

Treasurer; Attorney General

Our ref: 35-14889

Hon Nick Goiran MLC
Chair
Joint Standing Committee on the Corruption and Crime Commission
Parliament House
PERTH WA 6000

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

Dear Mr Goiran

I refer to Report No. 14 of the Joint Standing Committee on the Corruption and Crime Commission (the Committee) – *Death of a Witness* – tabled in the Western Australian Legislative Assembly on 24 February 2011. This report arises from the death of a witness which occurred before he was to appear at a public hearing conducted by the Corruption and Crime Commission (CCC). As a result of the above, the Parliamentary Inspector of the CCC, as well as the CCC, were involved in subsequent investigations and proceedings relating to these circumstances. Consequently, I have noted that your Committee's report "is a product of the Parliamentary Inspector's investigation, and the response of the CCC to the Parliamentary Inspector's findings and recommendations."

I note that the report contains only one recommendation. That recommendation is that:

"the Parliament of Western Australia advocate for the *Telecommunications (Interception and Access) Act 1979* (Cth) to be amended to permit the CCC to provide to the Coroner intercepted telecommunications material in situations such as the present case."

I also note that in accordance with Standing Order 277(1) of the Legislative Assembly, I have been requested to respond to this recommendation. In relation to the matter, the following comments are provided.

In relation to this recommendation, page 23 of the report states:

"The CCC has received [a legal] opinion from Senior Counsel that the CCC is prohibited from providing this [telecommunication intercepted] material to the Coroner, by reason of the prohibitions in [*Telecommunications (Interception and Access) Act 1979* (Cth)].

The Parliamentary Inspector and the Committee have seen this opinion. It appears from the opinion that, while the CCC can release TI material to the Coroner if the

Coroner is investigating the death of a person in relation to the commission of certain offences, the CCC cannot release [telecommunication intercepted] material to the Coroner if the Coroner is investigating possible contributing causes to an apparent suicide that is unrelated to the commission of these offences.

It is the unanimous view of the CCC, the Parliamentary Inspector and the Committee that this is a most unsatisfactory state of affairs and that the [*Telecommunications (Interception and Access) Act 1979* (Cth)] should be amended to allow the [Western Australian] Coroner to have access to this type of information if necessary."

This *Telecommunications (Interception and Access) Act 1979* (Cth) is Commonwealth legislation. Therefore, it cannot be amended by the WA Parliament. Any amendments, for example, "to provide to the Coroner intercepted telecommunications material in situations such as the present case" (namely, the apparent suicide of a witness who is to appear at a public hearing to be held by the WA CCC) would require Commonwealth legislation.


In view of recommendation 1, I have forwarded a copy of your Committee's report to the Hon Robert McClelland MP, Commonwealth Attorney-General, within whose Ministerial Portfolio responsibilities the *Telecommunications (Interception and Access) Act 1979* (Cth) is included. In particular, I have referred to page 23 of the report and recommendation 1.

In addition to my comments above regarding recommendation 1, I note here for the information of the Committee that in April 2011, my office met with Mrs Tina Doddmead, and her legal representatives. During this meeting, various other issues in relation to this matter were identified as being of sufficient relevance to warrant the Government's further consideration. For example, at the April 2011 meeting, it was agreed to consider whether there should be a requirement for private CCC hearings where there existed a clear and knowable concern on the part of investigating officers regarding a witness' safety. And further, whether (as also indicated in your Committee's Report) the absence of some form of Witness Support Officer in these types of circumstances is a situation which could beneficially be changed; or whether individuals affected by such circumstance should enjoy a right of audience before your Committee. The Government has asked Mr Robert Cock QC, within his role and responsibilities overseeing and advising on the substantive legislative reform agenda of the CCC, to consider these issues.

Further, at the April 2011 meeting it was also undertaken to write directly to both your Committee and the Parliamentary Inspector of the CCC to request your comments and advice as to whether you might provide a copy of your Report with a view that it could be released either to Mrs Doddmead through her legal representatives, or the community at large.

May I take this opportunity to thank you and the Committee members, as well as the Committee's staff for the obvious work and effort that has gone into this report.

Yours sincerely



HON C. CHRISTIAN PORTER MLA
TREASURER; ATTORNEY GENERAL

15 AUG 2011