



Treasurer; Attorney General

Our Ref: 35-17060

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

Dear Mr Goiran

Inquiry into the Use of Controlled Operations and Informants by Anti-Corruption and Law-Enforcement Agencies with Particular Emphasis on the Risks of Misuse of Power, Corruption, and Threat to Public Safety

I refer to the recommendations and findings of the above report ("the Report").

The Government notes, and generally agrees with the necessity to amend the definition of 'organised crime' in the *Corruption and Crime Commission Act 2003* and enhance the circumstances in which police can access the exceptional powers contained within the *Corruption and Crime Commission Act 2003*. As the Committee is aware, the government is committed to legislative reform to enhance the potential application of the *Corruption and Crime Commission Act 2003* to organised crime. The definition of organised crime and the circumstances in which police can access exceptional powers have been considered in the course of drafting, and a final model is subject to Cabinet processes.

In respect to the definition of organised crime, the Committee will be aware this matter has been subject of consideration over several years. As the Committee appears to advert to in their present Report, in 2007, Report Number 31 'Inquiry into Legislative Amendments to the Corruption and Crime Commission Act 2003 – The Role of the Corruption and Crime Commission in Investigating Serious and Organised Crime in Western Australia' ("Report No 31") specifically recommended a definition of organised crime reflective of the definition contained within the *Australian Crime Commission Act 2002*, which involves a considerably more prescriptive approach than the present definition, including a list of the forms of offending which could amount to organised crime. The Government is carefully considering equivalent definitions of organised crime in various jurisdictions in the course of drafting.

The Government notes the Report's recommended amendment to the proposed purposes of the *Corruption and Crime Commission Act 2003*. The Government is in full agreement of the necessity of ensuring that the Corruption and Crime Commission's activities are well directed,

and is contemplating a range of legislative and administrative measures to assist in this process. The Government is in full agreement that the Corruption and Crime Commission must appropriately have a significant role to play in safeguarding the integrity of WA Police.

Implicit in the findings and recommendations of the Report is the Joint Standing Committee's view that the Corruption and Crime Commission should not have an independent role with respect to the investigation of organised crime. In this regard, the Government notes the Report's contention (at p 3) that the proposed legislative reforms alone will provide the Corruption and Crime Commission with a meaningful role to play in respect of organised crime "without requiring any increase in the powers, capacity or jurisdiction of the CCC," and that (at p 44) "any law enforcement model that would see the WA Police and the CCC investigating organised crime in collaboration would by its very nature be flawed."

As the Report itself notes, the Committee's view in respect of preserving the Corruption and Crime Commission's present limited role in respect of investigating organised crime is not shared by the WA Police in the letter reproduced in the appendix to the Report, who are of the view that the CCC "needs to have a significant and enhanced role in the investigation of organised crime," nor, as I have previously noted, does it reflect the views expressed in the Review of the *Corruption and Crime Commission Act 2003* undertaken by Ms Gail Archer SC in 2008. I also note that the Committee's view diverges with the view expressed by the Joint Standing Committee itself in Report No 31, which recommended that Corruption and Crime Commission have the power to conduct investigations, either jointly with WA Police or independently subject to bipartisan support of the reference group.

In the course of developing legislation to enhance the role of the Corruption and Crime Commission, the Government has considered the experience in various other jurisdictions, and the views of stakeholders within this jurisdiction in respect of the desired capabilities and priorities of the Corruption and Crime Commission. Any legislation produced will be developed taking into account the views of all such stakeholders, including those expressed by the Joint Standing Committee in the present Report.

Accordingly, thank you for bringing the Report to my attention.

Yours sincerely



Hon C. Christian Porter MLA
TREASURER; ATTORNEY GENERAL