



Our Ref: 35-19442

Treasurer; Attorney General

COPY

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

Dear Mr Goiran *N. Goiran*

**JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION:
REPORT 18 PARLIAMENTARY INSPECTOR'S REPORT CONCERNING THE
PROCEDURES ADOPTED BY THE CORRUPTION AND CRIME COMMISSION WHEN
DEALING WITH COMPLAINTS OF THE EXCESSIVE USE OF FORCE BY POLICE**

The State Government has noted and considered the above report ("the Report") of the Joint Standing Committee on the Corruption and Crime Commission ("JSCCCC").

The stated purpose of the Report is to:

addresses deficiencies in the procedures adopted by the Corruption and Crime Commission under Part 3 of the Corruption and Crime Commission Act 2003 (WA) when dealing with complaints concerning the use of excessive force by officers of the Western Australia Police

The Report adopts the three recommendations the Parliamentary Inspector made concerning this matter.

- 1. The CCC should change its procedures so as to implement the emphasis placed by the CCC Act on police misconduct by independently investigating instances at the upper end of the category of serious and credible complaints concerning the use of excessive force by police, especially complaints concerning the unnecessary discharge of a firearm or Taser*
- 2. Having regard for the CCC's understanding of the legislative intention conveyed by the CCC Act, consideration should be given to amending the Act, perhaps by way of an amendment to s7B (which specifies how the Act's purposes are to be achieved), so as to ensure that greater importance is accorded by the CCC to the need to conduct independent investigations into allegations of the kind identified in recommendation 1 above.*
- 3. If the resources of the CCC are inadequate to give effect to recommendation 1, consideration should be given to providing the CCC with additional resources for that purpose*

The genesis of these recommendations are two separate incidents concerning alleged excessive use of force by WA Police officers. The Parliamentary Inspector's view is that the manner in which these complaints were dealt with discloses a 'serious problem with the CCC's performance' in respect of investigations of serious abuses of power by the CCC.

8 MAR 2012

TREASURER, ATTORNEY GENERAL

Hon C. Christian Porter MLA



Yours sincerely

I would like to take the opportunity to thank the Committee and the Parliamentary Inspector for their efforts in respect of this Report.

In respect of the final recommendation made by the Parliamentary Inspector, I note that the Parliamentary Inspector, and the Corruption and Crime Commission submissions appear to accept the proposition that it was not fundamentally a resourcing issue which limited the Corruption and Crime Commission's capacity to continue to investigate the relevant matters, but rather a differing interpretation of the manner in which it should discharge what it considers to be its core functions under the Act. As the JSCCC is aware, the CCC is undergoing a period of transition which has included the appointment of a new Commissioner, and impending legislative change. Once this process is complete, the Government will be better placed to examine the extent to which the CCC is capable of carrying out its statutory functions, however it is noted that presently the CCC does not appear to be experiencing budgetary pressures.

In respect of the Parliamentary Inspector's second recommendation, the Government notes the recommendation that consideration should be given to amending the *Corruption and Crime Commission Act 2003* so as to ensure that greater importance is accorded by the CCC to the need to conduct independent investigations in respect of police misconduct allegations of the nature discussed in the Report. As the Committee is aware, the Government is presently pursuing amendments to the *Corruption and Crime Commission Act 2003*. This legislation is presently subject to Cabinet processes, however the Government's publically stated position is that the CCC has an important role to play with respect to oversight of serious police misconduct. Although, as noted above, it appears the present Commissioner has taken the view that this is an area deserving of additional focus, one issue which the legislation may well address is the need to develop mechanisms to ensure the Executive can more effectively respond to perceived areas of concern and assist the CCC in shaping its priorities.

In respect of the Parliamentary Inspector's first recommendation, ultimately the CCC has fundamental responsibility for how it interprets the ambit set out for it in the *Corruption and Crime Commission Act 2003*. In this regard, the Government's understanding is that the newly appointed Commissioner has identified serious police misconduct as an important area of focus for the CCC. The CCC have indicated that since the appointment of the Commissioner, its procedures have been adjusted in order to give a higher priority to police matters generally and use of force matters particularly.

Although, as the Report notes, there is fundamental agreement that WA Police should take primary responsibility for dealing with allegations of police misconduct, and that the CCC has an important role to play oversight and analysis of the misconduct prevention systems and procedures in place within WA Police, the Government is of the view that there is clearly a role for the CCC to play in directly investigating serious incidents of misconduct which have not been satisfactorily resolved through WA Police procedures.