

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

Eighteenth Report — “Improving the working relationship between the Corruption and Crime Commission and Western Australia Police — Tabling

MR P.B. WATSON (Albany) [10.40 am]: I present for tabling the eighteenth report of the Joint Standing Committee on the Corruption and Crime Commission titled “Improving the working relationship between the Corruption and Crime Commission and Western Australia Police”.

[See paper 2777.]

Mr P.B. WATSON: I will present the chairman’s report and then make a few comments afterwards. The report reads —

The Joint Standing Committee initiated this Inquiry following concerns that the relationship between the Corruption and Crime Commission (CCC) and the WA Police (WAPOL) was not functioning as well as it might.

A series of matters were raised with the Committee by these two agencies since the commencement of the 39th Parliament which indicated that the working relationship was under some strain. These tensions relate to significant differences between WAPOL and the CCC over a diverse range of operational issues such as:

- the investigation by the CCC into a complaint made regarding the Commissioner of Police in October 2011;
- whether the CCC may include findings of fact in its reports over investigations involving police officers;
- limits on the CCC’s access to WAPOL’s IAPRO database and delays in CCC investigations;
- the lack of use of the CCC Act’s exceptional powers by WAPOL;
- the use of section 42 notices by the CCC;
- CCC investigation of allegations of excessive use of force by police; and
- WAPOL investigations into criminal allegations against CCC staff.

The CCC and WAPOL provided a joint submission to the Committee in which they suggested that their “wide ranging and complex interactions can, from time-to-time, create tension” and that “tension between agencies that work in an investigative and review context is to be expected and is perfectly normal.”

Whilst it is correct to describe tension in such relationships as “normal” and “to be expected”, nevertheless the Committee’s Inquiry sought to determine whether the expected tension could be described as “healthy” or “unhealthy”.

The Committee met with the police forces and their respective oversight bodies in a number of similar interstate and overseas jurisdictions to ascertain and identify what constitutes an acceptable level of tension between agencies such as the CCC and WAPOL. The common message received by the Committee was that regular communication between the two agencies allows a level of ‘healthy’ tension to exist while not impeding their effectiveness. More specifically, a key measure of how effective the working relationship was between police and their oversight bodies was the level of communication, especially informal communication, between the two respective Commissioners.

The Australian Federal Police and the police forces in Victoria and NSW schedule regular meetings between their Commissioners and the Commissioners or Chairs of their respective oversight agencies. Similarly, the police in Ireland, Northern Ireland and England also schedule regular meetings between the two Commissioners, and have more regular meeting of senior staff from the two agencies.

While other jurisdictions report that it is essential for an effective relationship that the Commissioners meet regularly, this has not been the case in Western Australia. Despite the expectation for such meetings in the current Memorandum of Understanding (MOU) between WAPOL and the CCC, the Committee was told that there had been no formal or informal meetings held between the Police Commissioner and the Corruption and Crime Commissioner for a five year period between 2009 and 2014. The Committee has also found that the MOU signed in 2009 by WAPOL and the CCC has not been amended since then. Negotiations underway since October 2014 on agreed amendments have not yet been concluded.

The Committee has made recommendations to WAPOL and the CCC on both the matters of communication and the MOU. It hopes that with the appointment of a new Corruption and Crime Commissioner the two agencies will institute a schedule of meetings to build their relationship and ensure that tensions between the two agencies do not affect the effectiveness of their working together to combat corruption and crime in Western Australia.

I would like to take this opportunity to thank all of the people in interstate and overseas jurisdictions who interrupted their own busy schedules to brief the Committee in a very open fashion on the operation of the agencies. I would also like to thank the former CCC Commissioner, Hon Roger Macknay QC; the Acting CCC Commissioners, Mr Neil Douglas and Mr Christopher Shanahan SC, and the WAPOL Commissioner, Dr Karl O'Callaghan APM, and their staff for assisting the Committee to complete this inquiry.

I would also like to thank my fellow committee members whose engagement with the inquiry I very much appreciated—the committee's chairman, member for South West Region, Hon Nick Goiran; Nathan Morton, MLA, member for Forrestfield; and member for South West Region, Hon Adele Farina. Committee members were ably supported by the committee secretariat, Dr David Worth and Ms Jovita Hogan.

I will comment very quickly on some of the committee's findings. The first point is that Western Australia's anticorruption framework is more comprehensive than that in Ireland, Northern Ireland and England as it includes a dedicated parliamentary inspector and joint standing committee to oversee the activities of the Corruption and Crime Commission. This is something that was taken on board by the jurisdictions in Dublin, Belfast and London, and a lot of them thought they should have an oversight group such as that which is in place in Western Australia. Recommendation 1 states —

The Corruption and Crime Commission (CCC) should enter into dialogue with similar interstate oversight agencies to ascertain the viability of entering into an agreement to second their staff when an internal investigation of CCC staff is required.

This was an issue because a lot of people in the CCC knew that the police were investigating them and vice versa. The CCC has to have a facility to bring in people from other jurisdictions so it cannot be said that it has an issue with the local police.

Another finding relates to the number of allegations against police officers and the investigations carried out by the Corruption and Crime Commission being an area of tension between the two agencies. We will always get tension when we have two oversight bodies—the police and the CCC. I think that more work needs to be done. Everyone likes to look after their own territory. The CCC likes to look after its territory as do the police. They have to remember that they are oversight bodies. The CCC oversees the police and the police have to be answerable to that body. Tension was created because some police officers were concerned about how they were interviewed by CCC officers. The CCC came to their homes or put them under pressure to come to inquiries when they were on leave and things like that. In these things, the commonsense rule has to be applied. The police arc up and the CCC arc up. We had a situation in which the police were investigating the CCC, and then the CCC was investigating the police. It is important to have an extra body so that someone could come in to be the extra eye or we could bring someone in from the Federal Police. Finding 10 states —

The Australian Federal Police and the police forces in Victoria and NSW schedule regular meetings between their Commissioners and the Chairs of their respective oversight agencies. More frequent operational meetings are also held by senior staff from the police and their oversight agencies. These meetings are an important factor in allowing these agencies to resolve any important differences they may have with each other.

The situation is getting better, but when no meetings occurred between 2009 and 2014, despite the existence of a memorandum of understanding about this, these things have to be addressed. A new Corruption and Crime Commissioner will be announced very shortly. I hope that he can sort out some of the issues. I think both agencies are on the right track, because they realise that they have to talk more closely together. As the report states, there will always be tension between the two bodies, but the commonsense rule must be applied to make it easier for all concerned.

MR N.W. MORTON (Forrestfield) [10.50 am]: I rise to make brief comments about the report tabled today by the Joint Standing Committee on the Corruption and Crime Commission titled "Improving the working relationship between the Corruption and Crime Commission and Western Australia Police".

I start by acknowledging the fact that the Corruption and Crime Commission is currently without a permanent commissioner—I understand that an announcement about an appointment will be made in the near future—and my comments are made with this in mind. We undertook the inquiry to look at the tensions between the Corruption and Crime Commission and Western Australia Police and whether the relationship between the two

agencies is healthy and effective. We understand that there will be some tension in the role of oversight; however, it is imperative that this tension does not impede the effective functioning of either agency. To this end, the committee sought evidence from a range of jurisdictions to establish best practice. I will quickly focus on three things, those being communication, memorandums of understanding and internal inquiries.

It became clear during the inquiry that it is essential that both agencies have strong lines of communication from the top filtering down to senior management. Despite the existence of a joint steering agency committee, evidence presented to the committee revealed that between 2009 and 2014 such communication had been lacking between the Corruption and Crime Commission and Western Australia Police. The evidence we received from other jurisdictions clearly emphasised that communication between the agencies is critical. I am hopeful that with the appointment of a new commissioner there will be a breath of new life in the communication between the agencies because it is critical.

Memorandums of understanding are another key part of a healthy relationship between oversight agencies and that became clear as we sought more evidence from other jurisdictions. Memorandums of understanding need to be comprehensive and collaborative, because they are extremely helpful in maintaining good working relationships between agencies. The MOU between Western Australia Police and the Corruption and Crime Commission has not been amended since it was initially signed in August 2009. It is clear that more work needs to be done by both agencies; hence the committee's recommendation 2. Our agencies have a 12-page MOU, whereas the MOUs in other jurisdictions are quite detailed and extensive. Indeed, one MOU from Ireland is 64 pages in length. Of course, the length of an MOU is not the be-all and end-all because the important thing is that the MOU is updated and comprehensive and signed and applied by both agencies.

Finally, I will raise the point of transparency and public confidence when internal inquiries are undertaken. It became clear after looking at other jurisdictions that agreements exist to allow agencies to second staff from other similar bodies to undertake investigations to maintain integrity and public confidence. To that end, I ask the Corruption and Crime Commission to consider recommendation 1 with the aim of teasing out the feasibility of similar arrangements with similar bodies in Australia.

Finally, I thank the other members of the committee, the chairman, Hon Nick Goiran, MLC; the deputy chairman, Mr Peter Watson, MLA, the member for Albany; Hon Adele Farina, MLC; and our very able staff Dr David Worth and Jovita Hogan.