

40TH PARLIAMENT



Joint Standing Committee on the
Corruption and Crime Commission

Report 17

MEANINGFUL REFORM OVERDUE

The Corruption, Crime and Misconduct Act 2003

Presented by
Ms M.M. Quirk, MLA and Hon J.E. Chown, MLC
November 2020

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Report No. 17

Presented by

Ms M.M. Quirk, MLA

and

Hon J.E. Chown, MLC

Laid on the Table of the Legislative Assembly on 19 November 2020 and the
Legislative Council on 26 November 2020.

Chair's Foreword

Over the course of the 40th Parliament, this Committee has observed a range of areas where the *Corruption, Crime and Misconduct Act 2003* (CCM Act) is either deficient, obsolete or unclear.

The CCM Act is a key piece of legislation that provides functions for the Corruption and Crime Commission (CCC) in dealing with misconduct by public officers and combatting organised crime—deficiencies in the Act give the Committee a clear reason for concern.

The CCC has advised the Committee of the need for review and reform of the CCM Act. Rather than amending the CCM Act in its current form, the CCC has advocated for a whole new Act to address numerous problems with the current legislation.

The Parliamentary Inspector of the Corruption and Crime Commission (Parliamentary Inspector), whose functions are also provided for under the CCM Act, has consistently drawn the Committee's attention to issues arising from the Act in its current form. Reports and correspondence from the Parliamentary Inspector detailing these issues and proposing ways to improve the CCM Act are addressed in Chapters 2-3 of this report and at Appendix Seven.

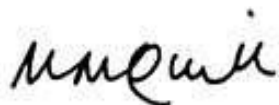
The CCM Act also confers functions on the Public Sector Commissioner regarding minor misconduct by public officers. The Public Sector Commissioner too, has identified an area of the CCM Act that could benefit from improvement, which is outlined at Appendix Nine.

In addition to these key agencies, who have functions provided for under the CCM Act, the Committee has heard from a range of stakeholders who identify areas for improvement. This feedback is included at Appendices Three to Eleven.

The committee has not necessarily endorsed or adopted a position in relation to these suggestions for change. Rather, the Committee seeks to draw attention to these comments as areas that should be afforded thorough consideration when undertaking a review of the CCM Act.

What is made abundantly clear through the collation of feedback from stakeholders, is that a comprehensive review is necessary to support much needed reform of the CCM Act.

In compiling this report the Committee was ably and conscientiously supported by the secretariat, Ms Vanessa Beckingham, Ms Lucy Roberts and Ms Sylvia Wolf.



MS M.M. QUIRK, MLA
CHAIR

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Chapter 1

Background

Function of the *Corruption, Crime and Misconduct Act 2003*

- 1.1 The *Corruption, Crime and Misconduct Act 2003* (CCM Act) provides for the establishment and operation of the Corruption and Crime Commission (CCC), with functions regarding serious misconduct by public officers (including police misconduct); organised crime; and the confiscation of unexplained wealth and criminal benefits.¹
- 1.2 The CCM Act confers functions on the Public Sector Commissioner regarding minor misconduct by public officers. The establishment and operation of the Parliamentary Inspector of the Corruption and Crime Commission (Parliamentary Inspector) is also provided for under the CCM Act.
- 1.3 When the legislation was passed in 2003, it was titled the *Corruption and Crime Commission Act 2003* (CCC Act). Since then, it has been subject to various amendments.²
- 1.4 Notably, in December 2014 the Corruption and Crime Commission Amendment (Misconduct) Bill 2014 was assented to, which amended the title of the principal Act to be the *Corruption, Crime and Misconduct Act 2003*.
- 1.5 By proclamation, on 1 July 2015, as part of the reforms included in the abovementioned amendment Act, responsibility for minor misconduct and public sector education and prevention was transferred to the Public Sector Commission (PSC).
- 1.6 On 1 September 2018 amendments to the CCM Act and the *Criminal Property Confiscation Act 2000* came into effect, marking the start of the CCC's unexplained wealth function. This function had the effect of enabling the CCC to investigate unexplained wealth and criminal benefits and to initiate and conduct civil confiscation proceedings.

Amendment Bills currently before the Houses

- 1.7 The Corruption, Crime and Misconduct Amendment Bill 2017 was introduced to restore the power and jurisdiction of the CCC to investigate the conduct of members of Parliament for offences of the *Criminal Code* corresponding with the contempts of Parliament expressly listed in section 8 of the *Parliamentary Privileges Act 1891*.³ The power and jurisdiction of the CCC in this capacity has been abrogated as a result of changes made by the 2014 amendments. The Bill was referred to the Standing Committee on Procedure and Privileges

1 *Corruption, Crime and Misconduct Act 2003*, s. 7A.

2 See the compilation table in the *Corruption, Crime and Misconduct Act 2003* for a full list of amendments – this table includes all amendments made by other statutes and also information about reprints.

3 Legislative Council Standing Committee on Procedure and Privileges, *Corruption, Crime and Misconduct Amendment Bill 2017*, May 2018, p. i.

in the Legislative Council, which tabled a report in May 2018.⁴ The Standing Committee on Procedure and Privileges tabled a further report in October 2020, which included a recommendation 'That the Bill not be passed in its current form.'⁵

- 1.8 The Corruption, Crime and Misconduct Amendment Bill 2020 was introduced by the Government to reappoint former Commissioner Hon John McKechnie QC for a term of five years from 28 April 2020.⁶ This Bill was introduced by the Government in response to this Committee being unable to reach bipartisan and majority support for the Commissioner's reappointment as per the Committee's function under section 9 of the CCM Act.

An urgent need for reform

- 1.9 Since its formation, the Committee has heard from stakeholders who identify issues concerning the function of the CCM Act. The Committee has observed a range of areas where the CCM Act is either deficient, obsolete and/or unclear.

The Gail Archer Review

- 1.10 Section 226 of the (then) CCC Act required the Minister to carry out a review of the operation and effectiveness of the Act.⁷ This was undertaken by Ms Gail Archer SC who published her report *Review of the Corruption & Crime Commission Act 2003* in February 2008. The report made 58 recommendations concerning the CCC Act including:

Recommendation 58: A further review be conducted of the Act eight years after its commencement.⁸

- 1.11 The Committee is concerned that a further review of the CCM Act is necessary but has not yet occurred.

The role of the CCC

- 1.12 The CCC has been a key advocate for a review of the CCM Act. Since 2017 the Committee has been advised by the CCC about the need for legislative reform.⁹ The CCC advocates for the drafting of a new Act, rather than amending the current Act.¹⁰
- 1.13 In July 2019 the CCC advised the Committee that it was 'seeking the Attorney General's approval to begin drafting a Cabinet submission to propose a new Act to replace the current Act to address the numerous problems with the current legislation' and otherwise update

4 Legislative Council Standing Committee on Procedure and Privileges, *Corruption, Crime and Misconduct Amendment Bill 2017*, May 2018.

5 Legislative Council Standing Committee on Procedure and Privileges, *Corruption, Crime and Misconduct Amendment Bill 2017 (Second Referral)*, October 2020.

6 Parliament of Western Australia, *Explanatory Memorandum*, 16 April 2020, accessed 2 November 2020, <[https://www.parliament.wa.gov.au/Parliament/Bills.nsf/D077B066E4D1CD6B4825854B002D3999/\\$File/EM%2B189-1.pdf](https://www.parliament.wa.gov.au/Parliament/Bills.nsf/D077B066E4D1CD6B4825854B002D3999/$File/EM%2B189-1.pdf)>.

7 Ms Gail Archer SC, *Review of the Corruption & Crime Commission Act 2003*, February 2008, p. 1.

8 *ibid.*, p. 265.

9 Hon John McKechnie QC, Commissioner, Corruption and Crime Commission, *Transcript of Evidence*, 18 October 2017, p. 9.

10 Ms Wendy Endebrock-Brown, Director Legal Services, Corruption and Crime Commission, *Transcript of Evidence*, 16 October 2019, p. 12.

the Act to better reflect current circumstances.¹¹ Further information about this was provided to the Committee in September and October 2019.¹²

1.14 In March 2020 the former Commissioner advised that he had written to the Attorney General seeking ‘support for a special project to comprehensively review’ the CCM Act. He also advised that due to ‘current workload pressures’ the CCC itself was ‘not in a position to resource such a project.’ Rather, CCC officers would provide assistance wherever possible.¹³

1.15 In October 2020 the CCC’s Director of Legal Services told the Committee:

We continued on the path of wanting to encourage for a new act—for a complete overhaul. We wrote to you, you will recall, not that long ago, advising that we had written to the Attorney General and sought his assistance with the establishment of a special project for that purpose. We are continuing to collate all of our views about what needs to be looked at in a new act or in an overhauled act or, otherwise, in an amendment act. We are including to collate the suggestions and recommendations of others such as yourselves and the parliamentary inspector so that when that special project, hopefully, is established, we are ready to go and we can move along quickly.¹⁴

Issues raised by the Parliamentary Inspector

1.16 The Parliamentary Inspector has routinely identified areas of the CCM Act that require change. The Parliamentary Inspector’s correspondence to the Committee at Appendix Eight provides a valuable overview of a number of these issues.

1.17 The information in Chapter 2 also draws heavily upon reports and correspondence from the Parliamentary Inspector.

The Joint Standing Committee in the 39th Parliament

1.18 The previous Joint Standing Committee in the 39th Parliament also identified numerous areas of the CCM Act that require improvement, and made recommendations to that effect. These are detailed where applicable in the following chapters.

Feedback from stakeholders

1.19 The Committee resolved on 26 June 2019 to write to key stakeholders seeking their feedback on the operation of the CCM Act. The stakeholder feedback received is included at Appendices Three to Eleven.

1.20 With respect of the recommendations and feedback provided by stakeholders, the Committee does not propose to advocate for any particular view or proposal. Rather, it

11 Hon John McKechnie QC, Commissioner, Corruption and Crime Commission, Letter, 4 July 2019, p. 1.

12 Hon John McKechnie QC, Commissioner, Corruption and Crime Commission, Letter, 3 September 2019, p. 1; Hon John McKechnie QC, Commissioner and Ms Wendy Endebrock-Brown, Director Legal Services, Corruption and Crime Commission, *Transcript of Evidence*, 16 October 2019, p. 12.

13 Hon John McKechnie QC, Commissioner, Corruption and Crime Commission, Letter, 19 March 2020, p. 1.

14 Ms Wendy Endebrock-Brown, Director Legal Services, Corruption and Crime Commission, *Transcript of Evidence*, 7 October 2020, p. 16.

suggests that this feedback is taken into account when undertaking a complete review of the CCM Act.

Chapter 2

Key areas for reform

- 2.1 This chapter summarises key areas of the CCM Act which have come to the attention of the Committee during the 40th Parliament.
- 2.2 The following chapter outlines recommendations for amendment made by the Parliamentary Inspector and the two most recent Joint Standing Committees (of the 39th and 40th Parliaments). This includes some matters which are in addition to those raised with the Committee in this Parliament.
- 2.3 Unless indicated, the Committee does not offer a particular view on any of these matters, other than to point to them as areas requiring consideration as part of a comprehensive review of the CCM Act. It recognises that the issues raised need to be considered within the wider context of a comprehensive review of the legislative framework governing the operations of the CCC and Parliamentary Inspector. This task requires greater resources than the Committee has at its disposal.
- 2.4 As such the Committee does not intend this summary of matters to be viewed as an exhaustive review. Rather, it aims to provide some background material to which an appropriate person or body can refer when undertaking a legislative review process.

Sections 3 and 4 of the *Corruption, Crime and Misconduct Act 2003* – terms and definitions

- 2.5 Terms used in the CCM Act have been raised as requiring review. Those detailed below have come to the Committee's attention.

Reviewable police action

- 2.6 The definition of 'reviewable police action' reads, in part:

reviewable police action means any action taken by a member of the Police Force, an employee of the Police Department or a person seconded to perform functions and services for, or duties in the service of, the Police Department that [...] is in accordance with a rule of law, or a provision of an enactment or a practice, that is or may be unreasonable, unjust, oppressive or improperly discriminatory...

- 2.7 This was criticised by former CCC Commissioner McKechnie as it:

... includes an officer following a law or applying the law, but the law itself is unjust or oppressive. Now, it is merely theoretical but, theoretically an opinion of

misconduct could be formed against an officer because they were upholding a law that was regarded as an oppressive or unjust law.¹⁵

Serious misconduct

- 2.8 The CCM Act refers to serious misconduct as that which meets the definition of section 4(a), (b) and (c):

Misconduct occurs if —

(a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or

(b) a public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or

(c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment.

- 2.9 Former CCC Commissioner McKechnie told the Committee:

The other area that I have always struggled with is that in the definition of serious misconduct at 4(c), it refers to committing an offence in the course of their office carrying two or more years' imprisonment. I think at section 219 or thereabouts, there is, of course, an admonition that the commission does not find anybody guilty of an offence and is not to be taken as a finding. So on the one hand you say, well, it is serious misconduct because it is an offence of, say, stealing, but I am not making a finding that you are guilty of or might be guilty of it. That is what the act says, but how you find on the one hand misconduct because you have committed a criminal offence, and on the other hand that it is not a criminal offence, is something that needs attention.¹⁶

- 2.10 This has also been raised by the former Parliamentary Inspector, Hon Michael Murray AM QC, who noted that across Australian jurisdictions there are:

... difficulties associated with addressing Commissions' use of criminal-like terminology to categorise the conduct of an investigated person in their published reports (such as 'corrupt', 'bribery', 'fraudulent', 'misappropriation' and 'stealing') when their governing statute (such as s 217A of our Act in respect of our Commission) prohibits the publication of opinions which say a person has committed a criminal or disciplinary offence (an issue which has given rise to two complaints to me in response to two recent Commission reports tabled in Parliament).

15 Hon John McKechnie QC, Commissioner, Corruption and Crime Commission, *Transcript of Evidence*, 16 October 2019, p. 12.

16 Hon John McKechnie QC, Commissioner, Corruption and Crime Commission, *Transcript of Evidence*, 16 October 2019, p. 12.

For instance, Mr McClintock SC explained that ICAC Commissioners seek to justify the use of such terminology by saying that an investigated person is corrupt because had the evidence established by the Commission been used in a trial, the person would likely have been convicted of the offence of corruption.

Similar reasoning has been used by our Commission in similar circumstances, including when s 4(c) of our Act is used as the basis of an opinion of serious misconduct against a person when that person has not been tried and convicted of a criminal offence which carries a term of imprisonment of two or more years.

The difficulty involved in the interpretation of this provision is clear.¹⁷

Minor misconduct

- 2.11 Concerns about the definition of minor misconduct under section 4 of the CCM Act have been noted.
- 2.12 The Parliamentary Inspector made recommendations for legislative amendment in relation to minor misconduct in a 2019 report, which is detailed in the following chapter.¹⁸
- 2.13 Another matter raised with the Committee is whether the use of the word ‘minor’ is an appropriate descriptor for misconduct reported to the PSC.¹⁹ Appendix Ten contains feedback from the PSC regarding the definition of minor misconduct and suggestions for improvements to the CCM Act.

Reporting police misconduct

- 2.14 The Committee was advised by the Chief Executive of the CCC about a duplication of reporting responsibilities in the CCM Act.

... the reporting requirement for the Commissioner of Police occurs in two parts. It occurs in sections 21A and 28. Section 21A is responsible just for the police commissioner report on reviewable police matters. Section 28 includes the police commissioner, but any other responsible authority would report to us. Up until 2015–16, we separated out those two parts of the act. Beyond that, we just combined them both. In combining them both under section 28, we still see what police are reporting. We still have a way of cutting our data to see what matters police are reporting to us on. It appears to be a bit of a duplication within the act in reporting responsibilities.²⁰

17 Parliamentary Inspector of the Corruption and Crime Commission, *Report on an administrative matter: Joint Conference of Parliamentary Inspectors in Brisbane on 3 October 2018*, unpublished, p. 2.

18 Joint Standing Committee on the Corruption and Crime Commission, *Parliamentary Inspector's report on 'a saga of persistence'*, 27 June 2019, p. 18.

19 Hon Michael Murray AM QC, Parliamentary Inspector of the Corruption and Crime Commission, *Transcript of Evidence*, 13 February 2019, p. 8.

20 Ray Warnes, Chief Executive, Corruption and Crime Commission, *Transcript of Evidence*, 1 July 2020, p. 2.

- 2.15 Feedback received from the WA Police Force (at Appendix Eleven) identifies other issues in the CCM Act around reporting police misconduct.

Parts of the *Corruption, Crime and Misconduct Act 2003* now redundant

Police Royal Commission and Anti-Corruption Commission

- 2.16 The Committee has been advised by the CCC that the CCM Act ‘contains redundant functions such as those related to the Police Royal Commission and the Anti-Corruption Commission.’²¹

Exceptional powers in relation to organised crime

- 2.17 The parts of the CCM Act which deal with exceptional powers in relation to organised crime are also underutilised, to the point of being redundant.²²
- 2.18 One of the three objectives of the CCM Act is to combat and reduce the incidence of organised crime.²³ The WA Police Force can make applications to the CCC to be granted access to a suite of exceptional powers to combat organised crime including:²⁴
- the summoning and examining of witnesses in coercive hearings (sections 48, 49, 50)
 - the conduct of controlled operations and integrity testing by police officers (section 64)
 - powers of search and entry without a warrant (section 52)
 - enhanced police powers to stop, detain and search a person or conveyance without a warrant (section 53)
 - the acquisition and use of assumed identities by police officers (section 60).
- 2.19 Sections 68 and 72 of the CCM Act also enable the Police Commissioner to apply to the CCC to issue a ‘Fortification Warning Notice’ and the Police Commissioner to issue a ‘Fortification Removal Notice’.
- 2.20 The WA Police Force has made limited use of these exceptional powers since the legislation was enacted. Furthermore, since the enactment of the *Criminal Investigation (Covert Powers) Act 2012*, many of the exceptional powers contained in Part 4 of the CCM Act are now available to the WA Police Force directly, leaving only the coercive examination, search, and anti-fortification powers requiring application to the CCC.
- 2.21 There are several reasons why the WA Police Force does not access exceptional powers through the CCC, including a reported need for amendment to the definition of ‘organised crime’ under the CCM Act. A report by the 39th JSC recommended that the Attorney General

21 Hon John McKechnie QC, Commissioner, Corruption and Crime Commission, Letter, 3 September 2019, p. 1.

22 *ibid.*

23 *Corruption, Crime and Misconduct Act 2003*, s. 7A.

24 *ibid.*, s. 7B(2).

‘expedite an amendment to the *Corruption and Crime Commission Act 2003* to amend the definition of ‘organised crime’.’²⁵

- 2.22 The then Attorney General considered amending the definition of organised crime. However, this was deferred until the full impact of the *Criminal Investigation (Covert Powers) Act 2012* and the *Criminal Organisations Control Act 2012* could be properly assessed. Changes to the definition were not included in the Corruption and Crime Commission Amendment (Misconduct) Bill 2014.

The investigation of ‘industrial matters’ under section 196(9)

- 2.23 A matter raised by the Parliamentary Inspector in several reports and correspondence to the Committee is the application of section 196(9) of the CCM Act. This section provides:

The Parliamentary Inspector must not undertake a review of a matter that arises from, or can be dealt with under, a jurisdiction created by, or that is subject to, the *Industrial Relations Act 1979*.

- 2.24 The interpretation and application of this section has been a point of contention between the CCC and Parliamentary Inspector.
- 2.25 The CCC takes the view that the application of section 196(9) precludes the Parliamentary Inspector, or at least delays him/her until the CCC completes its own actions, from undertaking the functions or exercising powers in respect of a matter that may be subject to the *Industrial Relations Act 1979*.²⁶
- 2.26 The former Parliamentary Inspector’s view is that the CCM Act did not subordinate his functions and powers concerning non-industrial issues to industrial issues between the CCC and its officers. His view was that section 196(9) simply excluded him from reviewing an industrial matter (that is, a decision or action taken or proposed in respect of industrial aspects of the matter).²⁷
- 2.27 An example given by the former Parliamentary Inspector in his 2016-17 annual report illustrates how this difference in interpretation can impede an investigation of a CCC officer:

In one case during the reporting period which related to a serious allegation made against a Commission officer which I was investigating, the Commission refused to provide me with its file ... on the basis that it had not yet completed its consideration of certain industrial issues, including the release of the officer from his employment.²⁸

25 Joint Standing Committee on the Corruption and Crime Commission, *Improving the working relationship between the Corruption and Crime Commission and Western Australia Police*, 26 March 2015, p. 19.

26 Parliamentary Inspector of the Corruption and Crime Commission, *Annual Report 2016–2017*, Western Australia, September 2017, p. 6.

27 *ibid.*

28 *ibid.*

2.28 During the 2018-19 period the Parliamentary Inspector reported:

During my investigation of an allegation of misconduct committed by one of its officers, the Commission disagreed with my finding of the facts (and subsequently my determination that misconduct had occurred) and said it would conduct its own disciplinary investigation under s 179 of the Act to determine those facts. It also said it would not make representations to me under s 200 in respect of my draft report on the matter, as invited to do, until it had concluded and considered its own investigation. The Commission's position potentially delayed the completion and tabling of my report.²⁹

2.29 The matter referred to in the above paragraph was in relation to the Parliamentary Inspector's investigation into the circumstances surrounding the execution of a search warrant on the residence of the Chief Executive Officer of the Shire of Halls Creek. The search warrant was executed by an officer of the CCC as part of an ongoing investigation into alleged serious misconduct.³⁰

2.30 The matter of the execution of the search warrant, and whether this constituted misconduct, was explored in the Committee's Report No. 10. This report demonstrates how the CCM Act is silent as to when or how a disciplinary investigation is to proceed. The Parliamentary Inspector notes here that the CCC exercise of disciplinary power pursuant to the CCM Act is distinct from the Parliamentary Inspector's performance of his misconduct function. The Parliamentary Inspector argues that the disciplinary power should follow his final determination. In the case referred to above, he summed up by saying:

The determination of misconduct on the basis of the facts as I find them to be is the first step in a case such as this. The Act then supposes that the final investigation and determination of the disciplinary and industrial consequences is for the Commission and does not involve me, except in the making of my recommendations to the Commission under s 195(1)(d), which the Commission has the power to accept or reject. The Chief Executive's investigation in this case was mistimed because my report was in draft and subject to change as a result of the process undertaken pursuant to s 200 of the Act.³¹

2.31 In November 2018 the Parliamentary Inspector, in relation to a confidential matter, observed as follows:

Despite my repeated criticisms of the Commission's practice of dealing with the industrial and employment aspects of notifiable matters in such a way that my misconduct function is compromised, it conspicuously continues to occur. When

29 Parliamentary Inspector of the Corruption and Crime Commission, *Annual Report 2017–2018*, Perth, Western Australia, September 2018, p. 8. This is detailed further in the report of the Parliamentary Inspector tabled by the Joint Standing Committee as a part of its Report No. 10 on 21 March 2019; in particular, see pp. 27-29.

30 The outcome of this investigation was discussed in the Corruption and Crime Commission's *Report into how conflicts of interest undermine good governance – A report on the Chief Executive Officer of the Shire of Halls Creek* published on 30 August 2018.

31 Joint Standing Committee on the Corruption and Crime Commission, *With extraordinary power... The Corruption and Crime Commission's execution of a search warrant on the Shire of Halls Creek*, 21 March 2019, p. 27-28.

combined with the Commission's reluctance to immediately and seriously investigate [an officer's] conduct as quite probably criminal in nature, the unnecessary perception that the Commission protects its officers from the oversight Parliament intended of them is further enlivened.³²

2.32 In October 2019 the Parliamentary Inspector reiterated to the Committee:

... the need to amend the Act to make it clear that the Commission's power to deal with industrial matters without interference from me, may only be exercised after or to the extent that it does not derogate from my function to deal with misconduct by Commission officers.³³

2.33 Recommendations made by the Parliamentary Inspector on this matter are detailed in the following chapter, under the report titled *Misconduct by a Corruption and Crime Commission officer: Matthew John Lynch*, tabled on 8 February 2017.

2.34 There is another issue related to this one. This is the fact that the CCC does not have a minor misconduct function in respect to its own officers (an anomaly within the legislative regime which is detailed in the following section).

2.35 This means that information obtained by the CCC during a disciplinary investigation can only be used pursuant to its disciplinary power. This is complicated when the Parliamentary Inspector is precluded from reviewing an industrial matter within the CCC (which includes a disciplinary process).

The investigation of minor misconduct in relation to officers of the Corruption and Crime Commission

2.36 Neither the CCC, nor the PSC, are empowered to deal with allegations of minor misconduct by CCC officers, meaning that there is currently no investigative agency that can do so.

2.37 This appears to be an unintended by-product of the 2014 amendments to the CCM Act which came into force on 1 July 2015. The purpose of the 2014 amendments were to enable the CCC to focus on serious misconduct while leaving minor misconduct to the remit of the PSC. However, the enactment of these reforms have created this legislative gap which the Parliamentary Inspector has raised several times with the Committee.

2.38 Under the CCM Act, the CCC is to be notified of alleged serious misconduct and is empowered to deal with such allegations in accordance with its statutory powers. This includes when an allegation of serious misconduct concerns its own officers.

2.39 The CCC does not have a function to investigate and deal with allegations of minor misconduct, even when the allegation concerns one of its own officers. The investigation of

32 Hon Michael Murray AM QC, Parliamentary Inspector of the Corruption and Crime Commission, Letter, 29 November 2018, Attachment, p. 5.

33 Hon Michael Murray AM QC, Parliamentary Inspector of the Corruption and Crime Commission, Letter, 11 October 2019, p. 2.

minor misconduct is conferred upon the PSC. However, as per section 45G(b) of the CCM Act, the PSC has no power to deal with misconduct concerning a CCC officer.

2.40 The Parliamentary Inspector notes that he can 'exercise a primary investigative function in relation to minor misconduct by Commission officers.'³⁴ However, this is not always a satisfactory workaround.

2.41 In the Committee's Report No. 11, a case is detailed whereby a CCC officer was investigated for serious misconduct by the CCC—an allegation, which for various reasons, was not substantiated. The officer was subsequently dismissed because she had not been candid in her responses at the time of her security vetting process.

2.42 The Parliamentary Inspector was of the view that:

...the case justified investigation of minor misconduct by me on the basis that multiple acts of stealing and the fact that the officer was less than frank during her security clearance interviews could adversely affect the honest and impartial performance of her duties as an officer of the Commission and were of sufficient seriousness to warrant her dismissal. However, she had been dismissed and there was no point in my pursuit of the matter.³⁵

2.43 In this instance, the CCC officer in question was not subject to prosecution or any disciplinary process directly connected to a finding of misconduct. Rather, the process of the investigation 'took a back seat to contractual or industrial processes.'³⁶ The Parliamentary Inspector argues that this outcome would have been unlikely if the CCC

... was empowered to investigate and deal with minor misconduct by its officers, subject to my supervision. The process of dealing with the totality of misconduct by its officers could not be said to be effective or appropriate if, as in this case, it was not dealt with as a priority before the Commission turned its attention to 'industrial' matters.³⁷

2.44 The Parliamentary Inspector recommended that the CCC 'be again provided with the power to deal with all forms of misconduct by its officers, subject to my independent oversight.'³⁸

The investigation of misconduct committed by Corruption and Crime Commission officers prior to appointment

2.45 Some of the Parliamentary Inspector's investigations of allegations against CCC officers during the 40th Parliament have been into allegations of serious misconduct committed by

34 Joint Standing Committee on the Corruption and Crime Commission, *Parliamentary Inspector's report on 'a saga of persistence'*, June 2019, p. 12.

35 *ibid.*, p. 14.

36 *ibid.*

37 *ibid.*

38 Hon Michael Murray AM QC, Parliamentary Inspector of the Corruption and Crime Commission, Letter, 11 October 2019, p. 3.

officers before they were employed by the CCC. The Parliamentary Inspector's jurisdiction to deal with misconduct under the CCM Act does not extend to these historical allegations.

2.46 The Parliamentary Inspector reports:

a deficiency existing in the Act which prevents Parliament from being assured that an allegation of serious misconduct made against an officer of the Corruption and Crime Commission in relation to conduct as a public officer, but before the officer was employed by it, is independently investigated and authoritatively determined.³⁹

2.47 He has recommended:

that the Act be amended to broaden my misconduct function to include the determination of an allegation of serious misconduct made against a Commission officer that relates to the officer's previous employment as a public officer.⁴⁰

2.48 The specific recommendations made by the Parliamentary Inspector in this report are detailed in Chapter 3.

Police oversight

2.49 The Committee tabled its report *If not the CCC ... then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force* on 24 September 2020.

2.50 The report identified the need for a review of the CCM Act and includes a recommendation that the Attorney General progress this review and, as part of this process, give consideration to the prioritisation of police oversight within the legislation.⁴¹

2.51 The report points out that a previous Joint Standing Committee recommended that section 7A of the (then) CCC Act be amended to read:

The main purposes of this Act are:

- (a) to aid the efforts of the WA Police to combat and reduce the incidence of organised crime; and
- (b) to improve continuously the integrity of the WA Public Sector **and in particular the WA Police.**⁴² [emphasis added]

39 Parliamentary Inspector of the Corruption and Crime Commission, *Misconduct alleged by public officers who subsequently become officers of the Corruption and Crime Commission*, 14 December 2018, p. 1.

40 *ibid.*, p. 2.

41 Joint Standing Committee on the Corruption and Crime Commission, *If not the CCC ... then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force*, 24 September 2020, p. 77.

42 Joint Standing Committee on the Corruption and Crime Commission, *How the Corruption and Crime Commission handles allegations and notifications of police misconduct*, 15 November 2012, p. iii and p. 8.

- 2.52 In response to this recommendation, the (then) Attorney General advised that he was introducing a Bill into Parliament to transfer ‘the CCC’s responsibility for public sector misconduct, and the CCC’s responsibilities for corruption prevention and education, to the Public Sector Commissioner.’⁴³ He concluded that:

This will mean, in the first instance, that the CCC will be able to devote more attention to the oversight of police misconduct investigations. This, together with your Committee’s observation that the current Commissioner is placing increased emphasis on police oversight, would appear to obviate the need for the Committee’s proposed amendment to Section 7A of the CCC Act 2003.⁴⁴

- 2.53 The Bill subsequently passed and responsibility for minor misconduct was transferred to the Public Sector Commission—as noted in Chapter 1. No specific amendment was made to focus the CCC’s attention on the WA Police Force.
- 2.54 The former Parliamentary Inspector notes in feedback requested by the Committee that, since the 2014 legislative amendments did not include his predecessor’s suggestion to effect prioritisation of police oversight, this remains ‘an area which continues to raise difficult decisions for the Commission as to how best to apply its resources...’⁴⁵

Section 42 notices

- 2.55 In 2017 the Committee reported on the use of stop notices pursuant to section 42 of the CCM Act. A notice served under section 42 by the CCC compels the recipient of the notice, a public sector agency or police, to desist from an investigation which may be concurrent with one being conducted by the Commission.⁴⁶
- 2.56 The former Parliamentary Inspector recommended the repeal of section 42 due to issues with these notices, largely between the WA Police Force and CCC.⁴⁷ However, after consideration of the matter the Committee could not determine any systemic or ongoing problem. The Committee was informed that the use of these notices is now infrequent and that there has been considerable effort invested in communication between the CCC and WA Police Force to ensure greater appreciation of the exact effect of the service of a section 42 notice.⁴⁸
- 2.57 While not considered pressing, the application of section 42 should be carefully considered in any formal review of the legislation.⁴⁹ Appendix Eleven contains feedback from the WA Police Force, which addresses this matter.

43 Hon Michael Mischin MLC, Attorney General, *Government response to JSCCCC reports 1 and 2 of June 2013*, 1 August 2013, p. 2.

44 *ibid.*

45 See Appendix Eight.

46 Joint Standing Committee on the Corruption and Crime Commission, *Parliamentary Inspector’s report on the issuing of notices by the Corruption and Crime Commission under s42 of the Corruption, Crime and Misconduct Act*, 30 November 2017, Chair’s foreword.

47 *ibid.*

48 *ibid.*

49 *ibid.*

Acting Parliamentary Inspectors of the Corruption and Crime Commission

2.58 The CCM Act limits the ability of the acting Parliamentary Inspectors to provide assistance to the Office unless the Parliamentary Inspector is unavailable. The Committee has been told that:

The view has previously been taken that the terms of section 193(1) of the *Corruption, Crime and Misconduct Act 2003* have the effect that the Parliamentary Inspector's statutory functions can only be performed by an Acting Parliamentary Inspector where the Parliamentary Inspector's role is vacant or when he or she is absent, incapacitated, or has a conflict. This necessarily limits the possibility of a division of, or collaboration on, work between the persons appointed to the Office.⁵⁰

2.59 This issue could be considered in a review of the CCM Act.

50 Matthew Howard SC and Hon John Chaney SC, Acting Parliamentary Inspectors, Parliamentary Inspector of the Corruption and Crime Commission, Letter, 20 July 2020, p. 2.

Chapter 3

Recommendations for legislative change

- 3.1 In this chapter the Committee identifies recommendations for legislative change contained in recent reports by the Parliamentary Inspector and also those made by the 39th Joint Standing Committee. This is in addition to recommendations contained in this Committee's reports tabled in the 40th Parliament.
- 3.2 The Committee notes that some recommendations have been acted upon while others have not. Government responses to recommendations are included where available.
- 3.3 The Committee notes that there have been several opportunities for reform of the CCM Act since the Gail Archer review in 2008. Instead, piecemeal amendments have addressed matters ad hoc, without considering the Act in its entirety.

Reports tabled by the Parliamentary Inspector of the Corruption and Crime Commission during the 40th Parliament

<i>Misconduct alleged by public officers who subsequently become officers of the Corruption and Crime Commission – 14 December 2018</i>	
<i>Report detail</i>	<i>Recommendations for amendments⁵¹</i>
<p>The Parliamentary Inspector identified ‘a deficiency existing in the Act which prevents Parliament from being assured that an allegation of serious misconduct made against an officer of the Corruption and Crime Commission in relation to conduct as a public officer, but before the officer was employed by it, is independently investigated and authoritatively determined.’⁵²</p> <p>The Parliamentary Inspector recommended ‘that the Act be amended to broaden my misconduct function to include the determination of an allegation of serious misconduct made against a Commission officer that relates to the officer’s previous employment as a public officer.’⁵³</p>	<ol style="list-style-type: none"> 1. Section 195(1)(b) of the Act be amended to: ‘to deal with matters of misconduct on the part of the Commission, officers of the Commission, a person who becomes an officer of the Commission and officers of the Parliamentary Inspector;’ 2. Section 196(1)(a) of the Act be amended to: ‘officers of the Commission or a person who becomes an officer of the Commission; or’ 3. A new s 196(10) of the Act be introduced, stating: ‘When the Parliamentary Inspector exercises the misconduct function in s 195(1)(b) in respect of a person who becomes an officer of the Commission, the Parliamentary Inspector may exercise the same powers under s 196 and s 197 in respect of the person and the person’s former employer.’ 4. A new s 196(11) of the Act be introduced, stating: ‘When the Parliamentary Inspector exercises the misconduct function in s 195(1)(b) in respect of a person who becomes an officer of the Commission, any exercise of power is limited to dealing with matters of misconduct which were not reported, or dealt with, or finalised during the person’s previous employment as a public officer.’

⁵¹ Parliamentary Inspector of the Corruption and Crime Commission, *Misconduct alleged by public officers who subsequently become officers of the Corruption and Crime Commission*, 14 December 2018, p. 13.

⁵² *ibid.*, p. 1.

⁵³ *ibid.*, p. 2.

<i>Misconduct by a Corruption and Crime Commission officer: Matthew John Lynch – 8 February 2017</i>	
<i>Report detail</i>	<i>Recommendations for amendments</i>
The Parliamentary Inspector identified ‘that the Commission’s interpretation and application of the scope of s 196(9) of the Act differs from mine to such an extent that, in my view, the timely and effective fulfilment of my misconduct and other functions, and the exercise of my powers to gain access to the records and other information of the Commission under s 196(3), were obstructed on this occasion, and remain under threat of being obstructed again in the future.’ ⁵⁴	The Parliamentary Inspector recommended that ‘the amendment of s 196 of the Act so as to make it clear that subsection (9) does not preclude the Parliamentary Inspector from fulfilling his functions of exercising his powers in respect of any matter, or any aspect of any matter, except in circumstances which are solely concerned with, arise from, or can be dealt with under, a jurisdiction created by, or that is subject to, the Industrial Relations Act 1979 (WA).’ ⁵⁵

Reports tabled by the Joint Standing Committee on the Corruption and Crime Commission during the 40th Parliament

<i>If not the CCC ... then where? An examination of the Corruption and Crime Commission’s oversight of excessive use of force allegations against members of the WA Police Force – 24 September 2020</i>		
<i>Report detail</i>	<i>Recommendations for amendments</i>	<i>Government response</i>
The Committee noted a range of areas where the <i>Corruption, Crime and Misconduct Act 2003</i> is either deficient, obsolete and/or unclear. ⁵⁶	Recommendation 12 That the Attorney General ensure that the Corruption, Crime and Misconduct Act 2003 is redrafted as a matter of priority. As part of this process, consideration should be given to the prioritisation of police oversight within the legislation. ⁵⁷	No response as of yet.

⁵⁴ Parliamentary Inspector of the Corruption and Crime Commission, *Misconduct by a Corruption and Crime Commission officer: Matthew John Lynch*, 8 February 2017, p. 5.

⁵⁵ *ibid.*, p. 15.

⁵⁶ Joint Standing Committee on the Corruption and Crime Commission, *If not the CCC ... then where? An examination of the Corruption and Crime Commission’s oversight of excessive use of force allegations against members of the WA Police Force*, 24 September 2020, p. 77.

⁵⁷ *ibid.*

<i>Parliamentary Inspector's report on 'a saga of persistence' – 27 June 2019</i>		
<i>Report detail</i> ⁵⁸	<i>Recommendations for amendments</i> ⁵⁹	<i>Government response</i>
<p>The Parliamentary Inspector 'illustrates a situation where the exercise of the Commission's industrial powers under section 196(9) of the Act had the effect of frustrating the capacity of the Inspector to deal with a matter of minor misconduct on the part of a Commission Officer. This is in spite of the fact that the Commission appears to have exercised their powers under section 196(9) properly.'</p> <p>'The difficulty arises from what the Parliamentary Inspector sees as inadequacies in the definition of minor misconduct under section 4 of the Act. Accordingly, he makes recommendations for legislative amendment and draws attention to a previous report on the matter.'</p> <p>The previous report referenced by the Parliamentary Inspector is <i>Misconduct alleged by public officers who subsequently become officers of the Corruption and Crime Commission</i>. The Parliamentary Inspector repeats the recommendations made in this report.</p> <p>The Committee makes no comment other than to say that the suggestions for legislative reform raised are being carefully considered by it as part of a wider assessment of the CCM Act.</p>	<p>The Parliamentary Inspector recommends that:</p> <p>'...the Commission's misconduct function in respect of its own officers should be widened and restored to the capacity and obligation to deal with any misconduct as defined by s 4 of the Act which is alleged against its officers. That would then become a function to deal with misconduct subject to my oversight and powers to deal with misconduct of Commission officers as they are now provided by the Act in relation to serious misconduct by such officers.</p> <p>The manner in which police misconduct is dealt with in the Act would, I think, provide a useful precedent. Such a statutory structure, enabling and requiring the Commission to deal with any misconduct within the meaning of the Act alleged against its officers and those in public office who become Commission officers, would carry no capacity to allege that it was ineffective because the Commission would have the obligation to investigate its own officers.</p> <p>The Commission would then be obliged to bring the matter to my attention and it would, as once was the case, and as is now the case with respect to 'serious misconduct' as defined, render the handling of such matters subject to my independent oversight, made effective by the powers conferred by ss 196 and 197 of the Act.'</p>	<p>No response required.</p>

⁵⁸ Joint Standing Committee on the Corruption and Crime Commission, *Parliamentary Inspector's report on 'a saga of persistence'*, 27 June 2019, Chair's foreword.

⁵⁹ *ibid.*, p. 18.

<i>Parliamentary Inspector's report on the issuing of notices by the Corruption and Crime Commission under s42 of the Corruption, Crime and Misconduct Act – 30 November 2017</i>		
<i>Report detail</i> ⁶⁰	<i>Recommendations for amendments</i> ⁶¹	<i>Government response</i>
<p>The report outlines how a notice served under section 42 of the <i>Corruption, Crime and Misconduct Act 2003</i> by the CCC compels the recipient of the notice, a public sector agency or police, to desist from an investigation which may be concurrent with one being conducted by the CCC.</p> <p>In relation to section 42 notices, the Committee found no systemic issue. The Committee was also told that the use of these notices is now infrequent and that there has been considerable effort for better lines of communication between the CCC and police to ensure greater appreciation of the exact effect of the service of a section 42 notice.</p> <p>Although the reforms recommended may improve operations, the Committee did not consider them to be pressing.</p>	<p>The Parliamentary Inspector recommends the repeal of section 42 as arrangements can be made informally between agencies as to the manner of conduct of an investigation. However the Parliamentary Inspector concedes were it considered appropriate to retain the section that the power should only be exercised after consultation, be limited in time, should state the public interest grounds for its issue and be served personally on the individual with the relevant authority.</p>	<p>No response required.</p>

⁶⁰ Joint Standing Committee on the Corruption and Crime Commission, *Parliamentary Inspector's report on the issuing of notices by the Corruption and Crime Commission under s42 of the Corruption, Crime and Misconduct Act*, 30 November 2017, Chair's foreword.

⁶¹ *ibid.*

<i>Parliamentary Inspector's report on a complaint by Dr Robert Cunningham and Ms Catherine Atoms – 12 October 2017</i>		
<i>Report detail</i>	<i>Recommendations for amendments</i>	<i>Government response</i>
<p>The Parliamentary Inspector reported:</p> <p>'In my assessment the Commission has not given any reason to justify its decision not to reject the demonstrably flawed police internal investigation conducted soon after the incident in Fremantle in 2008; nor, in my opinion are there proper grounds for its decision not to reassess Dr Cunningham and Ms Atom's complaint in light of the District Court proceedings in 2016.'⁶²</p>	<p>The Parliamentary Inspector identified that:</p> <p>'The making of this report marks the limits of my powers under the Act in trying to bring about a remedy for an injustice of the kind Dr Cunningham and Ms Atoms have suffered for so long. It is now for Parliament to consider whether an appropriate amendment to the Act is needed to avoid a recurrence of the situation in which the only two State agencies that can take adequate steps to address and deal with obvious and proved unlawful and malicious conduct by public officers, the Commission and the Police, fail to do so.'⁶³</p>	<p>No response required.</p>

⁶² Joint Standing Committee on the Corruption and Crime Commission, Parliamentary Inspector's report on a complaint by Dr Robert Cunningham and Ms Catherine Atoms, 12 October 2017, p. 9.

⁶³ *ibid.*

<i>The efficiency and timeliness of the current appointment process for Commissioners and Parliamentary Inspectors of the CCC - 14 September 2017</i>		
<i>Report detail</i>	<i>Recommendations for amendments⁶⁴</i>	<i>Government response⁶⁵</i>
This report involves tabling the previous Joint Standing Committee's report of the same name, which was tabled in the 39th Parliament on 15 November 2016, in order to obtain a government response.	<p>Recommendation 1</p> <p>The Attorney General prepare an amendment to the Corruption, Crime and Misconduct Act 2003 to allow for the appointment of a Deputy or Assistant Commissioner to assist the Commissioner in the day to day work of the Corruption and Crime Commission.</p> <p>Recommendation 2</p> <p>The Attorney General prepare an amendment to sections 9(3a)(a) and 9(3b) of the Corruption, Crime and Misconduct Act 2003 to:</p> <ol style="list-style-type: none"> 1. remove the role of a nominating committee in the appointment process for Commissioners and Parliamentary Inspectors; and 2. in lieu thereof, mandate that the Premier propose one name from a list of three people to the Committee for its bipartisan and majority support. 	<p>In relation to recommendation 1: the Government will consider a proposal to amend the CCM Act to allow for the appointment of Deputy or Assistant Commissioners to assist the Commissioner with the day to day work of the Commission.</p> <p>In relation to recommendation 2: the Government will consider a proposal to amend the appointment process so as to remove the nominating committee from the appointment process given the support that this proposal has received.</p>

⁶⁴ Joint Standing Committee on the Corruption and Crime Commission, *The efficiency and timeliness of the current appointment process for Commissioners and Parliamentary Inspectors of the CCC*, 14 September 2017, p. 4 and p. 6 respectively.

⁶⁵ Hon John Quigley MLA, Attorney General, *Government response to The efficiency and timeliness of the current appointment process for Commissioners and Parliamentary Inspectors of the CCC*, 13 March 2018, p. 2.

Reports tabled by the Joint Standing Committee on the Corruption and Crime Commission during the 39th Parliament

Public hearing with the Police Commissioner on the CCC's report on an incident at the East Perth Watch House – 25 February 2016		
Report detail ⁶⁶	Recommendations for amendments ⁶⁷	Government response ⁶⁸
<p>This report found that there were two substantial delays amounting to 16 months during the Corruption and Crime Commission's process of investigating and reporting the incident at the East Perth Watch House. These delays were due to competing urgent matters, in part due to the tardiness in the appointment of a substantive Commissioner until April 2015, and the need for two Acting Commissioners to work on a rostered basis whilst continuing to manage their private practices outside of the Commission.</p>	<p>Recommendation 1</p> <p>The Attorney General prepare an amendment to the Corruption, Crime and Misconduct Act 2003 to allow for the appointment of a Deputy Commissioner to assist the Corruption and Crime Commissioner in the day to day work of the Commission, and to ameliorate difficulties created by delays in the appointment of future Commissioners.</p> <p>Recommendation 2</p> <p>The Attorney General prepare an amendment to sections 9(3a)(a) and 9(3b) of the Corruption, Crime and Misconduct Act 2003 to remove the role of a nominating committee and allow the Government to propose one name of a suitable Commissioner to the Joint Standing Committee for its consideration.</p>	<p>The Government notes that with the appointment of Commissioner McKechnie QC and the transfer of jurisdiction for minor misconduct and the education and prevention function from the CCC to the Public Sector Commissioner on 1 July 2015 the difficulties which led to the CCC's delay in completing its investigation into the incident at the Watch House are unlikely to reoccur. Notwithstanding this, the Government is supportive of the Joint Standing Committee's recommendation to amend the <i>Corruption and Crime Commission Act 2003 (CCM Act)</i> to allow for the appointment of a Deputy (or Assistant) Commissioner. Whether the appointment of a person to that new office needs to occur immediately following the amendment can be considered separately once the impact on the CCC's workload of the transfer of functions to the Public Sector Commissioner has been assessed and consideration has been given to whether the CCC's workload may increase with the conferral on it of other functions which are currently being considered.</p> <p>The Government is supportive of amending the CCM Act to remove the role of the nominating committee in the process for the appointment of new Commissioners so that the Premier may propose one name of a suitable Commissioner to the Joint Standing Committee for its consideration. The Government also considers that an equivalent amendment should be made to the CCM Act to remove the role of the nominating committee in the process for the appointment of new Parliamentary Inspectors. Further, it is proposed that appointments to the position of Deputy (or Assistant) Commissioner will be made following the same process as will be followed for appointments to the office of Commissioner.</p> <p>The Government will move to make these amendments as part of a package of amendments to the CCM Act which is presently being considered.</p>

66 Joint Standing Committee on the Corruption and Crime Commission, *Public hearing with the Police Commissioner on the CCC's report on an incident at the East Perth Watch House*, 25 February 2016, p. 15.

<i>The efficiency and timeliness of the current appointment process for Commissioners and Parliamentary Inspectors of the CCC – 15 November 2016</i>		
<i>Report detail</i> ⁶⁹	<i>Recommendations for amendments</i>	<i>Government response</i>
<p>As identified above, this report by the 39th Joint Standing Committee was tabled again in the 40th Parliament. The recommendations regarding change to the CCM Act were reproduced in the report by the 40th Joint Standing Committee—these recommendations and the government response are listed above.</p> <p>The 39th Joint Standing Committee identifies in the report that it has made two similar recommendations to those it has made in earlier reports. These similar recommendations are found in <i>Public hearing with the Police Commissioner on the CCC's report on an incident at the East Perth Watch House</i> (tabled 25 February 2016), which is addressed below.</p>	See page 23.	See page 23.

67 Joint Standing Committee on the Corruption and Crime Commission, *Public hearing with the Police Commissioner on the CCC's report on an incident at the East Perth Watch House*, 25 February 2016, p. 16.

68 Hon Michael Mischin MLC, Attorney General, *Government response to Public hearing with the Police Commissioner on the CCC's report on an incident at the East Perth Watch House*, 18 April 2016, p. 1.

69 Joint Standing Committee on the Corruption and Crime Commission, *The efficiency and timeliness of the current appointment process for Commissioners and Parliamentary Inspectors of the CCC*, 15 November 2016, Chair's foreword.

<i>Recent amendments to the Corruption and Crime Commission Act 2003: Some implications for Western Australia's integrity framework – 18 June 2015</i>		
<i>Report detail</i> ⁷⁰	<i>Recommendation for amendment</i> ⁷¹	<i>Government response</i> ⁷²
<p>The transfer of minor misconduct matters to the Public Sector Commissioner leaves a gap in the oversight of the handling of such matters. The current oversight function in relation to matters that will now be known as minor misconduct is provided for under Section 216A of the CCC Act. This section provides for the establishment of the Joint Standing Committee which as part of its function is to report to Parliament on the exercise of the functions of the CCC and the Parliamentary Inspector of the Corruption and Crime Commission (Parliamentary Inspector). The new CCM Act, however, does not provide any formal mechanism for an external agency or body to oversight the PSC's investigation of minor misconduct matters.</p> <p>Similarly, the Bill sought no change to the functions, duties and powers of the Parliamentary Inspector that are currently contained in Part 13 of the CCC Act, and as such the Parliamentary Inspector would not be able to assess complaints about the actions of the Public Sector Commissioner.</p>	<p>Recommendation 3</p> <p>The Attorney General propose an amendment to the <i>Corruption, Crime and Misconduct Act 2015</i> to empower the Corruption and Crime Commission to receive allegations of minor misconduct against the Public Sector Commissioner.</p>	<p>There are already a number of frameworks available for an independent examination of allegations against the Public Sector Commissioner:</p> <ul style="list-style-type: none"> • the investigative framework of the Public Interest Disclosure Act 2003, whereby allegations can be made to the CCC, Police, Auditor General or Ombudsman; • the Auditor General and the Ombudsman under their inherent jurisdiction outside the public interest disclosure regime; • the ability of any member of Parliament to move a motion for suspension or removal of the Public Sector Commissioner, thereby triggering the removal process provided for in section 18(3) of the Public Sector Management Act 1994 (PSM Act); and • the Governor's power to suspend the Public Sector Commissioner from office, such as if satisfied the Public Sector Commissioner has been guilty of misconduct or neglect of duty.

⁷⁰ Joint Standing Committee on the Corruption and Crime Commission, *Recent amendments to the Corruption and Crime Commission Act 2003: Some implications for Western Australia's integrity framework*, 18 June 2015, Chair's Foreword.

⁷¹ *ibid.*, p. 11.

⁷² Hon Michael Mischin MLC, Attorney General, *Government response to Recent amendments to the Corruption and Crime Commission Act 2003: Some implications for Western Australia's integrity framework*, 16 September 2015, p. 2.

<i>Parliamentary Inspector's report on misconduct and related issues in the Corruption and Crime Commission – 17 June 2015</i>		
<i>Report detail</i> ⁷³	<i>Recommendations for amendment</i> ⁷⁴	<i>Government response</i> ⁷⁵
<p>The Parliamentary Inspector's report was provided to the Joint Standing Committee in response to a number of serious allegations of misconduct made against officers CCC, which were investigated by the WA Police Force.</p> <p>The Parliamentary Inspector provided this report to the Committee on 10 June 2015 after receiving a comprehensive report from WAPOL on 27 March 2015.</p>	<p>The Parliamentary Inspector recommended:</p> <ol style="list-style-type: none"> 1. to provide the Parliamentary Inspector with the power to certify the provision, in the public interest, of official information to the Police, or to another external investigative body, when the Commission or one of its officers is being investigated for a criminal offence. 2. to provide the Parliamentary Inspector with the function to oversee the investigation of a complaint made by the Commission, or by its officers, about the conduct of an officer of an external investigative agency which is investigating the conduct of the Commission, or its officers. 3. to make it compulsory for the Commission to notify the Parliamentary Inspector of any Commission misconduct investigation which is proposed to be commenced, or which has already commenced, in relation to a Police officer, or an officer of another investigative body, who is investigating the conduct of the Commission, or its officers. <p>[The 39th Joint Standing Committee reported that owing to constraints, it had not had the opportunity to assess the above recommendations for legislative change. Instead it made the following recommendation.]</p> <p>Recommendation 1</p> <p>The Attorney General report to Parliament as to the action, if any, proposed to be taken by the Government with respect to the three recommendations made by the Parliamentary Inspector of the Corruption and Crime Commission.</p>	<p>While it is felt that the situation is unlikely to repeat itself the Government is also generally accepting that there are some amendments which could be made to the <i>Corruption, Crime and Misconduct Act 2003</i>, particularly in respect of the powers of the Parliamentary Inspector, which would also prevent these problems arising again.</p> <p>The Government also notes that in its Report No. 18 the Joint Standing Committee identified other means by which that could occur. The Government is supportive of the intention of the Parliamentary Inspector's proposals to amend the <i>Corruption, Crime and Misconduct Act 2003</i> and intends to further consider both options and to determine what amendments need to be made as part of a broader package of reforms being considered.</p>

⁷³ Joint Standing Committee on the Corruption and Crime Commission, *Parliamentary Inspector's report on misconduct and related issues in the Corruption and Crime Commission*, 17 June 2015, Chairman's Foreword.

⁷⁴ *ibid.*, p. 8.

⁷⁵ Hon Michael Mischin MLC, Attorney General, *Government response to Parliamentary Inspector's report on misconduct and related issues in the Corruption and Crime Commission*, 16 September 2015, p. 1.

<i>Improving the working relationship between the Corruption and Crime Commission and Western Australia Police – 26 March 2015</i>		
<i>Report detail</i> ⁷⁶	<i>Recommendations for amendments</i> ⁷⁷	<i>Government response</i> ⁷⁸
This report was a result of the Joint Standing Committee's inquiry initiated following concerns that the relationship between the CCC and the WA Police Force was not functioning as well as it might.	<p>Recommendation 3</p> <p>The Attorney General re-consider recommendation 4 in the Joint Standing Committee's Report No. 2, as supported by Ms Gail Archer SC, WA Police and the Corruption and Crime Commission (CCC) "That the CCC Act should be amended to make it clear that the CCC may include findings of fact in its reports", as is the case in interstate and international jurisdictions.</p> <p>Recommendation 4</p> <p>The Attorney General should expedite an amendment to the <i>Corruption and Crime Commission Act 2003</i> to amend the definition of 'organised crime'.</p>	<p>In response to recommendation 3: No action is proposed to be taken in relation to this recommendation as there is nothing in the Report to make the State Government reconsider its previous position in relation to this issue.</p> <p>In response to recommendation 4: The matter is still under consideration by the State Government.</p>

⁷⁶ Joint Standing Committee on the Corruption and Crime Commission, *Improving the working relationship between the Corruption and Crime Commission and Western Australia Police*, 26 March 2015, Chair's foreword.

⁷⁷ *ibid.*, p. 15 and p. 19.

⁷⁸ *Government response to Improving the working relationship between the Corruption and Crime Commission and Western Australia Police*, 25 June 2015, p. 1.

Ensuring the timely appointment of a new Corruption and Crime Commissioner – 14 August 2014		
Report detail ⁷⁹	Recommendations for amendments ⁸⁰	Government response ⁸¹
<p>The report noted a lack of permanent CCC Commissioner and made the observation that ‘having this State’s chief integrity agency without full-time permanent leadership is a dire situation and the Committee calls upon the Government to take urgent action to ensure a new Commissioner is appointed expeditiously.’</p>	<p>Recommendation 1</p> <p>The Attorney General consider broadening section 10(1) of the Corruption and Crime Commission Act 2003 to put beyond doubt the appropriateness of considering senior lawyers for appointment to the position of Commissioner of the Corruption and Crime Commission.</p> <p>Recommendation 2</p> <p>The Attorney General introduce an urgent Bill to repeal schedule 2, section 3(5) and schedule 3, section 3(4) of the Corruption and Crime Commission Act 2003 to allow the Commissioner of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission to retain any judicial pension applicable while additionally being remunerated at the rate of a Supreme Court judge.</p> <p>Recommendation 3</p> <p>The Attorney General prepare an amendment to the <i>Corruption and Crime Commission Act 2003</i> to allow for the appointment of a Deputy Commissioner to assist the Commissioner in the day to day work of the Commission and to ameliorate difficulties created by delays in the appointment of future Commissioners.</p> <p>Recommendation 4</p> <p>The Attorney General prepare an amendment to sections 9(3a)(a) and 9(3b) of the <i>Corruption and Crime Commission Act 2003</i> to remove the role of a nominating committee and allow the Government to propose one name of a suitable Commissioner to the Joint Standing Committee for its consideration.</p>	<p>Recommendation 1: I note this recommendation. Although I am of the opinion that section 10(1) of <i>Corruption and Crime Commission Act 2003</i> (WA) (the CCC Act) is clear on the issue, I will seek further advice and, if necessary, pursue amendments to give effect to the recommendations.</p> <p>Recommendation 2: As you know, it has been difficult to find a high quality permanent Commissioner for the CCC. As a result, the Premier moved an amendment to the current <i>Corruption and Crime Commission Amendment (Misconduct) Bill 2014</i> to delete Schedule 2 clause 3(5). This will allow a retired judge to receive the salary of a judge of the Supreme Court in addition to any pension they may be entitled to under the <i>Judges’ Salaries and Pensions Act 1950</i> or any other Act. The amendments passed the Legislative Assembly on 15 October 2014, and were introduced to the Legislative Council on 16 October 2014. I am confident that a suitable Commissioner will be found once those remuneration reforms have been enacted.</p> <p>Recommendation 3: I note this recommendation and will give consideration to its inclusion in a package of amendments to be put to Cabinet.</p> <p>Recommendation 4: I note this recommendation and will give consideration to its inclusion in a package of amendments to be put to Cabinet.</p>

⁷⁹ Joint Standing Committee on the Corruption and Crime Commission, *Ensuring the timely appointment of a new Corruption and Crime Commissioner*, 14 August 2014, Chair’s foreword.

WA Police's use of Part 4 'exceptional powers' in the Corruption and Crime Commission Act 2003 – 10 April 2014		
Report detail ⁸²	Recommendations for amendments ⁸³	Government response ⁸⁴
<p>This report finds that an amended definition of organised crime within the <i>Corruption and Crime Commission Act 2003</i> (CCC Act) would encourage the WA Police Force to make greater use of the Part 4 powers in the CCC Act.</p> <p>It also finds that the <i>Corruption and Crime Commission Act 2003</i> fails to discourage organised crime groups from re-fortifying premises previously dismantled by the WA Police Force.</p>	<p>Recommendation 1</p> <p>The Attorney General should amend the definition of organised crime within the <i>Corruption and Crime Commission Act 2003</i>. A new definition should allow WA Police to apply for Part 4 powers to include suspected crime or a crime that is likely to occur.</p> <p>Recommendation 2</p> <p>The Attorney General amend the <i>Corruption and Crime Commission Act 2003</i> to prevent the re-fortification of premises previously dismantled by WA Police.</p>	<p>In relation to recommendation 1: I note this recommendation and will give consideration to the inclusion of an amendment to broaden the scope of the definition of organised crime within a package of amendments to be put to Cabinet in the near future. However, as regards any further amendments that relate to the Corruption and Crime Commission's (CCC's) role in serious and organised crime I will defer further consideration until the full impact of new legislation, including the <i>Criminal Investigation (Covert Powers) Act 2012</i> (WA) and the <i>Criminal Organisations Control Act 2012</i> (WA), together with improvements to the CCC's application process and costs can be properly assessed.</p> <p>In relation to recommendation 2: I note this recommendation and will give full consideration to its inclusion in a package of amendments to be put to Cabinet in the near future.</p>

80 Joint Standing Committee on the Corruption and Crime Commission, *Ensuring the timely appointment of a new Corruption and Crime Commissioner*, 14 August 2014, p. 11, p. 14 and pp. 17-18.

81 Hon Michael Mischin MLC, Attorney General, *Government response to Ensuring the timely appointment of a new Corruption and Crime Commissioner*, 14 November 2014, pp. 1-2

82 Joint Standing Committee on the Corruption and Crime Commission, *WA Police's use of Part 4 'exceptional powers' in the Corruption and Crime Commission Act 2003*, 10 April 2014, p. 12 and p. 25.

83 *ibid.*, p. 14 and p. 25.

84 Hon Michael Mischin MLC, *Government response to WA Police's use of Part 4 'exceptional powers' in the Corruption and Crime Commission Act 2003*, 22 July 2014, p. 1.

How the Corruption and Crime Commission handles allegations and notifications of Police misconduct – 20 June 2013		
Report detail	Recommendations for amendments ⁸⁵	Government response ⁸⁶
<p>The Joint Standing Committee in the 38th Parliament tabled a report of the same title on 15 November 2012.</p> <p>The Joint Standing Committee in the 39th Parliament tabled this report, in order to obtain a government response to the Committee's recommendations.</p>	<p>Recommendation 1</p> <p>Section 7A of the <i>Corruption and Crime Commission Act 2003</i> should be amended so as to read:</p> <p>7A. Act's purposes</p> <p>The main purposes of this Act are –</p> <p>a) to aid the efforts of the WA Police to combat and reduce the incidence of organised crime; and</p> <p>b) to improve continuously the integrity of the Western Australian public sector, and in particular the WA Police.</p> <p>Recommendation 2</p> <p>The <i>Corruption and Crime Commission Act 2003</i> should be amended to allow for the appointment of a full-time Deputy and/or Assistant Commissioner of the Corruption and Crime Commission to whom specific functions may be delegated by the Commissioner, and who is able to act as the Commissioner in his absence.</p> <p>Recommendation 3</p> <p>The <i>Corruption and Crime Commission Act 2003</i> should be amended to require the role of the Corruption and Crime Commission's Executive Director to be performed by someone who meets the same criteria for appointment to the role of Commissioner. This would allow the Executive Director to be an Acting Commissioner in the Commissioner's absence.</p> <p>Recommendation 4</p> <p>The <i>Corruption and Crime Commission Act 2003</i> should be amended to make it clear that the Corruption and Crime Commission may include findings of fact in its reports.</p>	<p>Recommendation 1: I will be introducing a separate Bill into Parliament in the Spring session that will propose the transfer of the CCC's responsibility for public sector misconduct, and the CCC's responsibilities for corruption prevention and education, to the Public Sector Commissioner. This will mean, in the first instance, that the CCC will be able to devote more attention to the oversight of police misconduct investigations. This, together with your Committee's observation that the current Commissioner is placing increased emphasis on police oversight, would appear to obviate the need for the Committee's proposed amendment to Section 7A of the CCC Act 2003.</p> <p>Recommendation 2: As mentioned in my response to Recommendation 1, the proposed move of responsibility for public service misconduct investigations as well as prevention/education functions will have significant workload impact on the CCC which will have to be assessed more closely once the transfer has been effected. With this in mind, as well as existing provisions for the appointment of Acting Commissioners and Assistant Commissioners, I cannot, at this point in time, see a need for a full time Deputy Commissioner. I will review the situation once the Bills I intend to introduce during the Spring session have been in operation for a reasonable period of time.</p> <p>Recommendation 3: This proposal is unwise as it could lead to blurring between the two positions. It also appears unnecessary as either an Acting Commissioner or an Assistant Commissioner (under proposed legislation) can act and have the full powers of the Commissioner.</p> <p>Recommendation 4: Unless there is an element of the argument supporting this Recommendation not clearly articulated in the Report, I cannot see the need for such an amendment in the light of the provisions contained in Section 18 of the current Act, as well as proposed amendments contained in the 2012 CCC Amendment Bill.</p>

<i>Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission? – 20 June 2013</i>		
<i>Report detail</i>	<i>Recommendations for amendments⁸⁷</i>	<i>Government response⁸⁸</i>
<p>The Joint Standing Committee in the 38th Parliament tabled a report of the same title on 28 June 2012. The Joint Standing Committee in the 39th Parliament tabled this report, in order to obtain a government response to the Committee's recommendations.</p> <p>The report identified 'noted deficiencies in the present <i>Corruption and Crime Commission Act 2003</i> would need to be addressed if the CCC is to prove more effective than the current model. Any new role undertaken by the CCC will require either an increase in the CCC's resources or else a reduction of existing tasks.'⁸⁹</p>	<p>Recommendation 1</p> <p>The <i>Criminal Property Confiscation Act 2000</i> should be amended so as to invest the functions conferred upon the Director of Public Prosecutions in sections 11-14 upon the Commissioner of the Corruption and Crime Commission. This would allow the CCC to conduct – on application by the WA Police Commissioner – investigations of unexplained wealth into targets identified by the WA Police. These functions could then be removed from the ambit of the DPP.</p> <p>[Although this recommendation concerns the <i>Criminal Property Confiscation Act 2000</i>, it is relevant in considering recommendation 2.]</p> <p>Recommendation 2</p> <p>The <i>Corruption and Crime Commission Act 2003</i> should be amended to give the CCC the power to initiate civil proceedings, and to freeze and maintain custody over property, so as to enable the CCC to investigate unexplained wealth in line with the provisions of sections 11-14 of the <i>Criminal Property Confiscation Act 2000</i>.</p>	<p>A Bill will be introduced into the Spring session of the 39th Parliament which will incorporate those elements of the 2012 CCC Amendment Bill 2012 concerned with criminal property confiscation and unexplained wealth. The Bill will retain the DPP's role in applications for unexplained wealth declarations as it would be prudent for it to be able to pursue such an application if it is prosecuting members of a criminal organisation, but does not have prima facie evidence of a crime against a person associated with that organisations.</p>

85 Joint Standing Committee on the Corruption and Crime Commission, *How the Corruption and Crime Commission handles allegations and notifications of Police misconduct*, 20 June 2013, pp. xiii-xiv.

86 Hon Michael Mischin MLC, Government response to How the Corruption and Crime Commission handles allegations and notifications of Police misconduct, 30 July 2013, pp. 2-3.

87 Joint Standing Committee on the Corruption and Crime Commission, *Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission?*, 20 June 2013, p. xiv.

88 Hon Michael Mischin MLC, *Government response to Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission?*, 30 July 2013, p. 1.

89 Joint Standing Committee on the Corruption and Crime Commission, *Proceeds of crime and unexplained wealth: A role for the Corruption and Crime Commission?*, 20 June 2013, Chair's foreword.

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

Ms M.M. Quirk, MLA
CHAIR

Appendix One

Committee's functions and powers

- 3.4 By concurrence between the Legislative Assembly and the Legislative Council, the Joint Standing Committee on the Corruption and Crime Commission was established on 15 June 2017.
- 3.5 The Joint Standing Committee's functions and powers are defined in the Legislative Assembly's Standing Orders 289-293 and other Assembly Standing Orders relating to standing and select committees, as far as they can be applied. Certain standing orders of the Legislative Council also apply.
- 3.6 It is the function of the Joint Standing Committee to -
- a) monitor and report to Parliament on the exercise of the functions of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission;
 - b) inquire into, and report to Parliament on the means by which corruption prevention practices may be enhanced within the public sector; and
 - c) carry out any other functions conferred on the Committee under the *Corruption, Crime and Misconduct Act 2003*.
- 3.7 The Committee consists of four members, two from the Legislative Assembly and two from the Legislative Council.

Appendix Two

Stakeholder feedback

Name	Position	Organisation	Feedback
Ms Caroline Spencer	Auditor General	Office of the Auditor General	Appendix Three
Hon John McKechnie QC	Commissioner	Corruption and Crime Commission	Appendix Four
Ms Rikki Hendon	General Secretary	Community and Public Sector Union, Civil Service Association	Appendix Five
Dr Robert Cunningham	Private citizen	n/a	Not public
Ms Catherine Fletcher	Information Commissioner	Office of the Information Commissioner	Appendix Six
Dr David Cox	Chair	Law Reform Commission of Western Australia	No response provided
Mr David Price	Chief Executive Officer	Law Society of Western Australia	No response provided
Ms Margaret Howkins	Director	Civil Liberties Australia – WA	Appendix Seven
Hon Michael Murray AM QC	Parliamentary Inspector	Office of the Parliamentary Inspector of the Corruption and Crime Commission	Appendix Eight
Mr Chris Field	Ombudsman	Ombudsman Western Australia	Appendix Nine
Ms Sharyn O'Neill	Public Sector Commissioner	Public Sector Commission	Appendix Ten
Ms Debbie Cole	Executive Officer	WA Bar Association	No response provided
Mr Chris Dawson APM	Commissioner of Police	WA Police Force	Appendix Eleven
Mr Harry Arnott	President	WA Police Union	No response provided

Appendix Three

Office of the Auditor General

CCMAR CORRO 17
Rec'd 17/09/2019



Our Ref: D19/13547
Your Ref: A772067

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469 Wellington Street, Perth

Ms Margaret Quirk, MLA
Chair
Joint Standing Committee on the Corruption and Crime Commission
Parliament of Western Australia

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Email: info@audit.wa.gov.au

Via email: jscccc@parliament.wa.gov.au

Dear Ms Quirk

Feedback on the function of the *Corruption, Crime and Misconduct Act 2003*

Thank you for your letter dated 15 August seeking my feedback on the function of the *Corruption, Crime and Misconduct Act 2003* (the Act) as it applies to the operations of the OAG. I do not have any recommendations to propose regarding legislative change, as the provisions of the Act that relate to my functions as Auditor General have generally worked well during my tenure. However, I thought it might be worthwhile to provide the Committee a brief summary of these relevant provisions.

The majority of my involvement in the operation of the Act is drawn indirectly, as one of 5 officers classified as an 'independent agency' under section 3. For example, the Commission has scope to 'consult, cooperate and exchange information' with me, along with the other independent agencies, regarding its unexplained wealth functions (section 21AD). Part 3 of the Act (Divisions 1, 4, and 5) then outlines how the Commission can interact with independent agencies when discharging a variety of its serious misconduct functions, while sections 45B, 45C, and 45X provide similar capacities to the Public Sector Commissioner around minor misconduct. The Parliamentary Inspector can also communicate with the 5 independent agencies as part of the powers vested with that office under section 196.

There are, however, several explicit references to the Auditor General in the Act. The most significant of these involve the referral of allegation provisions, available to the Commission under section 38, and the Public Sector Commissioner under section 45S. These provisions enable these respective entities to refer allegations to me if they deem it appropriate from their assessment of such allegations. Critically, in both instances, the Act (sections 38(3) and 45S(3)) goes on to say that:

The Auditor General may investigate the allegation and the Auditor General Act 2006 applies to the investigation as if it were an investigation under [section 18\(2\)](#) of that Act [emphasis added]

This wording allows me to determine the manner in which I will deal with such referrals. In particular, whether I believe the allegation is relevant to the areas for which I am responsible, and if so, whether it warrants a formal examination or investigation using the powers available to my office under the *Auditor General Act 2006*.

Thus far throughout my tenure (which commenced in May 2018), I have found the referral processes with the Act have worked well in the sense that they facilitate an effective information sharing process between the OAG, the Commission, and the Public Sector Commission, without creating any duplication of our respective functions. I am also satisfied with the referral functions available to the Commission and the Public Sector Commission, as they do not impinge on the provisions of section 7 of the *Auditor General Act 2006* that require me to act independently in determining my audit priorities.

I trust this information will assist the Committee with its current review. Should you require further assistance, please contact my office via Principal Adviser, Tim Hughes, on 6557 7565.

Yours sincerely



CAROLINE SPENCER
AUDITOR GENERAL
17 September 2019

Appendix Four

Corruption and Crime Commission



Our reference: 01639/2019

3 September 2019

Ms M M Quirk, MLA
Chair
Joint Standing Committee on the
Corruption and Crime Commission
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

By email: jscccc@parliament.wa.gov.au

Dear Chair

Review of the *Corruption, Crime and Misconduct Act 2003* and proposal for a new Act

Thank you for your letter of 16 August 2019.

The Commission is currently in the process of working through the *Corruption, Crime and Misconduct Act 2003* and identifying the parts which would benefit from redrafting.

The current Act contains redundant functions such as those related to the Police Royal Commission and the Anti-Corruption Commission. Reshaping the unused organised crime exceptional powers would also strengthen the State's ability to deal with serious and organised crime.

The Commission is viewing the Act afresh, learning from the last 15 years of operation and from our sister agencies across Australia. We are in the process of identifying which areas could be improved in order to ensure an effective Commission to meet future challenges in the State's public sector. I am of the view that a new Act rather than an amended Act will be the most fit for purpose.

This is obviously a substantial project, which will take time and involve a great deal of consultation with numerous parties. Once that work is underway, the Commission will be better placed to provide you with information regarding the ways in which it will seek to improve the legislative framework. We look forward to working with you on this exciting opportunity to deliver a Misconduct Act that best serves the State in the decade to come.

Yours sincerely

John McKechnie, QC
Commissioner

CCMAR CORRO 16
Rec'd 03/09/2019

CCC | Corruption and
Crime Commission

Contact the Corruption and Crime Commission

Level 3/40 Francis Street
Northbridge WA 6003

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www.ccc.wa.gov.au

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[@CCCWestAus](https://twitter.com/CCCWestAus)

A1218870

Appendix Five

Community and Public Sector Union, Civil Service Association of WA



Community & Public Sector Union
Civil Service Association of WA

24 September 2019

Margaret Quirk MLA
Chair
Joint Standing Committee on the Corruption and Crime Commission
Parliament House
4 Harvest Terrace
West Perth WA 6005

By email: jscccc@parliament.wa.gov.au

Dear Ms Quirk

Re: Suggestions for change to the *Corruption, Crime and Misconduct Act 2003*

Thank you for seeking feedback from the CSA regarding the function of the *Corruption, Crime and Misconduct Act 2003 (WA) (the Act)*.

The CSA's members are affected by the minor misconduct function that the Act vests in the Public Sector Commission (**the PSC**). This function subjects public officers to investigation by the PSC that is in addition to the ordinary disciplinary functions of public sector bodies.

Low threshold for investigable conduct

The Act contains a number of categories of conduct that qualify as minor misconduct. These categories create a low threshold of conduct that is investigable by the PSC as minor misconduct, such as conduct that "could adversely affect, directly or indirectly, the honest or impartial performance"¹ of a public officer. This low threshold, combined with the duty to report suspected minor misconduct that the Act imposes on public sector bodies², creates the risk of over-reporting of minor misconduct matters to the PSC.

This appears to be born out in the PSC's 2017-18 annual report. It states that 28.7% of minor misconduct matters received by the PSC did not meet the definition of minor misconduct or had otherwise been dealt with by appropriately by the time of receipt of the matter. Further, of the 1097 individual allegations made in the matters received by the PSC, only 25.3% were substantiated.

A large volume of unsubstantiated or uninvestigated matters suggests a significant inefficiency for the PSC. It also suggests needless stress and confusion for CSA members.

Transferring investigative and enforcement functions to CCC

The CSA is aware is that an independent report into the PSC by Camel McGregor (PSM) was released in September 2018, and that the report recommended that the CCC should be solely responsible for the management of misconduct. If that could not be achieved, then the report recommended that responsibility for minor misconduct should be devolved to the employing authorities of public sector bodies.

The reasoning for this was that the PSC had failed to achieve maturity in its minor misconduct function, and its execution of that function was deemed by figures within the

¹ s 4(d)(i).

² s 45H(1).

CCMAR CORRO 21
Rec'd 01/10/2019

Community & Public Sector Union
SPSF Group, WA Branch
Civil Service Association of WA Inc

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PSC and within public sector bodies as unnecessarily cumbersome, and without value. Further reasoning was given that the splitting up of responsibility for misconduct was unique to the Western Australian jurisdiction. In other Australian jurisdictions, one body is responsible for oversight of misconduct.

The report suggests that WA's low threshold for conduct that constitutes misconduct is partly responsible for this splitting of jurisdictions. The report suggests that large public sector bodies have in-house standards and integrity units that could be given increased or sole responsibility for investigating minor misconduct.

Recommendations

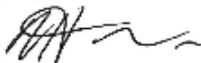
It is in the interests of the general public, public sector employers, and public sector employees that the PSC effectively performs its function of increasing the capacities of public sector bodies to prevent misconduct from occurring, and to fairly and efficiently investigate misconduct when it does occur.

Therefore, the CSA recommends that the Committee consider amending the Act to:

- remove the category of "minor misconduct" from the Act and renaming "serious misconduct" as "misconduct"; and/or
- if minor misconduct cannot be removed from the Act, then narrow the definition of minor misconduct so that lower-end minor misconduct is not reported or investigated; and/or
- remove the PSC's responsibility for investigating misconduct and instead devolve that responsibility to the CCC and/or the employing authorities of public sector bodies; and/or
- emphasise the PSC's misconduct education and prevention function.

If you have any further questions about the CSA's submission, please contact Matthew Giles on matthew.giles@cpsucsa.org or (08) 9323 3800.

Kind regards



Rikki Hendon
General Secretary
CSA

Appendix Six

Office of the Information Commissioner

CCMAR CORRO 22
Rec'd 04/10/2019



**Office of the
Information Commissioner**

Freedom of Information for Western Australia

Our Ref: 07/054/00
Your Ref: A772068

4 October 2019

Hon M.M. Quirk, MLA
Chair
Joint Standing Committee on the Corruption and Crime Commission
Parliament House
4 Harvest Terrace
WEST PERTH WA 6000

By email to: jscccc@parliament.wa.gov.au

Dear Chair

**FEEDBACK RE SUGGESTIONS FOR CHANGE TO THE *CORRUPTION, CRIME
AND MISCONDUCT ACT 2003***

I refer to your letter dated 15 August 2019 requesting feedback to the Joint Standing Committee on the Corruption and Crime Commission (**the Committee**) on the function of the *Corruption, Crime and Misconduct Act 2003* (CCM Act). Your letter indicates that the Committee is particularly interested in how the CCM Act might be improved through legislative reform.

Although your letter sought that feedback by 30 September 2019, on 27 September 2019 the Committee's Principal Research Officer, Ms Beckingham, agreed to give my office until 4 October 2019 to provide its feedback.

Whilst I appreciate the opportunity to provide comment to the Committee, I am not proposing to provide a detailed submission regarding the functioning of the CCM Act or put forward suggestions for legislative reform. The reasons for this are firstly, my office has had limited interaction with the CCC under the CCM Act (for reasons explained below) and secondly, while we tend not to comment on policy matters which are more suitably addressed by the government and in the Parliament, we do not consider that any legislative reform is required of the CCM Act in respect of its interactions with the operation of the FOI Act.

I will offer to the Committee in this submission, some information about the FOI Act, the role of the Information Commissioner, and a few comments about how this office interacts with the CCC as an 'exempt agency' under the *Freedom of Information Act 1992* (WA) (FOI Act). I will then make some brief observations about how transparency and accountability in the activities and operation of the CCC operates under the CCM Act.

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The FOI Act

The objects of the FOI Act are to enable the public to participate more effectively in governing the State and to make the persons and bodies that are responsible for State and local government more accountable to the public.

The FOI Act gives every person a right to be given access to the documents of State and local government agencies (other than exempt agencies) subject to and in accordance with the FOI Act. That right of access is subject to a range of exemptions - set out in clauses 1 to 15 of Schedule 1 to the FOI Act - which are designed to protect significant public interests that may compete with the public interest in the openness and accountability of government and its agencies.

The Information Commissioner's main function under the FOI Act is to undertake independent external review of the merits of decisions made by State and local government agencies under the FOI Act in respect of access applications and applications for amendment of personal information. In dealing with an external review, the Information Commissioner has the power to review decisions made by agencies and make a decision that confirms, varies or sets aside an agency's decision. Most commonly, the Information Commissioner deals with external reviews involving an agency's decision to refuse access to documents, or parts of documents, on the basis that the documents are exempt (or contain information that is exempt) from disclosure under one or more of the 15 exemption clauses set out in Schedule 1 to the FOI Act. This requires the Information Commissioner to interpret and apply the exemption clauses.

The CCC is an exempt agency under the FOI Act

As noted above, the right of access under the FOI Act does not apply to documents of an exempt agency.

Exempt agencies are listed in Schedule 2 to the FOI Act, which is found as Attachment 'A' to this submission. The list includes independent statutory oversight agencies such as this Office, the Ombudsman and the Auditor General; and entities involved in the administration of justice, such as the DPP and the Bureau of Criminal Intelligence of the Western Australia Police. It also includes the CCC and the Public Sector Commissioner, but only in relation to documents originating with or received by the Public Sector Commissioner, in relation to her functions under the CCM Act.

The following comments relate only to the exempt agency status of the CCC. I do not propose to comment upon the operations or the exempt agency status of the Public Sector Commissioner.

The forerunner to the CCC, the Anti-Corruption Commission (**the ACC**), was also an exempt agency under the FOI Act prior to it being replaced by the CCC in 2004.

The exempt agency status under the FOI Act of the CCC (and its predecessor the ACC) is unsurprising given the understandable need for secrecy that surrounds the investigative function of the CCC in respect of allegations of organised crime and serious misconduct by

public sector officers. Such secrecy is aimed, in part, at protecting persons the subject of allegations and also the witnesses who provide evidence to the CCC.

In *Re MacKenzie and Police Force of Western Australia* [1999] WAICmr 27 the former Information Commissioner noted as follows at [7]:

"The effect of being listed as an exempt agency in Schedule 2 is to quarantine documents of that body, and hence the activities of that body, from the provisions of the FOI Act. Generally speaking, the sections of the [WA Police] which are exempt agencies under the FOI Act are those concerned with, inter alia, the gathering of information on, and the investigation of, corrupt and illegal activities, and those concerned with the safety and protection of certain public figures. The Parliament of Western Australia has decided that the public interest is served by those bodies being exempt agencies and, therefore, not subject to the provisions of the FOI Act".

Parts 7 and 9 of the CCM Act contain a number of provisions (including offence provisions) that deal with the non-disclosure of certain information, secrecy of CCC proceedings and protection of witnesses in those proceedings. I don't propose to examine those provisions in any detail.

I point out that there are some exceptions to the non-disclosure of information provisions which include when the CCC certifies that disclosure is necessary in the public interest (s. 152(4)(c)) or where such disclosure is made to either House of Parliament or this Committee (s.152(4)(d)).

By way of further re-enforcement of the CCC's powers to enforce non-disclosure of certain information, section 154 provides that the offence provisions in Part 9 apply despite any law or rule of law, written or otherwise, under which a person may be required to produce or disclose any matter of information. Putting to one side the exempt agency status of the CCC, these provisions would appear to leave no room for application of the FOI Act in respect of the documents of the CCC.

I also point out that although the CCC is an exempt agency under the FOI Act this does not mean that CCC documents that are held by another (non-exempt) agency are automatically exempt from disclosure under the FOI Act. Non-exempt agencies are required under the FOI Act (section 15(8)) to notify the CCC of any FOI access application they receive where the requested documents originated with or were received from the CCC. For reference I have enclosed a guide produced by my office entitled 'Dealing with requests for documents related to an exempt agency', which is also available on my office's website at <https://www.oic.wa.gov.au/Materials/FOIProcessGuides/Dealing%20with%20requests%20for%20documents%20related%20to%20an%20exempt%20agency.pdf>.

Although section 15(8) of the FOI Act does not give the CCC a right to veto another agency giving access to a document, in my view, the existing exemptions in Schedule 1 to the FOI Act – in particular, the range of exemptions contained in clause 5(1) which relate to law enforcement, public safety and property security – provide adequate protection from disclosure of sensitive information in relation to the activities of the CCC. The notification provision in section 15(8) enables the CCC to provide its view as to the status of any documents that originated with or were received from the CCC including documents relating

to a CCC investigation; to identify any harm in disclosing the documents; and to identify any exemptions that may apply to the documents, including the exemptions in clause 5(1). The exemptions in clause 5(1) can be found in Attachment 'B' to this submission.

Despite the general requirement for secrecy and non-disclosure of CCC information, the CCM Act apparently imposes less secrecy than applied in the case of the ACC. In addition to less secrecy, there are also certain accountability mechanisms provided under the CCM Act in respect of the CCC's functions, which were not available in respect of the ACC. These were explained when the *Corruption and Crime Commission Bill 2003* was introduced in the Parliament by then Attorney General, the Honourable Jim McGinty MLA, for a second reading:¹

There will be less secrecy surrounding the CCC generally. The commissioner can reveal details about particular matters and outcomes of investigations when the commissioner decides that disclosure of those matters is in the public interest. The commissioner can also reveal when a matter has been referred to an appropriate authority or an independent body for consideration of prosecution or disciplinary action of the person concerned. The secrecy and disclosure provisions are an essential component of this legislation because they will enable the CCC to effectively and successfully conduct investigations. For example, the Bill creates a category of "restricted matter". In this context, a person is prohibited from disclosing evidence that is before the CCC, or information or documents given to the CCC. Also, the Bill prohibits disclosure of the fact that a person has been, or is about to be, examined by the CCC, or of any information that might enable that person to be identified or located. However, the State Government recognises that there are circumstances in which it will be in the public interest to disclose some matters. First, such restricted matter may be disclosed if it has already been disclosed as part of a public hearing, unless the CCC orders otherwise. Second, disclosure may also be in accordance with a CCC direction or in other specified circumstances. For example, persons may disclose restricted matter to a legal practitioner to obtain legal advice or to a person for the purpose of obtaining legal aid. Thirdly, as I have stated above, the Bill's prohibitions which relate to restricted matter do not apply to the CCC, the parliamentary inspector, or officers of the CCC or the parliamentary inspector.

...

In view of the extensive powers given to the CCC, the Bill also contains necessary provisions to preserve, protect and safeguard the rights of any person who may be subject to the CCC's jurisdiction. It also contains provisions to restrict the disclosure of information to protect witnesses and persons being investigated.

...

The State Government recognises that extraordinary investigatory powers are being conferred on the CCC. Therefore, the Bill also provides for an essential accountability mechanism to independently scrutinise the use of these powers. Therefore, as I have already alluded, a parliamentary inspector of the CCC will be able to audit the operations of, and investigate complaints about, the CCC. Additionally, the parliamentary inspector will be able to assess the CCC's procedures and report and make recommendations both to the CCC and Parliament.

¹ Hansard, Legislative Assembly, 15 May 2003, p7861 b-7865.

Conclusion

The CCC is an exempt agency for the purposes of the FOI Act. This means that the public cannot apply to the CCC for access to documents under the FOI Act. Although documents held by other (non-exempt) agencies that originated with or were received from the CCC are potentially accessible under the FOI Act, the exemption provisions in Schedule 1, in particular the range of exemptions in clause 5(1), adequately protect from disclosure sensitive information in relation to the activities of the CCC.

In addition, the CCM Act generally restricts the public disclosure of certain information obtained under the CCM Act. There are sound public policy reasons why such secrecy exists.

As far as I am aware, this office has had no difficulty in dealing with any circumstances where agencies may hold documents that relate to CCC matters.

There is nothing to my knowledge of concern regarding the operation of the FOI Act and its application to the CCC, or in respect of the non-disclosure of information provisions of the CCM Act, which suggests a need for legislative change. Furthermore, in my view, the oversight mechanisms and limited exceptions to the non-disclosure provisions regarding CCC information provided by the CCM Act, provide the Parliament and the public with some comfort that the CCC is accountable and offers some transparency as to its operations without compromising the protections offered to those who are subjected to its significant powers of inquiry. On that basis, it appears to me to be appropriate to have provisions of that kind in the CCM Act.

Please do not hesitate to contact me should have any enquiries or require clarification. There is no requirement for this submission to remain confidential.

Yours faithfully



Catherine Fletcher
INFORMATION COMMISSIONER

Encl

ATTACHMENT 'A'

Extract of Schedule 2 to the *Freedom of Information Act 1992* (WA)

Schedule 2 — Exempt agencies

[Glossary cl. 1]

[Heading amended by No. 19 of 2010 s. 4.]

The Governor and the Governor's establishment.

The Legislative Council or a member or committee of the Legislative Council.

The Legislative Assembly or a member or committee of the Legislative Assembly.

A joint committee or standing committee of the Legislative Council and the Legislative Assembly.

A department of the staff of Parliament.

The Auditor General and the Office of the Auditor General.

The Corruption and Crime Commission.

The Public Sector Commissioner, but only in relation to documents originating with or received by the Public Sector Commissioner in relation to his or her functions under the *Corruption, Crime and Misconduct Act 2003*.

The Director of Public Prosecutions.

The Electoral Distribution Commissioners.

The Information Commissioner.

The Inspector of Custodial Services.

The Parliamentary Commissioner for Administrative Investigations.

The Parliamentary Inspector of the Corruption and Crime Commission.

The Prisoners Review Board.

The Supervised Release Review Board.

The State Government Insurance Corporation⁴.

Any Royal Commission or member of a Royal Commission.

A special commissioner under the *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002*⁵.

The Bureau of Criminal Intelligence, Protective Services Unit, Witness Security Unit and Internal Affairs Unit of the Police Force of Western Australia.

The Internal Investigations Unit of Corrective Services.

A person who holds an office established under a written law for the purposes of a body referred to in this Schedule.

[Schedule 2 amended by No. 31 of 1993 s. 44; No. 6 of 1994 s. 13; No. 36 of 1994 s. 35; No. 104 of 1994 s. 236; No. 14 of 1995 s. 44(1); No. 11 of 1996 s. 41; No. 29 of 1996 s. 26; No. 21 of 2002 s. 72; No. 48 of 2003 s. 62; No. 75 of 2003 s. 56(1); No. 78 of 2003 s. 74(2); No. 41 of 2006 s. 90; No. 43 of 2006 s. 6; No. 14 of 2014 s. 11; No. 35 of 2014 s. 33.]

ATTACHMENT 'B'

Extract of Clause 5 of Schedule 1 to the *Freedom of Information Act 1992* (WA)

5. Law enforcement, public safety and property security

- (1) Matter is exempt matter if its disclosure could reasonably be expected to —
 - (a) impair the effectiveness of any lawful method or procedure for preventing detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (b) prejudice an investigation of any contravention or possible contravention of the law in a particular case, whether or not any prosecution or disciplinary proceedings have resulted;
 - (c) enable the existence, or non-existence, or identity of any confidential source of information, in relation to the enforcement or administration of the law, to be discovered;
 - (d) prejudice the fair trial of any person or the impartial adjudication of any case or hearing of disciplinary proceedings;
 - (e) endanger the life or physical safety of any person;
 - (f) endanger the security of any property;
 - (g) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; or
 - (h) facilitate the escape of any person from lawful custody or endanger the security of any prison.
- (2) Matter is exempt matter if it was created by —
 - (a) the Bureau of Criminal Intelligence, Protective Services Unit, Witness Security Unit or Internal Affairs Unit of the Police Force of Western Australia; or
 - (b) the Internal Investigations Unit of Corrective Services.
- (3) Matter is exempt matter if it originated with, or was received from, a Commonwealth intelligence or security agency.
- (4) Matter is not exempt matter under subclause (1) or (2) if —
 - (a) it consists merely of one or more of the following —
 - (i) information revealing that the scope of a law enforcement investigation has exceeded the limits imposed by the law;
 - (ii) a general outline of the structure of a programme adopted by an agency for dealing with any contravention or possible contravention of the law; or
 - (iii) a report on the degree of success achieved in any programme adopted by an agency for dealing with any contravention or possible contravention of the law;

and

(b) its disclosure would, on balance, be in the public interest.

(5) In this clause —

Commonwealth intelligence or security agency means —

- (a) the Australian Security Intelligence Organization;
- (b) the Australian Secret Intelligence Service;
- (c) that part of the Department of Defence of the Commonwealth known as the Defence Signals Directorate; or
- (d) that part of the Department of Defence of the Commonwealth known as the Defence Intelligence Organisation.

contravention includes a failure to comply;

the law means the law of this State, the Commonwealth, another State, a Territory or a foreign country or state.



Office of the
Information Commissioner

Freedom of Information for Western Australia

Dealing with requests for documents related to an 'exempt agency'

FOI process guide

An access application may include a request for documents that relate to an 'exempt agency' as listed in [Schedule 2](#) to the *Freedom of Information Act 1992 (WA)* (**the FOI Act**).

The fact that a document relates to, or originated from, an exempt agency does not necessarily mean that the document is an exempt document under the FOI Act. If an agency holds a document that relates to an exempt agency, the document is still a document of the agency. An agency is required to make a decision regarding access to that document in accordance with the FOI Act.

What is an exempt agency?

The Glossary to the FOI Act provides that an exempt agency is a person or body mentioned in Schedule 2 to the FOI Act and includes staff under the control of the person or body.

An access application cannot be made directly to an exempt agency under the FOI Act.

The requirement to notify the exempt agency

If the requested documents originated with or were received from an exempt agency, an agency has to notify the exempt agency that the access application has been made ([section 15\(8\)](#)).

The purpose of the notification is to obtain the benefit of the exempt agency's views as to the status of the requested document and whether there would be any harm in disclosing the documents. However, section 15(8) does not give an exempt agency a right to veto giving access to a document.

An exempt agency is not a third party for the purposes of the consultation provisions of the FOI Act.

Are documents that relate to an exempt agency exempt?

A document that relates to an exempt agency may or may not be exempt under the FOI Act. An agency's decision-maker may consider whether the document includes information that is exempt under any of the clauses in Schedule 1 to the FOI Act.

Is personal information about an officer of an exempt agency exempt?

The personal information of an officer of an exempt agency may or may not be exempt under the FOI Act.

An officer of an exempt agency is an 'officer of an agency' as defined in the [Glossary](#) to the FOI Act. Personal information about an officer of an exempt agency does not

necessarily have a different status under the FOI Act to personal information about an officer of a non-exempt agency.

Under clause 3(3) of Schedule 1 to the FOI Act, information that is merely 'prescribed details' relating to an officer of an agency is not exempt personal information under clause 3(1) of Schedule 1. However, in *I v Department of Agriculture and Food* [No 2] [2016] WASC 272 the Supreme Court decided that the limitation on the exemption in clause 3(3) applies only to personal information that consists of the prescribed details of a person who is or has been an officer of the agency to which an access application is made and that such information is not exempt under clause 3(1). On this basis, clause 3(3) does not apply to prescribed details relating to an officer of an exempt agency. Nonetheless, an agency's decision-maker should still consider whether disclosure of information of that kind relating to an officer of an exempt agency would, on balance, be in the public interest. For more information about this see: [Dealing with personal information about an officer of an agency](#) and [The Exemptions](#).

What if the exempt agency says the agency is prohibited from disclosing the document?

An exempt agency may advise an agency's decision-maker that they are prohibited from disclosing the document. The decision-maker may consider this advice but must make a decision about access in accordance with the FOI Act.

Clause 12(b) of Schedule 1 to the FOI Act provides that information is exempt if its disclosure would contravene any order or direction of a person or body having power to receive evidence on oath. Certain exempt agencies have the power to make such direction, including the Coroner and the Corruption and Crime Commission.

An exempt agency may advise your agency that specific legislation prohibits disclosure of the information. [Section 8](#) of the FOI Act provides that the access provisions of the FOI Act apply despite any prohibitions or restrictions imposed by other enactments¹ (whether enacted before or after the commencement of the FOI Act) on the communication or divulging of information, and a person does not commit an offence against any such enactment merely by complying with the FOI Act UNLESS the enactment is expressly stated to have effect despite the FOI Act.

Even if another enactment does not state that it applies despite the FOI Act, the existence of a prohibition in an exempt agency's legislation or policies may be a relevant consideration for an agency's decision-maker when deciding whether the requested document contains information that is exempt under one of the clauses in Schedule 1 to the FOI Act.

¹ An enactment is defined in the Interpretation Act 1984 as 'a written law or any portion of a written law'

Relevant Cases

Information Commissioner for Western Australia v Ministry of Justice [2001] WASC 3

Re Birney and Attorney General [2002] WAICmr 22, at [30]:

[E]xcept for the specific and limited exemption in clause 5(2) (which arises because the exempt agencies mentioned in that clause are actually part of other agencies), the FOI Act is not concerned with the source of documents or with their creation, but with their possession. That is, as long as documents are in the possession or under the control of an agency, then those documents are documents of that agency, regardless of where they originated or were created ... section 10 of the FOI Act provides a right of access to documents in the possession or under the control of an agency, but not to documents in the possession or under the control of an exempt agency ... it is immaterial to the exercise of that right whether the documents were in fact created by an exempt agency. However, that does not mean that documents created by an exempt agency, but in the possession of another agency, are not exempt. They might well be. It only means that an applicant has a right to apply to a non-exempt agency for access to documents and if that non-exempt agency holds documents covered by the terms of the access application, then it must deal with those documents and process the request according to the provisions of the FOI Act.

If you have any general enquiries about the FOI process, please see our website or contact our office.

Note: This Information Sheet is intended as a general guide only and should not be viewed as legal advice. The Information Commissioner considers each complaint on its merits and according to the relevant circumstances.

Office of the Information Commissioner

Phone: (08) 6551 7888

Freecall (WA country): 1800 621 244

Fax: (08) 6551 7889

Email: info@foi.wa.gov.au

Web: www.oic.wa.gov.au

Address: Albert Facey House, 469 Wellington Street, Perth WA 6000

Appendix Seven

Civil Liberties Australia – WA

CCMAR CORRO 15
Rec'd 27/08/2019



Civil Liberties Australia – WA
PO Box 369 MAYLANDS WA 6931
Email: secretary@cla.asn.au

CLA is developing a fair-to-all system for police internal investigations

Civil Liberties Australia is developing a model, based on WA but for national use, which aims to ensure that police internal investigation is fair to all...including to police officers themselves.

So, when police officers claim against the police force – say for worker's compensation, or a safety incident at work, or superannuation or disciplinary matters – they are guaranteed their issue is investigated, analysed and recommendations made by external advisers, not by other WA Police officers.

The same independent advisers would investigate and report when an ordinary citizen makes a complaint against police.

CLA believes the current system doesn't meet Australian fair go standards.

"We believe there's a better way, and we're planning to work with police officers, MPs and others to devise a system that ensures the rights of police, citizens and society," the project 'champion' within CLA WA Director Margaret Howkins, said. She is leading a national in-house CLA team examining principles and requirements of a new system, and proposing operating methodologies and the type of internal and external change to make them work.

She said the basic principles of the new system were:

- ☐ Police officers and the people of WA must be treated equally; and
- ☐ Mandatory equality would operate when officers claim for medical, OH&S and superannuation matters, for example, and to complaints made against police by senior officers or peers, or by members of the public that police have dealt with.

CLA believes it's possible to produce a new system which:

- Upgrades the quality and qualification of investigators;
- Uses the most skilled people with a track record in internal investigations;
- Brings in the latest knowledge and technology when possible;
- Fairly compensates people (officers and citizens) found to be doing the right thing;
- Makes internal police investigations more open and transparent; and
- Educates WA police and citizens into a partnership approach to improvement.

The new model approach developed by Civil Liberties Australia in cooperation with police and politicians nationwide would eventually find its way into legislation and regulations, Ms Howkins said.

Margaret Howkins email: margaret@cla.asn.au

A handwritten signature in black ink that reads 'Margaret' followed by the date '(27/08/19)' in parentheses.

Assn No. 04043

Nat. office: Box 7438 FISHER ACT 2611

Web: www.cla.asn.au

CCMAR CORRO 19
Rec'd 26/09/2019



Civil Liberties Australia – WA
PO Box 369 MAYLANDS WA 6931
Email: [secretary \[at\] cla.asn.au](mailto:secretary@cla.asn.au)

Ms M.M. Quirk, MLA
Chair of Joint Standing Committee on the Corruption and Crime Commission
Parliament House, 4 Harvest Terrace
West Perth WA 6005

Thursday 26 September 2019

Dear Ms Quirk,

Proposed changes to the Corruption, Crime and Misconduct Act 2003: from CLA

FUNDAMENTAL REQUIREMENTS

- The failure of the Corruption and Crime Commission (CCC) to be able to use their extraordinary powers to investigate the problems of WA police investigating themselves is a major flaw in the Act which should be corrected. Also, the CC&M Act should mandate that the CCC (and WA Police also) use independent police investigators.
- CCC Investigations must always be team-lead by an independent* *senior supervisor* with proven integrity and recent leadership training. * Independent from WA Police.
- The investigating team members must:
 - all be university qualified with at least a first academic degree
 - include a proven *victim* of a previous completed inquiry and a human rights/civil liberties representative.
 - include a police officer from outside WA Police, such as from a police force of NZ, the UK or Canada (2 such police officers for any allegation above minor)ⁱ
 - be sourced from interstate or overseas in a 'package deal' whereby the independent investigators also investigate major WA Police internal affairs matters such as shootings/killings/car chases/ bashings of Indigenous peoples.
 - must have no known history or allegations having been made against them of bullying racist, homophobic or misogynist behaviour.
 - For clarity: a 5-person team must include 2 police officers from the nominated countries, and 1 each of a former victim and human rights/civil liberties rep.
- Clear monthly reporting of what the CCC is working on, in sufficient detail for 'Jo Citizen' to understand the gist of what is being investigated (or not) in WA must be transparently available in the printed press, online and in other communications.
- Civil Liberties Australia (CLA) understands that WA citizens state that the CCC largely ignores the complaints it receives from them, focusing instead on a selected 1% or fewer complaints that the Commissioner decides are important. Commissioners should not be re-employed after a 5-year period and controlled operations and integrity testing programmes must have truly independent teams and leaders.

The CC&M Act should include as many of the following elements as necessary, as being applicable to its independent investigating officers. They are the base elements which Civil Liberties Australia believes must be legislated by the WA Parliament in a new law governing WA Police behaviour.

Proposed new requirements on WA Police (and on any CCC investigating officers/teams)

INVESTIGATIVE ETHICS REQUIREMENTS

- An investigating team's attitude must be to treat allegations (both by police officersⁱⁱ internally against the police 'system' and against police by citizens) with the *same level of gravity and fairness* as police treat alleged abuses against children and alleged domestic violence. Resources must be found for this.
- The investigating team shall be entitled to call on a range of available scientific, administrative, support personnel and financial resources to pursue *external forensic evidence*, such as WA Police and public phone data, vision from surveillance cameras and other investigative aids as appropriate. Legislative and procedural restrictions on the use of telecommunications data must be lifted in such investigations.
- Scientific forensic support shall be obtained from a forensic laboratory/department belonging to another state or territory or other nation: no forensic facility attached to/with a police department shall be utilised, in particular the WA forensics facility. (South Australia is an example of forensic independence from police).
- If internal mandatory reporting and surveillance material is not available (eg, body cameras or recorders were switched off at the relevant time when they should have been on), the presumption shall be that the vision/sound that should have been recorded would indicate police guilt or procedural misdemeanour involving fine and demotion/downgrading.
- The investigative team must continue to investigate serious charges against retired or resigned WA Police, and full internal penalty mechanisms/penalties shall continue to apply to them, despite resignation.ⁱⁱⁱ
- Legislative change is also needed for the investigating team to investigate, and recommend state charges (with advice from the DPP) against retired or resigned police and public servants that would apply in their civilian capacity.
- The investigators must actively avoid and reject speculation by the mainstream media, or on social media. Investigators must not feed the media misinformation.
- A similar restriction shall apply to WA Police, the police association (union) or any representative police group, to the media *and* to those who have made the allegations.
- The restriction shall be lifted for all parties once the findings of the investigating team are handed down.
- Each finding shall be completely public, except for *minor transgressions* due to inexperience and any restriction of names or circumstances which may unfairly identify or potentially penalise an individual not subject to the allegation(s).
- Full, open and transparent disclosure shall be the default: redacted publishing shall be the exception.

CULTURAL CHANGE REQUIREMENTS

- Investigating teams, WA Police, police associations, Ministers and MPs as well as citizens shall be responsible for encouraging and protecting legitimate whistleblowers attempting to assist in the rectification of a miscarriage of justice.
- Whistleblowers and others who materially assist shall be entitled to recompense, redress and/or reward (financial or honours) if demonstrated to have saved the state/Police funds, or if the whistleblower's actions have assisted in the rectification of a miscarriage of justice.
- The entitlement to recompense, redress and/or reward clause applies equally to police officers disclosing issues relating to internal systems; or to officers making public, breaches of law or police regulations by other officers^{iv} as it does to non-police citizens.
- All WA Police shall undertake a 'cultural change' training & education program, which is *ongoing* and *permeates* every aspect of *daily work life* and *interaction*, both formally and informally. Every officer, staff member and contractor/etc must embrace this new pattern of cultural change or leave WA Police. This includes *addressing* new 'Diversity of race and gender' quotas in management.
- WA Police shall apply additional refresher training to the above people every year. Officers, etc must undergo the 'reminder of culture-change' training or suffer suspension of their employment or contract activities.
- WA Police shall undertake an extensive, multi-media public education campaign as to the cultural changes under way and the changed police investigating police regime, to ensure *public* understanding and confidence in the system.
- WA Police shall continuously display prominent information on cultural change in policing, and the Police investigating Police regime, in all its facilities as well as online and in other communications. (*Endnotes for the legislative reform are attached*)
- Diversity within WA Police is absolutely critical within the entire organisation. Supervision, Management and Leadership should *include* Aboriginals, females and high-profile community members to represent an increasingly diverse population of citizens in WA. Quotas must be set to achieve this immediately, with backup of intensive training and education.
- WA Police shall maintain a grading system for claims by police internally, or allegations against police, and investigations must meet strict time limits unless there are good reasons for delay:
 - Allegations *above* the minor level shall involve suspension with no more than half pay until a decision is reached.
 - Investigations into all cases must be completed within 6 months for serious allegations, 3 months for allegations graded minor.

Note: WA Police shall apologise and pay compensation to reimburse victims fully for their loss of income and expenses incurred. No extra compensation shall be made to WA Police by the WA Government to recoup such payments

Yours sincerely

Margaret Howkins
Director CLA in WA

Email: [Margaret \[at\] cla.asn.au](mailto:Margaret[at]cla.asn.au)

ENDNOTES

ⁱ An officer from another nation must not investigate more than 7 alleged cases in WA in any one period of two years. He or she will become eligible for reappointment to the role after a gap of 5 years.

ⁱⁱ 'Police officers' in this context shall be taken to include employees and/or contractors of the WA Police department and associated entities.

ⁱⁱⁱ No previous employee to be exempt from historical corruption investigation. Police officers and public servants to not be permitted to resign to escape investigation and accountability. (The WA Shirley Finn murder investigation has waited until allegedly culpable police involved have died)

^{iv} For absolute clarity, this to apply to departmental staff, contractors and associated entities as well.

Appendix Eight

Office of the Parliamentary Inspector of the Corruption and Crime Commission

CCMAR CORRO 25
Rec'd 11/10/2019



PARLIAMENTARY INSPECTOR OF THE CORRUPTION AND CRIME COMMISSION OF WESTERN AUSTRALIA

Our ref: 890/19
Your ref: A771483

7 October 2019

The Hon Margaret Quirk MLA
Chair
Joint Standing Committee on the
Corruption and Crime Commission

Dear Chair

Amendments suggested to the Corruption, Crime and Misconduct Act

Thank you for your letter dated 15 August 2019 on the above topic. I am sorry that I have not been able to meet the deadline for this response by 30 September. As always happens in such cases, I have had a considerable number of complainants who have considered it to be imperative that their matters are dealt with without delay.

I think the best way to provide the information you seek is to refer to relevant reports and summarise the issues raised, before I close with a matter of current concern. I will endeavour to deal with matters in chronological order.

I will commence by referring to an historical recommendation by my predecessor, the Hon C D Steytler QC, concerning the investigation by the Commission itself (desirably co-operatively with the Police) of serious allegations of excessive use of force by the police. Mr Steytler thought such cases should be investigated by the Commission itself and proposed a general policy statement to that effect in the Act, perhaps by amendment of s7B.

Nothing was done when the 2014 amendment Act was passed and this is an area which continues to raise difficult decisions for the Commission as to how best to apply its resources: see JSC Report No. 18 tabled on 8 September 2011, incorporating the Report of the Parliamentary Inspector.

The JSC Report No. 19 tabled on 17 June 2015 incorporated my Report dated 10 June 2015 upon a considerable number of matters requiring investigation by the Commission and primarily the Police under my oversight – matters which revealed a systemic disorder in that part of the Commission then known as the Operational Support Unit of a magnitude and kind not encountered, or at all likely, under the present Commissioner. Nonetheless, I recommended amendments to the Act designed to make the process of investigation complete under my oversight.

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Three areas of early concern in relation to the effective exercise of my role to deal with misconduct of Commission officers were assumed identities, traffic infringement notices under an assumed identity and special constable appointments: see my Report dated 4 December 2015, so titled. It remains my opinion that statutory amendment is not required to tighten the Commission's operations in regard to these matters.

A convenient source of my observations about various matters of current concern is the 2016-2017 Annual Report, Pp 6-8. I refer to the need to amend the Act to make it clear that the Commission's power to deal with industrial matters without interference from me, may only be exercised after or to the extent that it does not derogate from my function to deal with misconduct by Commission officers.

The other matters raised – reading ss 205 and 208 together in relation to my reporting power, the nature of the Commission's preliminary investigation of allegations against its officers, the power of arrest and the question of the interstate exercise of powers of extradition and the like, are matters of procedure and statutory interpretation, although still of concern, and, as will appear, require some legislative amendment.

The need for more clarity in the interface between the exercise of my functions in relation to the alleged misconduct of Commission officers and its industrial powers is on-going: see a useful example of the difficulty referred to in my Annual Report for 2017-2018, p8.

An account of the history of debate in relation to the question, now for the most part settled by the decision of the Court of Appeal in *A-v-Maughan* [2016] WASCA 128, as to the Commission's prosecutorial power, may be found in my Report titled "A Complaint of Misconduct Against the Corruption and Crime Commission", dated 28 June 2017, pp 2-10. The complaint was made by Mr Brian Burke in relation to matters affecting him which do not add to the debate.

My view has been clear, at least since the paper I provided to the JSC in relation to an inquiry it was making, by way of a letter dated 15 September 2016 addressed to the Hon Nick Goiran MLC as Chair of the Committee. No doubt it will be in the records of the JSC, but I can, if more convenient, provide a copy.

In my view it would be convenient to amend the Act to make it clear that the Commission has no power to prosecute for any offence and, consequently no power of arrest for any matter which might constitute a criminal offence, or at all. The provisions as to contempt of the Commission in the Act are adequate as to their purpose, and the broad limitations in s 217A, as enacted in 2014 with effect from 1 July 2015, should not be overlooked.

I turn to the power provided to the Commission to stop the investigation by other agencies, notably the Police and the Public Sector Commission, which, until the service of a "stop order" under s 42 of the Act, may have been proceeding concurrently with the Commission, within their respective jurisdictions. The arguments for and against the repeal or substantial amendment of s 42 are presented in the JSC Report No. 6 tabled on 30 November 2017 which incorporated and discussed my Report on the topic dated 22 August 2017. I am content to continue to rely upon the views I expressed therein.

While discussing jurisdictional matters I refer to my Report dated 14 December 2018 titled "Misconduct alleged by public officers who subsequently become officers of the ... Commission." The point which is relevant for present purposes is that, if such an officer is alleged to have been misconducting himself or herself as a public officer before their engagement, and it has been inadequately dealt with; or not dealt with at all, it is beyond my power to intervene because my function is limited to dealing with misconduct by Commission officers. I continue to propose the legislative amendments (at least in their substance) proposed in the Report.

The JSC has reserved for consideration in this broad assessment of the Act, my recommendations in a Report dated 29 May 2019, titled "A Saga of Persistence": see the Report No. 11 tabled on 27 June 2019. The point is that, because neither the Commission, nor the Public Sector Commission, can deal with "minor misconduct" by Commission officers, in the result no investigative agency can do so and I recommend that the Commission be again provided with the power to deal with all forms of misconduct by its officers, subject to my independent oversight.

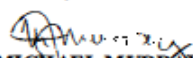
Finally, in taking up your offer to air matters of concern, may I refer to the ongoing debate about the opening of its hearings and the process of "naming and shaming" in reports and public statements by the Commission.

I hope I have provided the JSC with a copy of a paper I gave at the Conference of the Australian Institute of Administrative Law held at the University of NSW on 27 and 28 September 2018. The subject was the establishment and powers of a national integrity agency and I provided my views in general terms about the circumstances and terms in which such an agency would be justified in departing from the generally applicable, tight secrecy provisions of the statute.

I advise the JSC that I have received a number of complaints (not from the persons named) about the identification of persons in Commission reports, specifically those concerning the conduct of the W A trade commissioner and others, including Parliamentarians, and public officers in the W A Health Department, as well as in public statements made by the Commissioner.

I must say that it is a matter which causes me grave concern when what is often referred to as "collateral damage" arising out of identification without the benefit of any court process or other means of making a finding of guilt occurs, it is said as a necessary corollary of the exercise of a discretionary decision to name. I think the Act needs to provide greater clarity as to when such judgements may be made, but I am not yet in a position to settle on a specific view.

Yours sincerely,


HON MICHAEL MURRAY AM QC
PARLIAMENTARY INSPECTOR

Appendix Nine

Ombudsman Western Australia

CCMAR CORRO 14
Rec'd 21/08/2019

Ombudsman Western Australia
Serving Parliament - Serving Western Australians

Our ref: 190054
Your ref: A7 72069

1\ August 2019

Ms M M Quirk, MLA
Chair
Joint Standing Committee on the
Corruption and Crime Commission

By email: jscccc@parliament.wa.gov.au

Dear Chair

Suggestions for change to the *Corruption, Crime and Misconduct Act 2003*

I sincerely appreciate the courtesy of you writing to me about this matter.

As Ombudsman, I serve Parliament and its Committees, and am available to you at any time to assist you in any way.

In relation to the request the subject of your letter, I have no suggestions for change to the *Corruption, Crime and Misconduct Act 2003*.

Your staff should not hesitate to contact me on 9220 7579 (Direct) if they have any questions about this letter.

Yours sincerely



Chris Field
OMBUDSMAN

Appendix Ten

Public Sector Commission



CCMAR CORRO 24
Rec'd 09/10/2019

PSC | Public Sector
Commission

PSC Ref: PSC1943899/02
Your Ref: A772071

2 October 2019

Ms Margaret Quirk MLA
Chair
Joint Standing Committee on the Corruption and Crime Commission
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Ms Quirk

SUGGESTIONS FOR CHANGES TO THE *CORRUPTION, CRIME AND MISCONDUCT ACT 2003*

Thank you for your letter of 15 August 2019 inviting feedback on the *Corruption, Crime and Misconduct Act 2003* (CCM Act), including any component of the Act that might be improved through legislative reform, for the purposes of an assessment of the Act by your Committee.

As you are aware, the Commission's functions in relation to misconduct are set out in Part 4A of the CCM Act. Broadly summarised, these are a prevention/education function, and a minor misconduct oversight function.

Since my appointment as Commissioner, I have become aware of the need to strike an appropriate balance, within the Commission's available resources, between these two functions. My view is that this balance can be better achieved by adopting a more strategic and coordinated approach to carrying out these functions.

As outlined in our recently tabled Annual Report, the Commission is taking a more strategic approach to selecting matters for oversight based on potential risk, having regard to factors such as:

- agencies that do not report often or where there have recently been issues
- agencies that may not have well developed capability to handle matters
- matters that are serious or systemic
- the seniority and track record of the officers involved
- any notable public interest or concern in the matter.

The strategic use of information we gather through our oversight functions will help us identify systemic misconduct and areas of high risk across the sectors within our jurisdiction.

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admin@psc.wa.gov.au
www.publicsector.wa.gov.au

In reviewing how agencies handle selected matters, we are also able to gather information about agency capacity to respond to misconduct complaints. This will better inform our prevention/education function and assist us to promote systemic changes in agency practices where required.

While the Commission has the power to take over a matter where it considers it appropriate, the CCM Act does not detract from the primary responsibility of chief executive officers (CEOs) to set and maintain proper standards of conduct for their employees, and thereby maintain public confidence in their agencies.

As the employing authority of CEOs under the *Public Sector Management Act 1994* (PSM Act), I expect CEOs to demonstrate their commitment to setting, maintaining and enforcing appropriate standards of conduct in their agencies. The notification obligation on agencies imposed by the CCM Act should not distract them from the expectation that they will take timely, effective and decisive action when their employees fail to meet the required standards of conduct.

With this in mind, the Commission will be reviewing its guidance to agencies to ensure that the notification process does not unduly delay them from dealing with disciplinary matters that disclose suspected minor misconduct in a timely and appropriate manner. We also want to provide stronger guidance for agencies to better equip them to identify and notify us of those disciplinary matters that are of such significance as to constitute suspected "minor misconduct".

This leads me to an area of potential improvement in the CCM Act. As your Committee is aware, the definition of minor misconduct in section 4(d) of the CCM Act contemplates conduct that constitutes or could constitute a disciplinary offence providing reasonable grounds for termination. The label "minor misconduct" is misleading as to the threshold of seriousness of the misconduct that is within the Commission's jurisdiction. This is a source of potential confusion for agencies and their employees as well as members of the public, and an aspect of the CCM Act that would benefit from amendment.

On the subject of terminology, the term "misconduct" is also used in the definition of breach of discipline in section 80(c) of the PSM Act. This differs from the meaning of the term "misconduct" in the CCM Act. For the PSM Act purpose, "misconduct" is not defined and is to be given its ordinary general meaning – being conduct considered to be improper or immoral by the standards of ordinary people. While not insurmountable, this inconsistent nomenclature adds to the challenge of clearly setting out a spectrum of misconduct, and the powers and obligations of agencies in dealing with such conduct. It also adds to the challenge of identifying a more meaningful descriptor than "minor misconduct" as used in the CCM Act.

Returning to the strategic level, I believe that the functions and powers provided to the Commission under the CCM Act enable us to:

- gather data and intelligence about misconduct occurring in agencies
- identify and monitor areas of systemic misconduct risk
- monitor how serious disciplinary matters are dealt with by agencies
- take action to help build agency capability where required.

I am pleased to inform the Committee that we are currently developing a set of key strategic integrity objectives for the sectors within our jurisdiction. These will be aimed at ensuring that:

- effective governance frameworks are established and monitored
- a culture of integrity exists and is reinforced by leaders
- individual and organisational integrity knowledge, skills and competence are grown
- the approach to integrity is contemporary and continuously reviewed.

It is my intention to provide the Committee with further information about these objectives as work in this area progresses.

Yours sincerely



SHARYN O'NEILL
PUBLIC SECTOR COMMISSIONER

Appendix Eleven

Western Australia Police Force



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Rec'd 07/10/2019

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Ms M M Quirk MLA
Chair
Joint Standing Committee on the Corruption
and Crime Commission
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Ms Quirk

SUGGESTIONS FOR CHANGE TO THE *CORRUPTION, CRIME AND MISCONDUCT ACT 2003*

Thank you for your correspondence dated 15 August 2019 providing an opportunity for the Western Australia Police Force to provide comments on the function of the *Corruption, Crime and Misconduct Act 2003* (the Act). Following consultation with a number of portfolios within the WA Police Force, I provide comments as outlined below.

- **Part 3 – Division 3 – Section 28(2)**
This section provides for notifying authorities to “...*notify the CCC in writing...*”. The use of the word writing implies traditional correspondence and it is proposed this be amended to reflect email and electronic notification methods. Use of the word writing also appears at several other sections throughout the Act, which may require clarification.
- **Part 3 – Division 3 – Section 28(6)**
This section places a general obligation/duty on agency heads to notify the Corruption and Crime Commission (CCC) of suspected serious misconduct. Section 28(6), provides specific exemption for the agency head, of the duty to notify if the matter concerns *Reviewable Police Action* (RPA).

RPA is defined at Section 3 and outlines clear and specific behaviours by WA Police Force employees that must be reported to the CCC. Section 21A places specific obligation upon the Commissioner of Police to notify the CCC of RPA matters under our (agency-specific) reporting guidelines, which may or may not form “serious misconduct” as defined at Section 4(a), (b) or (c).

While Section 28(6) may have been included to dissuade heads of other agencies from their duty to report RPA, inclusion remains confusing given RPA remains the sole responsibility of the WA Police Force. It is suggested the section wording be clarified or removed, given there is sufficient explanation in Section 21A of this notification

requirement. Additionally, explanation of the term "Police Misconduct" at Section 3, appears superfluous, given there is adequate clarification in other sections about police reporting requirements.

- **Section 42**

Section 42 of the Act permits the CCC to direct agencies to cease investigations into misconduct matters (with the CCC taking carriage of the investigation, until the related '42 Notice' is revoked by the CCC). While Section 42(7) allows resumption of the investigation when the CCC revoke such direction, it does not place timeframes upon the CCC to issue such revocation.

Historically, there have been occasions after a 42 Notice direction, where CCC investigations have continued for extended timeframes. This prevented the WA Police Force from investigating and the loss of investigative strategies and evidence.

It is proposed that after issue of the Section 42 Notice, a requirement be placed upon the CCC to review the issue of the Notice every 30 days and a duty placed upon the CCC to notify the appropriate authority of such review, particularly timely advice over revocation, so that investigations can be quickly reinstated.

- **Part 5 – Division 1**

This part provides for the CCC to report to Parliament on matters subject to investigation at the discretion of the CCC. Section 86 of the Act requires the CCC to provide 'a person or body' who adversely named in their report, a reasonable opportunity to make representations to the CCC concerning the commentary within the CCC 'draft' report to Parliament. Despite such representation, there remains no obligation upon the CCC to use information/explanation so provided, to alter their original opinion or position.

It is recognised that use and weight of information provided should, correctly, remain at the discretion of the CCC, as part of the Parliamentary reporting process. It is suggested that copies of the respondents' original reply be appended to the final CCC report, providing Parliament or the Joint Standing Committee on the Corruption and Crime Commission the ability to review and consider the full context.

Thank you again for providing the opportunity to comment on the Act.

Yours sincerely



CHRIS DAWSON
COMMISSIONER OF POLICE

7 October 2019



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