



## NOW ONLINE! CONFLICT OF INTEREST WORKSHOP MATERIALS

More than 2,600 WA public officers have completed the Commission's Conflict of Interest (COI) workshop over the past 18 months.

These COI workshop resources are now available online, promoting good governance and integrity. The workshop content provides:

- A better understanding of what constitutes a COI;
- Tools to identify COI situations;
- Clarity about the responsibilities of public officers to report and manage such conflicts;
- The knowledge to appropriately manage COIs; and
- Case studies providing a practical demonstration of how to identify and manage a COI.

Follow the link at <http://www.ccc.wa.gov.au/prevention.php>

## AGENCIES GETTING SERIOUS ABOUT CONFLICTS OF INTEREST

Acacia Prison and Department of Corrective Services (DCS) staff recently attended Conflict of Interest workshops, including a "Train the Trainer" program, provided by the Commission.

Over two days at Acacia Prison, 205 Acacia staff and 31 DCS staff participated in four separate workshops tailored to prepare trainers to deliver the Conflict of Interest material. The 31 DCS staff attending included three superintendents and five trainers from the Corrective Services Academy.

The morning Train the Trainer workshops were provided primarily for Acacia's training staff, however, Acacia Prison Director, Andy Beck, invited the Department of Corrective Services to take advantage of the opportunity to have its staff trained.

"From Acacia's point of view the timing of the workshops couldn't be better" Mr Beck said. "We are very much focused on moving the prison from being a good prison to being a

great prison. To enable us to achieve this goal it is important for us to ensure that our staff know what is expected of them. Being a private prison, we face some unusual situations in terms of conflict of interest and we have to be confident that our decisions and actions can withstand scrutiny, while at the same time getting the job done. These workshops now set us up to include conflict of interest training as a permanent aspect of staff induction and development at all levels."

It is understood that Acacia prison will shortly commence delivery of Conflict of Interest material as part of their training for prison officers and administration staff. Delivered in conjunction with DCS' own current initiatives, the program will help to strengthen corruption prevention work across prisons in general.



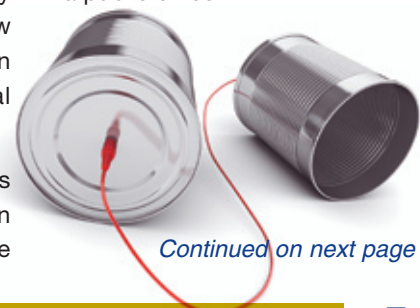
## "PHONE TAPS" or TELECOMMUNICATIONS INTERCEPTION

The media's portrayal of telecommunications interception product given in evidence at recent Commission public hearings may have left many with the perception that the CCC can listen to anyone's phone conversations, anytime, anywhere. In reality, the opposite applies.

Telecommunications intercepts are an important tool used by the Commission and other law enforcement agencies when investigating serious criminal offences.

Serious offences include offences punishable by at least seven years' imprisonment and those

involving bribery or corruption of a public officer.



*Continued on next page*

*"Phone Taps" continued...*

The Commission's power to intercept telecommunications is identical to that of other Australian anti-corruption type agencies.

As it is intrusive, there are strict controls over the use of telecommunications interception in order to protect the privacy of telecommunications.

The Commonwealth Telecommunications (Interception and Access) Act 1979 (TIA Act) strictly controls the use of telecommunications interception.

The TIA Act generally prohibits interception subject to certain exceptions. Such exceptions include interception by security agencies, police services and

other approved bodies such as the Commission.

The TIA Act requires the Commission to apply to an eligible federal judge or a nominated member of the Commonwealth's Administrative Appeals Tribunal to issue a telecommunications interception warrant before it can lawfully intercept telecommunications as part of an investigation into serious criminal offences.

Access to telecommunications intercept material is restricted. It can only be communicated to agencies that have permission to receive it under the TIA Act - such as the police. The Commission's use of intercept material in its hearings and reports is strictly

limited by the TIA Act.

The State Ombudsman audits the Commission's use of telecommunications intercept and its telecommunications interception processes.

This auditing includes the registration of warrants through to the use of telecommunications intercept material and overseeing its destruction in accordance with legislation.

The Commission sees no benefit to the public interest, or its own reputation, in disclosing material that is not strictly relevant to its investigation, particularly if it results in inappropriate damage to the reputation of individuals or organisations.

||||| MISCONDUCT RESISTANCE

## UNDER DEVELOPMENT...

### 'MISCONDUCT PROOFING' YOUR ORGANISATION

The Commission's "Misconduct Resistance" project team is developing a framework to help agencies integrate misconduct resistance into their existing governance structures.

63 representatives from 35 public sector agencies, including 5 metropolitan and 3 regional councils, recently attended a series of workshops over 3 days, as the Commission fine tunes the framework to meet the needs of the WA Public Sector.



The framework materials will assist agencies seeking to improve their handling of misconduct issues.

**The Commission Website has information on corruption prevention, misconduct and making a complaint about a public officer:**

[www.ccc.wa.gov.au](http://www.ccc.wa.gov.au)

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# CORRUPTION PREVENTION

NEWS FROM THE CORRUPTION AND CRIME COMMISSION

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## PUBLIC OFFICERS HONEST BUT....



A recent Commission survey found that 80% of the WA community believe most government employees are honest.

Despite this, 96% still believe that dishonesty or corrupt behaviour will always exist in the public sector in one form or another. This view appears to be based on community perceptions that:

- the chances of a public official being caught doing something wrong are slim; and
- people who complain against public officials are likely to suffer.

More can be done to combat dishonesty, unethical behaviour and corruption in the public sector according to 90% of those surveyed.

The Commission obtained these figures from the Community Perceptions Survey conducted for it by an independent company in February 2008.

The Commission was pleased with the community's belief in the honesty of public officers. However, the apparent lack of confidence in public sector accountability and complaint mechanisms is concerning.

Those surveyed were not asked what could be done to improve this area but the Commission will consider exploring this in future surveys.

See the story on page 4 for more details from the Community Perceptions Survey.

## WHAT TYPE OF BEHAVIOUR CONSTITUTES MISCONDUCT?

Misconduct occurs when a public officer abuses their authority for their own or another person's gain, or to cause a detriment to another person, or acts contrary to the public interest.

Misconduct is defined by section 4 of the Corruption and Crime Commission Act 2003 (the CCC Act) and is explained in more detail in the CCC's Notification Guidelines.

## "NO COMMENT"



The Commission receives regular calls from the media, and occasionally from individuals, asking if a particular matter is being investigated.

The Commission's general response is to neither confirm nor deny that a particular matter or individual is under investigation.

There have been situations where a complainant sends an allegation to both the media and the Commission at the same time so as to damage an opponent, before an election, for example.

To confirm that an allegation has been received and is being looked at might give the impression that a matter is serious and being investigated by the Commission, when this may not be the case.

Assessment of any allegation received may reveal that it has no substance. Revealing that the Commission has received such a matter might do damage to the individual against whom the allegation had been made.

It is also important to understand that heavy penalties apply under the CCC Act for making false allegations to the Commission.

*Adapted from the speech by Commissioner Roberts-Smith RFD QC to WALGA on 22 February 2008. The full speech can be found at <http://www.ccc.wa.gov.au/pdfs/commissioner-speech-walga-2008-02-22.pdf>*

# AUDITING COMPLAINTS ABOUT POLICE: A NEW PROCESS

The Commission recently overhauled its process for reviewing minor complaints about police. Under the new process the Commission will conduct audits of investigations by police into minor complaints rather than review every case.

Serious complaints will continue to be handled as they are at present – referred to police district offices for investigation, with every case reviewed by the Commission. It remains that police are required to notify the Commission of every allegation of misconduct received, no matter how minor.

In 2007, 57% of complaints received by the Commission related to police.

This is not an indication that WAPOL has more misconduct than other agencies. Rather, in order to monitor the use of the extensive powers available to police, WAPOL reports all lower level allegations about police

action, a category known as “reviewable police action”.

Also, it has developed the most advanced and effective misconduct handling process of any government agency in the state.



The aims of the new audit process are to:

- release the resources currently assigned to dealing with minor complaints;
- devote valuable resources to the investigation of more serious matters;
- enable more in-depth inquiries into serious complaints;
- enable more thorough examination of any identified systemic issues; and

- improve the Commission’s ability to assume control of investigations when appropriate.

The new audit process also:

- reflects the maturity of the WAPOL complaints process;
- affirms the Commission’s confidence in that process; and
- brings the Commission into line with eastern states oversight bodies that all conduct audits of low risk investigations.

The Commission will continue to assess all allegations against police, advising WAPOL which matters require investigation and Commission oversight, and which will be subject to the audit process.

Audits of police district offices will be used by the Commission to determine whether police have appropriately handled minor allegations of misconduct by police officers.

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## THE CCC ACT REVIEWED



Senior barrister Ms Gail Archer SC recently reported to the WA Attorney General on her review of the CCC Act.

Mr McGinty said “the State Government has considered her 58 recommendations and supports all but four of them.”

Key recommendations of the report include:

- the Commission should be given wider powers, by agreement with the Police Commissioner, to tackle serious organised crime in Western Australia.
- the Commission should be given the power to report opinions on people who do not work in Government.
- a Public Interest Monitor should be appointed to provide input on applications for surveillance device warrants.

Commissioner Roberts-Smith RFD QC welcomed the tabling of the review and the Government’s support for the great majority of its recommendations.

The Commissioner remarked that the next step will be for Government to decide just how the CCC Act will be amended and where that process fits into its legislative program.

(The Government has since appointed Ms Archer as an Acting Commissioner of the Commission.)

## NOTIFYING MISCONDUCT TO THE COMMISSION

Statistics suggest that a number of public sector agencies may be under-reporting incidents of suspected misconduct. In 2007, the Commission received 743 notifications of suspected misconduct (excluding WAPOL whose reporting requirements differ). This equates to an average of one notification, per year, for every 133 public officers.

However, there are agencies making one notification for every 25 public officers – a frequency five times the average stated above.

Considering that a handful of agencies employing about 5% of all public officers account for 20% of notifications to the Commission, it is easy to take the view that some agencies may be under-reporting.

There is also anecdotal evidence showing a steady increase in the volume of notifications from agencies that:

- have had their capacity to prevent, detect and manage misconduct reviewed by the Commission; or
- have been working with the Commission to improve their misconduct management mechanisms.

Such increases in notifications do not reflect increasing misconduct within these agencies. They reflect an increased awareness of the obligation to notify, combined with improved reporting systems.

The main reasons agencies under-report misconduct are:

- lack of awareness of the legal obligation to notify the Commission of any suspected misconduct;
- lack of understanding as to what behaviour constitutes misconduct;
- ineffective or poorly implemented policies and procedures;

### DUTY TO NOTIFY

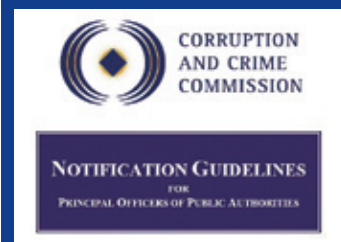
Section 28(3) of the CCC Act details the legal obligation for public sector officers to notify the Commission of any matter that they reasonably suspect concerns, or may concern, misconduct, as soon as is practicable after they become aware of the matter.

The duty to notify is paramount.

There is no provision permitting delay.

If there is ever any doubt, it is safer to notify.

It is never wrong to notify.



Find the Commission's Notification Guidelines at [http://www.ccc.wa.gov.au/pdfs/notification\\_guidelines.pdf](http://www.ccc.wa.gov.au/pdfs/notification_guidelines.pdf)

- a culture of “keeping it in house”, taking disciplinary or managerial action and not notifying the Commission; and
- staff fearing reprisals for reporting misconduct in the workplace.



## AGENCY REVIEWS

Managing the risk of misconduct involves more than tweaking a code of conduct, having a drawer full of policies and assuming everything will be okay.

It involves comprehensive misconduct risk identification and assessment across an agency's operations, and implementation of methods to effectively manage those risks.

To assist agencies, the Commission conducts agency



reviews which assess and improve the public sector's capacity to prevent, detect and effectively manage misconduct.

Agency reviews conducted by the Commission broadly encompass:

- identifying an agency's business objectives and structure;
- interviewing management and staff in key areas;
- establishing that the agency has properly identified their misconduct risks and manages them appropriately;
- considering relevant legislation, policy, practices and procedures;
- forming an opinion as to the adequacy of an agency's misconduct management and prevention mechanisms;

- analysing relevant files and documents; and
- if required, making recommendations aimed at improving the agency's misconduct prevention and management mechanisms.

These mechanisms should be structured so that they provide an agency with:

- policies and procedures for handling misconduct; and
- an effective internal investigation process.

Effective misconduct prevention and management increases agency integrity, and improves business and service delivery outcomes.

Put simply, misconduct prevention is 'good for the bottom line'.

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## COMMUNITY PERCEPTIONS

More than 80% of the WA community have a positive view of the Commission and are confident complaints are properly investigated, according to the Community Perceptions Survey (CPS).

The CPS was conducted in February 2008 by an independent company, on the Commission's behalf.

Over 50% of those surveyed believe the Commission has increased accountability of public officials in the last year.

General awareness of the Commission is very high, with 90% claiming they had heard of the Commission. This figure was markedly reduced among those under the age of 25.

The Commission appreciates that to reach this age group it must consider some different approaches.

Over 80% of those who are aware of the Commission are able to correctly identify some aspect of its role. The most widely understood aspect related to investigating corruption in the public sector.

The survey revealed a common misconception within the community that the Commission has a role in regulating the private sector.

Other valuable insights provided by the survey included:

- 80% support the Commission conducting public hearings;
- 98% support the existence of the Commission and its

independence from the Government; and

- over 96% consider public hearings important to keep the community aware of the Commission's activities.

The CPS was based on similar surveys undertaken by the Crime and Misconduct Commission (QLD) and the Independent Commission Against Corruption (NSW) aimed at tracking changes in community attitudes to public sector misconduct over a period of time.

Overall, the survey indicated a high level of recognition of, and support for, the Commission by the WA community. A copy of the full survey report is available on the Commission's Website. <http://www.ccc.wa.gov.au/pdfs/public-perceptions-survey-2008-02-27.pdf>