

ANNUAL REPORT 2002-03



**ANTI-CORRUPTION
COMMISSION**

Hon Dr G I GALLOP BEc MA MPhil DPhil MLA

Premier of Western Australia

In accordance with the provisions of the *Financial Administration and Audit Act 1985* (WA) and the *Anti-Corruption Commission Act 1988* (WA), we hereby submit for your information and submission to Parliament the Annual Report for the Anti-Corruption Commission for the year ending 30 June 2003.



T E O'Connor QC

Chairman



D G Doig

Member



M Rayner

Member

29 August 2003

CONTENTS

CHAIRMAN'S OVERVIEW	1
CHIEF EXECUTIVE OFFICER'S STATEMENT.....	3
ADDRESSING SERIOUS MISCONDUCT	5
Public Authority Obligations.....	5
Defining Serious Misconduct	5
Reporting Serious Misconduct.....	6
Combating Serious Misconduct.....	7
Maintaining Confidence in WA Public Administration.....	7
INVESTIGATING SERIOUS MISCONDUCT	8
Allegations and Investigations	8
Outcomes of Investigations: 2002-03	8
Substantiated Allegations: 2002-03.....	9
The ACC and the Police Royal Commission	17
ACC Operational Activity: 2002-03.....	18
ACC Investigative Activity.....	19
THE ANTI-CORRUPTION COMMISSION	23
The Commission.....	23
The Office of the ACC.....	23
Sources of Allegations	24
Public Officers.....	24
Operations and Legislation	24
Privacy and Confidentiality	25
Action Consequential to Investigations.....	25
Accountability.....	25
Organisational Structure of the ACC: 30 June 2003	26
ACTIONS, OUTCOMES AND DIRECTIONS.....	27
Operations	27
Business Services and Executive Support.....	35
OBLIGATORY REPORTING.....	40
Customer Outcomes.....	40
OUTCOMES, OUTPUTS AND PERFORMANCE INDICATORS	42
Key Performance Indicators	45
FINANCIAL STATEMENTS	49
Statement of Financial Performance for the Year ended 30 June 2003	49
Statement of Financial Position as at 30 June 2003	50
Statement of Cash Flows for the Year ended 30 June 2003.....	51
Notes to the Financial Statements.....	52
CONTACTING THE ANTI-CORRUPTION COMMISSION	67

CHAIRMAN'S OVERVIEW

The most significant event for this Commission in the last year was the release of the Police Royal Commission's interim report, and the subsequent announcement that the ACC would be abolished and replaced with a new body to be called the Corruption and Crime Commission ('CCC').

Notwithstanding the announcement, the Commission and its staff have continued to discharge their obligations under the *Anti-Corruption Commission Act 1988* (WA). Significantly, the number of matters reported to and finalised by the ACC was similar to the numbers in previous years.

In addition to this usual workload, the ACC also provided significant assistance to the Royal Commission. Much of the material which was the subject of Royal Commission hearings came either from ACC investigations passed over to the Royal Commission by the ACC or from joint investigations conducted by the ACC and the Royal Commission.

Because of the public hearings held by the Royal Commission, much of the public focus has been on corruption within the Police Service. This has tended to obscure the fact that the ACC receives more allegations concerning the conduct of public officers than about the conduct of police. During the year a significant number of allegations oversights by the ACC involving public officers other than police resulted in prosecutions or disciplinary action against the officers concerned.

It is pleasing that the draft legislation for the CCC incorporates many of the powers which the ACC has called for but which were denied to it. These powers are essential if an investigative body is to be successful in the fight against corruption in the police and public sectors.

The Commission and its staff have provided substantial input to the discussions on the legislative and operational structure of the CCC, and the ACC looks forward to working with the Government and the Commissioner of the CCC to achieve a smooth transition from the ACC to the CCC. Indeed, for the CCC to run effectively from inception it must have access to the corporate knowledge and experience of ACC staff. For this reason it has been disappointing that Government has endeavoured to contend that ACC staff are not permanent public officers, with the implication that their services would be dispensed with upon the formation of the CCC.

Despite suggestions by Government to the contrary, the Commission's decision to move ACC staff from renewable contracts was taken before the Government published the recommendations in the Royal Commission Interim Report. The decision was taken immediately following and in accordance with the Premier's Circular directing employers in the public sector to move from fixed term employment contracts to contracts of indefinite tenure. The Commission took the decision to follow the Premier's directive in consultation with the Department of the Premier & Cabinet and the Department of Consumer & Employment Protection.

I would like to thank my fellow Commissioners for their efforts during the year. In particular, I wish to acknowledge the very substantial contribution made by Commissioner Bob George during his time on the Commission. His wisdom and counsel during his time on the Commission was invaluable.

I would also like to thank our Chief Executive Officer Graeme Charlwood for the advice and assistance he has provided to the Commission. Graeme is not only an excellent investigator with considerable experience, but also a first-class manager. The Commission has been most fortunate to have a person of his ability and integrity as its Chief Executive.

Finally, I would like to compliment the staff of the ACC for their dedication during what has been a very difficult and unsettling time. Despite the uncertainties created by the prolonged refusal of the Government to acknowledge their employment status, they have continued to work diligently and professionally throughout.

The community has much for which to be grateful to these fine people, who, although obviously concerned about their futures, have continued in the public interest to carry out their duties. It is worth noting that the high quality of the work carried out by ACC staff was noted in the Interim Report of the Royal Commission.



T E O'Connor QC

Chairman

CHIEF EXECUTIVE OFFICER'S STATEMENT

This is the last occasion I will have the privilege to report as Chief Executive Officer of the Anti-Corruption Commission.

The Government's announcement in February 2003 that it accepted the recommendations in the Interim Report of the Police Royal Commission will sadly see the abolition of the ACC in the not too distant future.

Despite that situation, over the past year the ACC's operations have, notwithstanding the influence the announcement of the agency's abolition has had on staff morale, continued to be conducted efficiently and effectively, producing successful and timely outcomes and contributing to the achievement of the organisation's goals and objectives.

In terms of those outcomes, the statistical data presented in this report demonstrates that, working in partnership with the ACC, public authorities have taken significant action in response to substantiated allegations of serious misconduct. Importantly, this has seen authorities not merely issuing sanctions against those officers caught conducting themselves improperly, but taking proactive steps to prevent future occurrences of misconduct.

As a direct consequence, accountability and transparency have been enhanced across public administration. In addition, policies and procedures have been introduced or improved in a number of public authorities and agencies as result of the Commission's work.

Much of the data collected by the ACC also confirms that public officers of this State are, for the most part, carrying out their duties honestly, with integrity, and with the goal of providing the best possible service they can for the people of Western Australia. I find this extremely encouraging.

As the Chairman has identified, the ACC also made a significant contribution throughout the year to the ongoing Royal Commission, with ACC officers being actively involved in a number of joint operations with the Royal Commission. In addition, the ACC provided much of the evidence used by the Royal Commission in public hearings concerning matters previously investigated by the ACC along with a significant amount of evidence gained through our telephone intercepts.

Internally, the ACC adopted a fresh approach to staff recruitment this year, which resulted in it recruiting people with a diversity of experience and knowledge. This new approach has also seen a change in the gender demographic of the agency, with 12 of the 20 appointees being women, including seven of the eight appointments to investigative positions. Importantly, the first female Commissioner, Ms Moira Rayner, was also appointed to the Commission in December 2002.

In addition to the difficulties posed by the government's decision to close the ACC, the agency has also had to deal with some sensitive, internal issues; including those identified by the Public Sector Standards Commissioner and the Worksafe Commissioner. I am pleased to say that management actively and positively embraced the changes that were initiated to address the issues identified.

I would like to add my endorsement to the Chairman's expression of hope that the experiences of the Commission and the knowledge of its staff will be utilised by those responsible for establishing the new Corruption and Crime Commission. It is

evident that external oversight agencies, such as the ACC, must be given the appropriate powers and authority needed to work effectively to facilitate change in public administration, not simply to policies or procedures but, far more critically, to people's attitudes and the culture of public sector agencies.

Lastly, I would like to thank all of our people for their exceptional commitment, hard work and perseverance, not only over the past year but also throughout their entire time with the Commission. It has been a pleasure to work with people who have continued to strive to build a better public sector in Western Australia, in spite of working in what is an arduous, challenging, demanding, and sometimes-thankless environment frequently buffeted by storms whipped up by politics. I wish them success in their future careers and life's other endeavours.

A handwritten signature in black ink, appearing to read 'Graeme Charlwood', written in a cursive style.

Graeme Charlwood

Chief Executive Officer

ADDRESSING SERIOUS MISCONDUCT

PUBLIC AUTHORITY OBLIGATIONS

The community of Western Australia expects that the roles and functions of its State public authorities will be carried out effectively and with the highest standards of integrity and honesty. To achieve this, public officers are obliged to comply with effective management objectives and strategies, work practices and standards, and to adhere to relevant codes of conduct and ethics.

Working independently, as well as in partnership with other public authorities, the Anti-Corruption Commission ('ACC') strives to combat serious misconduct by public officers.

However, with public administration in WA involving more than 140,000 people working in government departments, including the Police Service, local government, Parliament, statutory authorities and the judiciary, serious misconduct cannot be dealt with effectively by any 'anti-corruption body' acting in isolation.

Accordingly, the key responsibility of the ACC is to ensure that appropriate allegations of serious misconduct in the public sector are properly investigated or otherwise dealt with.

The ACC receives allegations from principal executive officers of WA public authorities (who are required to report to the ACC all allegations of serious misconduct coming to their attention), and from individual public officers as well as members of the general public. The Commission of the ACC ('Commission') can also initiate allegations of serious misconduct based on its own information or inquiries.

DEFINING SERIOUS MISCONDUCT

'Serious misconduct', for the ACC's purposes, refers to unacceptable conduct on the part of public officers, and includes:

- | | |
|--|--|
| <i>Corrupt Conduct</i> | Dishonestly taking advantage of, or misusing, their position for personal gain. |
| <i>Criminal Conduct</i> | Actively engaging in, or being involved in, the committing of certain <i>Criminal Code</i> offences while acting in their official capacity. |
| <i>Serious Improper Conduct</i> | Breaching trust; not being honest or impartial in the performance of official duties; engaging in behaviour that constitutes a breach and which could result in dismissal. |

In the year ending 30 June 2003, the Commission addressed 819 matters (485 of which were reported during those 12 months) involving more than 2,000 individual allegations.

REPORTING SERIOUS MISCONDUCT

The information presented in the following table details the matters reported to the ACC in 2002-03 by principal executive officers, public officers and individuals, or which were initiated by the Commission.

The types of behaviour described illustrate the range of improper behaviour coming within the different categories of serious misconduct.

MATTERS REPORTED TO THE COMMISSION
Alleged Serious Misconduct x Public Authority
2002-03

Alleged Serious Misconduct	Public Authority - Matters Received				
	Police	Gov Dept	Local Gov	Other Public Auth	Total
CORRUPT	3	8	3	1	15
Gifts and favours		3	1		4
Association leading to gifts and favours	2	1	2		5
Other	1	4		1	6
CRIMINAL	113	35	24	13	185
Corruption - abuse of public office for benefit	6	1	3	2	12
Disclosure of official secrets	14	1	2		17
Falsification of records by public officer	1	3	2		6
Fraud	5	4	4	1	14
Intent to pervert/defeat course of justice	10				10
Perjury	10	1	1	2	14
Stealing	23	13	10	6	52
Threats with intent to influence	4	1			5
Unlawful operation of a computer system	33	8			41
Other	7	3	2	2	14
SERIOUS IMPROPER	92	110	42	14	258
Assault	3	26		1	30
Conducting secondary employment	2	1			3
Disclosure of information	9		2	1	12
Drugs	23	8			31
Failure to disclose personal interest/information	1	1	20	2	24
Improper association	5	1			6
Improper conduct	29	27	9	6	71
Improper use of computers	8	7	1	1	17
Misuse of corporate credit cards or govt funds		4	3	2	9
Misuse of leave entitlements	5	5			10
Sexual assault/harassment	2	21	2		25
Threats	2	2			4
Other	3	7	5	1	16
Unclassified					2
Outside Jurisdiction					25
TOTAL	208	153	69	28	485

COMBATING SERIOUS MISCONDUCT

In addressing serious misconduct in public administration, meaningful results can only be achieved through appropriate partnerships between individual public authorities and oversighting agencies such as the ACC. Much has been, and continues to be, done throughout WA public administration to combat and prevent serious misconduct; but, notwithstanding those efforts, the detection and prevention of unacceptable behaviour by public officers remains a significant challenge.

Public disclosure of evidence through the *Royal Commission into whether there has been any Corrupt or Criminal Conduct by Western Australian Police Officers* ('Police Royal Commission') has revealed the extent to which some police officers have gone to not only take improper advantage of their roles and positions of authority, but also to conceal their actions, and to prevent colleagues exposing improper conduct.

Over the year, a considerable number of public officers in a wide variety of roles and positions were alleged to have engaged in serious misconduct.

In a significant number of instances evidence was assembled to substantiate the allegations.

MAINTAINING CONFIDENCE IN WA PUBLIC ADMINISTRATION

A primary reason for dealing effectively with allegations of serious misconduct is to ensure the community maintains confidence in its public institutions; and as a corollary to that, so that its citizens may be assured of receiving the best possible service in all areas of public administration.

To this end, whenever an allegation of serious misconduct is made it is important that there be a thorough and impartial assessment of the allegation.

The fundamental aim of investigations into allegations of serious misconduct is to establish the truth. In those instances where allegations are proven to be correct, the consequences for the public officer(s) involved and the public authority (or authorities) concerned can be significant. But such outcomes can also lead to improvements in the practices and standards of individual authorities and the public sector overall.

In many cases, however, the evidence establishes that allegations are without foundation; or, at least, are unable to be substantiated. This can lead to the clearing of a public officer's reputation: an outcome as important as one that uncovers evidence of wrongdoing.

Of the 514 matters finalised by the Commission during the last 12 months, 101 were determined to be unsubstantiated, and 112 were substantiated.

INVESTIGATING SERIOUS MISCONDUCT

ALLEGATIONS AND INVESTIGATIONS

Many allegations of misconduct are investigated and, where necessary, further dealt with by the authority employing (or otherwise responsible for) the officer or officers implicated in the allegations.

In some instances, the Commission will, after assessment of allegations, refer a matter to appropriate authorities (eg the Police Service) for action. In such cases, the Commission will continue to oversight the investigation carried out by those authorities to which allegations have been referred.

The ACC itself investigates a number of allegations, particularly those concerning the more serious forms of misconduct. It will also usually investigate allegations involving senior police and public officers, principal executive officers, and Members of Parliament.

OUTCOMES OF INVESTIGATIONS: 2002-03

Of the 819 matters addressed by the Commission in 2002-03, 514 were finalised.

In 112 (22%) of the 514 matters finalised, investigations revealed the allegations to be substantiated, and in 101 matters (20%) the allegations were determined to be unsubstantiated.

In a further 50 (10%) of the finalised matters, there was insufficient evidence to determine the substance of the allegations.

In 202 (39%) finalised matters, allegations were either outside the ACC's jurisdiction; the evidence was inconclusive; the allegations were vexatious, not serious, or found to have been the subject of adequate prior investigation; or the pursuit of further action was deemed to be not justified or not in the public interest.

In respect of the 514 finalised matters, the following table indicates the areas of WA public administration (ie public authorities) to which allegations related.

The ACC itself conducted investigations into 85 matters during the last 12 months, 39 of which were finalised by the Commission, 46 of which were still active as at 30 June 2003.

MATTERS FINALISED BY THE COMMISSION
Outcome x Serious Misconduct x Public Authority
2002-03

Matters Finalised										
Public Authority	Substantiated				Unsubstantiated				Other	Total
	CC	CrC	SIC	Total	CC	CrC	SIC	Total		
Police Service	1	30	18	49	4	30	22	56	117	222
Government Departments	5	10	24	39	10	7	10	27	86	152
Local Government	2	9	5	16	2	5	5	12	45	73
Other Public Authorities	2	4	2	8	2	1	3	6	8	22
Unclassified										2
Outside Jurisdiction										43
Total	10	53	49	112	18	43	40	101	256	514

Terms: 'CC' – Corrupt Conduct; 'CrC' – Criminal Conduct; 'SIC' - Serious Improper Conduct.

SUBSTANTIATED ALLEGATIONS: 2002-03

The following table profiles the outcomes of action taken by public authorities in respect of the 112 matters where allegations were substantiated.

MATTERS FINALISED BY THE COMMISSION - SUBSTANTIATED ALLEGATIONS
Outcome x Public Authority x Serious Misconduct
2002-03

Public Authority and Outcome	Substantiated Allegations - Matters Finalised			
	Total	CC	CrC	SIC
Police Service	49	1	30	18
Administrative Action	1	1		
Disciplinary Action	41		26	15
Criminal Charges Laid	7		4	3
Government Departments	39	5	10	24
Administrative Action	5	3	1	1
Disciplinary Action	17	2	6	9
Criminal Charges Laid	17		3	14
Local Government	16	2	9	5
Administrative Action	3	1	2	
Disciplinary Action	9	1	4	4
Criminal Charges Laid	4		3	1
Other Public Authorities	8	2	4	2
Administrative Action	3	1	1	1
Disciplinary Action	1	1		
Criminal Charges Laid	4		3	1
Total	112	10	53	49

Totals: Administrative Action - 12 matters; Disciplinary Action - 68 matters (involving 89 public officers); Criminal Charges against public officers - 32 matters (involving 38 public officers).

Commentary on Substantiated Allegations: 2002-03

Of the 514 matters finalised by the Commission in 2002-03:

- 43% (222 matters) related to police officers
- 48% (247 matters) related to 'other public officers'.

[43 other matters were determined to be outside the ACC's jurisdiction and two matters were unclassified]

Of the 112 matters in which allegations were substantiated:

- 44% (49 matters) related to police officers
- 56% (63 matters) related to other public officers.

The final outcomes relating to the 49 matters involving police officers were:

- Disciplinary action - 84% (41 matters)
- Criminal Charges laid - 15% (7 matters)
- Administrative action - 2% (1 matter).

For the 63 matters involving other public officers, comparative figures are:

- Disciplinary action - 43% (27 matters)
- Criminal Charges laid - 40% (25 matters)
- Administrative action - 17% (11 matters).

In those matters where criminal charges were laid against police officers: two officers were imprisoned for 18 months and one for 3 years (all for misconduct involving corruption and abuse of public office for benefit).

In matters where other public officers were the subject of criminal charges:

- One officer was imprisoned for 12 months
- One was imprisoned for 3 years and 3 months
- One was sentenced to 12 months imprisonment (converted to 24 months suspended sentence)
- One received an 18 months suspended sentence
- One was imprisoned for 12 months.

Serious misconduct involving police officers (the 49 matters) included:

- Improper use of computer systems or release of official information - 30% (15 matters)
- Stealing - 14% (7 matters)
- Drugs - 12% (6 matters)
- Improper conduct/assault - 16% (8 matters).

Serious misconduct involving other public officers (63 matters) included:

- Stealing – 19% (12 matters)
- Improper conduct involving pornography or indecent dealing – 21% (13 matters, nine of which involved sexual assault of minors or children under 13 years)
- Drugs – 8% (5 matters)
- Fraud or misuse of official funds and/or credit cards – 13% (8 matters).

Significant Outcomes from Substantiated Allegations: 2002-03

The more significant outcomes for public officers against whom allegations were substantiated are summarised in the following table.

SUBSTANTIATED ALLEGATIONS
Significant action taken against Public Officers
2002-03

Action Taken	Public Officers
Criminal Charges – laid against public officers	38
Disciplinary Action – under Public Sector or Police Service regulations	34
Employment terminated – 18 dismissals, 12 resignations	30
Formal reprimand and/or counselling	21
Employment suspended – in some cases without pay	6
Fines	14
Action taken under s.8 of the <i>Police Act</i> – police officers	4
Imprisonment – refer to the previous page for details	6

The tables presented on the following pages ('Substantiated Allegations - Outcomes of Investigations and Other Action') provide more detailed information about the outcomes of the 112 matters in which allegations were substantiated.

Those tables, in addition to describing the outcomes, also describe, where appropriate, the types of misconduct alleged, and groups the matters according to the broad area of public administration in which the relevant public officers were involved. *

Importantly, the types of outcomes achieved also show that the substantiation of allegations can lead to changes to the policies, practices and/or systems of public authorities that are intended to prevent or reduce opportunities for corruption and other forms of serious misconduct in the future.

* In regard to the information contained in the following tables, the ACC is prohibited under the *ACC Act* from publishing descriptions of specific allegations or providing information which may allow for the identification of public officers mentioned in allegations - other than with the consent of the public officer(s) involved or where the action taken in response to the allegations has led to criminal charges being proved in a court of law.

SUBSTANTIATED ALLEGATIONS
Outcomes of Investigations and Other Action
2002-03

Types of Outcome [Administrative and Disciplinary Action]

ADMINISTRATIVE ACTION TAKEN (12 Matters)

POLICE SERVICE (1 MATTER)

Relevant procedures regarding the conduct of investigations amended.

GOVERNMENT DEPARTMENTS (5 MATTERS)

Fund administration process amended. Public Officer ('PO') no longer employed by agency.

PO counselled. Relevant financial management policy reviewed.

Policy regarding use of fuel card repeated to PO. PO to repay the fuel costs.

Contracts Quality Assurance policy and guidelines developed; relevant management responsibilities amended; all employees advised of secondary employment policy.

Procedures regarding administration of medications reviewed and changed.

LOCAL GOVERNMENT (3 MATTERS)

Policy regarding disclosure of secondary employment reiterated to PO.

Tendering policy and procedures enhanced.

Policies and procedures developed and adopted in relation to funding agreements with Not-For-Profit Organisations.

OTHER PUBLIC AUTHORITIES (3 MATTERS)

Debt being recovered from PO.

Agency security arrangements enhanced. All employees advised harassment is a breach of agency values and Code of Conduct.

Policy and procedures re strip-searching revised.

DISCIPLINARY ACTION TAKEN (68 Matters)

POLICE SERVICE (41 MATTERS)

Proceedings instigated under the *Police Act*. Matter ongoing.

PO received unfavourable reports for breach of Police Service regs.

PO informally counselled, and receiving training in ethical standards, integrity and conflict of interest issues.

PO informally counselled. Guidelines formulated to ensure correct procedures followed in future.

PO informally counselled.

PO informally counselled, unfavourable report recorded on personnel file.

1 PO voluntarily transferred, subjected to workplace assessments. 1 PO under controlled supervision – PO to undertake vocational assessment. Unfavourable report about Officer in Charge of section.

Types of Outcome [Disciplinary Action Taken (cont)]
PO informally counselled.
PO demoted to rank of Senior Constable for 12 months.
PO charged under <i>First Home Owner Grant Act 2000</i> (Cth). Matter progressing through court.
PO closely supervised and subject to ongoing performance reports.
Unfavourable report recorded on PO's personnel file.
Unfavourable report included in PO's personnel file. Training strategies and procedures being developed to ensure protection of informants' identities.
PO formally counselled.
1 PO no longer employed (resigned). 1 PO subjected to disciplinary inquiries under <i>Public Sector Management Act 1994</i> ('PSM Act'). Administrative changes in relation to use of computers advised.
PO informally counselled. PO attended training course in ethics of computer usage.
PO Informally counselled.
PO Formally counselled.
PO counselled at local level regarding computer access.
PO charged under Police Service regs. PO received official caution.
PO informally counselled, to face disciplinary charge.
Police Service internal investigation undertaken, charges laid against PO but not proven.
PO subject to disciplinary action under <i>PSM Act</i> .
PO subject of <i>Police Act</i> proceedings; suspended, disciplined, re-instated.
PO cleared of stealing charges. PO's internet access privileges removed. PO transferred to another position within the agency and demoted.
PO's use of corporate credit card limited. PO charged with 'conduct unbecoming an officer'. PO subject to s.8 <i>Police Act</i> proceedings. Matter ongoing.
PO charged with neglect of duty under Police Service regs. PO charged with attempt to induce a member of the Police Service to commit a breach of Police Service regs.
PO charged with 'use of a prohibited substance' and 'possession of a prohibited substance'. PO subject to s.8 <i>Police Act</i> proceedings. Matter ongoing.
PO informally counselled.
PO informally counselled for failing to secure a quantity of drugs whilst conducting a search.
PO charged under Police Service regs, PO formally counselled. Structure of section reviewed.
PO counselled.
PO to be given 'developmental training'. PO charged with breach of Police Service regs.
2 POs charged with breach of Police Service regs; informally counselled about inefficient execution of duties, received unfavourable reports, working under strict supervision for six months and subject to monthly performance reviews.
POs informally counselled for failure to perform duties in a proper manner.
PO charged under Police Service regs, PO apologised to person affected by their conduct.
PO subject to unfavourable report on personnel file.
PO dismissed. Police Service undertaking a review of District Custodial Care policies that cover management of all prisoners.

Types of Outcome [Disciplinary Action Taken (cont)]
PO charged, reduced to rank of Sergeant for 6 months, subject to bi-monthly performance reporting.
PO charged under Police Service regs. PO formally counselled.
PO charged 1 count sexual assault, Charges against PO not sustained

GOVERNMENT DEPARTMENTS (17 MATTERS)

PO issued with formal warning, report on personnel file.
PO charged under <i>PSM Act</i> . PO formally reprimanded.
4 POs formally counselled. 1 PO dismissed. Procedures changed.
PO charged with 3 counts of unlawful operation of computer system, suspended without pay, admitted charges, dismissed.
PO charged, pleaded guilty, sentenced to 12 months (100 hours) community based work.
PO charged under <i>Prisons Act</i> . PO fined \$150.
PO resigned. PO prevented from obtaining further employment with agency.
PO formally reprimanded.
6 POs fined, 4 POs resigned, 3 POs on suspension, 1 PO counselled.
PO reprimanded for minor breach of discipline.
PO charged with 2 counts of possession of an indecent article, pleaded guilty, fined \$1,500 plus costs.
2 POs issued with discipline letters.
PO issued with formal reprimand.
PO charged under the <i>Prisons Act</i> . PO formally counselled. Prison IT and telecommunications security reviewed.
PO formally reprimanded.
PO found guilty of minor breach of discipline. PO formally reprimanded.
6 charges laid under the <i>Prisons Act</i> . Matter ongoing.

LOCAL GOVERNMENT (9 MATTERS)

Staff involved received disciplinary letters, advised of relevant articles in Code of Conduct and process of registering gifts.
PO dismissed.
PO dismissed, having admitted theft.
PO lost 1 salary increment. PO's right to council vehicle withdrawn.
PO dismissed.
PO served with formal written warning. Money retrieved from PO.
PO dismissed.
PO dismissed.
PO issued with written warning.

OTHER PUBLIC AUTHORITY (1 MATTER)

PO formally reprimanded, fined \$400, required to undertake management development course and course on Public Sector Code of Ethics and agency's Code of Conduct.
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Types of Outcome [Criminal Charges Laid]	
Types of Conduct	Outcomes
POLICE (7 MATTERS)	
Corruption - Abuse of public office for benefit	2 POs – 18 months imprisonment (perjury, perverting the course of justice), dismissed. 1 PO – 3 years imprisonment (perjury, conspiracy to pervert course of justice), dismissed. 1 PO resigned.
Stealing – Money	PO charged with 2 counts of stealing, retired on medical grounds.
Threats	PO charged with 1 count of aggravated burglary, court action still in progress.
Unlawful Operation of Computer System, Assault and Damage	PO charged with common assault, damage, burglary and committing an offence, and stealing; pleaded guilty, sentenced to 12 month community based order; spent convictions recorded in respect of all charges.
Drugs, Assault - Possession, intent to supply	PO pleaded guilty to assault occasioning bodily harm, fined \$1600, resigned.
Improper Conduct - Driving whilst under the influence	PO charged with driving 'in excess of 0.08%', court action still in progress.
Misuse of Leave Entitlements	PO pleaded guilty, fined \$500, ordered to pay restitution.
GOVERNMENT DEPARTMENTS (17 MATTERS)	
Fraud	PO charged with 39 counts of fraud, suspended without pay, pleaded guilty, employment terminated
Stealing – Money	PO charged with 1 count of stealing, pleaded guilty, fined \$250, ordered to pay costs.
Stealing – Goods	PO charged with 'stealing as a servant', dismissed, ordered to pay restitution.
Drugs - Possession	PO charged, 1 count possession of prohibited substance. Matter dismissed due to lack of evidence.
Drugs - Supply	PO pleaded guilty to 1 count of supplying a prohibited drug, fined \$450.
Drugs - Traffic & supply	PO charged (possession of prohibited drug, implements, intent to sell/supply), sentenced to 12 months imprisonment.
Drugs - Cultivating, possessing cannabis	PO charged, spent conviction, PO ordered to pay fees and costs.
Drugs - Possession with intent to sell or supply	PO charged with 'possession with intent to sell or supply'. PO pleaded guilty, received 6-month conditional release order and spent convictions.
Improper Conduct - Sexual assault, indecent dealing	PO charged (sexual penetration, indecently dealing with a child). DPP dropped charges against PO. Departmental investigation continuing.
Improper Conduct - Sexual assault	PO charged (1 count of sexual penetration), not proceeded with, PO resigned.
Improper Conduct - Sexual assault	PO charged (1 count of indecent assault), court action continuing. PO in non-customer contact role until investigation concluded.
Improper Conduct - Bodily harm	PO charged with common assault, charges subsequently withdrawn. No further action.
Improper Conduct - Indecent dealing	PO charged, convicted (3 counts of indecent dealing of a child under the age of 13), 12 months imprisonment converted to 24 months suspended sentence, PO resigned.
Improper Conduct - Indecent dealing	PO charged, convicted (sexual penetration/ indecent dealings with a child). PO's contract not continued and personnel file marked 'not for re-employment'.

Types of Outcome [Criminal Charges Laid]	
Types of Conduct	Outcomes
Improper Conduct - Sexual assault	PO charged, convicted (sexual penetration / indecent dealings with a child), suspended 18-month sentence. PO resigned.
Improper Conduct - Sexual assault	PO charged (8 counts of rape involving a minor, 5 counts of assault occasioning bodily harm, 1 count of deprivation of liberty and 1 count of indecent dealings of a minor under the age of 14 years). Matter progressing through police investigation.
Improper Conduct - Sexual assault	PO charged with 1 count of indecent dealing and 1 count of sexual penetration. PO dismissed.

LOCAL GOVERNMENT (4 MATTERS)

Improper Conduct - Sexual abuse	PO charged with sexual abuse against minors; convicted and imprisoned; PO resigned.
Stealing – Goods	PO charged with stealing as a public servant, PO dismissed.
Stealing – Money	PO charged 40 counts of stealing as a public servant. PO sentenced to 3 years and 3 months imprisonment. Controls put in place regarding payments from municipal accounts.
Stealing – Unspecified	PO charged 1 count of stealing as a servant and fraud. PO on suspension without pay. Court action still in progress.

OTHER PUBLIC AUTHORITIES (4 MATTERS)

Forgery and Uttering	PO charged 2 counts of forging and uttering a record with intent to defraud. PO to repay costs.
Stealing – Money	PO charged with 'stealing as a public servant' - found not guilty.
Stealing – Money	2 POs convicted of 'stealing as a servant', dismissed. Revenue supervisor demoted.
Improper Use of Computers - Possession of pornography	PO charged with possession of child pornography. Matter progressing through court.

The information contained in the preceding tables confirms that, notwithstanding the considerable efforts of the ACC and other public authorities, corruption and other forms of serious misconduct continue to occur across almost all areas of public administration in Western Australia.

Nevertheless, viewed in terms of the size and diversity of public administration in WA, the community can be assured that the great bulk of public officers exercise the powers and responsibilities of public office with honesty and integrity.

Having said that, there are still people within the public sector who will engage in improper conduct when the opportunity presents. To combat this there will always be a need for an anti-corruption agency with strong powers. For this reason the ACC welcomes the introduction of the proposed Corruption and Crime Commission ('CCC'), which will have the powers that were sought by the ACC over a number of years.

THE ACC AND THE POLICE ROYAL COMMISSION

Throughout the year the ACC provided substantial support to the Police Royal Commission, including active operational involvement, liaison and advice on major matters previously investigated (by the ACC). The detailed investigation reports provided to the Royal Commission established a sound foundation which enabled the Royal Commission to advance swiftly to public hearings.

The ACC also engaged in joint investigations with the Royal Commission. Active operational support involved the deployment of telecommunication interception (42 warrants were executed in joint operations with the Royal Commission), accessing of call charge records, preparation of intelligence charts, and the conducting of physical surveillance.

ACC officers also gave evidence at Royal Commission hearings, particularly in relation to: allegations about the conduct of certain police officers stationed in Kalgoorlie, allegations of theft by members of the Armed Robbery Squad, the review of un-authorised police computer accesses, and the death of protected witness, Mr Andrew Petrelis.

The ACC provided submissions to and participated in four 'roundtable' conferences convened by the Royal Commission during the year, which addressed: Internal Investigations, Information Management, External Oversight, and Corruption Prevention Strategies in relation to the Police Service. Representatives of the ACC attended each of the conferences, and the ACC provided submissions on issues relevant to its interests, its knowledge of criminal and corrupt conduct in WA, and the effectiveness of the State's investigation and prevention mechanisms.

ACC Operational Activity: 2002-03			
General Enquiries made to the ACC about Serious Misconduct ^(a)			259
Matters (subject to Investigation or Other Action) carried over from 2001-02			334
New Matters reported to ACC during 2002-03:			485
Reported by -	Public Authorities	431	89%
	Individuals	43	9%
ACC initiated		11	2%
Relating to public officers in -	WA Police Service	214	44%
	Government Departments	163	34%
	Local Government	77	16%
	Other Public Authorities	31	6%
Alleged misconduct -	Corrupt	15	3%
	Criminal	185	38%
	Serious Improper	258	53%
	Outside ACC's jurisdiction	25	5%
	Unclassified	2	1%
Total active Matters ^(b) considered by the Commission in 2002-03			819
Matters referred by the Commission to other Authorities for Action			191
Review and Audit (by ACC) of 'other authority' Investigation Reports			192
Matters investigated by the ACC			85
Matters (under Investigation by the ACC) finalised in 2002-03			39
Total Matters finalised by the Commission in 2002-03:			514
	Allegations substantiated	112	22%
	Allegations unsubstantiated	101	20%
	Other outcomes ^(c)	301	58%
TI ^(d) Warrants obtained and executed by the ACC:			48
	Joint operations (ACC and Police Royal Commission)	42	
	ACC-specific operations	6	
		Assignments	Matters
Physical Surveillance conducted in support of Investigations:			36 18
Relating to -	WA Police Service	8	5
	Other Public Authorities	18	10
	Police Royal Commission	10	3
Matters (referred by the ACC) being considered by the DPP: ^(e)			9
Relating to public officers in -	WA Police Service		4
	Other Public Authorities		5
Matters finalised by the DPP			5
Matters progressed to Court			3

- (a) 'General enquiries' may, but do not necessarily, relate to information coming within the ACC's jurisdiction.
- (b) 'Active matters' are those matters subject to investigation or other action by the ACC or by appropriate authorities but which have not been finalised by the Commission.
- (c) 'Other outcomes' includes cases that are inconclusive, where investigation is not in public interest, where investigation is not justified, where the public officer is deceased or been transferred, where a matter is outside the ACC's jurisdiction, or where there is insufficient evidence.
- (d) Telecommunications Interception.
- (e) Director of Public Prosecutions (WA).

ACC INVESTIGATIVE ACTIVITY

Generally, the investigations conducted by the ACC itself in 2002-03 involved allegations of more serious misconduct, investigations which were particularly complex, or circumstances demanding the undertaking of 'sensitive' inquiries.

Investigation of these types of matters was generally time and resource intensive and, often protracted due to the nature and complexity of the issues being addressed. Often considerable time is required to unravel intricate processes deliberately put in place (over a period of time) by persons engaged in serious misconduct in order to confound detection and conceal evidence.

The following table identifies the range of the 85 matters investigated by the ACC in 2002-03.

MATTERS INVESTIGATED BY THE ACC
Alleged Serious Misconduct x Public Authority
2002-03

Alleged Serious Misconduct	Public Authority – Matters Investigated				
	Police	Govt Dept	Local Govt	Other Public Auth	Total
Corrupt Conduct	9	9	3	2	23
Association leading to gifts, favours	-	4	1	-	5
Other corrupt conduct	9	5	2	2	18
Criminal Conduct	20	7	2	7	36
Corruption	3	-	1	1	5
Disclosure of official secrets	4	-	-	-	4
Fraud	-	4	-	-	4
Intent to pervert justice	2	1	-	1	4
Perjury	1	1	-	2	4
Stealing	4	-	-	-	4
Other criminal conduct	6	1	1	3	11
Serious improper Conduct	7	11	3	3	24
Disclosure of information	1	5	-	1	7
Drugs	6	3	-	-	9
Other serious improper conduct	-	3	3	2	8
Unclassified/outside ACC jurisdiction	1	1	-	-	2
Total	37	28	8	12	85

Case Studies

As mentioned, the ACC is prohibited under the ACC Act from publishing descriptions of specific allegations or information that could allow for the identification of public officers mentioned in allegations.

The following case studies, which illustrate some of the types of matters addressed by the ACC by way of oversight, review or active investigation, have been prepared in edited form specifically for this report.

INVESTIGATION INTO ABUSE OF FINANCIAL SYSTEMS

The ACC and the Police Service received a report from a local authority suggesting that a (former) Financial Controller may have, at some time between 1997 and 2002, altered cheques and manipulated council accounts for his own benefit. The former controller, who had also served as Manager of Finance, had implemented a computerised finance control system and accordingly possessed a comprehensive knowledge of, and had access to, the city's accounting systems.

Under ACC oversight, the council, in conjunction with the Police Service's Public Sector Investigation Unit ('PSIU'), identified 40 separate fraudulent transactions which had been made between September 1999 and October 2001, involving payments from slightly over \$1,000 to over \$20,000 – and totalling in excess of \$250,000. In March 2003, the former controller admitted to falsifying co-signatures on fraudulent cheques and entering fictitious creditor and invoice information into the city's computerised finance control system, and was subsequently charged with 40 counts of stealing as a public servant pursuant to the *Criminal Code*. In June 2003, he was sentenced to three years and three months imprisonment.

Following the investigation, the council revised its payment control mechanisms, and now has procedures in place to minimise opportunities for fraudulent avoidance of its cheque authorisation processes, including more frequent reporting on, and auditing of, accounts.

INVESTIGATION INTO ASSAULT ON POLICE OFFICER

An allegation was received by the ACC from a serving police officer that a Police Service investigation into an incident in which he had been assaulted by two private security officers had been carried out perfunctorily and inadequately, and that the investigating officer had, amongst other things, fabricated evidence and ignored obvious conflicts of interest.

The officer asserted that the investigating officer had failed to conduct an adequate investigation to avoid jeopardising a strategic business relationship between the Police Service and the owners of the venue where the alleged assault had taken place. The officer believed the impropriety of this situation had been compounded when the same investigator was appointed to conduct a disciplinary inquiry into the officer's conduct on the night of the alleged assault. The officer was charged with disciplinary offences, following a hearing before the Deputy Commissioner, who had viewed the security videos of the alleged assault considered that the officer did not appear to have been acting improperly at the time.

A thorough review of the matter by the ACC resulted in the Commission concluding that there was no evidence to suggest the investigator had fabricated or altered any evidence, or that he had failed to follow normal Police Service operating procedures. The Police Service was advised of the ACC's conclusions and is reviewing the evidence relating to the alleged assault and some administrative aspects of its internal investigation processes.

INVESTIGATION INTO DRUG TRAFFICKING

Responding to a series of inter-related allegations, the Police Service's Prison Unit, the Department of Justice ('DoJ') and the ACC formed a joint taskforce to investigate reports that prison officers and other prison employees had been trafficking illicit drugs (including heroin, cannabis and steroids) and other contraband material into Acacia Prison and selling or supplying them to prisoners.

Extended physical and electronic surveillance, supported by discreet interviews with prisoners and prison employees, revealed evidence that led to the arrest of a prison officer, who was subsequently convicted and sentenced to 12 months imprisonment.

ACC Operational Activity: 1996 to the present

ALLEGATIONS CONSIDERED BY THE COMMISSION: 1996-2003

Between 1 November 1996 (when the ACC was established) and 30 June 2003, the Commission considered 3,034 individual matters involving more than 8,000 separate allegations and over 4,000 individual public officers.

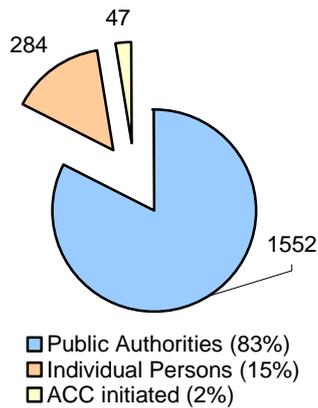
PROFILE OF SERIOUS MISCONDUCT: 1999-2000 TO 2002-03

Over the 4 years from 1999-2000 to 2002-03, there were 1883 separate matters reported to the ACC.

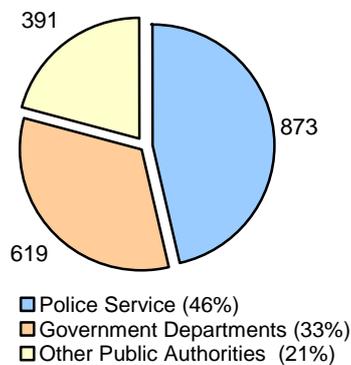
In the same period the Commission finalised 1,907 matters (some of the finalised matters involved allegations reported to the ACC prior to 1999-2000, hence the number of matters finalised exceeded those reported).

The following graphic profiles provide broad comparative information about the source of allegations, their nature, the areas of public administration to which they related in respect of matters reported, and the outcomes of investigations of matters finalised.

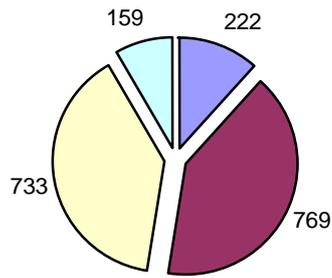
Source of Matters reported to the Commission (1883)



Area of Public Administration to which reported matters related (1883)

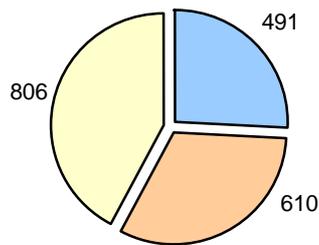


Matters reported by type of Serious Misconduct (1883)



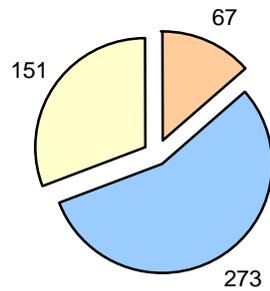
- Corrupt Conduct (12%)
- Criminal Conduct (41%)
- Serious Improper Conduct (39%)
- Outside ACC Jurisdiction (8%)

Outcomes of Matters finalised by the Commission (1907)



- Allegations substantiated (26%)
- Allegations unsubstantiated (32%)
- Other outcomes (42%)

Consequences of those Matters substantiated



- Administrative Action taken (14%)
- Disciplinary Action taken (56%)
- Criminal Charges Laid (31%)

THE ANTI-CORRUPTION COMMISSION

THE COMMISSION

The Commission of the ACC is an independent body responsible for ensuring that allegations of serious misconduct against Western Australian public officers are properly investigated or otherwise dealt with.

It consists of three members appointed by the Governor, under the *Anti-Corruption Commission Act 1988 (WA) (ACC Act)*, one of whom must be a person who has held, or is eligible for, appointment as a Judge (of the Supreme Court) or District Court judge. The other two members of the Commission are not required to be eligible for judicial appointment, but may not be former or serving police officers or serving public officers, other than by reason of their appointment to the Commission.

To ensure its independence, appointments to the Commission are as recommended by a committee consisting of:

- The Chief Justice;
- The Chief Judge of the District Court; and
- The Solicitor General.

The Commission is not subject to the direction of the Government. It is, however, accountable to the Parliament of Western Australia through the *Joint Standing Committee on the ACC*.

The members of the Commission, at 30 June 2003:

- Mr T E O'Connor QC (Chairman)
- Mr D G Doig
- Ms M Rayner (from 11 December 2002)

On 10 December 2002, after four years of dedicated and conscientious service, Mr Bob George concluded his role as a member of the Commission.

THE OFFICE OF THE ACC

The Office of the ACC is comprised of the personnel appointed by the Commission to carry out its directions. As at 30 June 2003 the ACC had positions for 65 staff with responsibilities related to investigations. These responsibilities covered:

- Planning, managing, conducting, and reporting on inquiries and investigations conducted by the ACC itself;
- Reviewing and auditing investigations carried out by authorities to which matters have been referred;
- Intelligence gathering and analysis;
- Electronic and physical surveillance;
- Legal and technical services, policy and standards development.

Over the 12 months to 30 June 2003, the Commission met on 30 occasions, 21 of which were 'regular' meetings at which operational and administrative matters were considered, and nine of which were 'special' meetings to deal with specific matters of priority.

SOURCES OF ALLEGATIONS

The Commission considers reports of alleged serious misconduct by Western Australian public officers from three sources:

- Principal executive officers of Western Australian public authorities – ‘mandatory’ reporting under ss.14 and 15 of the *ACC Act*;
- Members of the general public or individual public officers – ‘voluntary’ reporting under s.16 of the *ACC Act*;
- The Commission itself – which may, in light of its own experience or knowledge, initiate allegations – ‘own motion’ reports under s.13 of the *ACC Act*.

PUBLIC OFFICERS

'Public officer', as defined by the *ACC Act*, includes:

- Employees of public sector agencies and statutory authorities and other persons holding public office (whether or not they receive remuneration);
- Police officers;
- Local government employees and Councillors;
- Members of the judiciary (in respect of alleged judicial corruption only);
- Members of Parliament.

OPERATIONS AND LEGISLATION

Because many public authorities and agencies (and their employees) are subject to, or obliged to comply with, legislation and/or regulations particular to their 'business' areas, ACC operations can be affected by not only the *ACC Act* but also a raft of other (Western Australian and Commonwealth) legislation.

Some of the more important and commonly encountered statutes include:

- *Criminal Code (WA)*
- *Director of Public Prosecutions Act 1991 (WA)*
- *Evidence Act 1906 (WA)*
- *Evidence Act 1995 (Cth)*
- *Financial Administration and Audit Act 1985 (WA)*
- *Justices Act 1902 (WA)*
- *Local Government Act 1995 (WA)* and associated Regulations
- *Misuse of Drugs Act 1981 (WA)*
- *Police Act 1892 (WA)* and associated Regulations
- *Public Sector Management Act 1994 (WA)*
- *Royal Commissions Act 1968 (WA)*
- *School Education Act 1999 (WA)* and associated Regulations
- *Service and Execution of Process Act 1992 (Cth)*
- *Statutory (Liabilities of Directors) Act 1996 (WA)*
- *Surveillance Devices Act 1998 (WA)*
- *Telecommunications (Interception) Act 1979 (Cth)*
- *Telecommunications (Interception) Western Australia Act 1996 (WA)*

PRIVACY AND CONFIDENTIALITY

The publication of unfounded allegations can have serious consequences for people. The ACC therefore endeavours to carry out its functions in as confidential a manner as possible. The *ACC Act* also prohibits disclosure of information or the publication of documents relating to allegations which are received in the course of the ACC's business. Severe penalties apply in respect of breaches of those prohibitions, including dismissal and criminal prosecution.

By law, the ACC and all those people engaged in carrying out its work are bound to not disclose the identity of any person making an allegation, and will only do so when required by law or with the person's consent. Similarly, the identity of informants and witnesses is, as far as possible, kept confidential to ensure that people who speak up about serious misconduct are not subject to intimidation, harassment, or any form of unfavourable treatment.

The ACC is establishing systems, procedures and documentation in accordance with the guidelines issued by the Office of the Public Sector Standards Commissioner to give effect to the *Public Interest Disclosure Act 2003* (WA), which came into operation on 1 July 2003.

ACTION CONSEQUENTIAL TO INVESTIGATIONS

Despite its investigative powers, the ACC is not a law enforcement agency, nor does it have any authority to make findings in respect of a person's guilt or culpability – even if serious misconduct is apparent from the assembled evidence.

The ACC does not have power to direct that disciplinary action should be taken or to initiate the criminal prosecution of any person. The responsibility for criminal prosecutions lies primarily with the DPP and the Police Service. Nevertheless, the ACC plays an important role in that it assembles and provides evidence upon which the commencement of such proceedings can be considered.

ACCOUNTABILITY

The Commission is answerable to the Parliament of WA through the *Joint Standing Committee on the ACC*, which is comprised of eight Members from both Houses of Parliament and includes representatives from the Government, the Opposition, as well as Independent MPs.

The Commission is accountable to the Premier of WA for the financial administration of the ACC. It complies with Government and Parliamentary budget management arrangements, and conforms to the relevant requirements of the *Public Sector Management Act 1994* (WA), the *Financial Administration and Audit Act 1985* (WA) and applicable public sector standards.

ORGANISATIONAL STRUCTURE OF THE ACC: 30 JUNE 2003

