

# **JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION**

**HEARING WITH THE CORRUPTION AND CRIME COMMISSION**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 13 FEBRUARY 2019**

**SESSION TWO**

**Members**

**Ms M.M. Quirk, MLA (Chair)  
Hon Jim Chown, MLC (Deputy Chair)  
Mr M. Hughes, MLA  
Hon Alison Xamon, MLC**

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**Hearing commenced at 11.00 am****Commissioner JOHN RODERICK McKECHNIE****Commissioner, Corruption and Crime Commission, examined:****Mr RAY WARNES****Chief Executive, Corruption and Crime Commission, examined:****Mr IAN NORCOCK****Director, Assessment and Strategy Development, Corruption and Crime Commission, examined:****Mr DAVID ROBINSON****Director, Operations, Corruption and Crime Commission, examined:****Ms WENDY ENDEBROCK-BROWN****Director, Legal Services, Corruption and Crime Commission, examined:****Ms EMMA JAYNE MILNE****Director, Corporate Services, Corruption and Crime Commission, examined:**

**The DEPUTY CHAIR:** Good morning everybody. On behalf of the committee, I would like to thank you for agreeing to appear today. My name is Jim Chown and I am the Deputy Chair of the Joint Standing Committee on the Corruption and Crime Commission. I would like to introduce the other members—Hon Alison Xamon and Mr Matthew Hughes. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege. However, this privilege does not apply to anything you might say outside of today's proceedings. We have a list of questions in regard to the annual report. I will start, commissioner, and then the rest of the committee will follow on.

In the hearing to discuss the 2016–17 annual report, Mr Warnes told the committee that the KPIs did not adequately reflect the assessment of the investigation service areas. I understand there was a meeting with Treasury in November 2017. We note the KPIs remain the same. I am just wondering what eventuated from that meeting in regard to KPIs, and how the Corruption and Crime Commission conducts itself under those parameters.

**Mr Warnes:** This is the last annual report that reflects those KPIs. They reflect the KPIs that were in that year's budget papers. The new budget papers reflect different KPIs. I can go through and detail what they are, but we have agreed on a range that is probably more meaningful about the business of the Corruption and Crime Commission.

**Hon ALISON XAMON:** I would like to get more detail.

**The DEPUTY CHAIR:** Yes; if you could expand on that statement, that would be helpful.

**Mr Warnes:** What we agreed with Treasury was a different range of effectiveness indicators, one being the number of allegations that we receive, which is consistent with what is in this report; the number of allegations as a percentage of people employed within the public sector, which will give an indication of whether there is an increase across or not, making it probably a bit more meaningful; the number of investigations undertaken, which is consistent with this report; and the number of reports published. We have changed our counting rules around the number of reports

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published. What is reflected in this report are those published reports tabled in Parliament, but as you would appreciate, under our act there is a whole range of other reports that we have produced that have not been captured before and that we are now reflecting in our performance indicators. They will be reports such as section 41 reports. If you like, I can go into more detail about —

**Mr McKechnie:** I think you should explain the section 41 reports.

**Mr Warnes:** As you know, we will determine that there are some allegations that we will send back to agencies for us to monitor and more actively review. When those investigations are completed, we review the approach taken by those agencies and determine whether they have arrived at the right approach that they have the ability to arrive at. The commissioner would then, under section 41, write a report to the Commissioner of Police or director general of the Department of Transport or wherever it might be, saying, “We have undertaken this investigation. Here are the reasons why we undertook the written investigation. Here is the approach we took—it might have been a collaborative approach with the agency—and here are some observations that we made.” We might make the observation that there is no serious misconduct, but there may be vulnerabilities in the way that they are conducting their business that makes them vulnerable to corruption. The commissioner would make those observations to the appropriate head of the department. They are section 41 reports, which under the act we have not counted previously. We now count those in the context of our KPIs.

**The DEPUTY CHAIR:** Does that also apply to your extended powers to investigate unexplained wealth and the KPIs involved—the new parameter you are undertaking? Are they encompassing your extended powers or are new KPIs actually being contemplated?

**Mr Warnes:** We have not separated out unexplained wealth investigations from this more global KPI. At this stage, we would include them in the number of investigations that we undertake. But it may be that as the numbers expand in that area—again, that might be the subject of a further question on where we are going with unexplained wealth. If it became material, we would look to maybe have a separate indicator for that. At the time of negotiating with Treasury, we had not got the reference from that legislation to pursue unexplained wealth. Again, any of those investigations we would include in the investigation quantum in the reporting.

**The DEPUTY CHAIR:** When is that reference from Treasury likely to happen?

**Mr Warnes:** As you would know, legislation has been passed. But in our discussion of our KPIs, we did not include a separate indicator for unexplained wealth, because that bill had not been passed at the point in time we were working with Treasury.

**Hon ALISON XAMON:** Are you likely to include that as a future KPI specifically?

**Mr Warnes:** I am not sure whether it would be a separate KPI in the context of the budget papers, but it will be a KPI that we will report against in the context of an annual report.

**The DEPUTY CHAIR:** Because obviously, unexplained wealth is to target organised crime. In your opinion, would that not require a separate KPI?

**Mr Warnes:** Treasury may have a broader view that investigations include preliminary investigations and the broader type of investigations, including unexplained wealth investigations. They would look at it broadly. We would report on that in the context of the budget papers, but in the context of our annual report, as you see, we separate our preliminary investigations, our full, cooperative investigations and our full investigations that we do by ourselves. We envisage that this year we will also include information about the number of unexplained wealth investigations that we do.

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**The DEPUTY CHAIR:** In regard to key performance indicators, how does the commission ascertain or ensure that those KPIs are adhered to and maintained?

**Mr Warnes:** We report on them as an executive on a quarterly basis.

**The DEPUTY CHAIR:** Internally?

**Mr Warnes:** We track them internally monthly in our reporting on how we are going. At our operations committee meeting, as fresh as yesterday's meeting, Mr Robinson reported on explained wealth—the number of allegations we had received through referrals from other agencies and the number that had gone through our criteria into an investigation mode. But in the context of reporting in our budget papers, which the annual report reflects, it will be part of the investigations quantum.

**Hon ALISON XAMON:** Separate to the issue of the KPIs around unexplained wealth, there has been concern to ensure that we are monitoring the resourcing that is necessary to be able to pursue this. I recognise that it is very early days, but are you getting any early indications as to whether you are likely to require more resourcing to more effectively pursue this function, or are you still feeling confident that you will be able to maintain that function within the system and budgetary parameters?

**Mr Warnes:** We have always committed that we would undertake a review, after a period of time, on the impact of unexplained wealth on our resourcing. I think it is too early yet to do that review, although we have targeted to do an initial look at it by the end of this year.

**Hon ALISON XAMON:** By the end of this year?

**Mr Warnes:** To look at it internally. We keep monitoring the impact.

**Hon ALISON XAMON:** That was my next question: realistically, when do you think you might be able to get some idea of the trend of the resource implications?

**Mr Warnes:** I think we committed to the Attorney and to government that we would implement for two years and then review. Obviously, if there is a dramatic change and impact on our business, we would want to go back earlier. We are not seeing that just yet. Perhaps if the Deputy Chair would indulge us, Mr Robinson could give you a sense of the numbers coming through on unexplained wealth.

**Hon ALISON XAMON:** Yes please.

**The DEPUTY CHAIR:** We are very interested to hear.

[11.10 am]

**Mr Robinson:** It is important to indicate that with unexplained wealth, we obviously need to work very closely with a number of law enforcement agencies. We are very dependent on referrals from those agencies for the work that we do in relation to unexplained wealth. It is also important to note that in developing particular targets, we will need to work with those agencies in terms of how we deploy the resources. So far, we have received 28 referrals of unexplained wealth. We have a process of going through each of those against set criteria to determine whether we will take further action on them. We have received one from Border Force, seven from the Australian Federal Police, one from AUSTRAC, five from Racing and Wagering, and seven from WA police; that is 21 in total. But we have also received three from the public and we have internally generated four from our existing serious misconduct work. They come in from a range of different sources. We are continuing to work with those various agencies to make sure that they understand the particular powers that we can bring to their investigations and the disruption of organised crime. At the moment, we have one full investigation on foot in relation to unexplained wealth and we have a number of others that

are still going through our initial evaluation and investigation process to determine whether we will take further action. In looking at whether we will take a matter on, we take into account various factors—the amount of money involved, the disruption value of the particular target, whether there is complexity to the financial arrangements of the particular individual that we might look at, and whether they have their own separate sources of income from what we suspect is unexplained wealth. So, we take a whole range of factors into account. But as I said before, it is really also about making sure that the work we do supports, in addition to our own objectives, the objectives of the law enforcement agencies we are working with.

**Hon ALISON XAMON:** In terms of the number of referrals you have received, is that on par with what you were anticipating, or is it more or less? You must have had some idea, especially considering that quite explicit comments were made that you do not need more resources. Is it on par with what you were anticipating?

**Mr Robinson:** I do not think we had an idea of a specific number, but I think it is broadly consistent with the discussions that were had prior to getting the power—that we would get that number of referrals, particularly from WA police and the AFP. I think that is broadly consistent.

**The DEPUTY CHAIR:** Considering the number of referrals you have just indicated you have received—it is more than I expected, quite frankly, and obviously agencies are taking this matter very seriously in regard to their referrals—I am a little concerned at Mr Warnes' statement that it will take two years to assess this before you make application for further resourcing or financing. I would have thought 12 months would be enough time, certainly in regard to the applications you have on your books at the moment.

**Mr Warnes:** I think in terms of our position, we said to the government that we would come back. As I said before, if we find that we are flooded to a point we cannot control and we need additional resources, we would be making noises about that before that date. That is why we are committing to look internally at what the impact has been by around December this year, so we can start having early conversations with Treasury to say, "Look, we probably cannot prolong not asking for resources."

**The DEPUTY CHAIR:** My concern, and certainly the committee's concern, is that with this extra obligation of the CCC, something else might fall off the back of the truck as such, because you do not have the resources to carry out your functions appropriately.

**Mr Robinson:** Just on that point, it is important to note that unexplained wealth investigations can take quite some time to realise some sort of outcome. I think it will take some time for us to understand how the function works and what resources we want to put against it.

**The DEPUTY CHAIR:** And I would imagine that those investigations absorb a lot of manpower as such and certainly financing requirements, with the liaising between different departments. I understand what you are saying, hence I go back to the resourcing issue.

**Mr Robinson:** We have indicated in the budgets papers our estimate that our total number of active investigations for this financial year will be around 50. The number was 62 in the previous financial year. We think 50, because we have taken on the unexplained wealth function. At the moment, we are tracking at about 43 investigations that we have been active on in this current financial year. Given current trends, I think we will probably go to the low 50s. There will be a drop-off in the number of investigations that we conduct because of this new capacity, but I am not sure it will be as significant as we perhaps originally envisaged.

**Hon ALISON XAMON:** In terms of ongoing matters and issues, at last year's hearings we talked about the issue of local government. It keeps coming up, so I wanted to ask some questions about that.

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I note that in the last annual report hearings, there continued to be a significant increase in the number of allegations of serious misconduct in local government, although I note that that was offset overall by a reduction in allegations from independent agencies and other authorities. I was hoping to get some commentary from you, commissioner, about whether you think any progress has been made in relation to how to address some of the systemic cultural issues that had been identified and which continue to be raised. We talked particularly about training being made available. What progress has been made to try to address the ongoing issues within local government specifically?

**Mr McKechnie:** If I might first introduce Mr Norcock, because it is his first appearance here—he replaced Emma Johnson—he will give you some statistics. More particularly, the Minister for Local Government has convened a meeting of agencies, to which we are invited. Mr Norcock was at the last one, so he can give some statistics and a brief rundown of the meeting.

**Mr Norcock:** Local government authorities account for about 13 per cent of all allegations the commission receives and it is our number two order priority behind Western Australia police. At that meeting, all representations made by various agencies was that they anticipate further assistance from the commission in terms of guiding their capacity and capability to undertake investigations of serious misconduct of their own personnel. The commission's perspective on that is that this is their risk, but we are here to assist and to help them identify areas of risk and, where misconduct has already occurred, to help them identify controls and measures to put around that. It is a bit of future prevention of misconduct risk. It is a work in progress. One of the kind of feedbacks from those authorities is that there is a slight expectation that the commission will do everything for them.

**Hon ALISON XAMON:** That is interesting.

**Mr Norcock:** That is not something we are able to do. We will continue to refer matters back on a case-by-case basis. Where greater assistance is required, we can put that into our oversight mechanism, which provides a capability of the commission's investigative team to work closely with those authorities. We are not here to do all the work for them, but we are able to guide and assist to arrive at an outcome that increases integrity of the public sector.

**Hon ALISON XAMON:** Can I just get an idea of the sorts of expectations that they have that the functions of the commission will be undertaking?

**Mr McKechnie:** They would like us to do their job, basically. At an earlier meeting that I attended of whatever the acronym is for the department that now also has local government in it, they had rearranged their investigative capabilities so that their investigators seemed to go across, so a local government investigator might also be investigating for consumer affairs or racing and gaming and so forth. I asked the question of whether this was a net increase or net decrease in resources, and the answer was that it is a net decrease in resources. A lot of the material that is coming through in allegations really should be a matter for the department of local government to examine. I queried their ability. I think they are simply overworked. They would look on us as the fallback, whereas we have other priorities. We see it principally as a responsibility for the local authority.

**Hon ALISON XAMON:** In the first instance.

**Mr McKechnie:** In the first instance. Their performance is mixed. But those I think were what Mr Norcock was particularly talking about as the ones we would give assistance to.

**Hon ALISON XAMON:** I am really concerned to hear this—that they have actually reduced capacity at the departmental level in terms of investigations in this area—particularly considering that local government has been an ongoing point of contention around issues of allegations of corruption.

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**The DEPUTY CHAIR:** And proven corruption.

**Hon ALISON XAMON:** And proven corruption as well. I am not sure I understand. Did you give feedback to them that they needed to increase their own capacity, or is that simply your own observation?

[11.20 am]

**Mr McKechnie:** I did not give them feedback, because it is another department. From my point of view, it is a concern, because as everybody knows, local government is our second-biggest client, so to speak.

**Hon ALISON XAMON:** And an area by which the average individual can be gravely impacted in their day-to-day lives when corruption occurs, so it is an area that requires a fair bit of attention, like the police.

**Mr McKechnie:** We see the same sorts of issues coming through—problems in procurement, problems in abuse of power. They are the same issues; they are just new faces.

**The DEPUTY CHAIR:** Commissioner, the statement you just made is very concerning. From my interpretation, it is a step backwards in regard to the ongoing fight against corruption, especially in local government, if the department itself is not able to look after its own house to some degree on the matters we are discussing here and refer to you issues that they believe need further, more in-depth investigation.

**Mr McKechnie:** I refer to Mr Norcock, who was at the meeting.

**Mr Norcock:** I think it is a bit of a perception that, as the commissioner said, the commission is here to do their work for them.

**The DEPUTY CHAIR:** That has not been the case in the past, has it?

**Mr Norcock:** I am new to the role; I am not able to comment on that, but I do not think so.

**The DEPUTY CHAIR:** This is a new policy.

**Mr Norcock:** I do not know if it is a policy position.

**The DEPUTY CHAIR:** I use the term loosely.

**Mr Norcock:** It was commentary like, “Why doesn’t the commission investigate more of the matters that are referred to the commission from local governments?” The response to that is that we need to apply the resources where they are most required. We have six strategic themes. We have prioritisation mechanisms. To each authority, the matter that they are referring to might seem important to them, but the commission needs to exercise some assessment and some prudence in the matters that we take active oversight of or take an active investigation of.

**Hon ALISON XAMON:** Are you finding that some of the matters that are now being referred through to the commission from the department are relatively low level and would ordinarily have simply been able to be investigated at that level? Are they now just being referred through to the extraordinary powers of the CCC unnecessarily?

**Mr Norcock:** Yes. They are aware that they can refer matters to the Public Sector Commission as well. There is a bit of a blend of misconduct versus what you could describe are human resourcing issues or performance in a role issues. There is a little bit of a blurring of understanding on that matter. But, yes, the Public Sector Commission is also accepting referrals from local government.

**Hon ALISON XAMON:** There is, of course, a reduction in allegations from independent agencies and other authorities in this area—that is outlined in the report. What do you attribute that to?

**Mr Warnes:** I am not sure we can attribute it to anything. If I look at the year to date, it is back to 14 per cent.

**Hon ALISON XAMON:** All right. That is where it was and it is back.

**Mr Warnes:** It has fluctuated.

**Hon ALISON XAMON:** Okay. Thank you.

**Mr McKechnie:** I would say that allegations or notifications directly from the public have increased from about 25 per cent to 33 per cent, which is one of the things we have been trying to encourage. It is probably also discouraging when we say, “Thanks, but we’re not going to do anything”, but we want to know about those things. Several of our investigations have come through whistleblowers or members of the public—some of the successful investigations.

**Hon ALISON XAMON:** Is that still primarily occurring via the website?

**Mr Norcock:** I am sorry, I do not have statistics on that, but it is via the website or in person or via telephone.

**Hon ALISON XAMON:** People are rocking up in person?

**Mr Norcock:** Yes.

**Mr Warnes:** We still get people in person. It is not a high volume, but we do get individuals turning up. A lot of it is by phone or the website. If I could add to the commissioner’s comment, the latest figures we have got, year to date, on notifications from the public is that it is around 40 per cent. It has never been that high. This report reflects 36 per cent for that year, but for the year to date, it is 40 per cent, which is another significant increase. Whether that is public confidence or the profile of the reports that have come out, that people —

**Hon ALISON XAMON:** This is what we do not know. We do not know whether it is reflective of an increase in corruption or an increase in awareness. That is why I asked how they are doing it. I did not know whether there had been changes to your mechanisms by which people could consult, but I am seeing the shaking of heads around the table, for the purposes of Hansard.

**Mr McKechnie:** Not changes, but a conscious effort. When I speak in public, I try and throw in an advertisement.

**Mr Warnes:** Back to when we started collecting figures in 2013–14 on this, when the public engagement was around 12 per cent, we did not have much of a profile and we did not have much of an online presence for people to notify us on, but over time there has been a shift, which is why it averaged up to about 33 per cent and 28 per cent a couple of years ago. But with 40 per cent—we have not changed anything over the last 12 months in terms of accessing us to give notifications of allegations.

**Mr M. HUGHES:** The numbers between each of the two years, 2017–18, are pretty consistent with 2016–17 overall. Of course, percentages can vary, in terms of what is reduced in one area pushes up percentages in another area. That does not seem to be the case. Therefore, are you seeing the total number of allegations increasing? I know you said you are up to about 40 per cent from the public, but are they —

**Mr Norcock:** I can give you some statistics.

**Mr M. HUGHES:** We are talking about 5 000 for last year. Is it trending upwards?

**Mr Warnes:** Ian will have the details, but I think we are tracking to what was in the budget papers as our estimated target, which is 4 500.

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**Mr Norcock:** Year to date, we are at 2 167, so we are tracking very closely to a three-year moving average of just under 5 000. The commission has published a number of reports publically, some of which have had video footage attached. That does capture the public's attention and that may have increased public awareness, which may have increased the number of section 25 referrals made to the commission.

**The DEPUTY CHAIR:** In the parliamentary inspector's annual report, he raised the issue, in regard to a legislative gap, about the ability to conduct an investigation of misconduct of a CCC officer prior to their employment by the CCC. Let us say there is a current issue on X on the matter. What are your thoughts?

**Mr McKechnie:** He asked me to support his recommendation and I said, "Well, I neither oppose it nor support it." I doubt whether there is a particular need from our point of view. Say we hire an officer and it later comes to light that there was something in that officer's past. They should have disclosed it in their vetting process. What we have done, and will do, is that if they have misled the commission in relation to that, their security clearance is revoked. If your security clearance is revoked, you cannot be employed by the commission, so it is ended for us relatively swiftly.

**The DEPUTY CHAIR:** But this is always after the effect, not before.

**Mr McKechnie:** Because we do not know the effect before. It is when it is disguised. If we know of the event, that will influence the hiring of that person. It is always something that later comes up.

**Hon ALISON XAMON:** So the issue is the prima facie lack of disclosure, and that becomes the critical point, rather than being able to make an assessment of what the initial wrongdoing or allegation of wrongdoing might be. Is that what you are saying?

**Mr McKechnie:** Yes, that is it.

**The DEPUTY CHAIR:** So amending the act to allow this investigative process to take place, you are ambivalent—you do not have an opinion. You said that you did not care one way or the other, really.

**Mr McKechnie:** No, because we deal with it.

**Mr Warnes:** But if an allegation is made against a current employee for a past issue, we would refer that to an authority. If it was a police criminal matter, we would refer it to police.

**Hon ALISON XAMON:** A part of the issue, I suspect, apart from the CCC being able to feel confident that it has the best people working within its realm, is also the public perception that the CCC is not covering up its own, and how important that is so that people can have faith in the integrity of the actions of the CCC. Hence, the question as to whether independent oversight over the CCC's handling of allegations against its own officers might have merit, because as we know, perception is just as important as the outcome.

[11.30 am]

**Mr McKechnie:** It is always the perception. There was an article on them in *The West* which made me infuriated and, yet again, a reason to give up, but I have not yet. The headline did not actually match the story at all. The story was quite calming, but the headline was different, but that seems to be the way of *The West* these days with headlines. I am not sure what the PI's issue is, because if we get an allegation of an officer who was previously a public officer, we have jurisdiction over that previous behaviour and we might deal with it in a number of ways. We could investigate it, refer it—whatever. I think the PI's concern is when we deal with it in a way that he does not regard as an appropriate way. I would have thought he could report on that in any event and say, "The commission took no action. I think that is entirely wrong and they should have done this and that." He can do that now, because we do have jurisdiction. If the person was not a public officer, we

would not have jurisdiction, and I cannot see how an act could give anybody, including the PI, jurisdiction over actions of a non-public officer.

**Mr Warnes:** You may be aware, as a committee, that another vehicle we have is an MOU with other integrity agencies in the other states, so if that conflict cannot be managed by referring to police or another authority, we can invoke that MOU. We have not had to do that as yet, but that is in place to do that. The PI also has oversight, because of our protocol of notifying him of any allegations that might come against our current staff. Our protocol dictates we automatically notify him, so he would oversee the process, and there are regular communications with him on where we are up to and moving on things.

**Mr McKechnie:** And he can, at any time, take it over and investigate it himself.

**The DEPUTY CHAIR:** On this matter, the PICCC released a report “Misconduct: Unauthorised Disclosure of Confidential Information”, and he made three recommendations to the CCC. I am just wondering what the current status is in regard to these recommendations.

**Mr McKechnie:** I am just trying to bring it to mind.

**The DEPUTY CHAIR:** The recommendations are that the CCC determine if X should remain as an officer of the CCC; if X remains an officer of the CCC, ensure that he or she be appropriately disciplined for their conduct; and the CCC is to review its process for assessing an allegation made against an officer of the CCC whose alleged conduct may involve criminality to ensure that the allegation is immediately investigated pursuant to the Criminal Investigation Act. Commissioner, if you cannot recall, we will put the question on notice.

**Mr McKechnie:** I am sorry; I am getting old!

**The DEPUTY CHAIR:** That is okay.

**Mr McKechnie:** I will take that on notice and come back.

**The DEPUTY CHAIR:** Yes. That is fine.

**Mr Warnes:** It may also be something we might need to address in private regarding the details of that particular matter.

**The DEPUTY CHAIR:** Sure.

**Mr McKechnie:** We will undertake to give the committee a comprehensive response.

**The DEPUTY CHAIR:** Thank you.

**Mr M. HUGHES:** Deputy Chair, you did not mention the misconduct—the false affidavit sworn by an officer of the Corruption and Crime Commission—which was subject to report by the PICCC, and there were recommendations in association with that too. Maybe that is another matter.

**Mr McKechnie:** I can answer that one. The false affidavit was a mistake. The officer put together an affidavit for a warrant. It required my signature, my authorisation. Neither he nor the lawyer noted that I had not authorised it. They applied for and obtained the warrant. When he reviewed the papers, he immediately recognised the error and immediately told me about it. I immediately told the judge and apologised for misleading the judge, and we withdrew, obviously, the warrant. We did investigate it and came to the very firm view that it was simply a mistake; it was not knowingly, wilfully false. It was certainly false, but it was a mistake, immediately confessed to and put right. That still, to my view, is what it was. I know the PI took a slightly stronger view about it. You can be assured that the officer and the lawyer were counselled by me in somewhat strong terms, but at the end of the day, it was a human error, immediately notified. I did not treat it with the degree of concern that the PI does.

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**Hon ALISON XAMON:** Coming back to the PICCC's annual report, because it is usually a good starting point, the PICCC suggested that the reduction in the number of matters to his office may be due to the way that you are improving how you are communicating with complainants. We are aware that has been a problem in the past—that people would put in their complaints and get a rather perfunctory response that led them to believe that their matter was simply not being considered, let alone pursued. It is something that we have spoken about previously. Can I get a bit more information, please, because this is what the PICCC has said, about how the CCC has changed the way that it now communicates with complainants? Are you giving more information in your response? What is happening? In your opinion, although I do not expect you to become a mind-reader for the PICCC, why do you think the PICCC would make that observation?

**Mr McKechnie:** I will hand over to Mr Norcock, whose responsibility it is.

**Hon ALISON XAMON:** It certainly was a problem in the past.

**Mr McKechnie:** It has been. I was appalled at some of our one-line responses. We can exclude, in a sense, those focused complainants who are going to complain anyway, no matter what you tell them.

**Hon ALISON XAMON:** We all hear from them weekly, so we know.

**Mr McKechnie:** But dealing with the others, Mr Norcock.

**Mr Norcock:** I think maybe the PICCC was surmising that was possibly the reason. It certainly is some feedback that he has provided to the commission and it is certainly something that we have taken notice of. I cannot speak to the letters and information that were sent out prior to my commencement, but I know certainly we are committed to providing a meaningful response to every complainant. It is always a balance between what we can provide and what we should provide, but I know that the commissioner's perspective is that we should provide enough that gives a sense of the commission having taken a due course of action without necessarily spelling it out, as we would not be able to do because of some of the covert methods and techniques that we need to protect. It is a bit of a balance point, but we have certainly taken heed of those comments.

**Hon ALISON XAMON:** So it has been a deliberate action by the commission to change the nature of your communications with complainants?

**Mr McKechnie:** Yes.

**Mr Norcock:** Yes.

**Hon ALISON XAMON:** Good.

**Mr Warnes:** The template letter has changed. There is an expectation that there is more free text that is put in that does, as Mr Norcock said, put more explanation for the decision that the commission has made.

**Hon ALISON XAMON:** It sounds like you are giving reasons or assurances. Is that also inviting further correspondence from people to reply to some of the particular matters that have been raised?

**Mr McKechnie:** Yes. That is always the thing. It pays to work on the basis that everybody is entitled to one reasonable explanation, but when they come back and argue and are not giving more information, our assessors have other things to do.

**Hon ALISON XAMON:** But, presumably, some people are able to give more information based on your feedback.

**Mr McKechnie:** And they do, I think. But it is Mr Norcock's area. He came along thinking that he was not going to be asked any questions!

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**Mr Norcock:** No; that is fine. What we want to do is provide a response that is appropriate and satisfactory and adequate. It is a balance. We do not want our letter to unnecessarily trigger more correspondence, but we need the complainant to get a sense of confidence that the commission has taken their complaint and has looked into it via our processes in the proper way. What we do not want is our letters to raise more questions than they answer. We want a person to be satisfied that we have done our job. With 5 000 allegations per year, we simply cannot go into the details, and it would not be appropriate to do so. But my name goes on the bottom of some of those letters, so I want to make sure that if I were receiving one, I would surmise that the appropriate actions had been taken and that my complaint had been received and treated properly.

[11.40 am]

**Mr Warnes:** But always an invitation. If there is new information or evidence, or further evidence to be added that had been missed before, the invitation is there to provide that.

**Hon ALISON XAMON:** As is appropriate.

**Mr Warnes:** Yes.

**Mr Norcock:** Can I also just add that prior to that letter going out we would, of course, already be in communication with the complainant if they had identified themselves and made it known to us and that they were willing to provide more information. Usually, we would have exhausted those options before coming to a conclusion of that work. It is not just a letter sent without corresponding with that person. We will do as much due diligence as we can.

**The DEPUTY CHAIR:** Commissioner, I think it was around April last year when the only paper in this state, *The West Australian*, made a headline statement that the CCC was suffering from a morale crisis. You came out and said, “Bunkum.” Be that as it may, how do you maintain morale and what sort of parameters of support do you put within the CCC for investigators and your staff? Obviously, with a 5 000 allegations on the table, limited resources, enormous pressure at times to make some sort of announcement or prove the case—how do you manage that and ensure that some of your people do not suffer from burnout?

**Mr McKechnie:** I will pass it to Mr Warnes, but as a general comment, the move to the new building, I think, has helped enormously.

**Hon ALISON XAMON:** It is a nice building.

**Mr McKechnie:** It is nice—and you saw the other one.

**The DEPUTY CHAIR:** Yes, but how has it helped?

**Hon ALISON XAMON:** Because you have got windows.

**Mr McKechnie:** It has helped because it has broken down barriers and helped communication. People talk to each other that did not use to talk to each other. Mr Warnes, it seems to me—I leave the running of a place to him; he seems to me to be very concerned about employee welfare and so forth, probably more than I would. It is an issue. We have good people and we do not want to burn them out. As best I can—nobody probably ever tells the boss the entire truth—the people I work with, which are predominantly investigators, lawyers and assessors, all seem to be quite dedicated and recognise they are actually making a difference. But you may have some specifics as to how we handle it.

**Mr Warnes:** I think one of the observations I make about the commission is that it is small. You can get everybody in the one location. You have seen our facilities. We can have a town hall meeting where the communication about the latest development is given to everybody that is there. Communication is not just from the commissioner or myself. It is also from the other directors. That

is pretty free. There is a high level of engagement with staff in terms of what the developments are. If there is organisational change taking place, naturally, some people may not be happy with that change. They might be entrenched in the way things are done. But the organisation continues to try and find better ways of doing its work with the resources that it has. That does not mean people are always going to be happy with that, but they are engaged and have opportunity to engage with their directors, with the organisation in that. That is one of the highlights of the organisation—that people can engage. They can ask questions. Having come from courts, I find the CCC—people do not hold back on giving an opinion and giving a view of what should happen. That is a healthy thing. I do not see that as a negative thing. People will have an opinion. But at the end of the day, the organisation is going in a direction. It is the direction it is going into. People align with that, or they do not align with that. But I am finding that people do align with it. The directors themselves are very engaged with their staff—to the point that every decision we kind of work through as an executive—there has been some communication with staff. There are no surprises.

**The DEPUTY CHAIR:** In your culture there, do both your executive and the commissioner and the staff involved have a feeling that at the very least they are making inroads into crime and corruption in this state?

**Mr Warnes:** When we have done surveys of our staff—climate surveys—one of the things that comes out really strongly in the response to those is the integrity of staff. They have a real strong sense of personal integrity. They have a real strong sense of the integrity of the organisation and its place within the community, and a sense of the difference that it can make. That is one of the strengths. It is nice to have everybody aligned with that.

**Hon ALISON XAMON:** So, no stealing of lunches?

**Mr Warnes:** There have been a few desserts that have gone missing!

**Hon ALISON XAMON:** Investigate!

We, of course, had the hearing with the PIC before we met with you. I was asking questions around the issue of police investigations, which will come as no surprise as a particular concern of mine. One of the comments that the PIC made in response to my questions was suggesting that perhaps the number of police investigations being undertaken by the CCC was not higher potentially because of resourcing issues. That was not actually stated as—he was surmising that that might have been one of the issues. I am interested to get your thoughts, commissioner, on that comment, bearing in mind that this was not something that the PIC was stating unequivocally. It was part of his speculation. Is there, perhaps, something in that—that the number of police investigations being undertaken independently by the CCC might be a resourcing issue?

**Mr McKechnie:** I will hand over to Mr Norcock again very shortly to give an update on our, sort of new approach, but I think resourcing is, in one sense, always an issue because every government department needs more resources, and always will. If we magically doubled our allotment, we would do more work. If we had less, we would do less work. I put resources to one side. What we have done is changed slightly our approach—well, substantially our approach—as a leverage matter. The police have the IAU, which has about 45 officers, I think—going on what the former commissioner said to you a year or two ago. They cannot investigate all allegations against police. They send them out to field officers. We have reasonable confidence in the IAU. Once it goes beyond there, the results are a bit more patchy. We made a decision that we would oversight more matters than we have done previously—actively oversight. I will refer to Mr Norcock about that.

**Hon ALISON XAMON:** Sorry, can I just clarify? When you say more matters, do you mean specifically more police case matters?

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**Mr McKechnie:** More police matters, yes. In a way, to get the highest return, it is leverage. And we still can disagree with them, as you have seen or, sometimes when you do not see, because they change their approach and do things. For instance, in our report last week. We first found out that the officer who was alleged to have bent back the finger of the person had been charged. We just found that out at twenty-five minutes to 10 o'clock, before the report was tabled at 10 o'clock.

**Hon ALISON XAMON:** So he has been charged?

**Mr McKechnie:** He apparently had been charged the previous Friday. We had not been told. It had taken nearly a year for a charge to be laid. I did ponder that if it had been the offender, so to speak, who had done that to a police officer, whether it would have taken a year to be charged. But, to my mind, that was the correct thing that, frankly, should have happened. If it had happened there would have been a public airing of the incident in a public forum. I am unconcerned whether he would be found guilty or not guilty. He would have gone through a proper trial. Some of the matters we do, such as the incident a year ago on the tasing, is because we have been unsatisfied with the result. But, we are often satisfied, or, rather, consider the result was appropriate. I will now hand over to —  
[11.50 pm]

**Hon ALISON XAMON:** Before you do that, can I just say one of the concerns that I have, which I have raised previously with the PICCC as well, is that a number of the matters which have been brought to light by the CCC have occurred simply because of the sheer luck that there is CCTV vision available —

**The DEPUTY CHAIR:** Or somebody's mobile phone.

**Hon ALISON XAMON:** Effectively, vision to corroborate the wrongdoing. I am concerned that that would not be happening in the majority of instances and where allegations are made. If something as straightforward as the vision—I have viewed the vision in relation to the matter that was published last week—and issues like that are not being picked up by the internal affairs unit, it really does beg the question about how many matters, which potentially could get picked up with the extraordinary powers that the CCC has, are not actually being appropriately addressed.

**Mr McKechnie:** The problem that IAU has, which would be the same problem that we have, is there is a delay of some months—I may be getting confused with the report we are going to issue in a couple of weeks. IAU are not notified until something goes wrong. The magistrate throws out charges and says that the police credibility is in question. Then it gets reported to IAU, sometimes months after.

**Hon ALISON XAMON:** That is not a fault of the CCC; if the CCC is not aware, they are not aware. Are you advising the committee that there appears to be some problems internally within the police force itself about ensuring that they are having those matters adequately investigated?

**Mr McKechnie:** Not so much investigated. My impression is that some of the areas—not IAU, but some of the other areas—are insufficiently aware of their requirement to notify suspected serious misconduct to both IAU and to us.

**Hon ALISON XAMON:** That is a serious concern.

**Mr McKechnie:** It is, because in the two matters—the one we have published and the one that is coming—are the words “a delay of months” before, as it were, appropriate action was commenced.

**Mr Warnes:** They would be in the most recent report. It was police prosecution that saw the vision, saw that it was inappropriate and liaised with the internal affairs unit and brought it to their attention.

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**Hon ALISON XAMON:** What is quite clear from your report is that it appears the police prosecution has actually done the right thing, albeit met with great resistance. I suppose I am still very concerned about what I am hearing from the commissioner's observations about the overall problems internally. It sounds to me like there is a serious issue for the police commissioner to perhaps look at prioritising urgent education around this matter internally.

**Mr Norcock:** Might I add some numbers to the commissioner's comments?

**Hon ALISON XAMON:** Please.

**Mr Norcock:** Fifty per cent of all the allegations that we receive relate to the Western Australia Police Force. Of those matters that the commission undertakes activity, two-thirds relate to the police. So we have gone from 50 to two-thirds. One of my teams is the oversight team and that is a great way that we can force multiply what the commission is able to do. In the communications that we have with the police integrity units, we can work alongside those investigative teams and ensure that they have a decent and solid investigative plan, have evidence matrices that are identifying the intelligence requirements, that they are identifying what went wrong and the measures that they could put in place to correct that and to take further action. Numbers in that area are, presently, that we have 43 matters in oversight, 31 of which relate to the police, which is 75 per cent. That is an indication of the commission's application of our resources to the matter of policing. However, it is through the lens of our strategic priorities; it is not necessarily relating to the agency. It is through use of force or it is through access to data and information. These are the strategic themes that we look at. It just so happens that the bulk of our work at this present time is weighted in this area.

**The DEPUTY CHAIR:** We are fast running out of time. I have one more question, commissioner. This morning we had the parliamentary inspector here for a hearing and, in a manner of procedural fairness, I will ask you a similar question. In regard to his required audit of CCC documents and your concerns of having them transferred to his office, what processes or procedures would you be happy or would like to have in place to alleviate the concerns you have raised on this matter?

**Mr McKechnie:** Very simply, to revert to what it was until about a year ago; namely, that his officer came to the commission and inspected them in the safe quarters of the commission.

**The DEPUTY CHAIR:** I suggest you read the transcript of the interview. It is public.

**Hon ALISON XAMON:** It will be.

**The DEPUTY CHAIR:** It will be public.

**Mr McKechnie:** That is simply what I would prefer. We have never refused a direction from him. I require a direction from him on this because I want to make it very clear. The risk, I acknowledge, is very low, but if he came to our place, there would be no risk. While the risk is low, the consequences would be enormous because this is human-source details and other details of warrants and so forth. That is what I would prefer but, in the end, if he directs, then we follow.

**The DEPUTY CHAIR:** Let me get this clear in my head. Up until last year, these particular documents were audited and examined by the parliamentary inspector in the CCC offices?

**Mr McKechnie:** Correct.

**The DEPUTY CHAIR:** Okay.

**Hon ALISON XAMON:** Are the current arrangements between the CCC, the SSO and the DPP to charge and prosecute people based on CCC investigations working well?

**Mr McKechnie:** No.

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**Hon ALISON XAMON:** No! Could you please elaborate?

**Mr McKechnie:** It was just a quick answer!

**Hon ALISON XAMON:** No, be as long as you like.

**The DEPUTY CHAIR:** But brevity is appreciated!

**Mr McKechnie:** This is the subject of an active review at the moment by—I will hand over to Ms Endebrock-Brown to answer and expand on my “no”.

**Ms Endebrock-Brown:** Thank you. It is the subject of a review that is being conducted at the moment by DoJ. We have been asked for some initial information about the prosecutions that have been undertaken by the SSO as a result of CCC investigations. In the process of providing them with that information, the problems to date —

**Hon ALISON XAMON:** Sorry, has this come to light particularly around the north metropolitan matter?

**Ms Endebrock-Brown:** No. This came to light initially —

**Mr McKechnie:** Exmouth.

**Ms Endebrock-Brown:** It might be. I would need to take that on notice if you would like to know what sparked it, but the issues we have had have all been around delay in having the matters dealt with. Of course, pre-A v Maughan, when we thought we had the ability to initiate prosecutions ourselves, we would prepare briefs of evidence and deal with them ourselves. Once A v Maughan was handed down, we no longer had that power. We have been providing briefs of evidence, since then, to an appropriate authority. We have been providing briefs of evidence to the SSO. The dealings then with the matters by the SSO were just taking a very, very, very long time. There have only been three matters that we have provided them with briefs of evidence on. We have not provided a brief of evidence to the SSO directly for a very long time now. When the issues first arose I met with the SSO—Mr Nick Egan—and we talked about putting a procedure in place for future matters. That procedure is not yet in place. I have provided him with a draft but I have not had any feedback on it. So we are just in limbo at the moment. If we do have another brief to provide to the SSO, we still do not have a procedure in place to be able to do that.

**Mr M. HUGHES:** When was that brief provided?

**Ms Endebrock-Brown:** The draft procedure was provided—I cannot remember the exact date, but it was well over a year ago.

**Hon ALISON XAMON:** When are you anticipating that this is likely to be resolved? Will it be subject to an MOU? Will it be subject to recommendation?

**Ms Endebrock-Brown:** No, it should just be a simple procedure between the two offices.

**Hon ALISON XAMON:** So you would have thought that would have been resolved by now.

**Ms Endebrock-Brown:** I am hoping that this review might prompt that to occur.

**Hon ALISON XAMON:** Maybe this hearing will help to push that one along.

**The DEPUTY CHAIR:** Thank you. I will now declare the hearing closed.

Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for the correction of minor errors. As such, corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it is deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to

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provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you very much for your attendance here today.

**Hearing adjourned at 12 noon**

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