

Deputy Chairman; Hon Derrick Tomlinson; Hon Kim Chance; Hon Ed Dermer; Hon Norman Moore; Hon
Ljiljanna Ravlich; Hon Kate Doust; Hon Peter Foss

Division 4: Anti-Corruption Commission, \$11 706 000 -

Hon Jon Ford, Deputy Chairman.

Hon Kim Chance, Minister for Agriculture, Forestry and Fisheries.

Mr G. Charlwood, Acting Chief Executive Officer.

Mr T. Lewis, Executive Officer.

The DEPUTY CHAIRMAN: On behalf of the Legislative Council Estimates Committee, I welcome you to today's hearing. Government agencies and departments have an important role and duty in assisting Parliament to scrutinise the budget papers on behalf of the people of Western Australia. The Committee values that assistance.

Members are asked to sit towards the front of the Chamber where practicable so that witnesses will not have to turn their heads when answering questions. It will greatly assist Hansard if when referring to the *Budget Statements* volumes or the consolidated fund estimates, members give the page number, item, program, amount, and so on in preface to their questions. If supplementary information is to be provided, I ask for your cooperation in ensuring that it is delivered to the Committee's clerk within five working days of receipt of the questions. An example of the required Hansard style for the documents has been provided to your advisers.

May I remind those members of the public in attendance that only accredited media representatives may take notes. However, full Hansard transcripts will be available to the public within a week of the close of these hearings.

The Committee reminds agency representatives to respond to questions in a succinct manner and to limit the extent of personal observations. At this time, I ask each of the witnesses whether they have read, understood and completed the Information for Witnesses form. Do all the witnesses fully understand the meaning and effect of the provisions of that document?

WITNESSES: Yes.

The DEPUTY CHAIRMAN: Minister, do you want to make an opening statement?

Hon KIM CHANCE: No, I do not have an opening statement.

Hon DERRICK TOMLINSON: In the appropriation and forward estimates on page 101 of the *Budget Statements*, I notice that the grand total of \$11.7 million is only marginally higher than the estimated actual total for the previous financial year. That is probably a decline in the constant value of the budget allocation. Yet on page 103, the estimated total cost of output 1 for the assessments, investigations, reviews and audits of external investigations has increased by about \$2.5 million. That increase is explained in terms of the cost of public hearings and of the electronic surveillance unit. Given the decline in constant terms of the total budget, where have savings been made to pay for the increased cost of investigations?

Hon KIM CHANCE: The major differential is taken up in the last line item, which refers to adjustments. I understand that adjustments relate to movements in cash balances and other accrual items, such as receivables, payables and superannuation.

Hon DERRICK TOMLINSON: I ask a supplementary question. Capital provision has been made in the budget for equipment for the electronic surveillance unit. Similar allocations were approved in past budgets. Will the funding allocation of \$1.2 million for electronic surveillance be used mainly to pay for additional investigators? Will the commission employ additional investigators for electronic surveillance and, if so, how many?

[3.50 pm]

Mr CHARLWOOD: That is partly the case. We have taken on additional investigators this financial year to fully service our electronic surveillance unit, which of course deals with telephone interceptions and surveillance under the Surveillance Devices Act 1998. It may assist the Committee to know that the requisite approval from the federal Attorney General for the commission to become fully operational, in legislative terms, to conduct telephone intercepts was given only on 25 or 26 September. Therefore, the commission has been judicious in resourcing that unit. Some staff were taken on in the past financial year to carry out some preparatory work, but further staff were taken on this financial year for the unit to become fully operational. Those figures are reflected in the current budget papers. Some of those funds will be used to provide capital equipment for the commission's electronic surveillance capacity. That relates to telephone intercepts to some extent, but mainly to other surveillance activities. I am sure most members would be aware that the technology for this sort of equipment advances very quickly, and for the commission to remain at the forefront it must have the necessary

Deputy Chairman; Hon Derrick Tomlinson; Hon Kim Chance; Hon Ed Dermer; Hon Norman Moore; Hon Ljiljana Ravlich; Hon Kate Doust; Hon Peter Foss

amount of equipment and keep abreast of the technology. Therefore, it is essential that we have a proper asset replacement program within that unit. Some of those funds are for that purpose.

Hon E.R.J. DERMER: I refer to the major initiatives for 2001-02, as listed on page 104. I am interested in the implementation of public hearings in accordance with government policy. I would be grateful for further explanation about the role that the commission believes public hearings would have in an investigation, or the other purposes for which they might be used.

Mr CHARLWOOD: The commission believes that it is important for the community and Parliament to be appraised of corrupt and criminal conduct occurring across the public sector. The Anti-Corruption Commission Act provides limited opportunity for the commission to advise Parliament about those matters. The commission has for some time been seeking better ways of keeping the Parliament and the community informed of its work. It sees public hearings as one means of doing that. It does not envisage that all the investigations it conducts will be subject to public hearings. The process of the hearings and what they might provide will depend on the legislation, which is yet to be introduced into Parliament. The commission's view is that those matters of high public interest would be subject to public hearings.

Hon E.R.J. DERMER: I am endeavouring to understand how a public hearing would fit into the structure of an investigation. How would a public hearing contribute to the progress of an investigation?

Mr CHARLWOOD: Last week's *Four Corners* program provides an insight, and I will expand on that. In the case outlined in the program, the Police Integrity Commission in New South Wales spent three years conducting an investigation out of the public glare, so to speak. The Police Integrity Commission is now, at the end of the investigation, pursuing aspects of that case through public hearings. Public hearings are not the first step of an investigation, and the Anti-Corruption Commission envisages that a similar model will operate here. Public hearings are akin to what a court case is to a traditional police investigation. A police investigation may run for 12 months, and the evidence presented in court is the culmination of that work. Public hearings in context of anti-corruption commissions - including ours - would operate in a similar way.

Hon E.R.J. DERMER: Would the hearings be held towards the latter stages of an investigation?

Mr CHARLWOOD: They would be held towards the latter stages, if not the end, of the investigation.

Hon E.R.J. DERMER: Who would preside over a public hearing?

Mr CHARLWOOD: Without the benefit of having seen the draft legislation, I cannot answer that.

Hon N.F. MOORE: Footnote (a) on page 104 states -

The Full Time Equivalents (FTEs) employed in this output during 2000-01 was 73 and is estimated to be 85 for the 2001-02 Budget.

Why is it necessary to increase the number of staff by that significant amount?

Mr CHARLWOOD: I have touched on that. It relates to the provision of resources to operate the commission's electronic surveillance capacity. The staffing level of 73 full-time equivalents is not sufficient for that capacity, but we did not want to employ staff prematurely. Now that we have full resource capacity, we will increase the number of staff.

[4.00 pm]

Hon N.F. MOORE: Page 107 of the *Budget Statements* makes reference to cash assets and equity. Over the years there has been a process of building up cash assets, which reached an estimated \$5.9 million last year and is budgeted to go down to \$4.2 million and continue to decrease. Why has it been necessary to build up a cash asset - the accumulated surplus has also been building up over time - and why is it proposed to start getting rid of some of those assets?

Hon KIM CHANCE: The answer relates to the last question. A build-up of cash reserves has occurred to put in place the surveillance equipment. The run-down of cash reserves amounts to an expression of the physical rollout of the surveillance equipment. However, it also relates to expenditure that is planned for the out years, which is directly related to the fit-out and so forth that is required for public hearings to occur.

Hon E.R.J. DERMER: I draw attention to page 101 and the listing of significant issues and trends. The third dot point states -

A pro-active investigation approach is increasingly being taken in respect of current allegations reported.

Deputy Chairman; Hon Derrick Tomlinson; Hon Kim Chance; Hon Ed Dermer; Hon Norman Moore; Hon
Ljiljanna Ravlich; Hon Kate Doust; Hon Peter Foss

I have very little expertise in this field so if I can be enlightened further, I would be grateful. I am endeavouring to understand the term “proactive investigation”. If an allegation is being investigated, the investigation of it would inherently be reactive rather than proactive. I would be grateful if that could be explained.

Hon KIM CHANCE: That is an operational question and can be answered within the scope of the Committee’s ambit. I am happy for the chief executive officer to do that.

Hon E.R.J. DERMER: I am after an explanation in the most general of terms. I rely on the good people with us to advise on what should not be asked.

Hon KIM CHANCE: I trust the CEO to answer it. I will certainly not have a go at it myself.

Mr CHARLWOOD: Hon Ed Dermer is right; there is a seeming conflict in that, and the wording in the budget papers could have been better. Proactive is the opposite of reactive and for the last four years, the commission has essentially been in reactive mode. That is a consequence of a raft of historical matters that the commission has inherited, if not at the time of its inception then subsequent to it, with those matters having been around for sometime. We must respond in a reactive way to allegations reported to the commission; there is no way around it. However, the commission sees it as important to become proactive and not rely absolutely on people bringing allegations to us, which we then respond to. The focus over the next year and subsequent years will be to strike a balance between a reactive and a proactive approach. By proactive I mean the commission itself, under section 13 of the Act, bringing own motion allegations based on information and intelligence, which it goes out and gathers in a proactive way. It is the way forward and it is a far better approach than the more traditional reactive approach that has been followed to date.

Hon E.R.J. DERMER: That means to undertake investigations at the commission’s initiative rather than responding to the allegations received.

Mr CHARLWOOD: Yes.

Hon DERRICK TOMLINSON: My question ties in with the previous question from Hon Ed Dermer. I refer to page 23 of the commission’s annual report for 2000 and the 393 total cases finalised in that year, of which 14 were subject to administrative action, 41 to criminal charges, 57 to disciplinary action, and the rest were unsubstantiated and so on. I expect that in those 393 total cases finalised, a great deal of intelligence would have been accumulated. That is not necessarily finalised when the case is seemingly finalised. Would that intelligence be the proactive work that the commission is doing; and, allied with that, is that sort of intelligence the best way the commission can support the proposed royal commission into corruption in the Police Service?

Mr CHARLWOOD: The member is partly right with regard to the 393 matters finalised in 1999-2000. In the course of conducting the inquiries and investigations to finalise those matters, significant amounts of information, in many cases not related to those specific allegations, were collected by the commission. Over the last four years, the commission has amassed a substantial database of intelligence in relation to conduct across the public sector falling within its jurisdiction. The commission would certainly see that information as being useful to the proposed royal commission into the Western Australian Police Service, depending on the terms of reference of that commission.

Hon DERRICK TOMLINSON: Apart from the provision of intelligence, and again depending upon the terms of reference, is the Anti-Corruption Commission making any financial or resources contribution to the preparation of the royal commission?

Hon KIM CHANCE: Page 75 of the *Economic and Fiscal Outlook* has a line item for expenditure on the proposed royal commission into the Western Australian Police Service.

Hon DERRICK TOMLINSON: Thank you for drawing that to our attention. However, that is the provision within the Department of Premier and Cabinet: \$5 million in this financial year and \$10 million in the next financial year - a \$15 million royal commission, provided it is finished by 2003. However, my question is, is there any commitment at this stage by the Anti-Corruption Commission, financially or in resources, to the preparation or conduct of the royal commission into the Police Service?

[4.10 pm]

Hon KIM CHANCE: The only answer I can provide is that \$15 million has already been indicated in the appropriation statement of the Department of Premier and Cabinet. Hon Derrick Tomlinson’s question is reasonable. However, I do not think I am equipped to answer it; therefore, I am happy to take it on notice.

Hon DERRICK TOMLINSON: I request that that information be provided.

Hon KIM CHANCE: I am happy to provide the information.

Deputy Chairman; Hon Derrick Tomlinson; Hon Kim Chance; Hon Ed Dermer; Hon Norman Moore; Hon Ljiljanna Ravlich; Hon Kate Doust; Hon Peter Foss

Hon LJILJANNA RAVLICH: I refer to the third dot point under “Major Achievements For 2000-01” on page 104, which refers to the implementation of the substantial technical, legal, policy and administrative infrastructure to enable the conduct of authorised telecommunications interception. How has that enhanced the Anti-Corruption Commission’s operations? It is also proposed as a major initiative for 2001-02 and is picked up in the second dot point which refers to implementation of telecommunications interception and related electronic surveillance equipment, which I assume will be a continuation of this achievement.

Hon KIM CHANCE: Hon Ljiljanna Ravlich picked up on something I mentioned before. It has been a fairly extensive process to establish the legal protocols for the use of that equipment. That has been achieved and that is why it is listed as an achievement for 2001. As the break down in cash reserves indicated, the roll out and the benefit of that technology will begin from this year and continue in the following years.

Mr CHARLWOOD: In terms of the initiatives for 2001-02 we now have one of the most significant final tools for the investigation of corruption and criminal conduct by public officers. This will enhance the Anti-Corruption Commission’s ability to get to the bottom of many of the allegations referred to it and, equally, to explore properly intelligence and information it uncovers during investigations to which I referred earlier. The commission has been waiting almost five years to conduct telephone interceptions. Through no fault of anyone in particular it has taken a long time to achieve that capacity. It is an investigative tool that similar commissions throughout Australia and around the world find indispensable in the fight against corruption. The Western Australian Anti-Corruption Commission views it in the same way.

Hon LJILJANNA RAVLICH: A significant number of unsubstantiated cases are recorded on page 24 of the Anti-Corruption Commission’s annual report for 2000. For that period more than 140 unsubstantiated cases were recorded. Will the implementation of this substantial technical, legal, policy and administrative infrastructure enable the commission to reduce the number of unsubstantiated cases and, therefore, increase the number of substantiated cases? How will that be enhanced through this budget initiative?

Mr CHARLWOOD: It may be enhanced. It is important to understand the definition of “unsubstantiated”. If Hon Ljiljanna Ravlich is referring to the table on page 24, midway down the table is a category called “inconclusive”. If anything, it is the number of inconclusive matters that tools such as telephone interceptions will reduce. The commission’s definition of “unsubstantiated” is when there is clear evidence that there is no substance to an allegation, not that we have not been able to determine it one way or another. Facilities such as telephone intercepts and surveillance devices will allow us to reduce the number of cases that the commission has found to be inconclusive.

Hon LJILJANNA RAVLICH: I assume telephone interception will also assist the commission to address cases of insufficient evidence and other categories.

Mr CHARLWOOD: It certainly should pick up areas for which there is insufficient evidence. However, there could be other areas such as “investigation not justified”.

Hon N.F. MOORE: I refer to the commission’s priority and assurance dividend of \$594 000 this year, which increases to \$736 000 in future years. It is a major policy decision made since the election. What savings have been invoked to provide the dividend? It is significant in the context of the commission’s budget.

Mr CHARLWOOD: Both the priority and assurance dividends the commission had to meet were consistent with the Government’s expectation across the board. We were not singled out for any special treatment. The commission looked very comprehensively at its expenditure. Without being able to provide specific details, because I do not have them with me, its priority was to impact on operational expenditure as little as possible. It was able to maintain full operational capacity with the budget allocation for this year and the out years. We were able to prune back on administrative matters in the non-operational areas. We enjoy a level of support from the Department of Premier and Cabinet in some areas. In discussion with the department we were able to come to some cost-effective arrangements. Certain belt tightening measures were implemented, which we will feel. However, we are confident that the commission’s operational activities will not be reduced as a result of these dividends.

Hon N.F. MOORE: Can the commission provide me with details on the \$590 000 and how it proposes to save \$736 000 next year? I am also interested in the comment Mr Charlwood made about the relationship with the Department of Premier and Cabinet. Bearing in mind that the Anti-Corruption Commission is essentially an organisation that should be at arms length from government, I am interested in more detail about the relationship it has with the Department of Premier and Cabinet. Is the relationship about the provision of services or is the commission very friendly with Premier and Cabinet?

Mr CHARLWOOD: We are very friendly with anyone we can be friendly with! There is an important clarification. The support services from the Department of Premier and Cabinet are in administrative services

Deputy Chairman; Hon Derrick Tomlinson; Hon Kim Chance; Hon Ed Dermer; Hon Norman Moore; Hon Ljiljana Ravlich; Hon Kate Doust; Hon Peter Foss

such as payroll, some of our human resource functions and non-operational fleet management. It does not involve any operational matters. It is a very cost-effective arrangement. The commission would not continue with it if it thought it in any way impacted on the independence of the commission or jeopardised any of its operations. The Department of Premier and Cabinet provides purely administrative and non-operational support. I will take on notice the question seeking specific advice on the savings measures attached to the figures quoted by Hon Norman Moore.

Hon N.F. MOORE: Thank you. I would appreciate that.

Hon KIM CHANCE: I am happy to take that question on notice.

[4.20 pm]

Hon N.F. MOORE: I refer to page 103 of budget paper No 2 and the key effectiveness indicator. It is not helpful in the context of this budget that the actuals for 1999-2000 and 2000-01 are not available and that the target for 2001-02 is simply stated as 85 per cent. I acknowledge that the annual report contains information about this, but I would like an explanation of the change in the effectiveness indicator to get some idea of what the 85 per cent target means for the coming year.

Mr CHARLWOOD: As stated in the note in the last column of that table, we refined the effectiveness indicator, and that warrants some explanation. The original effectiveness indicator measured whether recommendations made to the commission were accepted. We were very judicious in recording even the slightest variation to the extent that, if a report contained 10 recommendations and the last one was that the attached draft letter be sent to a complainant and the commission was not happy with the letter and wanted even minor changes, the performance indicator was deemed not to have been met. Although 90 per cent of the recommendations were accepted, because all were not, the performance indicator was crossed, not ticked. That provided no real indication of the effectiveness of the commission's work. After discussions with Treasury and the Auditor General, we varied that to refer to conclusions drawn in investigation reports being "substantially" accepted by the commission. Given that, providing any comparison with previous years - which were subject to the very strict regime we imposed - would not be meaningful. We did not provide those figures after consultation with Treasury. That is the reason for the variation.

Hon DERRICK TOMLINSON: I again refer to page 104 and follow up those output figures. The impact of the establishment of the electronic surveillance capabilities results in an increase in the average annual cost per allegation from \$43 865 to \$52 390. Agencies elsewhere that have had electronic surveillance and telephone interception powers for some time use them sparingly because that activity is resource inefficient and not always productive. When it is, it is very worthwhile. Does the commission anticipate that it will use this new capacity sparingly, or do those costs indicate that it will have a different attitude to the use of that power?

Mr CHARLWOOD: The commission will use its telephone interception and electronic surveillance power to the limit of its capacity. Obviously, there must be a balance between the legislative ability to get warrants to use the equipment and the capacity to fund its use. The explanation refers not only to the impact of electronic surveillance, but also to public hearings. Like royal commissions, public hearings are very resource intensive compared to other methods of investigation. The figure, which correctly reflects an increase in the cost of investigations, is a combination of the use of electronic surveillance equipment and the intended use of public hearings.

Hon KIM CHANCE: It should also be noted that Hon Derrick Tomlinson used the estimated actual figure for 2000-01. To get a balance, it would have been more appropriate had he referred to the column to the left; that is, the 2000-01 budget figure. If we are to compare apples with apples, one budget should be compared with another - presuming they are constructed using the same protocols - rather than with the actual figure, which could have been affected by extraordinary events. If we were to do that, we would get a substantial fall in the average annual cost per allegation assessed from \$95 000 in 2000-01 to \$52 000 targeted in 2001-02.

Hon DERRICK TOMLINSON: The minister's point is important. However, a more reliable comparison would be between the actual outlays rather than the adjusted and budgeted outlays. Actuals and budgets are not always congruent throughout these budget documents. We do not have an actual outlay, so we do not have a more reliable comparison.

Hon KIM CHANCE: I raise that matter only because there is a substantial difference between the 2000-01 budgeted figure and the estimated figure. Although I do not know the reason for the difference, when it happens in budgets, frequently it is because of some extraordinary event or, as in this case, a number of investigations have been concluded, which results in a lower investigation cost.

Deputy Chairman; Hon Derrick Tomlinson; Hon Kim Chance; Hon Ed Dermer; Hon Norman Moore; Hon
Ljiljanna Ravlich; Hon Kate Doust; Hon Peter Foss

Hon KATE DOUST: I refer to page 30 of the annual report and the expenditure for advertising. During the year, the commission made payments totalling \$45 545 to Marketforce Advertising for recruitment services. How many positions did the commission seek to fill using the services of that company?

Mr CHARLWOOD: I do not have the numbers. I am happy to take the question on notice and provide them. Many government agencies, including the commission, are required to use Marketforce Advertising to place recruitment advertisements in newspapers. Marketforce is not a recruiting firm and the commission did not use it to outsource its recruiting function. The payments were for the running of those advertisements in newspapers. The commission undertook the recruiting, albeit in many cases with the assistance of a consultant.

Hon KATE DOUST: Was the payment simply for the drafting and placement of the advertisements?

Mr CHARLWOOD: Yes. The commission drafts the advertisements and Marketforce does the finetuning and places the advertisements. It is very expensive.

Hon KATE DOUST: That is apparent.

Hon PETER FOSS: I refer to page 20 of the commission's annual report. I am surprised to see the ratio of mandatory to voluntary information that the commission receives. Has that ratio always been about the same? Is there any detectable difference in the substantiation rate of the voluntary and mandatory reports, and has that always been the same?

[4.30 pm]

Mr CHARLWOOD: I will answer the last question first. I am unable to provide the figures. We do not correlate the outcomes of the mandatory reports and the voluntary reports. We have never kept those statistics.

The ratios have not always been the same. The commission has undertaken a lot of work in the public sector to get agencies to understand their reporting obligations under section 14 of the Anti-Corruption Commission Act. The figures for mandatory reporting reflect the success of that education campaign and the work done with public sector agencies. I have to be honest, and say that the public profile of the commission is not conducive to people bringing as many reports to the commission as it would like to see. Many of the mandatory reports are made by members of the public to agencies. They are then reported by the agencies to the commission. Not many members of the public go straight to the commission. In the coming year, the commission hopes to promote itself more in the public eye. It will not be promotion for the sake of promotion; it is to promote community confidence that the ACC is an agency to which people can bring matters of corrupt, criminal and serious and improper conduct in the public sector.

Hon PETER FOSS: I suggest that further analysis of the data may be worthwhile in determining what efforts should be taken to get full use of the reports.

Mr CHARLWOOD: I will take that on board.

Hon KIM CHANCE: I will pass that to the Premier.

The DEPUTY CHAIRMAN: That concludes division 4. I thank the minister and his officers for attending. Members requiring supplementary information should submit their requests within the next half hour.