

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

*Sixth Report — “Parliamentary Inspector’s report on the issuing of notices by the  
Corruption and Crime Commission under s 42 of the Corruption, Crime and Misconduct Act” — Tabling*

**HON JIM CHOWN (Agricultural)** [10.12 am]: I am directed to present the sixth report of the Joint Standing Committee on the Corruption and Crime Commission titled “Parliamentary Inspector’s report on the issuing of notices by the Corruption and Crime Commission under s 42 of the Corruption, Crime and Misconduct Act”.

[See paper 943.]

**Hon JIM CHOWN:** This report by the Parliamentary Inspector of the Corruption and Crime Commission deals with the use of section 42 notices by the Corruption and Crime Commission. A notice served under section 42 of the Corruption, Crime and Misconduct Act by the Corruption and Crime Commission compels the recipient of the notice, a public sector agency or police to desist from an investigation that may be concurrent with one being conducted by the commission. The rationale for this is to prevent unintended interference or the impeding or duplication of investigative activities, which may have the effect of prejudicing the commission’s endeavours. It appears that the case that is the subject of the report arose out of a misunderstanding about the effect of such a notice and, in this instance, led to the failure of either the commission or the police to provide protection to a victim for a number of weeks.

The parliamentary inspector recommends the repeal of section 42, as arrangements can be made informally between both parties. However, the parliamentary inspector concedes that were it considered appropriate to retain this section, the power should be exercised only after consultation, be limited in time, state the public interest grounds for its issue, and be served personally on the individual with the relevant authority. Having examined the operation of section 42, the committee is now confident that such incidents are isolated and there is no systemic issue. The committee was also told during its own inquiries that the use of these notices is now infrequent and that there has been considerable effort for better lines of communication between the commission and the police to ensure greater appreciation of the exact effect of the service of a section 42 notice. Although the recommended legislative reforms may improve operations, the committee does not consider these pressing. The committee considers the parliamentary inspector’s report and thanks him for his efforts.

*Seventh Report — “Unfinished business: The Corruption and Crime Commission’s response  
to the Committee’s report on Dr Cunningham and Ms Atoms” — Tabling*

**HON JIM CHOWN (Agricultural)** [10.15 am]: I am directed to present the seventh report of the Joint Standing Committee on the Corruption and Crime Commission titled “Unfinished business: The Corruption and Crime Commission’s response to the Committee’s report on Dr Cunningham and Ms Atoms”.

[See paper 944.]

**Hon JIM CHOWN:** I encourage all members to read this report “Unfinished business”. I think it goes into the realm of why we have a Corruption and Crime Commission. I will read a statement that has been put together by the Joint Standing Committee on the Corruption and Crime Commission. This report marks the unsatisfactory conclusion to a long-running saga in which the Corruption and Crime Commission has consistently declined over a number of years to exercise its statutory authority and duty to monitor and report upon a case of police misconduct, excessive use of force, tampering with physical evidence and collusion in the content of sworn evidence. The matter was the subject of the fourth report of this committee on the parliamentary inspector’s report on a complaint by Dr Robert Cunningham and Ms Catherine Atoms dated 12 October 2017.

As outlined previously, both Dr Cunningham and Ms Atoms were subject to excessive use of force at the hands of Western Australian police officers and have been fighting for acknowledgement and recompense for their treatment for over nine years. The protracted nature of their quest for acknowledgement and recompense for treatment, or even an apology, would have materially exacerbated the distress of Dr Cunningham and Ms Atoms.

The committee appreciates that the strict interpretation of the precise powers of the commission to direct police to act on the extensive findings of the District Court and the parliamentary inspector may be circumscribed; however, the outright refusal to revisit the case, even to examine whether its own processes were lacking, is most regrettable. In the committee’s report, two recommendations were made and the committee has subsequently received correspondence from the commission, which is annexed. The commissioner notified the committee that he did not intend to accede to these recommendations. The committee considers the commissioner’s reference to the committee’s failure to provide procedural fairness bemusing. The committee had the benefit of reading his earlier and lengthy letter of 20 April 2017 to the parliamentary inspector in which the commissioner outlines why the case would not be further pursued by the commission. These reasons included the finite nature of the commission’s resources and the already comprehensive nature of the findings of the District Court. Moreover, the committee’s report and its recommendations closely reflect the parliamentary inspector’s report. As the commissioner points

out, the provision of the report to the commission, whether before or after its tabling, has done nothing to change his position on this matter. Telling in the earlier correspondence with the parliamentary inspector is the reference to the commission's role to improve the integrity of, and reduce the incidence of misconduct in, the public sector. The committee is perplexed as to how the commission's failure to exercise its functions at all on this occasion enhances standards and integrity.

[Leave granted for the member's time to be extended.]

**Hon JIM CHOWN:** This is a very important report and I thank the house for the extension of time to finish the statement.

How does consigning action on demonstrably flawed police practices by the internal investigation unit address standards and integrity when the commission is intransigent by asserting that there is no public interest to be served? Similarly, how is a refusal to revisit its response to this case merely because decisions were taken by predecessors appropriate? How will that assist in improving outcomes in the future?

The committee and the broader community hold serious concerns that in recent years, the commission has demonstrated little appetite for investigating police matters, in particular those involving alleged excessive use of force. The commission's response begs the inevitable question: if this case is not worthy of the commission's attention, what case would be? It is arguable that had the commission taken a more active, comprehensive and timely examination of this matter, it would have obviated the need for Dr Cunningham and Ms Atoms to embark upon the emotionally taxing and costly District Court proceedings to establish the facts and clear their reputations. If not for their knowledge of the law and tenacity in pursuing a just outcome, this whole matter would have been swept under the rug years ago.

I add that the majority of complaints to the Corruption and Crime Commission are with regard to Western Australia Police Force issues. If the commissioner of the CCC is not prepared to take up this case and examine it further, one has to ask the question: what is the commission and the commissioner doing with regard to other matters dealing with the Western Australia Police Force that are referred back to the internal investigation unit?