H Turner MP



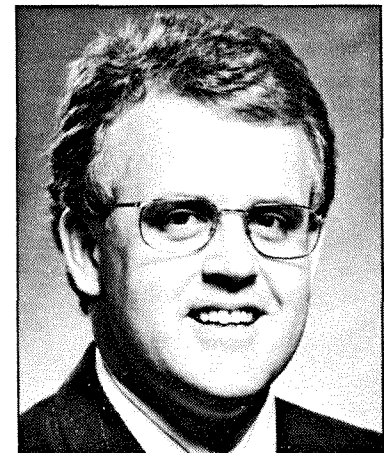
P J Zammit MP



Hon J C Burnswoods MLC



**Hon D J Gay MLC
(Vice-Chairman)**



Hon S B Mutch MLC

Staff:

Clerk

Project Officer

Assistant Committee Officer

—

Ms R Miller

—

Mr D M Blunt

—

Ms G C Penrose

COMMITTEE FUNCTIONS

INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 1988

- "64 (1) The functions of the joint Committee are as follows:
- (a) to monitor and to review the exercise by the Commission of its functions;
 - (b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or connected with the exercise of its functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;
 - (c) to examine each annual and other report of the Commission and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;
 - (d) to examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change which the Joint Committee thinks desirable to the functions, structures and procedures of the Commission;
 - (e) to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.
- (2) Nothing in this Part authorises the Joint Committee -
- (a) to investigate a matter relating to particular conduct; or
 - (b) to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint; or
 - (c) to reconsider the findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint."

CHAIRMAN'S FOREWORD

This report seeks to provide an objective account of the Committee's visit to Brisbane in November 1992.

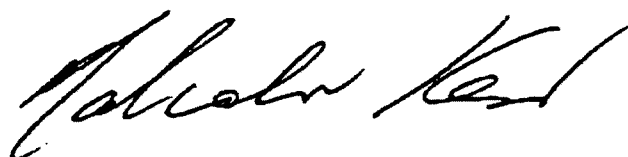
The primary purpose of the visit was to allow the Committee to receive detailed briefings from the Criminal Justice Commission (CJC) on its functions and operations. The Committee also received detailed briefings on Police reforms in Queensland, including changes to the Police education and training system. The Committee also met with representatives of the Electoral and Administrative Review Commission (EARC) and the Parliamentary Criminal Justice and Electoral and Administrative Review Committees. Each of these briefings and meetings are described in the report.

I would like to express the Committee's thanks to all those who made themselves available to meet with the Committee. My particular thanks go to the outgoing Chairman of the CJC, Sir Max Bingham, for providing for the detailed briefing program at the CJC during his last month as Chairman, and to Marshall Irwin for arranging those briefings.

Finally, a note of caution in drawing parallels between reforms in Queensland and NSW.

As set out in the report, the CJC and the ICAC are quite different bodies with different functions. To the extent that there are similarities between the two organisations this is due, at least in part, to the assistance which the ICAC provided to the CJC during its establishment.

In comparing other areas of reform, including reforms to Police education and training, and changes to administrative practices arising from the work of EARC, one must be conscious of the grave problems exposed by the Fitzgerald inquiry and the extraordinary blueprint for reform laid out in the Fitzgerald report.



Malcolm J Kerr MP
Chairman

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1 ***PURPOSE OF VISIT***

- 1.1 The major purpose of the Committee's visit to Brisbane was to enable the Committee to receive a series of briefings from the Criminal Justice Commission (CJC) on its functions and operations. The Committee has closely followed the work of the CJC over the last three years and has been impressed by what it has heard and read from the Commission. The Committee has enjoyed a very co-operative relationship with the CJC and the Commission has shown a readiness to assist the Committee with its inquiries wherever possible. Against this background the Committee wanted to meet with and question first hand the directors of each of the CJC's divisions. The Committee was particularly keen to do this while the inaugural Chairman, Sir Max Bingham QC, was still in that role. In the end the timing of the Committee's visit in November 1992 was perfect. This was during Sir Max's last month as Chairman and during the period when the new Chairman designate, Mr Robin O'Regan QC, was acting as a consultant to the Commission. Hence the Committee was able to have the benefit of Sir Max's views from his three years as Chairman and also establish contact with the incoming Chairman.
- 1.2 The second reason for the Committee's visit to Brisbane was to meet with the Electoral and Administrative Review Commission (EARC) and the Parliamentary Committee for Electoral and Administrative Review. EARC is likely to be substantially wound down within twelve months. It was important for the Committee to gain an appreciation of the work of EARC while it is still a fully functioning entity. More particular, the Committee was keen to question EARC and its Parliamentary Committee about the work which it had conducted on Codes of Conduct for Public Officials. The Committee was in the process of conducting an inquiry into a Code of Conduct for MPs and a number of witnesses who appeared before the Committee had drawn particular attention to the work that EARC had done in this area.
- 1.3 The Committee's visit was also able to serve another purpose. Three members of the Committee are also members of the Select Committee on Police Administration. The Committee therefore took the opportunity to seek the views of the CJC on some of the issues before that Select Committee. Furthermore, a meeting was organised with the Queensland Police Minister and Police Commissioner to discuss some of the matters of concern to members of the Select Committee.

2 ***CRIMINAL JUSTICE COMMISSION***

2.1 **General Overview**

2.1.1 The CJC was one of two Commissions established in Queensland as a result of Fitzgerald Report. Fitzgerald recommended that a Criminal Justice Commission should be established charged with:

- (a) monitoring, reviewing, co-ordinating and initiating reform of the administration of criminal justice in Queensland on an ongoing and permanent basis; and
- (b) discharging those criminal justice functions not appropriately to be carried out by the Police Department or other agencies.

The CJC was established in late 1989 after the passage of the Criminal Justice Act 1989. The objects of the Act are set out in section 1.3. This section is reproduced on the next page. Also reproduced on the following pages are sections 2.14 and 2.15 which set out the functions and responsibilities of the Commission, and the definitions of official misconduct and unit of public administration which are contained in the Act.

Criminal Justice Act 1989, No.111

1.3 Objects of Act. The objects of this Act are—

- (a) to provide for the establishment and maintenance of a permanent body—
 - (i) to advise on the administration of the criminal justice system in Queensland with a view to ensuring its efficiency and impartiality;
 - (ii) to continue investigations commenced by the Commission of Inquiry;
 - (iii) to investigate the incidence of organized or major crime;
 - (iv) to take measures to combat organized or major crime for an interim period;
 - (v) to investigate complaints of official misconduct referred to the body and to secure the taking of appropriate action in respect of official misconduct;
 - (vi) to hear and determine disciplinary charges of official misconduct in prescribed circumstances;
 - (vii) to discharge such functions and responsibilities as are incidental to or in aid of discharge of the functions and responsibilities referred to in the foregoing provisions of this section;
- and
- (b) to provide for the establishment and maintenance of a Parliamentary body to inform the Legislative Assembly on the activities referred to in paragraph (a) and on matters pertinent thereto.

Criminal Justice Act 1989, No.111

2.14 Functions. (1) The Commission shall—

- (a) continually monitor, review, co-ordinate and, if the Commission considers it necessary, initiate reform of the administration of criminal justice;
- (b) discharge such functions in the administration of criminal justice as, in the Commission's opinion, are not appropriate to be discharged, or cannot be effectively discharged, by the Police Force or other agencies of the State.

In discharging its functions the Commission shall—

- (a) wherever practicable, consult with persons or bodies of persons known to it to have special competence or knowledge in the area of the administration of criminal justice concerned, and seek submissions from the public; and
- (b) in its report thereon, shall present a fair view of all submissions and recommendations made to it on the matter in relation to which it is discharging its functions, whether such submissions and recommendations are supportive of, or contrary to, the Commission's recommendations on the matter.

(2) Subject to section 2.18, the Commission shall report to the Parliamentary Committee—

- (a) on a regular basis, in relation to the Commission's activities;
- (b) when instructed by the Parliamentary Committee to do so with respect to that matter, in relation to any matter that concerns the administration of criminal justice;
- (c) when the Commission thinks it appropriate to do so with respect to that matter, in relation to any matter that concerns the administration of criminal justice.

(3) The Commission shall monitor, review, co-ordinate and initiate implementation of the recommendations relating to the administration of criminal justice contained in the Report of the Commission of Inquiry, and to that end, having regard to that report, shall prepare a program of priorities.

2.15 Responsibilities. The responsibilities of the Commission include—

- (a) the acquisition and maintenance of the resources, skills, training and leadership necessary for the efficient administration of criminal justice;
- (b) monitoring and reporting on the use and effectiveness of investigative powers in relation to the administration of criminal justice generally;
- (c) monitoring and reporting on the suitability, sufficiency and use of law enforcement resources and the sufficiency of funding for law enforcement and criminal justice agencies including the offices of the Director of Prosecutions and of the Public Defender;
- (d) overseeing criminal intelligence matters and managing criminal intelligence with specific significance to major crime, organized crime and official misconduct;

Criminal Justice Act 1989, No.111

to ensuring that the most appropriate policing methods are being used, consistently with trends in the nature and incidence of crime, and to ensuring the ability of the Police Force to respond to those trends;

- (h) providing the Commissioner of Police with policy directives based on the Commission's research, investigation and analysis, including with respect to law enforcement priorities, education and training of police, revised methods of police operation, and the optimum use of law enforcement resources;
- (i) overseeing reform of the Police Force;
- (j) reporting regularly on the effectiveness of the administration of criminal justice, with particular reference to the incidence and prevention of crime (in particular, organized crime) and the efficiency of law enforcement by the Police Force;
- (k) reporting, with a view to advising the Legislative Assembly, on the implementation of the recommendations in the Report of the Commission of Inquiry relating to the administration of criminal justice, and to the Police Force;
- (l) taking such action as the Commission considers to be necessary or desirable in respect of such matters as, in the Commission's opinion, are pertinent to the administration of criminal justice.
- (e) researching, generating and reporting on proposals for reform of the criminal law and the law and practice relating to enforcement of, or administration of, criminal justice, including assessment of relevant initiatives and systems outside the State;
- (f) in discharge of such functions in the administration of criminal justice as, in the Commission's opinion, are not appropriate to be discharged, or cannot be effectively discharged, by the Police Force or other agencies of the State, undertaking—
 - (i) research and co-ordination of the processes of criminal law reform;
 - (ii) matters of witness protection;
 - (iii) investigation of official corruption in units of public administration;
 - (iv) investigation of organized or major crime.
- (g) monitoring the performance of the Police Force with a view

Criminal Justice Act 1989, No.111

to ensuring that the most appropriate policing methods are being used, consistently with trends in the nature and incidence of crime, and to ensuring the ability of the Police Force to respond to those trends;

- (h) providing the Commissioner of Police with policy directives based on the Commission's research, investigation and analysis, including with respect to law enforcement priorities, education and training of police, revised methods of police operation, and the optimum use of law enforcement resources;
- (i) overseeing reform of the Police Force;
- (j) reporting regularly on the effectiveness of the administration of criminal justice, with particular reference to the incidence and prevention of crime (in particular, organized crime) and the efficiency of law enforcement by the Police Force;
- (k) reporting, with a view to advising the Legislative Assembly, on the implementation of the recommendations in the Report of the Commission of Inquiry relating to the administration of criminal justice, and to the Police Force;
- (l) taking such action as the Commission considers to be necessary or desirable in respect of such matters as, in the Commission's opinion, are pertinent to the administration of criminal justice.

Criminal Justice Act 1989, No.111

2.23 General nature of official misconduct. (1) Official misconduct is—

- (a) conduct of a person, whether or not he holds an appointment in a unit of public administration, that adversely affects, or could adversely affect, directly or indirectly, the honest and impartial discharge of functions or exercise of powers or authority of a unit of public administration or of any person holding an appointment therein;
- (b) conduct of a person while he holds or held an appointment in a unit of public administration—
 - (i) that constitutes or involves the discharge of his functions or exercise of his powers or authority, as the holder of the appointment, in a manner that is not honest or is not impartial;
 - or
 - (ii) that constitutes or involves a breach of the trust placed in him by reason of his holding the appointment in a unit of public administration;
 - or
- (c) conduct that involves the misuse by any person of information or material that he has acquired in or in connexion with the discharge of his functions or exercise of his powers or authority as the holder of an appointment in a unit of public administration, whether the misuse is for the benefit of himself or another person,

and in any such case, constitutes or could constitute—

- (d) in the case of conduct of a person who is the holder of an appointment in the unit of public administration, a criminal offence, or a disciplinary breach that provides reasonable grounds for termination of the person's services in the unit of public administration;
- (e) in the case of any other person, a criminal offence.

(2) It is irrelevant that proceedings or action in respect of an offence to which the conduct is relevant can no longer be brought or continued or that action for termination of services on account of the conduct can no longer be taken.

(3) A conspiracy or an attempt to engage in conduct, such as is referred to in subsection (1) is not excluded by that subsection from being official misconduct if, had the conspiracy or attempt been brought to fruition in further conduct, the further conduct could constitute or involve an offence or grounds referred to in subsection (1).

Criminal Justice Act 1989, No.111

“unit of public administration” means—

- (a) the Legislative Assembly, and the Parliamentary Service;
- (b) the Executive Council;
- (c) every department of the Public Service of Queensland within the meaning of the *Public Service Management and Employment Act 1988*;
- (d) the Police Force;
- (e) the Railway Department;
- (f) every corporate entity that is constituted by an Act, or that is of a description of entity provided for by an Act, which in either case collects revenues or raises funds under the authority of an Act;
- (g) every non-corporate entity established or maintained pursuant to an Act, which is funded to any extent with moneys of the Crown, or is assisted in a financial respect by the Crown;
- (h) the courts of the State of whatever jurisdiction, and the registries and other administrative offices thereof.

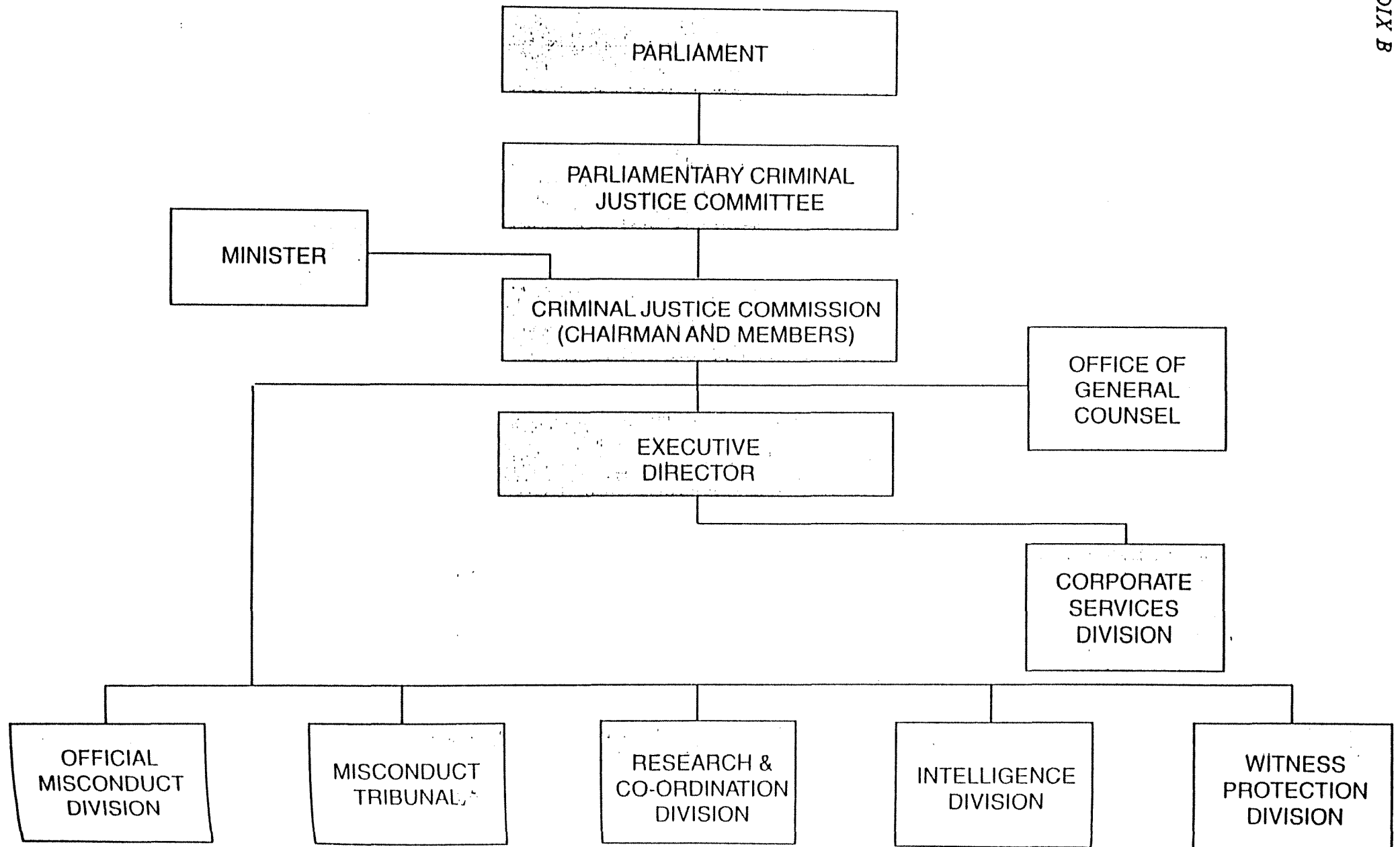
(2) For the purposes of this Act, a person holds an appointment in a unit of public administration if he holds any office, place or position therein, whether his appointment thereto is by way of election or selection.

2.1.2 As envisaged in both the Fitzgerald Report and the CJC Act the Commission consists of five functional divisions. These are the:

- ◇ Official Misconduct Division;
- ◇ Research and Co-ordination Division;
- ◇ Intelligence Division;
- ◇ Witness Protection Division; and
- ◇ Misconduct Tribunals.

The Commission has also established an Office of General Counsel and a Corporate Services Division. In addition to the Chairman there are four part-time members of the Commission. Together they form the Commission Board. The Commission is accountable to the Parliament through the Parliamentary Criminal Justice Committee. Reproduced on the next page is an organisational chart which shows the key reporting relationships and organisational structure.

ORGANISATIONAL STRUCTURE OF THE CRIMINAL JUSTICE COMMISSION



2.2 Comparisons between the CJC and ICAC

It should be clear from the foregoing overview of the CJC that the CJC and ICAC are quite different organisations. The CJC's statutory functions are considerably wider than those of the ICAC. The CJC's responsibilities cover such areas as the administration of criminal justice, criminal law reform, organised crime, witness protection, criminal intelligence and a police "internal affairs" function. The CJC's function of investigating official misconduct, the rough equivalent of the ICAC's function of investigating public sector corruption, is just one of its many functions. In comparison with the CJC the ICAC is a small specialised organisation. In a sense the ICAC is the equivalent of the CJC's Official Misconduct Division.

There is a deal of similarity in the way the CJC and the ICAC perform their work. This is due in part to the fact that, because the CJC began its operations after the ICAC, the ICAC provided advice and assistance to the CJC about methods and procedures. The Committee understands that there has continued to be a co-operative and cordial relationship between the two bodies, in which information and ideas are exchanged, both formally and informally.

2.3 Briefings

The CJC arranged for the Committee to receive a briefing from each of the Directors of its Divisions on 02 November. These briefings included an opportunity for Committee members to question the Directors about matters arising from their presentations and matters of particular interest.

It should be noted that the areas covered in these briefings are issues that the Committee has raised in the past with the ICAC. The Committee has received detailed briefings on these issues from the ICAC. (For further information on the ICAC's response on the issues covered in these briefings refer to the Collations of Evidence of the Commissioner at the Committee's regular, six monthly public hearings.)

2.3.1 *Paul Roger, Director, Intelligence Division*

The first briefing the Committee received was from the Director of the CJC's Intelligence Division, Paul Roger. Mr Roger commenced by outlining the functions of the Intelligence Division as provided for in s.2.47 of the CJC Act. These functions are:

- (a) to build up the CJC's data base of intelligence information concerning criminal activities and particularly organised crime;

- (b) to assume possession and control of all data and records of the Fitzgerald Commission;
- (c) to secure all such data held so that only those who have a legitimate need have access to that data;
- (d) to oversight the performance of the Queensland Police Services Bureau of Criminal Intelligence; and
- (e) subject to the CJC's approval, to report to the Minister responsible for the CJC and the Minister of the Crown responsible for the Police Service on matters of criminal intelligence pertinent to the deliberations, policies and projects of the Government.

Mr Roger outlined the background to these functions in terms of Commissioner Fitzgerald's concerns about the lack of effective intelligence available in Queensland and the criticism of the now disbanded Queensland Police Special Branch. He emphasised that the Intelligence Division was cognisant of public concerns about access to intelligence holdings and about the sort of information collected. The Division had therefore adopted a deliberate policy of adherence to Commonwealth privacy principles and had made the Division's guidelines, which contain the procedures for data collection, storage, access and use, available to the public.

Mr Roger went on to discuss, in broad terms, the different forms of intelligence work conducted by the Division, including strategic, tactical and operational intelligence. He also spoke about the Division's data base and the back capture of the intelligence holdings from the Fitzgerald Commission. In reviewing the work of the division to date, Mr Roger identified overcoming traditional rivalries between intelligence analysts and investigators as a particular success. He said that efforts were being made to take a proactive approach to data collection in relation to organised crime in Queensland. He spoke at some length about the oversight of the BCI, including the Counter Terrorist Section of the Queensland Police and indicated that this was, by its nature, a delicate relationship.

In answer to questions from the Committee Mr Roger said that the Division had the preparation of a profile of corrupt conduct in Queensland under active consideration. He said that he favoured an emphasis upon corruption prevention in the preparation of such a profile. He said such a profile would identify the areas where corruption is most likely to exist in terms of organisations and positions within organisations, and would build upon the risk assessment work already being done by the Commission. Mr Roger said he hoped it would be possible to produce a document which contained a profile of

corrupt conduct within about twelve months. Work was currently underway on a similar profile of organised crime in Queensland.

Mr Roger also answered questions about the background and experience of the Division's analysts and the career path for analysts. He said that all his staff had at least four years experience and some had up to 23 years in a range of organisations both in Australia and overseas. He indicated that it was expected that some analysts after completing their three or five year contract would probably move from one agency to another to pursue a career path whilst others would remain with the Commission. In relation to the success that had been achieved in breaking down mistrust between investigators and analysts, Mr Roger said the main development had been the placement of analysts in investigative teams, and the involvement of such analysts together with investigators in team decisions about the direction of investigations.

Finally, Mr Roger was asked about measurement of the success of the work of the Intelligence Division. He said that the major indices of success were the acceptance of the recommendations in the Division's reports and target proposals, and the resulting success of subsequent operations against those targets.

(In drawing any comparisons with the ICAC it must be born in mind that, unlike the CJC, the ICAC does not have any statutory functions related to intelligence. It should also be remembered that whilst the CJC's Intelligence Division has a staff of twenty-four, the ICAC has only a small number of intelligence analysts.)

2.3.2 *Dr Satyanshu Mukherjee, Research and Co-ordination Division*

The first hour of the briefing with Dr Mukherjee was spent discussing the reforms to the Police Education and Training system in Queensland. Dr Mukherjee arranged for representatives from the two universities involved in the education of Police recruits and the Director of the Police Academy to come and speak with the Committee (see section 3.2 below). This was a most informative meeting and the Committee is very appreciative to Dr Mukherjee for facilitating this meeting.

Following the discussion about Police Education and Training Dr Mukherjee went on to outline the major projects which the Research and Co-ordination Division had undertaken. these included the Report on Prostitution, the Report on Crime and Justice in Queensland, which provided a non technical description of the criminal justice system, the Crime Victims Survey and the Report on the Information System of the Queensland Police Service.

Dr Mukherjee then spent some time describing two particularly important projects currently underway. The first of these is a Review of Police Powers in Queensland. This is a comprehensive review drawing together various powers which arise from 96 pieces of legislation. The project is designed to determine the appropriateness of different powers and the sort of data that should be kept in relation to their exercise.

The second current project which Dr Mukherjee described in some detail is a project arising from a recommendation of the Parliamentary Criminal Justice Commission. This is a comprehensive review and analysis of the implementation of the 127 recommendations contained in the Fitzgerald Report with respect to the Police Service. The Division has broken the project down into eight component areas covering: regionalisation; the task force; recruitment and training; transfer and promotion; community policing and crime prevention; civilianisation; communication and computerisation; and structure of the service and allocation of staff. The project is being conducted by way of interviews and discussions with over 400 Police officers and study of documentary material. A report is due by April 1993.

There was some discussion about the approach or attitude taken by the Commission to follow up of the recommendations contained in its reports. It was suggested that, whilst the CJC takes a legitimate interest in the ultimate outcome of its inquiries, it was really the prerogative of Government and the Parliament to take whatever action it saw fit on Commission reports. There was also some discussion about the similarity of some of the Division's work to the work of the NSW Bureau of Crime Statistics and Research. There was agreement that the NSW Bureau of Crime Statistics and Research conducts work of a high quality and Dr Mukherjee pointed out that the Parliamentary Criminal Justice Committee had recommended the establishment of a similar body within the CJC.

2.3.3 *Graham Brighton, Corporate Services Division*

Graham Brighton, the Executive Director of the CJC and the Director of the Corporate Services Division gave the Committee a thorough briefing on his responsibilities. These include: management services functions, including personnel, finance and administration; information services, including computer technology and records management; and acting as executive secretary to the Commission proper. Mr Brighton also answered questions from the Committee on a range of issues related to the corporate services area.

On staffing matters, Mr Brighton said that while the CJC was not bound by industrial rulings or the Industrial Conciliation and Arbitration Commission, the Commission had adopted where practicable all of the public sector

employment standards issued by the Public Sector Management Commission. Similarly the Commission had adopted internal dispute resolution procedures which mirror the public sector dispute resolution process. The Commission is currently developing an EEO management plan. He also indicated that the Code of Conduct which had been developed for staff closely reflected the ICAC's Code of Conduct.

Mr Brighton indicated that the CJC had just completed a detailed corporate planning and strategic planning process and that the new three year corporate plan had just been completed. This corporate plan includes performance indicators. (This corporate plan has since been forwarded to the Committee and is reproduced on the following pages.)

(The ICAC has also recently completed a detailed corporate planning process and has published its 1993-1995 corporate plan.)

Significantly, Mr Brighton said that an integral part of this strategic planning process was the next step which was the introduction of program budgeting within the Commission. Under the form of program budgeting being introduced section managers including the heads of multi-disciplinary investigative teams will have responsibility for developing and then managing their own budgets. In answer to questions from the Committee Mr Brighton suggested that making team leaders responsible for the management of resources should further assist in reducing opportunities for tensions about the allocation of resources between different priorities.

In his describing his role as executive secretary to the Commission proper Mr Brighton spoke about the Commission's meetings with the Parliamentary Criminal Justice Committee. The Committee and the Commission meet monthly. The Directors of each of the CJC's Divisions prepares a written report for this meeting which is provided to the Committee Secretariat two days before the meeting. Committee members are then able to questions members of the Commission, and Directors of the Divisions about issues raised in these written reports.

CORPORATE PLAN

1992-1995

NOVEMBER 1992

CRIMINAL

JUSTICE

COMMISSION

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Program 5: Criminal Justice Public Awareness Program

Program 6: Executive Services Program

Organisational Structure of the Criminal Justice Commission

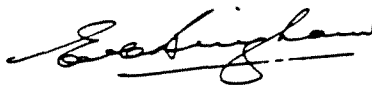
FOREWORD

The Corporate Plan 1992-95, refines and extends the first Corporate Plan which was proposed during 1991, and published late in that year.

The past twelve months have seen changes in circumstances and developing needs which have necessitated some adjustment of the original document. This version incorporates the essence of the earlier document, and describes the work of the Commission through a series of Programs.

Staff have the responsibility to deliver the services of the Commission through these Programs, incorporating the goals, values and principles described herein.

The Commission is dedicated to the discharge of its statutory functions for the benefit of the people of Queensland. I believe it can now claim considerable progress towards the fulfilment of those functions, and I am confident that progress will continue.



SIR MAX BINGHAM QC

Chairperson

Mission Statement

OUR MISSION

To promote justice and integrity in Queensland

OUR GOALS

To ensure the integrity of public administration.

To promote a fair and effective criminal justice system.

To make an effective contribution in combating organised and major crime.

To assist the Queensland Police Service in providing the highest quality of service to the community.

To promote informed public debate on criminal justice issues.

OUR VALUES

Justice

Integrity

Accountability

Operating Principles

The Commission acts in the public interest.

The Commission operates within the high standards of its Code of Conduct.

The Commission is committed to fairness and to accountable processes of consultation and review.

The Commission places emphasis on research and prevention as well as control and cure.

The Commission provides a stimulating, satisfying and safe work environment free from discrimination on the basis of gender, race, religion or disability.

The Commission operates within a set of approved procedures and policies that ensure the administrative and operational integrity of the Commission.

PROGRAMS & SUB-PROGRAMS



CRIMINAL JUSTICE PUBLIC AWARENESS PROGRAM

GOAL TO PROMOTE INFORMED PUBLIC DEBATE ON CRIMINAL JUSTICE ISSUES

- ▶ Public Awareness
- ▶ Public Debate

QUEENSLAND POLICE SERVICE ASSISTANCE PROGRAM

GOAL TO ASSIST THE QUEENSLAND POLICE SERVICE IN PROVIDING THE HIGHEST QUALITY OF SERVICE TO THE COMMUNITY

- ▶ Police Service Reform
- ▶ Education & Training Assistance
- ▶ Operational Assistance

ORGANISED & MAJOR CRIME PREVENTION PROGRAM

GOAL TO MAKE AN EFFECTIVE CONTRIBUTION IN COMBATING ORGANISED & MAJOR CRIME

- ▶ Operations
- ▶ Intelligence
- ▶ Witness Protection
- ▶ Legislation & Reporting

CRIMINAL JUSTICE EFFECTIVENESS PROGRAM

GOAL TO PROMOTE A FAIR & EFFECTIVE CRIMINAL JUSTICE SYSTEM

- ▶ Criminal Justice Research
- ▶ Criminal Justice Administration Process
- ▶ Criminal Justice Reform

PUBLIC ADMINISTRATION INTEGRITY PROGRAM

GOAL TO ENSURE THE INTEGRITY OF PUBLIC ADMINISTRATION

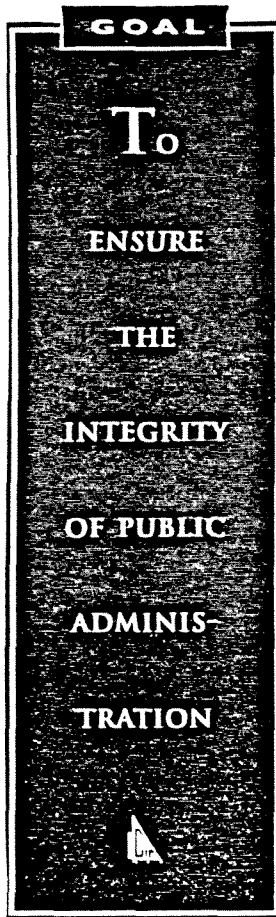
- ▶ Misconduct/Official Misconduct
- ▶ Procedures & Accountability
- ▶ Education & Training
- ▶ Investigative & Socio-Legal Research

EXECUTIVE SERVICES PROGRAM

GOAL TO IMPROVE THE CAPABILITY OF THE COMMISSION & ITS STAFF TO MEET THE CHANGING NEEDS OF ITS CLIENTS

- ▶ Executive Management
- ▶ General Counsel
- ▶ Performance Evaluation & Review
- ▶ Resource Management

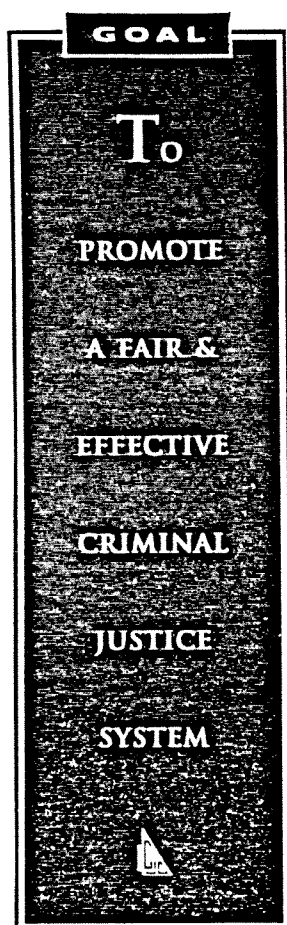
Public Administration Integrity Program



SUB-PROGRAMS STRATEGIES

| | |
|---|--|
| Misconduct/Official Misconduct | Encourage and assist the public sector in detecting, reporting and preventing misconduct |
| | Investigate alleged misconduct/official misconduct involving the public sector |
| Procedures and Accountability | Advise clients on administrative procedures and management accountability |
| Education and Training | Assist in the development of education and training in ethics and accountability |
| Investigative and Socio-Legal Research | Research and develop techniques and skills to identify and investigate misconduct/official misconduct in the public sector |
| | Identify and classify forms of misconduct |
| | Research and develop analytical techniques |
| | Utilise and refine investigative techniques |

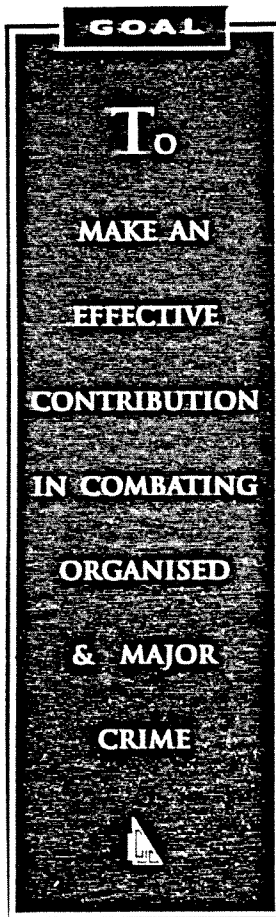
Criminal Justice Effectiveness Program



SUB-PROGRAMS STRATEGIES

| | |
|--|--|
| Criminal Justice Research | Research and report on matters of concern |
| Criminal Justice Administration Process | Monitor the administration of the criminal justice system and initiate reforms where appropriate |
| | Consult and liaise with relevant agencies and others |
| | Foster co-operation between criminal justice agencies |
| Criminal Justice Reform | Participate in reviews of laws and practices relating to the criminal justice system |
| | Promote public debate on issues and concerns relating to the administration of criminal justice |

Organised and Major Crime Prevention Program



SUB-PROGRAMS STRATEGIES

Operations Develop and use pro-active investigations, research and intelligence techniques including multi-disciplinary teams

Provide high quality briefs of evidence to prosecution agencies

Identify and participate in the confiscation of the proceeds of crime

Engage in joint operations with the Queensland Police Service and other agencies

Intelligence Improve information, communication and intelligence systems

Establish and maintain effective liaison and co-operation with law enforcement and other appropriate agencies

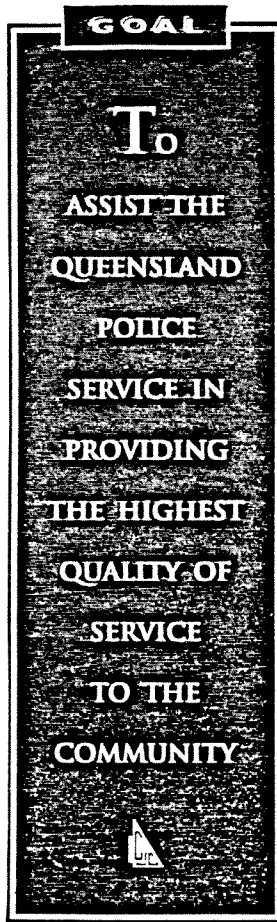
Provide intelligence, identifying threats, trends and/or patterns

Witness Protection Provide a safe and effective witness protection service

Legislation and Reporting Recommend legislation to facilitate the investigation of organised and major crime

Provide reports pertinent to the deliberations, policies and projects of the Government in relation to organised and major crime

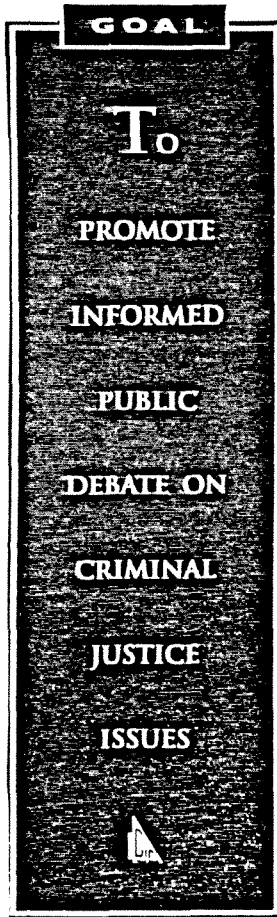
Queensland Police Service Assistance Program



SUB-PROGRAMS STRATEGIES

| | |
|--|--|
| Police Service Reform | Maintain effective liaison with the Queensland Police Service Oversee continuing reform Monitor and report on the sufficiency and use of resources within the Queensland Police Service Monitor and report on the performance of the Queensland Police Service Assist with the initiation and evaluation of programs |
| Education and Training Assistance | Provide information, assistance and policy directions Assist with education and training |
| Operational Assistance | Provide operational assistance where appropriate |

Criminal Justice Public Awareness Program



SUB-PROGRAMS STRATEGIES

Public Debate Prepare and distribute issues papers and information papers and reports

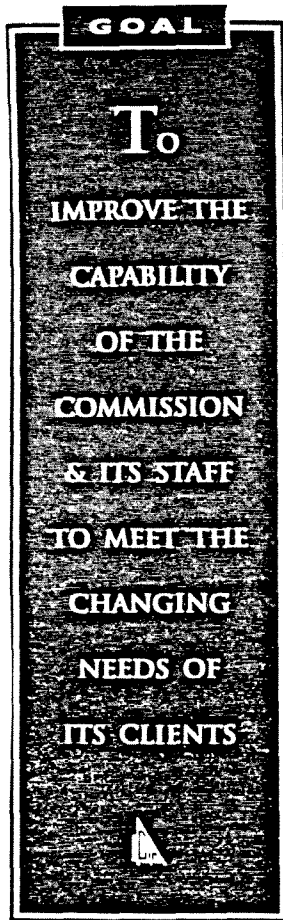
Public Awareness Invite submissions from a broad spectrum of interested individuals and groups

Conduct public hearings, lectures, seminars, conferences and briefings

Encourage the widest possible discussion of criminal justice issues through the media

Improve the availability of information regarding the Commission and increase public awareness and understanding of the Commission's roles and activities

Executive Services Program



SUB-PROGRAMS

STRATEGIES

Executive Management

Ensure appropriate Commission goals and strategies through processes of planning and evaluation

Encourage a positive and productive organisational culture

Report to and liaise with external clients, Government and the Parliamentary Criminal Justice Committee

General Counsel

Provide a timely, independent and impartial legal service to the Commission

Evaluation and Review

Develop effective monitoring and reporting processes

Implement system-wide individual performance reviews

Conduct regular internal and external audits

Conduct regular staff surveys

Provide organisational and operational reviews to the Parliamentary Criminal Justice Committee

Resource Management

Maximise human resource strategies and participative staff mechanisms

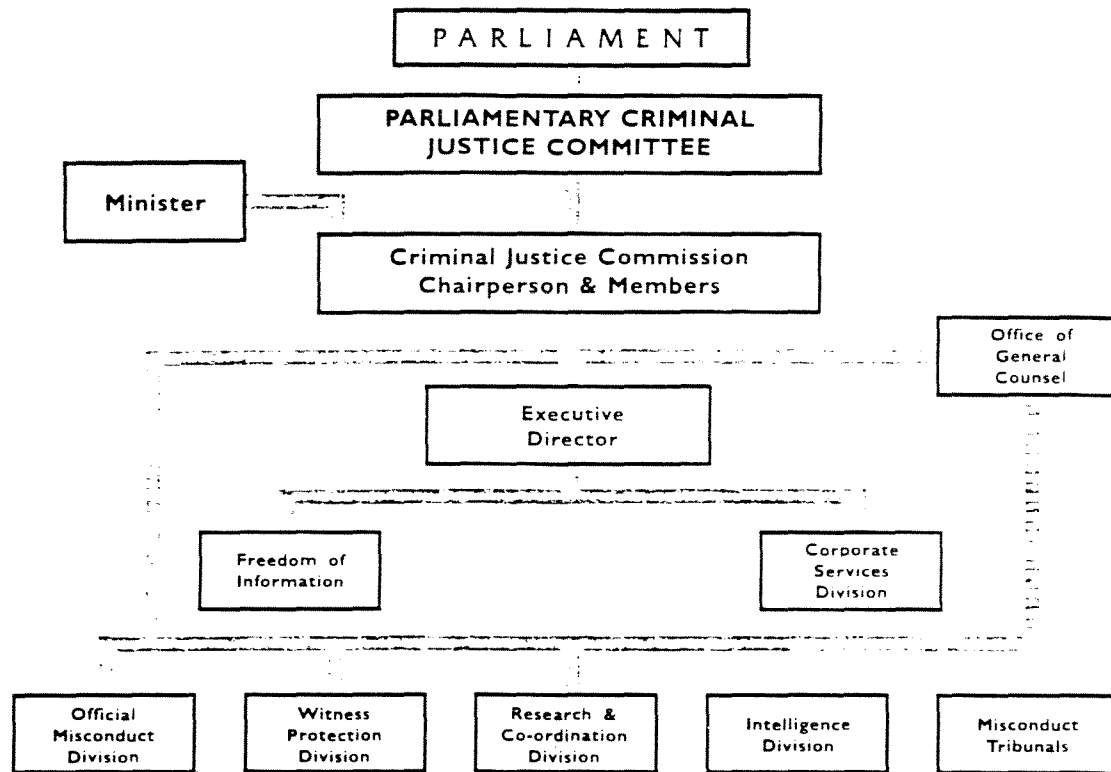
Implement an information systems strategic plan

Allocate financial and other resources in an appropriate and effective manner

Implement appropriate strategies for accountability and performance

Develop and disseminate policy and procedures cognisant of legislative and best practice standards

Organisational Structure of the Criminal Justice Commission



CHAIRPERSON Sir Max Bingham QC

DIRECTORATE Mr P M Le Grand

Director, Official Misconduct Division

COMMISSIONERS Dr Janet Irwin AM

Dr S K Mukherjee

Mr John Kelly

Director, Research & Co-ordination Division

Professor John Western

Assistant Commissioner J C Mengler

Mr Lewis Wyvill QC

Director, Operations and Witness Protection Division

Mr P A Roger

Director, Intelligence Division

Mr G M Brighton

Executive Director

Mr M P Irwin

General Counsel

2.3.4 *Carl Mengler, Witness Protection Division*

The Committee then met with Carl Mengler, who is the Director of the CJC's Witness Protection Division. Mr Mengler is also the CJC's Director of Operations and in that role has responsibility for the Commission's seconded Police. He has the rank of Assistant Commissioner in the Queensland police Service.

Mr Mengler informed the Committee of the functions of the Witness Protection Division. The Division has responsibility for not only CJC witnesses but also Police witnesses who require protection. About 50 people are under protection at any one time, about two-thirds of those from the Queensland Police Service. Mr Mengler said that it was important that the protection of Police witnesses was carried out by an agency independent of the Police. He said that the Division's policy was to relocate witnesses wherever possible.

Most of the discussion with Mr Mengler focussed on his role as Director of Operations and the management and control of investigations. Mr Mengler said he took a hands on approach to important investigations and was actively involved "in the field" in some investigations. Mr Mengler was very supportive of the multi-disciplinary teams that are used to pursue investigations. He said the CJC had not adopted an approach of appointing either exclusively lawyers or investigators as team leaders. In each case a person with the requisite leadership qualities was appointed. In some cases this would be a lawyer and in other cases it would be an investigator. He said the position of team leader was particularly important because that person was accountable for the work of the team.

2.3.5 *Mark Le Grand, Official Misconduct Division* *Marshall Irwin, General Counsel*

The final briefing was provided jointly by the Director of the CJC's Official Misconduct Division, Mark Le Grand, and the CJC's General Counsel, Marshall Irwin. The Official Misconduct Division is the part of the CJC which most closely approximates the role of the ICAC as a whole. The functions of the Official Misconduct Division (OMD) are set out in s.2.20 of the Criminal Justice Act. They include the investigation of official misconduct, including dealing with complaints and investigations on its own initiative, and corruption prevention.

Mr Le Grand spoke at some length about the complaints handling process. He noted that the Complaints Section had dealt with about 6,500 complaints since its establishment in April 1990. About 70% of these related to the Police

Service. The remaining 30% related to other units of public administration. There has been a 65% increase in the number of complaints received each year that the CJC has operated. Mr Le Grand outlined the initial assessment phase conducted by the Assessment Unit which is subject to daily review by the Chief Officer of the Complaints Section and himself.

On the Division's corruption prevention work Mr Le Grand noted that the CJC had taken a different approach to the ICAC, a less "hands on" approach. This was partly a result of the Division's workload in the complaints area and partly the result of the CJC's philosophy in this area. He said the CJC supported the concept of "getting the managers to manage". He said it was up to managers to adopt anti-corruption strategies and identify risk areas. Under this philosophy he said it was not the CJC's policy to have a large team which went into departments and made recommendations for changes to procedures. Rather it was up to managers to do this work themselves.

The Committee also questioned Mr Le Grand and Mr Irwin about the CJC's approach to public hearings. They said that although the CJ Act contained the same presumption in favour of public hearings as that contained in the ICAC Act, the CJC held few public hearings. During the 1991/92 financial year the CJC conducted 54 hearings, only four of which were conducted in public. They said the CJC's approach to hearings had been greatly influenced by its experience with public hearings in the course of an early inquiry into the Queensland Corrective Services Commission, at which "all sorts of lurid disclosures and allegations" had been made. Following that inquiry the CJC put together a procedural fairness document, with the assistance of the Council for Civil Liberties. This document is reproduced on the following pages.

PROCEDURAL FAIRNESS

The Commission at all times strives to ensure that procedural fairness is applied in the conduct of hearings and the preparation of reports. Well before the High Court in *Ainsworth and Another v. Criminal Justice Commission* (1992) 106 A.L.R. 11 ruled that the Commission was required to observe the requirements of procedural fairness in all proceedings conducted in the discharge of any of the functions and responsibilities of the Commission, procedures had been formulated to ensure that procedural fairness was afforded. In conjunction with bodies such as the Council for Civil Liberties, the Commission published in its submissions to the Parliamentary Criminal Justice Committee in 1991 extensive details of its procedures in this regard. The Commission has incorporated these procedures into its Operations Manual.

It should be realised that the procedures of the Commission are not inflexible and where the circumstances require that, in the public interest, the procedures be modified they are accordingly varied. It should also be noted that the procedures are subject to variation because of the case law. The Supreme Court has had to consider the Commission's procedures on a number of occasions and, where necessary, they have been modified in accordance with the Court's decisions.

The concept of procedural fairness, though an operating principle for the entire Commission, has greatest application to the Commission's hearings and reports.

A. COMMISSION HEARINGS

General duty to Hold Open Hearings

The provisions of the Act impose a prima facie obligation upon the Commission to hold open hearings. Section 2.17 (4) of the Act states that a hearing shall as a general rule, be open to the public but if, having regard to the subject matter of the investigation, or the nature of the evidence expected to be given, the Commission considers it preferable, in the

public interest, to conduct a closed hearing, it may do so. This provision recognises the many benefits of holding hearings in public.

The Rules of Natural Justice

The principles of natural justice apply whether the Commission holds a hearing in public or in private. The application of the principles of natural justice depend on a whole range of circumstances which vary from case to case. Tucker LJ stated in *Russell V Duke of Norfolk* (1949) 1 All E.R. 109 at page 118:

"the requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter that is being dealt with, and so forth."

In a nutshell, the duty of the Commission to apply the rules of natural justice is:

to listen fairly to all relevant evidence relating to an issue;

and

before making any adverse finding of fact concerning any person, to give that person the opportunity to respond.

There is a common misconception that the rules of natural justice require that the technical rules of evidence be applied. This is not the case. Lord Diplock in *R.-v- Deputy Industrial Injuries Commission; ex parte Moore* (1965) 1 QB 486 at 488 stated that:

"the technical rules of evidence, however, form no part of the rules of natural justice. The requirement that a person exercising quasi judicial functions must base this decision on evidence means no more than it must be based upon material which tends logically to show the existence or non-existence of facts relevant to the issue to be determined, or to show the

likelihood or unlikelihood of the occurrence of some future event the occurrence of which would be irrelevant."

Statutory Provisions Governing Procedure

The Commission's procedures for taking evidence in both public and private hearings are governed by Division 2 of Part III of the Act. These provisions, in summary, permit or require the following:

1. Section 3.20. The Commission may prohibit the publication of evidence if, in its opinion, publication would be unfair to any person or contrary to the public interest.
2. Section 3.21. (1) The Commission is not bound by the rules or the practice of any court or tribunal as to evidence or procedure. Further it may inform itself on any matter and conduct its proceedings as it thinks proper.
3. Section 3.21. (2) The Commission shall at all times act independently, impartially, fairly, and in the public interest; it shall act openly, except where to do so would be unfair to any person or contrary to the public interest; further, it shall include in its reports an objective summary and comment with respect to all considerations of which it is aware that support or oppose or are otherwise pertinent to its recommendations.
4. Section 3.23. (1) In any proceedings of the Commission a person concerned therein may appear in person or by legal representative, or by an agent approved by the Commission.

Procedures for Public Hearings

Within this statutory frame work which is very general in terms, the Commission has faced significant difficulties in formulating procedures which have general application to all of its public hearings. It has modified its procedures and will no doubt continue to modify them as experience or legal requirements dictate. It has and will continue to be most receptive to submissions by bodies such as the Queensland Council for Civil Liberties, the Queensland Law Society and the Bar Association.

Clearly, there will always be exceptions to the general policy or standard procedures. Dispute will often arise as to whether any particular fact situation is an exception and further how the general policy or standard procedure is to be applied to any fact situation. Wherever practicable, the following procedures will apply:

1. Where a person is the subject of an allegation, that person will be given the opportunity to respond to the specific allegation in a formal interview prior to the evidence being led.
2. A notice of allegation will be provided to the person indicating when the evidence will be led and giving the person an opportunity to appear, either in person or by a legal representative or agent.

The notice of allegation will be formulated with sufficient particularity to inform the person to whom it is given of the nature of the allegation.

There will be occasions when prior questioning cannot be carried out or a notice of allegation cannot be provided because to do so:

- . will prejudice the investigation;
- or
- . is not practicable, regardless of the Commission's best endeavours.

In such circumstances, the Commission will consider suppressing the publication of evidence of the name of the person adversely mentioned and/or any other evidence which is likely to lead to his/her identification, until that person has had the opportunity to respond to the allegation.

3. The Commission will consider all applications for a private hearing or the suppression of the publication of evidence of the name of any person and/or any other evidence which is likely to lead to his/her identification.
4. In recognition of the requirements of natural justice, where the Commission hears evidence which may be the subject of an adverse finding against a person, it will endeavour to give that person the opportunity to respond to it and the right to cross-examine the person giving the evidence.
5. Where possible, the Commission will provide the opportunity for a person against whom an allegation is made, to make a brief response on the same day. If the person does not wish to avail himself/herself of this opportunity, the Commission will proceed with all due fairness.
6. Where possible, the Commission will undertake a sifting of the evidence before it is led in the course of a public hearing.
7. As the hearing process is inquisitorial in nature, it is the Commission's duty to seek out the truth. This may require testing a person's word by cross-examination. An investigation involving the examination of witnesses is not conducted properly or effectively if every statement made by a witness is accepted at face value. Thus cross-examination will be thorough, but fair.
8. In the case of a person wishing to give evidence, or of a person proposed as a witness by any person appearing or represented at a hearing, the Commission will generally require that a statement of the proposed

evidence be provided for consideration by it prior to the calling of that evidence.

9. The summons to each witness will contain particulars of the subject matter of the investigation.
10. Each witness who is a person concerned in the proceedings has the right to appear in person, by legal representative or an agent approved by the Commission. Other witnesses may be given leave by the Commission to be represented by a legal practitioner or agent.

There will be circumstances when a person who is entitled to legal representation will not be permitted to have his/her first choice of legal representation. Supreme Court Justice G N Williams ruled in a recent decision that -

"If the person under investigation and the various witnesses called in the course of the investigation had the same legal representation then the public perception, rightly or wrongly but probably rightly, would be that the witnesses were not truly independent. The perception would be that the witnesses and the person under investigation had banded together in order to protect the latter. The results of any investigation carried out in those circumstances would hardly be received by the public as the product of an independent, impartial and fair investigation. In that way, there were reasonable grounds on which a bona fide belief could be based that to allow the particular representation sought would be likely to prejudice the investigation being carried out pursuant to the requirements of the Act."

In those circumstances, His Honour ruled that the Commission did not err in its decision not to allow the witness to be represented by the particular legal representative chosen by him.

11. The Commission will ensure that each witness (whether represented or not) is apprised of his/her rights and obligations under the Act.

12. In particular, the Commission will satisfy itself that each witness is apprised of the provisions of Section 3.24 of the Act by virtue of which a statement of information furnished by a person to the Commission, or a disclosure made by a witness before the Commission, after that person or witness has objected to furnishing the statement or making the disclosure on the ground that it would intend to incriminate him, is not admissible in evidence against that person or witness in subsequent civil, criminal or disciplinary proceedings, except in relation to proceedings for a contempt of the Commission or an offence of perjury.

13. The Commission will at times receive hearsay if it appears to be relevant to its inquiries. It may be that the publication of such evidence will encourage those with admissible evidence to come forward. Because the Commission appreciates that the publication of hearsay may adversely affect the reputation or livelihood of an individual, it will adopt the following guidelines in relation to it:
 - (a) Make it clear prior to the introduction or during the receipt of evidence, that it may contain inadmissible hearsay which will be treated with circumspection by the Commission;

 - (b) Request the media and all other persons present to characterise it as such in any publication of the proceedings;

- (c) Wherever possible, give persons who may be adversely affected by its publication, the opportunity to appear at the time and cross-examine the witness giving that evidence;
 - (d) If a person is not, for whatever reason, in the position to make a contemporaneous response, the Commission may order the suppression of the publication of evidence of the name of that person and/or any other evidence which is likely to lead to his/her identification until such time as he/she has had an opportunity to respond;
 - (e) If the person who has been provided with this opportunity does not wish to take it up, the Commission will proceed with all due fairness;
 - (f) Where a person is adversely mentioned in hearsay evidence, the Commission will carefully consider prohibiting the publication of that evidence or evidence likely to lead to the person's identification.
14. By use of its powers under Section 3.20 of the Act to prohibit publication of evidence, the Commission will consider and where appropriate make orders suppressing the publication of evidence. Although not an exhaustive list, the following illustrates some of the considerations which might be taken into account in determining whether evidence should be suppressed:
- . Where the public disclosure of information might impede law enforcement;
 - . Whether the public disclosure of information might involve risks to the safety of a witness or any other person;

- . Whether the public disclosure of the identity of a person named in evidence might harm the reputation or well being of that person;
 - . Whether the evidence is relevant and cogent;
 - . Whether the nature and seriousness of the misconduct alleged justifies disclosure;
 - . Considerations peculiar to any person who is identified in evidence, for example, whether he or she was a minor at the relevant time;
 - . Whether a person has had or will have the opportunity to respond to the evidence or allegations;
 - . Whether the suppression of the evidence will deny other persons the opportunity to come forward to give relevant evidence;
 - . Whether trade or commercial secrets are involved;
 - . Whether the evidence is hearsay.
15. All public hearings will be:

. the subject of a report to the Chairman of the Parliamentary Criminal Justice Committee, the Speaker of the Legislative Assembly, and to the Minister pursuant to Section 2.18(1) of the Act (This is subject to Section 2.19 of the Act);

or

dealt with pursuant to Section 2.24(2) of the Act by referring a report thereon to the Director of Prosecutions or as otherwise provided for by that Section.

Private Hearing Procedures

Where it has been determined that a private hearing is preferable, the procedures will follow as closely as possible those for public hearings. The Commission will consider any application for the hearing to be in public.

B. COMMISSION REPORTS

Where the Commission intends to publish a public report to the Parliamentary Criminal Justice Committee, the Speaker of the Legislative Assembly and the Minister pursuant to section 2.18 of the Criminal Justice Act or otherwise such reports must be submitted for vetting to the Commission's Editorial Committee. This Committee which is comprised of senior Commission members and the relevant Team Leader settles and approves the final report before it is printed and tabled.

A member of this Editorial Committee is General Counsel, the Commission's senior legal adviser, who ensures that before any report is published the principles of procedural fairness have been afforded to those persons to be mentioned adversely in the report. Therefore, no report will be permitted to be published where a person or business is adversely referred to in that report unless that person or business has had the opportunity to respond to the adverse reference.

The Committee also ensures that any report complies with Section 3.21(2)(c) of the Act by containing:

"(ii) an objective summary and comment with respect to all considerations of which it (the Commission) is aware that support or oppose or are otherwise pertinent to its recommendations."

On the question of public hearings, Mr Le Grand said the CJC's approach was based upon the philosophy that hearings were one part of the investigative process, and were used to help gather evidence for the purpose of putting people before the courts or a Misconduct Tribunal. He said that where, at the end of the day, a person was to be put before the courts or a tribunal, it was inappropriate and probably unfair to have allegations aired publicly during the investigative process. He said that, "in respect of individual conduct we would much prefer to keep our powder dry and place those persons before the Court".

Mr Irwin gave the Committee a brief overview of the role and operation of the Misconduct Tribunals established under the CJC Act. These tribunals have the role of determining disciplinary charges of official misconduct brought as a result of CJC investigations, and reviewing decisions on disciplinary charges of misconduct. Although there is a capacity for the tribunals to act in relation to public servants generally, to date their role has been confined to police matters. In this respect they resemble the NSW police tribunal. Matters are put before the tribunals where there is insufficient evidence for a successful prosecution but where there is enough evidence to get a conviction on the civil standard of proof. Mr Irwin noted that as of May 1992 there has been a right to seek leave from the Supreme Court to appeal on decisions of fact by the tribunals, in addition to appeals on matters of process.

Mr Le Grand and Mr Irwin were asked, in view of the CJC's experience, for their views on the issues being considered in the Committee's current Review of the ICAC Act, particularly the question of findings against individuals. They emphasised that they see the CJC as an investigative body, one step in the process of bringing about adverse findings against individuals if the evidence supports it. It was not necessary for the CJC to do anything more than determine whether there was a prima facie case and assemble the evidence. If there is any concern about allegations being unresolved due to a lack of public findings, this could be addressed through ensuring that matters which did not go to court were dealt with expeditiously through disciplinary proceedings where the civil standard of proof applies. Mr Le Grand said that he had great difficulty with the proposition that an investigator should also be judge and jury. Whatever arguments there could be for a Royal Commission to make adverse findings against individuals he said it was a different matter for investigations conducted by a permanent body to make ultimate findings about individuals. He said it was up to others to make such ultimate findings. Mr Irwin made the point that the CJC publishes reports on investigations only for educational purposes and to expose systems in need of reform. Any adverse reference to individuals in such reports was always done on an anonymous basis.

(It must be noted that the Criminal Justice Act does not contain provisions such as those in the ICAC Act which either permit or require the CJC to make findings about individuals. The CJC has a different legislative base in that respect.)

One further issue that was discussed that is being examined in the Committee's Review of the ICAC Act was the matter of false complaints and public statements about complaints. Mr Le Grand indicated that the CJC viewed the making of false complaints and public statements about complaints as a "total abuse of process". He indicated that the CJC had sought an amendment to the CJC Act to require complainants to make complaints on a confidential basis. The CJC also sought an amendment to strengthen the current provision in the Act to deal with false complaints. However, these requested amendments have not yet been enacted. They also pointed out that s.2.29 of the CJC Act was amended in May 1992 and that s.2.29(3) now provided that anonymous complaints require "substance and credibility" to be the subject of an investigation. They also pointed out that the Western Australian Parliamentary Committee examining the Official Corruption Commission Act recently had identified this area as a potential problem and had made recommendations for a specific provision to deal with false complaints.

Another issue the Committee discussed with Mr Le Grand and Mr Irwin was the provisions in the Criminal Justice Act for the register of interests. Section 7.3 of the Act provides that,

"7.3 Register of Interests

- (1) The Commission shall maintain —
 - (a) a register of the pecuniary interests of each Commissioner had by him at the time of his appointment as a Commissioner or acquired by him during his term of office as a Commissioner;
 - (b) a record of personal or political associations had by each Commissioner that might influence him in the conduct of an investigation by the Commission.
- (2) Each Commissioner shall furnish to the Commission, the Minister and the Chairman of the Parliamentary Committee —

- (a) a summary in writing of pecuniary interests had by him at the time of his appointment as a Commissioner;
 - (b) advice in writing of such associations had by him at the time of his appointment as a Commissioner;
 - (c) within 30 days following any substantial change in such pecuniary interests, or a change in such personal or political associations, information in writing of the change.
- (3) The register and record maintained under subsection (1) shall be updated at least once in every period of 12 months of a Commissioner's term of office."

Mr Mutch asked whether the CJC would see benefit in extending the requirement for the register of political associations to senior staff members. Mr Le Grand and Mr Irwin agreed that such a register would provide some protection against allegations of political bias.

3 POLICE REFORMS

- 3.1 Following the Fitzgerald Report the Queensland Police Service has undergone substantial reform. Much of this reform has been overlooked by the CJC. The Committee was able to hear about one particularly important area of these reforms in some detail from the CJC - the reforms to Police training and education. The Committee was also able to meet with the new Queensland Police Minister, the Hon Paul Braddy MLA, and the new Police Commissioner, Mr Jim O'Sullivan. The discussions with the Minister and Commissioner covered Police education and training and, more particularly, police accountability.

It should be noted that Mr Braddy had only been Police Minister for a few weeks at the time of the Committee's visit and that Mr O'Sullivan had been appointed Commissioner only a few days before the meeting.

3.2 Police Education and Training

- 3.2.1 When the Committee met with the Police Minister and Commissioner a briefing paper was made available which was prepared within the Queensland Police Service outlining the reforms to Police Education and Training that have taken place in recent years. This briefing paper is reproduced, with the consent of the Police Minister and Commissioner, on the following pages.
- 3.2.2 As the briefing paper outlines, there have been two significant developments in this area. Firstly, the Initial Training Program, which is now a two year program involving university, academy and on the job components. Secondly, the Competency Acquisition Program (CAP) which has resulted from an industrial agreement and links paypoint progression to continuing education and training. The key points in regard to each of these programs are outlined in the briefing paper.



BRIEFING PAPER

CONCERNING

EDUCATION AND TRAINING INITIATIVES

OF THE

QUEENSLAND POLICE SERVICE

FOR THE

HONOURABLE THE MINISTER

FOR

POLICE AND EMERGENCY SERVICES

QUEENSLAND POLICE SERVICE INITIATIVES

1. EDUCATION AND TRAINING.

1.1 INITIAL TRAINING PROGRAM - RECRUIT TRAINING PROGRAM

1.1.1 The two year Initial Training Program comprises the Recruit Training Program of twelve months and the Field Based Training Program of the same duration. The Recruit Training Program is based on the comments and recommendations of Commissioner G. E. FITZGERALD, Q.C. The program recognises that policing takes place within the larger Criminal Justice System and acknowledges the requirement for the application of complex procedural, interpersonal and communication skills. It also acknowledges the need for accountability concerning the exercise of the authority of the modern police officer. It is an integrated model of police education and training aimed at producing professional decision making and practice.

1.1.2 This new program - a coalescence of university and academy based education and training - recognises that the police have a broad mandate, that the traditional "limited expert" model of police training is no longer relevant and that anything less than police education and training comprised of relevant operational competencies and professional qualities which are enhanced by an intellectual liberal orientation is not acceptable.

1.1.3 The Recruit Training Program is designed to achieve that level of police education and training. Whilst it has resulted from the recommendations of Commissioner FITZGERALD, its genesis is found in modern police scholarship which commenced in England and the United States some three decades ago.

1.1.4 The first phase of the Recruit Training Program is undertaken at the Queensland University of Technology or Griffith University. The students continue with their second phase of recruit training at the Queensland Police Academy. Students who successfully complete these two phases of recruit training are credited with one third of the BA degree course in either Justice Administration or Justice Studies from QUT or Griffith University, respectively.

1.1.5 Successful students from the Recruit Training Program are sworn in as Constables in the Queensland Police Service and are presented with the Advanced Certificate in Policing at ceremonies conducted by the Service and the two Universities. The Constables then commence the 12 month on-job Field Training Program.

1.1.6 The first phase of the Recruit Program comprises the following units:

(a) Griffith University

| | |
|--|------------|
| Issues in Australian Society | (TJC 1002) |
| Communications Studies | (TJC 1004) |
| Legal Studies and Justice Administration | (TJC 1001) |
| Accountability, Professionalism and Ethics | (TJC 1003) |

(b) Queensland University of Technology

| | |
|--|-----------|
| Contemporary Issues in Australian Society | (JSB 101) |
| Communication | (JSB 104) |
| Introduction to Law | (JSB 103) |
| Ethics, Accountability and Professionalism | (JSB 102) |

1.1.7 The second phase of the Recruit Training Program, conducted at the Queensland Police Academy, is devoted to the following units which are identified with the acquisition of practical policing competencies:-

Police Professional Studies (PPS)
Foundations of Crime and Policing (FCP)
Organisational Theory and Management in Policing (OTM)
Personal and Interpersonal Relationships in Policing (PIRP)
Physical Education/Skills Training (PSE)
Driver Training Course
Firearms and Drill
Fieldcraft

1.1.8 During the first and second phases of approximately 46 weeks, recruits have been paid an allowance at the following percentage of a first year Constable's base salary which since 10 September, 1991 has been \$25,880 per annum:-

- (a) Grade 12 school leavers - 50% (\$12,940 per annum);
- (b) 21 years or older - 70% (\$18,116 per annum); and
- (c) A recruit of any age with dependant/s - 96% (\$24,845 per annum).

1.1.9 Previously recruits also were paid a book and stationery allowance of \$250.00 and a physical education equipment allowance of \$280.00. However, recruits are now provided with those resources and the allowances now are not paid thus effecting a saving to the Service without any diminution of the support given.

1.2 Field Training Program

1.2.1 After the initial twelve months Recruit Program the newly inducted Constables undertake the Field Training Program which is also of twelve months duration and involves the new Constables performing full time police duties and undergoing a structured training program at allocated police establishments. This Program consists of a number of component parts which include a minimum of eight weeks under the direction and supervision of a permanent work partner or "buddy" - Field Training Officer (FTO) - who is responsible for the highly structured on-job training of the Constable during that period. Other component parts include a compulsory tasks assessment handbook, a written assignment regarding areas of operational policing, review reports and interviews, specific training days - with several being structured as a central curriculum - an examination, introduction to and use of the Personal Performance Appraisal (PPA) system and a concluding evaluation segment.

1.2.2 The Field Training Program has resulted from, and embodies the recommendations of Commissioner FITZGERALD who stated that:

"The best supervisors in the Service, with demonstrated integrity and commitment to the principles of reform, should be made available to closely direct and coach new constables at training stations. This needs to be a full-time task given top priority and supported by regular contact with the Inspectorate to ensure acceptable standards of performance and individual development are achieved. The selection as a supervisor for new constables should be seen as a positive career step and a favourable indication of progress towards higher rank. Supervisors selected should attend regular training and review programs to achieve a degree of consistency in standards across the Service." (FITZGERALD, 1989:249).

1.3 COMPETENCY ACQUISITION PROGRAM

1.3.1 The Competency Acquisition Program (CAP) has its genesis in the Structural Efficiency Principles of the Industrial Commission decision of 1989 which resulted in a 3% pay increase on the undertaking that both the Queensland Police Service and the Unions were committed to the introduction of the system. CAP is also an integral part of the present Award restructuring and pay rise, resulting in the third instalment of this pay increase on 14 September, 1992. CAP has been designed as a self-paced distance education program with the aim of developing and enhancing the knowledge and skills of serving police throughout the State.

1.3.2 In previous years the Service relied on departmental courses to provide additional training for members. This process had several drawbacks.

Only a small number of members had access to such courses and consequently many members had no access to additional training during their careers. Costs associated with the provision of in-service courses under the old system were quite significant and stations and establishments were inconvenienced through the associated loss of staff engaged in training courses.

1.3.3 CAP allows all officers in the state to participate in further training, at a time and a pace suitable to them, with minimal disruption to family life and other commitments.

1.3.4 Three interim modules for CAP have been developed and distributed throughout the State in accordance with the requirement of the Industrial Relations Commission in the Police Special Pay Case for the Police Service to demonstrate a commitment to the objects of the program. The Queensland Police Union of Employees was required to encourage members to demonstrate a commitment to participating in the system. Prior to 14 September 1992, the Police Union and the Service returned to the Industrial Relations Commission and reported on the significant level of commitment which had been demonstrated by the participants in the program who had completed the first two booklets dealing with the Performance Planning and Assessment System and the Promotion and Transfer System. These two modules were directly related to the wage rise and any relevant pay point increment due in September, 1992. The third booklet, dealing with the CAP itself, is to be incorporated with the PPA for December 1992.

1.3.5 These three modules will cease to exist in their current format after 1992. They will then be incorporated into the core competency area titled Police Management and Financial Administration.

1.3.6 The new CAP material, available from 1 January 1993, will consist of six core competency areas namely:

- (a) **Practical Policing** - containing the largest number of units and covers a wide range of law subjects and policing skills, introduced over a three year period.
- (b) **Contemporary Policing Issues** - including community based policing, ethics and cross culturalism, it will cover a wide range of topics relevant to policing today's society.
- (c) **Police Strategic Management** - deals with issues formerly covered in command and control and provides police with knowledge and skills for management of disasters and major incidents.
- (d) **Communications** - to develop knowledge and skills to more effectively communicate through the verbal and written medium in an interpersonal, organisational or media setting.

- (e) Welfare, Workplace Health and Safety - the impact of relevant legislation and issues on the welfare of Service members generally.
- (f) Police Management and Financial Administration - to provide police with the knowledge and skills to become effective police managers.

1.3.7 To achieve paypoint progression, officers will be required to accrue a certain number of credit points, each unit of CAP being allocated credit points according to length and complexity of the material and the nature of the assessment required. There will also be recognition of TAFE and other tertiary courses or prior departmental courses achieving a standard equal to or greater than the relevant CAP unit. Provision has been made for officers to be granted credit or exemption in such situations. Currently negotiations are under way to have CAP units recognised by other tertiary institutions in a cross crediting arrangement.

1.3.8 Although CAP is specifically tied to pay point progression it should be recognised that, in the absence of qualifying courses or other exemptions, all officers can benefit by participation in the program. CAP material is retained by the officer concerned who, in a relatively short period of time, will build a valuable reference library. Although 'merit' for a particular position is presently the judgement of the particular promotion panel, it could be argued that participation in the CAP, even though a member is already on the top pay point, demonstrates a commitment on the part of a particular officer to continually improving both skills and knowledge.

1.3.9 Towards the end of 1992 a CAP course outline will be distributed. This document will provide a list of units that will be available after January 1993, the level at which those units will be available, and a brief outline of the content of each unit. A guide also will be produced explaining all the relevant processes including how to select units, the ordering of the material, how to apply for exemptions and credits, the recording procedures, the monitoring procedures through the District Education and Training Officers (DETO's), and procedures involved in any disputes over results of participation.

1.3.10 Desired Outcomes The desired outcomes of the program are:

- (a) Increased Service efficiency;
- (b) Increased Service productivity;
- (c) Increased individual productivity; and
- (d) Enhanced professionalism.

1.4 EXECUTIVE DEVELOPMENT PROGRAM

1.4.1 Inquiries into

- (a) New South Wales Police Administration (LUSHER 1981);
- (b) the Victoria Police Force (NEESHAM 1985); and
- (c) the then Queensland Police Force (FITZGERALD 1987 - 1989)

made unfavourable comparisons concerning the extent of management training and qualifications held by senior officers of those three police agencies and the members of other large organisations in both the public and private sectors.

1.4.2 In his Report Commissioner Fitzgerald included criticisms of the education and training of Queensland Police commissioned officers. Among his concerns were:-

- (a) an overemphasis on legal issues;
- (b) a lack of emphasis on management;
- (c) the apparent lack of a formal selection process for officers chosen to undertake training; and
- (d) the apparent lack of equity with regard to course assessment.

1.4.3 While stopping short of making formal recommendations Commissioner FITZGERALD expressed the views that

- (1) eligibility for promotion to senior officer rank should be based on successful performance in a range of policing activities, not simply the results in a qualifying examination;
 - (2) there should be both access to internal training and development and attendance at external programs attended by managers from other disciplines;
 - (3) courses should emphasise the "necessary values, attitudes, ethics, integrity and codes of behaviour required of police commissioned officers" (p.252);
 - (4) there should be an emphasis on the management and administrative skills appropriate for senior levels of police administration; and
 - (5) the Commissioned Officers Programs I and II needed to be reviewed.
-

1.4.4 A review has been made of the education and training needs for commissioned officers and approval has been given for the implementation of a new Executive Development Program. That Program will provide for a number of Streams including the Managers' Stream.

1.4.5 The Managers Stream of this Executive Development Program is designed for the development of Commissioned Officers, namely Inspectors or of those members aspiring to Inspector rank and consists of three residential strands:

- (a) Management and Leadership - (3 weeks);
- (b) Policy and Operational Procedures - (4 weeks); and
- (c) Human Resource Management and Work Place Issues - (2 weeks).

1.4.6 Such "live-in" components are supplemented by assignments and research in the distance learning mode following the return of the participants to their assigned areas. This program is designed to:

- (a) facilitate the transition to Commissioned rank;
- (b) enhance the efficiency and effectiveness of Commissioned Officers through the development of professional knowledge, skills and attitudes;
- (c) apply management theory and techniques to the role of Commissioned Officers;
- (d) apply command theory and techniques to major incident management and co-ordination of emergency services;
- (e) facilitate the internalising of Service philosophies, values, policies and procedures.

1.5 ASSESSMENT CENTRES.

1.5.1 Background

1.5.1.1 The decision by the Queensland Police Service to use the Assessment Centre process arose from discussions by Commissioners of Police regarding the establishment of National Police Assessment Centres. At a recent Commissioners' Conference the concept of National Police Assessment Centres and the conduct of the Queensland Police Assessment Centre were supported.

1.5.1.2 The Assessment Centre process was first used by the Queensland Police Service to provide additional information to selection panels involved in the

appointment of sixteen new Chief Superintendents. Emphasis was placed on the provision of detailed information on individual participant's strengths and developmental needs, as well as on providing information for the selection panel.

1.5.1.3 Professor T Rohl, Director of the Australian Police Staff College, Manly, New South Wales, provided support towards the establishment of the Queensland Police Assessment Centre by liaising with Dr Paul Power of Cullen-Egan-Dell (CED) Consultancy who holds the rights to Assessment Centre methodology, and also Commissioner A Lauer, New South Wales Police Service, for the use of the product developed with Dr Power for the New South Wales Police Service Executive Development Program.

1.5.1.4 The Assessment Centre Manual, prepared by CED for the New South Wales Police Assessment Centre, was provided to the Queensland Police Service for a one-off use. Text was modified for Queensland Police Service terminology and use. Manuals and Assessment Centre materials were printed and collated at the Australian Police Staff College. Chief Superintendent Pat Cioccarelli and Mr Frank Dyer of the New South Wales Police Service provided advice on the construction of the Centre itself. A Program Director's Manual was also prepared.

1.5.2 Assessment Methodology Training

1.5.2.1 Each Assessment team consisted of four persons - one director and three assessors. Chief Superintendents Jefferies and Early, Queensland Police Service and Messrs Barnsley and Polykarpou, Australian Police Staff College were nominated as directors. On 7 July 1992 the directors attended a training day in Sydney conducted by Dr Paul Power, CED Consultant. Also attending this training day were Mr Frank Dyer, New South Wales Police Service and Mr Jim Hardie and Inspector Denise Burke, Queensland Police Service.

1.5.2.2 A training day for assessors was conducted by Dr Power in Brisbane on 26 July 1992. In addition to nominated assessors this training day was also attended by Professor Rohl and Deputy Commissioner Blizzard, Queensland Police Service and Dr Lyn Bishop, Queensland Education Department.

1.5.2.3 A decision was made to use assessors external to the Service as well as internal assessors. Assessors were representative of both the sworn and unsworn areas of policing in the Queensland Police Service, the Australian Police Staff College, the Australian Federal Police and the Police Services of Western Australia and New South Wales.

1.5.3 Conduct of the Centres

1.5.3.1 Twelve Queensland Police Assessment Centres were conducted at the Warilda Conference Centre, Brisbane, between 26 July and 14 August 1992. Responsibility for coordinating the conduct of the Assessment Centres rested with Inspector Denise Burke, HRM Planning and Development Section,

Personnel Branch. Seventy-two Queensland Police Officers attended the Assessment Centres during this time.

1.5.4 Assessment Centre Process

1.5.4.1 Each Assessment Centre was conducted over a period of two days during which participants were required to engage in six focused activities. These exercises included both group activities, one-to-one role plays and written activities. All activities were designed to reflect the demands of a Chief Superintendent's position; the assessment dimensions reflected the competencies expected of officers at this level.

1.5.4.2 Ten assessment dimensions were considered:

- (a) global planning/organisation
- (b) leadership/personal maturity
- (c) environmental sensitivity
- (d) change management/innovative management
- (e) managing others
- (f) conceptual/analytical/problem solving
- (g) interpersonal skills/team orientation
- (h) communication skills
- (i) management of resources
- (j) occupational understanding and proficiency.

1.5.5 Participant Feedback

1.5.5.1 Following the moderation process feedback was provided to participants through a personal interview process. Each interview was of approximately one-hour's duration and conducted jointly by Chief Superintendents Jefferies and Early.

1.5.5.2 During the interview the individual participant's Assessment Centre Report was discussed. Each of the competencies and ratings were addressed and strengths and developmental needs explained. Participants were encouraged to comment on and question the content of the report with the Directors. Each participant was given a pro-forma of a Professional Development Plan and was encouraged to discuss this with the relevant Assistant Commissioner/Director and return it to the Assessment Centre Director within four to six weeks of the feedback interview.

1.5.6 Summary

1.5.6.1 These first twelve Assessment Centres have provided participants with the first structured, management-developed and management-sponsored program within the Queensland Police Service directed at the individual level. The competencies identified are considered necessary to maximise the attainment of Service goals and objectives by senior executive members.

Individual participants, through constructive and objective feedback, have been invited to participate in a partnership with the Service in addressing their developmental needs and focusing on their career plans.

1.5.6.2 The success of the Centres was due, in no small measure, to the commitment and dedication of those staff involved in preparing, coordinating and conducting the Centres. Through their involvement in these Centres assessors, both from within this Service and from other jurisdictions, demonstrated a high level of commitment and dedication.

1.6 TERTIARY AND FURTHER STUDIES FOR POLICE OFFICERS

1.6.1 In January, 1990 a survey by the Queensland University of Technology revealed that over 1,400 police officers at that time indicated their willingness and desire to undertake tertiary studies at University and particularly in the distance education mode. Distance education was identified as a necessity, even in the Metropolitan area, because of the peculiar nature of policing such as shiftwork and court requirements, as well as distance and location, which did not allow the majority of police officers to undertake tertiary studies on a part time personal attendance basis.

1.6.2 Since first semester 1991 the Queensland University of Technology and Griffith University have been offering Bachelor degree courses in Justice Studies and Justice Administration, respectively, in the full time mode with some opportunity for part-time attendance available through Griffith University. Also a number of other Australian tertiary institutions are now offering in distance education mode Criminal Justice/Police Studies degree or diploma courses which are relevant to the needs of police officers but which are not identified only with the policing profession.

1.6.3 The requirement for enhanced police educational standards has been recognised for at least the past decade by the Australian Police community and also by higher education authorities. Policing, at least from the law enforcement and social behaviour perspective, is becoming more complex and demanding. There is now an increasing emphasis on the need for police to have a better understanding of the nature of justice, the role of the police in the community, the meaning and practice of ethics and values so as to achieve more effective crime and social control and to provide a greater, and more meaningful, range of services. Education and training can satisfy those needs and achieve those standards.

1.6.4 There is an acute shortage of funded places for Criminal Justice/Police Studies courses throughout Australia but the two Queensland universities referred to are committed to maximising degree opportunities for police officers.

1.6.5 A "special case" argument in favour of police officers being provided with increased opportunities to achieve tertiary qualifications is sound if police

education and training is to be elevated to the level now being consistently advocated by qualified commentators throughout Australia, including Commissioners of Police. The case for dramatically increased "funded places" for police officers at tertiary institutions is now a particularly strong one.

1.6.6 Successful negotiations have taken place with the Queensland University of Technology and Griffith University resulting in the granting of credits to police officers towards the Bachelor degree in Justice Studies and Justice Administration, respectively, for some studies undertaken in the past as part of their in-service training and also for advanced standing for future in-service studies. Police officers who have successfully completed the Associate Diploma in Justice Administration (TAFE) attract up to a half degree credit.

1.6.7 A special scheme to facilitate the involvement of serving police officers in tertiary studies on a part-time basis, and largely in a distance learning mode, was instituted in February, 1992 following Ministerial approval. It involved the purchase of 133 funded places in the Justice Studies Degree Program shared between Griffith and Queensland University of Technology. These places were then allocated to serving police officers desirous of completing a degree by part-time study.

1.6.8 This program was further supplemented by the payment of a study allowance of approximately \$130.00 per subject to serving officers who successfully undertook approved tertiary studies.

1.7 REGIONAL BASED TRAINING

1.7.1 Police Officers who are Regional Education and Training Co-ordinators (RETC's) and District Education and Training Officers (DETO's) are responsible for providing education and training programs which accommodate overall Service requirements as well as specific Regional and District needs.

1.7.2 Conferences in relation to regional based training are held four times a year to:

- (a) Provide a forum for State-wide personnel to interact, exchange information, review strategies and enhance networks;
- (b) Develop and recommend policy options and future strategies for education and training;
- (c) Provide feedback and evaluation on current programs and strategies;
- (d) Enhance the skills and knowledge of training personnel in the areas of curriculum development and evaluation, instructional skills, assessment and moderation;

- (e) Provide interaction with personnel from key educational and training areas of the Service and also at Executive level; and
- (f) Brief the participants on the implementation of CAP for 1993, and further, provide a workshop on the strategies and mechanisms of the program.

1.8 DISTANCE LEARNING FACILITY

1.8.1 Competency Acquisition Program

1.8.1.1 A distance learning facility has been established by the Service to deliver the Competency Acquisition Program (CAP) in a self-paced distance education mode. It is the intention of the Service in the future to move to Computer Based Training (CBT) as the prime medium for distance education.

1.8.1.2 It is also intended that other aspects of Service education and training programs will be available through the distance learning mode in the near future.

1.9 EDUCATION STANDARDS UNIT

1.9.1 This unit monitors all education and training programs, conducts comprehensive evaluations and surveys and supports Regional and District Training Officers and reports on the effectiveness and efficiency of courses and programs consistent with Service goals.

1.9.2 The unit has a staff of five and aims to conduct performance monitoring of each District three times per annum with a comprehensive evaluation of each Region once in every three years to ensure that the quality of Education and Training programs is maintained.

1.10 POLICE EDUCATION ADVISORY COUNCIL - (PEAC)

1.10.1 The Queensland Police Education Advisory Council (PEAC) is an independent and expert policy advisory body which had its inaugural meeting on 9 July, 1990. It is similar to the New South Wales Police Education Advisory Council which was established in 1987. PEAC was established under the auspices of the Criminal Justice Commission (CJC) - the Commission being charged by the *Criminal Justice Act* with responsibility for the overview of police education and training.

1.10.2 Functions

- (a) to provide policy advice on education and training to the Commissioner, QPS;
- (b) to advise and assist internal providers;
- (c) to liaise with external providers, the National Police Education Standards Council and other appropriate bodies;
- (d) to inform the community of developments in Queensland police education and training.
- (e) in association with the CJC, ensure education and training:
 - (1) meet the needs of the QPS;
 - (2) advance police professionalism; and
 - (3) take account of community expectations.

1.10.3 Membership

- (a) Chair (Appointed by the Criminal Justice Commission in consultation with the Commissioner of Police)
 - (b) Chair of the Criminal Justice Commission or nominee (Ex-officio)
 - (c) Commissioner of Police or nominee (Ex-officio)
 - (d) Director, Personnel, Queensland Police Service or nominee (Ex-officio)
 - (e) Chief Superintendent, Education and Training, and Dean of the Queensland Police Academy or nominee (Ex-officio)
 - (f) Co-ordinator of Studies, Queensland Police Academy or nominee (Ex-officio)
 - (g) Representative of the Police Officers Union
 - (h) Representative of the Queensland Police Union of Employees
 - (i) Operational Police Representative - appointed by way of advertisement in Police Gazette, according to appropriate selection criteria.
-

- (j) Director, Australian Police Staff College, Manly, NSW or nominee (Ex-officio)
- (k) Representative from the Queensland Department of Education (nominee of the Director General, Education, with interest in the terms of PEAC)
- (l) Representative from the Queensland Office of Higher Education (Nominee with interest in the terms of PEAC)
- (m) Representative from DEVETIR (nominee of the Chief Executive Officer DEVETIR, with interest in the terms of PEAC)
- (n) Representative of Higher Education - Universities (Nominee of Queensland Higher Education Forum with interest in the terms of PEAC)
- (o) Three Community Members (To include one member from the Aboriginal and Torres Strait Islander Community, selected by the Chair of the Criminal Justice Commission in consultation with the Commissioner and Community Groups)
- (p) Council to have power to co-opt to ensure balance, particularly with regard to gender.

1.10.3.1 Terms of office to be two years with possibility of further appointment.

1.10.4 Secretariat comprises the

- (a) Executive Officer of PEAC; and
- (b) Executive Secretary, Queensland Police Academy

1.10.5 PEAC was involved particularly in establishing the present Initial Training Program comprising the Recruit Training Program and the Field Based Training Program and is also involved in providing guidance and assistance to those police and civilian educators and managers who have a commitment to further the education and training needs of the total Service.

1.10.6 Meetings. At present, PEAC meets monthly.

1.11 COMPUTER BASED ESSENTIAL MANAGEMENT TRAINING

1.11.1 UniQuest Limited and the Vocational Education and Training Technologies Centre (VEATT), an operational unit of TAFE-TEQ, are joint partners in the development of a computer based highly innovative approach to

Essential Management Training (EMT). This is the first level of management training that occurs when, for example, an employee is appointed to line management or when graduates who are destined for senior positions join an organisation. The content is drawn from the new TAFE curriculum "Certificate of First-Line Management".

1.11.2 Funding for Unit 1 of the four unit course was provided by a loan of \$250,000 from the Queensland Tertiary Education Foundation, plus in-kind support from Apple, Australia. Unit 1 was completed in March, 1992 and testing occurred at selected sites in April, 1992. Development work on Units 2, 3 and 4 will commence when funding is available.

1.11.3 In August, 1991 representatives of UniQuest and VEATT met with senior officers of the Queensland Police Service and it was agreed that two officers of the Service would be seconded to the development team and provide programming and content expertise. One officer, a Sergeant, still remains with the VEATT Centre and it is intended that she will work with that team at least for the 1992 calendar year when the position will be reviewed further.

1.11.4 Involvement of the Service in the development of Unit 1 and further involvement in the development of the remaining Units demonstrates a commitment by the Service to modern advances in education delivery and the desire to be at the leading edge of technological advancement.

1.11.5 In November, 1991 approaches were made by representatives of UniQuest and VEATT for the Service to become a cash investor in the completion of the development program. Unfortunately, the Service budget requirements precluded such investment occurring. However, there was a further commitment by the Service to the continuation of the secondment of the Sergeant in the terms of para. 1.11.3. Because the Sergeant is involved in this highly innovative development project, she is acquiring further skills which will be of particular relevance to the Service in the future. Upon her return to the Service the Sergeant will be in a position to pass on her skills to other members of the Service so that when the Service is in a position financially to support Computer Based Training for the majority of its future education programs, there will not be the need to import those types of skills from the external market.

1.12 ABORIGINAL AND TORRES STRAIT ISLANDER (ATSI) - RELEVANCE TO POLICE EDUCATION AND TRAINING

1.12.1 The Education and Training area of the Service actively has sought to ensure that recognition is given to ATSI cultures and their impacts on policy. The Service has sought, and has been provided with funding for a number of projects to further those aims and the following is an outline of these projects.

1.12.2 Bridging Program

1.12.2.1 All police recruits are required to undergo the first semester of their training at either the Queensland University of Technology or Griffith University. To allow them entry to either faculty, students must have recognised educational qualifications which satisfy these institutions. The "bridging program" assists Aboriginal and Torres Strait Islander (ATSI) students in meeting this educational requirement.

1.12.2.2 Johnstone TAFE (Innisfail) commenced a program to raise the educational levels of ATSI students. A project group of 10 of these students are now attending their first semester of training at the two universities. Consideration has been given to allow ATSI people who live in Brisbane the same opportunity to upgrade their educational skills. To this end, this Bridging Program envisages one or two TAFE Colleges in the Brisbane or near Brisbane area conducting similar programs. Funding has been provided for the development and extension of this program.

1.12.3 Student Support Unit

1.12.3.1 After the ATSI students commence at the University, they must successfully complete their first semester (four subjects) and then a further four subjects at the Queensland Police Academy. These subjects also receive University accreditation and rank with the first four in allowing the student to graduate from the Police Academy when sworn-in as a Constable. The ATSI students do the same course and are considered equally with other students.

1.12.3.2 Funding has been received to establish, staff and equip a Student Support Unit to provide specialised assistance to ATSI students in the program. To this end, a tutor will be employed after the position is advertised. At present a part-time tutor is providing appropriate academic and cultural support to students.

1.12.3.3 Other resources (study accommodation, computers etc) also have been made available.

1.12.4 Cross Cultural Awareness Program

1.12.4.1 The aim of this program is to raise the awareness of Queensland Police Service personnel on issues relating to Aboriginal and Torres Strait Island culture and to allow Queensland Police Service personnel to be aware of issues which concern people from an ATSI background. To this end, an Islander and an Aboriginal were employed as consultants and travelled to different areas of the State to ascertain what ATSI people expected of the Service and what these people wanted the Service to know about their culture.

1.12.4.2 This information has been obtained and is presently being incorporated in an educational package being developed by consultants.

1.12.4.3 On completion, it is envisaged that the program will provide a reference to writings on cross-cultural issues and also will become part of both pre-service and in-service training within the Service. The program should be ready for printing in March 1993.

1.12.5 Training of ATSI Community Members to Sit on Service Selection Panels - Information for Police Intending to Apply for ATSI Community Duties.

1.12.5.1 This project is being undertaken by Mary Graham and Associates, Cordelia Street, West End. The consultants have finished their preliminary inquiries and are now writing their final training package.

1.12.5.2 The package will assist in having ATSI community members available to sit on Service selection panels to select police officer applicants for their communities.

1.12.5.3 It also will give police officer applicants information about what is entailed in the position for which they are applying.

1.12.5.4 The final package also will contain a video presentation to further assist cultural understanding. This project should be completed by the end of November, 1992.

1.12.6 MOCATU

1.12.6.1 The Mobile Cultural Awareness Training Unit (MOCATU) is a mobile and experiential educational package. MOCATU has been developed by, and is attached to, the Bureau of Ethnic Affairs, Department of Family Affairs and consists of a six-hour training workshop.

1.12.6.2 It is envisaged that the Unit will travel the State and will conduct approximately 400 workshops with the aim of providing access to all sworn personnel, thus enhancing their cultural awareness concerning Aboriginal and Islander communities and the impact of those cultures on policing.

Contact Officer:

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Director, Personnel
Telephone: 364 6257
2 November 1992

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- 3.2.3 During the Committee's briefing with the head of the CJC's Research and Co-ordination Division, Dr Mukherjee, representatives from each of the two universities involved in police education were present as well as the head of the Police Academy. Associate Professor Simon Petrie from the Queensland University of Technology (QUT) and Associate Professor Merv Hyde from Griffith university spoke with great enthusiasm about the new initial training program in which they are involved. They emphasised that nothing police recruits do in their two years of initial training is not fully creditable towards a university degree. By the end of the two years recruits will have completed up to ten out of a total of 24 subjects for a degree. Surveys of the first few groups to go through had indicated that over 90% of recruits intend to return to finish their degree by part-time study.
- 3.2.4 Mr Petrie and Mr Hyde emphasised that the degree which is offered by the two universities involves police recruits completing a double major. One major must be in policing but the other major may be in a range of areas ranging from psychology to Japanese. They said that between 10 and 15% of present recruits are people rejoining the police service and over 40% had had a previous occupation. About one-third of recruits are women. Surveys of recruits had shown that the overwhelming motivation for joining the police service was one of community service and that the occupation was seen in these terms.
- 3.2.5 Chief Superintendent David Jeffries from the Police Academy spoke to the Committee about the second semester of recruit training which takes place in the academy. He emphasised that the studies at the academy built upon what the recruits had learnt at university and sought to contextualise that knowledge. Mr Jeffries spoke about the difficulties faced in providing for continuing education of recruits during the field training component of their training in the second year. He outlined the initiatives which are being taken to provide regional and district education and training co-ordinators. He indicated that new recruits when placed in the field training program were generally regarded as being confident, good communicators and having good problem solving skills.
- 3.2.6 Chief Superintendent Jeffries also spoke to the Committee about the Competency Acquisition Program. He said the development of effective distance learning systems were an essential part of this program. He also briefed the Committee on the Executive Development Program.
- 3.2.7 Dr Mukherjee said that the CJC was in the process of conducting a comprehensive review of the police recruit training program. This review will be completed shortly and a detailed report published.

3.3 Police Accountability

- 3.3.1 Mr O'Sullivan gave the Committee a brief overview of reforms which had taken place in the area of Police accountability as a result of the Fitzgerald Report. The changes he emphasised were the supervisory role of the CJC in overseeing police reforms and in investigating complaints about Police misconduct, and the requirement for Police officers to report suspected misconduct.
- 3.3.2 In view of the fact that three members of the ICAC Committee are serving on the Select Committee on Police Administration the Committee was keen to seek information on steps which have been taken in Queensland to formalise the relationship between the Police Minister and Commissioner. Although both Mr Braddy and Mr O'Sullivan were only new to their respective positions they were both happy to provide the Committee with their views on this issue. Both emphasised that the issue is still something of a grey area. However, they were able to point to a significant reform which had been introduced in the Police Administration Act 1990.
- 3.3.3 Part 4 of the Police Service Administration Act provides for a register to be compiled and tabled in Parliament each year containing all policy directives issued by the Minister to the Commissioner. There is also a requirement for some reports from the Commissioner to the Minister to be included in the register. However, the emphasis is on ensuring openness in relation to the directions which the Minister is giving to the Commissioner so that any suggestions of political interference in Police operations can be readily examined. Both the Commissioner and the Minister were generally supportive of this procedure, although some concern was expressed that there had been some confusion in the past about the level of material required to be included from the Commissioner. Part 4 of the Police Service Administration Act is reproduced on the following pages.



ACTS OF THE PARLIAMENT OF QUEENSLAND

PASSED DURING THE YEAR

1990

with tables prepared by the Parliamentary Counsel's Office

Volume 1

Acts Nos. 1-54

POLICE SERVICE ADMINISTRATION ACT

No. 4 of 1990

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PART IV—COMMISSIONER OF THE QUEENSLAND POLICE SERVICE

4.1 Establishment of office. There is hereby established the office of the Commissioner of the Police Service.

4.2 Appointment. The Governor in Council may, by notification published in the *Gazette*, appoint a fit and proper person to be Commissioner of the Police Service, on a recommendation of the Minister in which the Chairman of the Criminal Justice Commission concurs.

4.3 Conditions of appointment. (1) The conditions on which an appointment as Commissioner is held, from time to time—

- (a) are such as are for the time being agreed by the Minister and the Chairman of the Criminal Justice Commission, approved by the Governor in Council, and accepted by the person who is to be, or is, the Commissioner, and
- (b) are to be governed by a contract of employment made, or taken to be made, between the Crown and the Commissioner, and
- (c) are not subject to any industrial award or industrial agreement, or any determination or rule of an industrial authority.

(2) If an offer of a contract of employment as Commissioner on conditions in writing agreed to by the Chairman of the Criminal Justice Commission and approved by the Governor in Council in relation to the appointment, is made to a person before that person's appointment as Commissioner, the person, on accepting appointment as Commissioner, is taken to have made with the Crown (and the Crown is taken to have made with the appointee) a contract of employment that accords with the contract last offered to the person before the appointment was made.

4.4 Term of appointment. (1) Appointment as Commissioner is for a term not less than three years and not greater than five years.

(2) A Commissioner is eligible for re-appointment.

4.5 Removal and suspension of Commissioner. (1) The office of the Commissioner becomes vacant if the Commissioner—

- (a) dies;
or
- (b) resigns the office by writing signed by the Commissioner and accepted by the Governor in Council;
or
- (c) is removed from office in accordance with this section.

(2) The Commissioner may be removed from office pursuant to

the contract that governs the Commissioner's employment or if the Commissioner has breached the contract of employment.

(3) Additional grounds on which the Commissioner may be removed from office are—

- (a) incapacity, because of physical or mental infirmity, to properly perform the duties of office, or other unfitness to hold office;
- (b) incompetence in performing, or neglect of the duties of office;
- (c) being found guilty of official misconduct by a Misconduct Tribunal referred to in the *Criminal Justice Act 1989-1990* where the tribunal orders the Commissioner's dismissal;
- (d) conviction in the State of an indictable offence (whether on indictment or summarily) or conviction elsewhere of an offence that, had it been committed in the State would be an indictable offence;
- (e) imprisonment for any offence.

(4) If one or more of the grounds prescribed by subsection (3) exists, the Commissioner may be removed from office by—

- (a) the Governor in Council, on a recommendation of the Minister in which the Chairman of the Criminal Justice Commission concurs;
- or
- (b) in default of exercise of the authority conferred by paragraph (a), by the Governor, on an address from the Legislative Assembly praying for the Commissioner's removal from office.

(5) If satisfied that one or more of the grounds prescribed by subsection (3) exists, or that the Commissioner is charged with official misconduct or an offence referred to in subsection (3) (d), the Governor in Council may suspend the Commissioner from office.

(6) If the Commissioner is suspended from office, the Commissioner is entitled to be re-instated in office, unless, upon action taken forthwith following the suspension and pursued diligently to its conclusion, the Commissioner is removed from office in accordance with subsection (4).

4.6 Communications between Minister and Commissioner. (1) The Commissioner—

- (a) is to furnish to the Minister reports and recommendations in relation to the administration and functioning of the Police Service, when required by the Minister to do so; and
- (b) may at any time furnish to the Minister such reports and recommendations as the Commissioner thinks fit with a view to the efficient and proper administration, management and functioning of the Police Service.

(2) The Minister, having regard to advice of the Commissioner first obtained, may give, in writing, directions to the Commissioner concerning—

- (a) the overall administration, management, and superintendence of, or in the Police Service;
and
- (b) policy and priorities to be pursued in performing the functions of the Police Service;
and
- (c) the number and deployment of officers and staff members and the number and location of police establishments and police stations.

(3) The Commissioner is to comply with all directions duly given under subsection (2).

4.7 Recording and publication of communications. (1) The Commissioner is to keep a register in which are to be recorded—

- all reports and recommendations made to the Minister under section 4.6 (1) (a);
and
- all directions given in writing to the Commissioner under section 4.6 (2).

(2) Within 28 days following 31 December in each year, the Commissioner is to have prepared a copy of the register, which copy, being certified by the Commissioner, or a delegate of the Commissioner, as a true copy of the register is to be furnished forthwith to the Chairman of the Criminal Justice Commission, with or without comment of the Commissioner.

(3) Within 28 days following receipt of the certified copy of the register, the Chairman is to give the copy together with comments of the Commissioner relating thereto, and with or without further comment of the Chairman, to the Chairman of the Parliamentary Criminal Justice Committee.

(4) The Chairman of the Parliamentary Criminal Justice Committee is to table in the Legislative Assembly—

- the certified copy of the register;
and
- all comment relating thereto,

within 14 sitting days after the Chairman's receipt thereof.

4.8 Commissioner's responsibility. (1) The Commissioner is responsible for the efficient and proper administration, management and functioning of the Police Service in accordance with law.

(2) Without limiting the extent of the prescribed responsibility, that responsibility includes responsibility for the following matters—

- (a) determination of priorities;
- (b) determination of the appropriate organizational structure of the department;
- (c) designation and redesignation of offices;
- (d) control of the human, financial and other resources of the department;
- (e) selection of persons as officers and police recruits;
- (f) determination of the number and deployment of officers and staff members;
- (g) determination of the number and location of police establishments and police stations;
- (h) determination of levels of salaries or wages and allowances of members of the Service;
- (i) qualifications for offices within the Service and duties attaching to such offices;
- (j) promotion or demotion of officers and staff members;
- (k) training and development of members of the Service;
- (l) discipline of members of the Service;
- (m) dress and appearance of members of the Service;
- (n) appraisal of performance of members of the Service;
- (o) approval and administration of leave arrangements;
- (p) internal redeployment and retraining of officers and staff members;
- (q) termination of employment of members of the Service;
- (r) determination of times within which members of the Service are to perform their ordinary hours of work;
- (s) development of means to ensure all members of the Service are treated justly, fairly and with compassion;
- (t) maintenance of proper records.

(3) The Commissioner is authorised to do, or cause to be done, all such lawful acts and things as the Commissioner considers to be necessary or convenient for the efficient and proper discharge of the prescribed responsibility.

(4) In discharging the prescribed responsibility, the Commissioner—

- (a) is to comply with all relevant industrial awards or industrial agreements, determinations and rules made by an industrial authority;
and
- (b) subject to this Act, is to ensure compliance with the requirements of all Acts and laws binding on members of the Police Service, and directions of the Commissioner,

and

- (c) is to have regard to section 4.6 and Ministerial directions duly given thereunder;

and

- (d) is to discharge the responsibility in relation to such matters as are prescribed for the time being.

4.9 Commissioner's directions. (1) In discharging the prescribed responsibility, the Commissioner may give, and cause to be issued, to officers, staff members or police recruits, such directions, written or oral, general or particular as the Commissioner considers necessary or convenient for the efficient and proper functioning of the Police Service.

(2) A direction of the Commissioner is of no effect to the extent that it is inconsistent with this Act.

(3) Subject to subsection (2), every officer or staff member to whom a direction of the Commissioner is addressed is to comply in all respects with the direction.

(4) In all proceedings—

- (a) a document purporting to be certified by the Commissioner, or a delegate of the Commissioner, to be a true copy of a direction under subsection (1) is admissible as evidence of the direction;

and

- (b) a direction under subsection (1) is to be taken as effectual until the contrary is proved.

4.10 Delegation. (1) The Commissioner may, in writing, delegate all or any of the powers and duties had by the Commissioner for the purpose of discharging the prescribed responsibility, except this power of delegation.

(2) A delegation may be made, specifically or generally—

- (a) to any police officer, officer within the meaning of the *Public Service Management and Employment Act 1988-1990*, or other person;
- (b) to persons or a class of person;
- (c) to the holder for the time being of a specified office;
- (d) absolutely or subject to conditions and limitations specified therein,

and a delegation of any power or duty does not prejudice the making by the Commissioner of such number of other delegations of the same power or duty as the Commissioner thinks fit.

(3) A delegate may, while the delegation subsists, do and suffer all such actions and things in accordance with the terms of the delegation as the delegate thinks necessary or convenient for the proper exercise or performance of the power or duty delegated.

(4) An action or thing done or suffered by a delegate in accordance with the terms of the delegation has the same force and effect as if the action or thing had been done or suffered by the Commissioner.

(5) A delegation of a power or duty—

(a) does not affect the exercise or performance of the power or duty by the Commissioner;

and

(b) does not relieve the Commissioner of the prescribed responsibility or any part thereof.

4.11 Acting as Commissioner. (1) In this section the expression “prescribed person” means—

(a) in the case referred to in subsection (2) (a), the Commissioner;

or

(b) in the case referred to in subsection (2) (b) or (c), the Minister.

(2) Notwithstanding the provisions of any other Act, if at any time—

(a) the Commissioner is, or will be, unable to discharge the prescribed responsibility by reason of absence or proposed absence;

or

(b) the Commissioner is unable to discharge the prescribed responsibility by reason of—

• incapacity due to physical or mental infirmity;

or

• the suspension of the Commissioner from office;

or

(c) there is a vacancy in the office of Commissioner,

and it is expedient that someone should discharge the prescribed responsibility, the prescribed person may, in writing, authorize another person who, in the prescribed person’s opinion, is a fit and proper person to discharge the prescribed responsibility.

(3) If an authorization is given under subsection (2)—

(a) the prescribed person is to determine the remuneration payable to the authorized person while discharging the prescribed responsibility, not exceeding in any case the remuneration payable for the time being to the Commissioner or to the last holder of the office of Commissioner for discharging the prescribed responsibility;

and

- (b) the authorized person has and may exercise, and is to perform, all the powers and duties of the Commissioner until—
- the Commissioner resumes the prescribed responsibility;
 - or
 - a person is duly appointed to the vacancy in the office of Commissioner;
 - or
 - the authorization is revoked by the prescribed person,
- whichever event first occurs.

4.12 Commissioner's official seal. (1) The Commissioner has an official seal.

(2) All courts and persons acting judicially are to take judicial notice of—

- the signature of the Commissioner or any person who at any time was the Commissioner;
 - the fact that the Commissioner has, or any such person had, an official seal;
 - the official seal of the Commissioner or any such person,
- if the signature or seal appears on a document made for the purposes of judicial proceedings or on a document purporting, or seeming, to have been made for the purposes of this Act.

PART V—APPOINTMENT OF PERSONNEL

5.1 Ranks. The ranks of officers are those declared for the time being by the regulations.

5.2 Appointment to be on merit on impartial procedures.

(1) An appointment—

- to any position in the Police Service held, or to be held, by an officer;
 - as a police recruit;
- (a) must be made on the basis of merit of the applicants;
- (b) must be made in accordance with procedures that—
- (i) are fair and equitable;
 - and
 - (ii) preclude patronage, favouritism and unjust discrimination.

(2) For the purposes of this section merit of an officer comprises—

- (a) the integrity, diligence and good conduct of the officer;
- and
- (b) the potential of the officer to discharge the duties of the position in question;

4 ***ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION***

4.1 **Background**

- 4.1.1 The Electoral and Administrative Review Commission (EARC) was the second Commission established following the recommendations of the Fitzgerald Report. The Fitzgerald Report recommended that such a Commission be established by legislation "to provide independent and comprehensive review of administrative and electoral laws and processes". Following the passage of the Electoral and Administrative Review Act 1989 the first Chairman of EARC was appointed in December 1989. Reflecting the recommendations contained in the Fitzgerald Report the Act contained a schedule which identified review projects to be undertaken by EARC. These included a review of the State and Local Government electoral systems and numerous projects in relation to public administration. Reproduced on the next page is an appendix from a recent Report of the Parliamentary Committee for Electoral and Administrative Review which briefly summarises the action taken on the various review projects.
- 4.1.2 Earlier this year the Parliamentary Committee for Electoral and Administrative Review conducted a Review of the Electoral and Administrative Review Act. The Committee in its report on this review recommended that EARC should be abolished in mid-1993. The Committee argued that by that time EARC would have completed the mission given to it by the Fitzgerald Report, having completed all the envisaged reviews. Furthermore, an important outcome of these reviews has been new legislation which has changed the face of elections and public administration in Queensland. The Committee drew particular attention to the Electoral Act 1992, the Judicial Review Act 1991 and the Freedom of Information Bill. The Committee also recommended in its report the establishment of a Queensland Administrative Review Council.

Appendix L

Table of EARC Review Projects and Action Taken on Them To Date

This material is in very abbreviated form. For details see chapter 2 of the Committee's report.

| REVIEW PROJECT | EARC REPORT | COMMITTEE REPORT | ACTION TAKEN |
|---|-------------|------------------|--|
| Whistleblowers' Protection - Interim Measures | | 7.6.90 | Whistleblowers' (Interim Protection) <i>Miscellaneous Amendments Act</i> passed 23.10.90 |
| Registration of Members' Interests | 21.8.90 | 2.10.90 | Resolution of Parliament 27.11.90 & Members' Interests Committee appointed 12 March 1992 |
| Local authority electoral system | 10.9.90 | 23.10.90 | <i>Local Authorities (1991 Elections) Act</i> passed 4.12.90 |
| Local authority electoral system - remaining matters | 10.9.90 | 25.6.91 | |
| Joint electoral roll | 25.10.90 | 30.11.90 | <i>Elections Amendment Act 1991</i> passed 11.4.91 |
| Legislative Assembly electoral system | 8.11.90 | 26.2.91 | <i>Electoral Districts Act</i> and amendments to the <i>Elections Act</i> passed 11.4.91 |
| Freedom of information | 18.12.90 | 18.4.91 | Bill introduced 5.12.91 |
| Judicial review of administrative decisions and actions | 18.12.90 | 14.6.91 | <i>Judicial Review Act</i> passed 5.12.91 |
| Public assembly law | 28.2.91 | 21.6.91 | <i>Peaceful Assembly Act</i> passed 17.6.92 |
| Parliamentary Counsel | 21.5.91 | 18.7.91 | <i>Legislative Standards Act</i> passed 21.5.92 |
| Public sector auditing | 19.9.91 | 3.12.91 | <i>Audit & Parliamentary Committees (Miscellaneous Amendments) Bill</i> introduced 18.6.92 |
| <i>Elections Act</i> | 20.12.91 | 18.3.92 | <i>Electoral Act</i> passed 19.5.92 |
| External boundaries of local authorities | 21.11.91 | 19.3.92 | <i>Local Government Legislation Amendment Act</i> passed 6.5.92 |
| Information and resources for non-government members | 3.12.91 | 19.3.92 | |
| Whistleblowers' protection | 29.10.91 | 8.4.92 | |

| REVIEW PROJECT | EARC REPORT | COMMITTEE REPORT | ACTION TAKEN |
|--|----------------|------------------|--|
| Code of conduct for public officials | 7.5.92 | Current review | |
| Registration of political donations and public funding of elections | 18.6.92 | Current review | |
| Archives legislation | 18.6.92 | Current review | |
| Statutory necessity for Ministers' or Governor's assent or consent | | | Dealt with in administrative law projects |
| Public sector appointments and appeals | | | Within responsibilities of PSMC |
| Government media units and information services | Due Sept. 1992 | | |
| Parliamentary Committees | Due Sept. 1992 | | |
| Separation and independence of Attorney-General and Minister for Justice | | | Substantially achieved on 31.8.89 |
| Administrative independence of the Judiciary | | | Within responsibility of Litigation Reform Commission |
| Resources of the Law Reform Commission | | | Achieved to satisfaction of Law Reform Commission |
| Administrative appeals, constitution, powers and independence of tribunals | Due Aug 1992 | | |
| Individuals' rights and freedoms | Due April 1993 | | |
| Practices and procedures of Parliament | | | Dealt with in reviews of Parliamentary Counsel, Resources of Non-government members and Committees |
| Elimination of inappropriate considerations from government decisions | | | Dealt with in administrative law and codes of conduct reviews |
| Public notification of connections of persons benefiting from government decisions or activities | | | Dealt with in public registration of political donations & Members' interest reviews |
| Distribution of functions of units of public administration | | | Within responsibilities of PSMC |
| Employment in units of public administration | | | Within responsibilities of PSMC and dealt with in Codes of Conduct review |

- 4.1.3 The Committee met with representatives of both EARC and the Parliamentary Committee for Electoral and Administrative Review on Tuesday 3 November. The representatives of EARC who the Committee met with included Mr David Solomon, recently appointed Chairman, and Professor Colin Hughes. Mr Solomon provided the Committee with an overview of the work of EARC. There was some discussion with Professor Hughes on EARC's report on Codes of Conduct (see under section 4.2 below). In answer to questions from the Committee about the future of EARC Mr Solomon noted that the current budget provided that EARC's staffing level would fall to about half its current level of 22 by the middle of 1993. He also noted that the staffing level had already fallen from over 40 at the height of EARC's activity.
- 4.1.4 Although the Parliamentary Committee for Electoral and Administrative Review was not formally constituted at the time of the Committee's visit to Brisbane, the Committee was able to meet with the members designated to be appointed to the Committee, including Dr Leslie Clarke, the Chairperson designate. Dr Clarke gave an overview of the functions of the Committee and its work to date, including the former Committee's Review of the EARC Act. Most discussion then centred on the new Committee's review of the EARC report on Codes of Conduct, and the application of Codes of Conduct to elected officials.

4.2 EARC Report on Codes of Conduct

- 4.2.1 During the meeting with the representatives of EARC Professor Colin Hughes provided the Committee with a brief outline of the findings of the EARC report. He began by describing the five general obligations which EARC recommended should be addressed in a Code. These were:

- (1) Respect for the law and the system of Government;
- (2) Respect for persons;
- (3) Integrity;
- (4) Diligence; and
- (5) Economy and Efficiency.

He went on to outline the recommendation in the report that the Chief Executive officer of each unit of public administration should be responsible for particularising EARC's general Code to the specific circumstances of his/her organisation.

- 4.2.2 In view of the Committee's inquiry into a proposal for a Code of Conduct for MPs there was some very helpful discussion of the distinctions between appointed and elected officials and the impact of this distinction upon proposed Codes of Conduct. Professor Hughes stated that in the case of parliamentarians the questions of implementation and sanctions would be left to the Parliament itself to resolve. There would be provision for a fact finding inquiry, if necessary by another body, but the actual enforcement of any sanctions would be left to the Parliament. Professor Hughes said this approach was consistent with the philosophy espoused in the Bowen Report.
- 4.2.3 Members of the Parliamentary Committee for Electoral and Administrative Review were particularly interested to hear the views of members of the ICAC Committee on the subject of Codes of Conduct because of the fact that they were soon to begin their consideration of the EARC report. Dr Clarke mentioned that the former Committee had taken the step of engaging some consultants to review the EARC report and undertook to provide copies of the consultants reports to the Committee. These have since been received and have proven to be of assistance to the Committee in finalising its position on this issue.