

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

First Report — Annual Report 2020–21 — Tabling

MR M. HUGHES (Kalamunda) [10.12 am]: I present for tabling the first report of the Joint Standing Committee on the Corruption and Crime Commission titled *Annual Report 2020–21*.

[See paper [466](#).]

Mr M. HUGHES: The 2020–21 annual report summarises the activities of the Joint Standing Committee on the Corruption and Crime Commission between 1 July 2020 and 30 June 2021. As members may be aware, the committee’s role is to monitor and report on the exercise of the functions of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission; commence own motion inquiries relating to means by which corruption prevention practices may be enhanced within the public sector; and carry out functions under the Corruption, Crime and Misconduct Act 2003.

During the reporting period, the committee held 11 deliberative meetings and nine formal evidence hearings, with 26 witnesses. The previous committee undertook one formal inquiry and tabled three reports during the reporting period. In the seventeenth report, tabled in November 2020, *Meaningful reform overdue: The Corruption, Crime and Misconduct Act 2003*, the previous committee called on the government to undertake a comprehensive review of the Corruption, Crime and Misconduct Act. In June 2021, the government announced that the Department of Justice had commenced a complete review of the act. Although, to date, the committee is not aware of details of this review, this development is encouraging.

I welcome Matthew Zilko, SC, the new Parliamentary Inspector of the Corruption and Crime Commission, to this role. He is the first new inspector appointed to this role since 2013. His office, the Corruption and Crime Commission, and its commissioner play a vital role in ensuring the integrity of the public sector for the benefit of all Western Australians.

In tabling this report, which covers a period of the work of the committee of the fortieth Parliament, I wish to acknowledge the work of its principal research officer, Ms Vanessa Beckingham, and her associate research officers, Ms Sylvia Wolf and Ms Lucy Roberts; and the work of the members of the committee of the fortieth Parliament—the chair, Margaret Quirk, MLA; the deputy chair, Hon Jim Chown, MLC; and Hon Alison Xamon, MLC. I look forward to working with members of the committee in this Parliament to progress the important work of the committee. I wish to express my deep appreciation for the support provided to the committee by principal research officer, Ms Suzanne Veletta, and her colleague, Ms Jovita Hogan.

Second 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 — Tabling

MR M. HUGHES (Kalamunda) [10.15 am]: I present for tabling the second report of the Joint Standing Committee on the Corruption and Crime Commission titled *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*.

[See paper [467](#).]

Mr M. HUGHES: Madam Acting Speaker (Ms M.M. Quirk), as you are well aware, this report repeats the 52 findings and 13 recommendations in the fifteenth report tabled by the Joint Standing Committee on the Corruption and Crime Commission of the last Parliament. I was a member of that committee. That report, like today’s report, was titled *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*. The government did not have the opportunity to respond to the recommendations in the fifteenth report due to the prorogation of Parliament. The current Joint Standing Committee on the Corruption and Crime Commission resolved to request a government response to the recommendations in this Parliament.

I take this opportunity to highlight issues raised in this report. Allegations of excessive use of force by members of the Western Australia Police Force—that is, using more force than is justified by law—are treated as allegations of serious misconduct and, as such, fall within the remit of the CCC to oversight or investigate. As members may be aware, the committee’s role is to oversight how the CCC exercises its functions. The former committee examined how excessive use of force by police officers in Western Australia are either independently investigated by the CCC or how police internal investigations are oversighted by the CCC. The former committee was interested in examining whether the CCC was providing consistent, accountable and effective oversight of the Western Australia Police Force and whether CCC oversight was sufficient. It is important to note that members of the Western Australia Police Force have around 2.2 million interactions with members of the public each year compared with, on average, around 400 allegations of excessive use of force. Around 12 per cent of all misconduct allegations made against members of the Western Australia Police Force relate to excessive use of force. However, the former committee

found that the use of force reporting by the Western Australia Police Force does not always capture instances of excessive use of force.

The CCC refers most allegations of excessive use of force it receives back to the Western Australia Police Force to deal with and investigate. The CCC closely oversees only a small number of Western Australia Police Force investigations. An even smaller percentage of allegations are either independently investigated by the CCC or subject to a cooperative investigation between the CCC and the Western Australia Police Force. Since July 2015, the Corruption and Crime Commission has independently or cooperatively investigated around two per cent of excessive use of force allegations. The former committee was not convinced that the CCC complaints process is working as well as it could. In the experience of some complainants, the complaints process is circular, costly, inefficient and time-consuming. The former committee heard that in some circumstances, there is a lack of confidence in the complaints process while, in other instances, people who may have been subject to police excessive use of force did not make a complaint. The former committee was particularly troubled to learn that over the past two years, the Aboriginal Legal Service of Western Australia had a disinclination to contact the CCC about alleged incidents of excessive use of force and had referred only a handful of matters to the CCC because it had no confidence that the CCC would investigate the allegations. Peter Collins, the director of legal services for the Aboriginal Legal Service, advised the former committee —

In our experience ... the CCC is completely tone deaf when it comes to dealing with Aboriginal people and issues ...

The Aboriginal Legal Service gave evidence that it more often goes directly to the Western Australia Police Force with allegations of excessive use of force and that senior WA police personnel were more receptive to investigating allegations and working cooperatively to address them. The former committee noted that it would like to see the CCC give serious consideration to the systemic issues raised by the Aboriginal Legal Service, including the use of police dogs. The fifteenth report noted that the CCC's approach to assessing complaints had changed since 2015 when the CCC began to take a more targeted and strategic approach to carrying out its oversight functions across the public sector, including the Western Australia Police Force. Six strategic factors inform the CCC's decision-making about the allegations it receives, one of these being use of force.

The former committee was not convinced that the CCC's current method of assessment adequately prioritises police oversight. The view of the committee was that police oversight of excessive use of force allegations should be prioritised over and above other strategic themes. While it noted that the Western Australia Police Force had refined and improved internal oversight of excessive force allegations, it found that even if there were more robust internal police oversight, the CCC cannot abrogate its responsibility to oversee excessive use of force complaints. It said that oversight of misconduct and corruption within the WA Police Force should be seen as a core function and that the Western Australia Police Force was intended to be a particular priority for the CCC by virtue of its genesis in the Kennedy Royal Commission into Whether There Has Been Any Corrupt or Criminal Conduct by any Western Australian Police Officer. As I noted in this house on the tabling of the fifteenth report on 24 September 2020, the CCC is no different from other agencies in that agency activity is subject to the prioritisation of resources. The Corruption and Crime Commissioner, Hon John McKechnie, has more than once talked about the difficulty of prioritising investigations with finite resources. As I said last year, it is important to understand that the balance between the allocation of CCC resources to police oversight as opposed to the resources allocated to its role as the anti-corruption body overseeing the rest of the public sector has long been a tension that has proved difficult to resolve. Also, as I said last year, it is a fact that the bulk of the CCC's oversight team is focused on police matters. In 2019, the CCC advised the former committee that, at that time, 75 per cent of the work of the oversight team was on police matters. Again, as I said last year, it is important to note that when the Corruption, Crime and Misconduct Act 2003, as it is now known, was introduced in 2003, police oversight was not accorded any particular importance over and above public sector misconduct; thus, it is open to conclude that in accordance with the current act, the CCC has been fulfilling its function in accordance with the statutory role it was given.

The former committee was concerned about how many use of force allegations the police sent to police districts and divisions to investigate. Referring allegations to the district in which an incident has occurred can result in either real or perceived conflicts of interests and there may be limited specialised investigative skills available to undertake adequate investigations. The responsibility for imposing sanctions on WA Police Force members who have been found to have used excessive use of force rests with the Commissioner of Police. The committee found that there needs to be transparent and accessible publication of the outcomes of investigations into these allegations. In a positive development, the Western Australia Police Force advised that this will occur in the publication of its next annual report.

The report to which I am now referring contains a number of recommendations, including that the CCC should: refocus its efforts and current resources on police oversight primarily in line with what is arguably a key mandate; regularly interrogate Western Australia Police Force data to identify trends and analyse at-risk areas or officers; undertake regular audits of the Western Australia Police Force's IAPro system or internal policy systems to determine

whether use of force incidents are being adequately reported and investigated; reconsider its prioritisation of complaints to ensure a renewed focus on the needs of Aboriginal people; consider whether conduct is accompanied by racist comments or conduct when assessing whether an allegation of excessive use of force meets its seriousness threshold; be proactive in investigating the systemic issues raised by the Aboriginal Legal Service; audit dog bite incidents to determine whether the use of force was justified and adequately reported to the Western Australia Police Force; and establish mechanisms to improve its engagement with Aboriginal people in Western Australia.

The report recommends that the Minister for Police and the Attorney General ensure that the Western Australia Police Force and the CCC publish statistics on their investigations into allegations of excessive use of force. Finally, the report recommends that the Attorney General should ensure that the Office of the Parliamentary Inspector of the Corruption and Crime Commission is sufficiently resourced to provide services that are culturally appropriate and accessible to Aboriginal people and that any review of the Corruption, Crime and Misconduct Act considers the prioritisation of police oversight in the legislation. This last recommendation is particularly relevant at this time because the government has announced that the Department of Justice is reviewing the Corruption, Crime and Misconduct Act 2003. In 2012, concerns raised by the then parliamentary inspector prompted the then Joint Standing Committee on the Corruption and Crime Commission to also recommend a legislative amendment to mandate a particular focus on police oversight by the CCC. There may well have been some changes to policies or practices in this space since the tabling of the fifteenth report in September last year. For example, the CCC's final review of the Western Australia Police Force response to an incident in a police lock-up in a country town, which was tabled in this house on 17 June 2021, noted that in February 2021, the Western Australia Police Force informed the CCC that the police use of force policy had been amended whereby a use of force report is now required if bodily injury is identified by an officer or identified or claimed by the subject, regardless of whether medical care was received or declined by the subject.

Last year, when the fifteenth report was tabled, I said —

This report should encourage the CCC to reflect on the effectiveness of the active oversight approach and its interface with the WA police commissioner in ensuring complaints against the police are thoroughly investigated. It is timely for the CCC to review the processes and procedures in place to investigate complaints against the police for excessive use of force generally and particularly the level of confidence that Indigenous Western Australians have in the investigation of allegations of excessive use of force by the police against that section of the community. The CCC should hear the Aboriginal Legal Service's view that matters concerning excessive use of force by police against Aboriginal members of our community receive too little attention.

I look forward to receiving the government's response to the report that I tabled today. It is in the interests of all Western Australians to establish appropriate, independent and robust mechanisms to review incidents of excessive use of force by police.