



Joint Standing Committee on the Corruption and Crime Commission

**Improving the working relationship between the
Corruption and Crime Commission and
Western Australia Police: Supplementary Report**

**Report No. 22
August 2015**

Parliament of Western Australia

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Joint Standing Committee on the Corruption and Crime Commission

Improving the working relationship between the Corruption and Crime Commission and Western Australia Police: Supplementary Report

Report No. 22

Presented by

Hon Nick Goiran, MLC and Mr Peter Watson, MLA

Laid on the Table of the Legislative Assembly and Legislative Council
on 13 August 2015

Chairman's Foreword

The Joint Standing Committee tabled its Report 18- *Improving the working relationship between the Corruption and Crime Commission and Western Australia Police* in Parliament on 26 March 2015. This report was the culmination of the Committee's Inquiry into improving the working relationship between the Corruption and Crime Commission (CCC) and the Western Australia Police (WAPOL).

The CCC and WAPOL provided a joint submission to the Committee in which they suggested that their "wide ranging and complex interactions can, from time-to-time, create tension" and that "tension between agencies that work in an investigative and review context is to be expected and is perfectly normal."¹

Using evidence gathered in other jurisdictions, the Committee's report highlighted that a key measure of how effective the working relationship was between police and their oversight bodies was the level of communication, both formal and informal, between the two respective Commissioners. Other jurisdictions reported to the Committee that the two Commissioners had regular, formal, meetings every 3-6 months. Indeed, WAPOL and the CCC have a Memorandum of Understanding, signed in 2007, that specifies the need for the two Commissioners to meet at least every six months.

The Committee took evidence from WAPOL that meetings of the Commissioners had not taken place for five years. The Committee received correspondence from the CCC that the hiatus between formal meetings between the Commissioners was about four years, however the dates they provided for these meetings were inadvertently overlooked at the time the Committee tabled Report 18.

Subsequent to the Report's tabling, the Committee received correspondence from Acting Commissioner Douglas highlighting the error contained in the Report's Finding 12 and Chairman's Foreword about the hiatus between the meetings of Commissioners. The Committee has acknowledged and apologised to Acting Commissioner Douglas about the error in both a closed hearing and in correspondence.

This supplementary report has been prepared to correct the record as to the actual gap between 2009 and 2013 of the formal meetings of the Police and Corruption and Crime Commissioners.

1 *Joint Submission to the Inquiry by the Joint Standing Committee on the Corruption and Crime Commission into Improving the Working Relationship Between the Commission and the Western Australia Police*, 8 August 2014. Available at: [www.parliament.wa.gov.au/Parliament/commit.nsf/\(Evidence+Lookup+by+Com+ID\)/571BE0CED29BF39748257E14000F975C/\\$file/18947857.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Evidence+Lookup+by+Com+ID)/571BE0CED29BF39748257E14000F975C/$file/18947857.pdf). Accessed on 2 June 2015.

The Committee's intention was to correct this minor error at the earliest opportunity. In preparing this supplementary report, however, the Committee was frustrated in not receiving documents about the meetings of the Commissioners from the CCC that it had requested two months previously. The same information was provided to the Committee by WAPOL within two weeks.

This is not the first instance of the CCC being unable to provide information as quickly as other agencies. The Committee had a similar occurrence in late 2014 of the Commission being unable to provide documents that it had requested. Copies of these documents had been provided to the Committee by WAPOL and the Parliamentary Inspector.

Accordingly, the Committee has recommended that the Commission review its electronic records management system and database to ensure that it is suitable for the task of providing documents in a timely fashion, as has been the Committee's consistent experience with WA Police and the Parliamentary Inspector of the Corruption and Crime Commission.

A draft copy of this report was provided for comment to both Corruption and Crime Commissioner McKechnie QC and WAPOL Commissioner O'Callaghan APM. They both responded that they had no comment about the draft.

A handwritten signature in blue ink, consisting of a stylized 'N' and 'G' with a horizontal line extending to the right.

HON NICK GOIRAN, MLC
CHAIRMAN

Contents

Findings and Recommendations	i
1 Acknowledgement of an error in JSCCCC Report 18	1
<hr/>	
Introduction	1
Request to the Corruption and Crime Commission for further information	4
Request to WA Police for meeting information	8
Meetings of the Commissioners between 2007 and 2014	8
Previous issue with Committee accessing Commission correspondence	9
Draft report provided for comment	13
Appendices	15
<hr/>	
1 Committee's functions and powers	15

Findings and Recommendations

Finding 1

Page 3

The Joint Standing Committee's Report 18- *Improving the working relationship between the Corruption and Crime Commission and Western Australia Police*, tabled in the Parliament on 26 March 2015 contained an error in the Chairman's Foreword and Finding 12 as to the time between formal meetings of the Police and Corruption and Crime Commissioners.

Finding 2

Page 7

The Corruption and Crime Commission did not provide the Committee with the information it had requested about the meetings of the Police and Corruption and Crime Commissioners between 2007 and 2014 as to do so would have come at a cost of \$37,000-\$53,500, which the Corruption and Crime Commissioner was not prepared to authorise.

Finding 3

Page 8

The WA Police Commissioner did provide the Committee, within two weeks, the information it had requested about the meetings of the Police and Corruption and Crime Commissioners between 2007 and 2014.

Finding 4

Page 9

Information provided by WA Police and the Corruption and Crime Commission confirm, that after meeting regularly between 2007-09, there was a gap in meetings of the Joint Agency Steering Group (JASG) of three years and seven months, and formal meetings between the Commissioners of three years and five months.

Finding 5

Page 9

After the meeting on 27 September 2013, there was then a further gap of meetings between the Commissioners of a period of 14 months. Based on information provided by WA Police, there have been no further meetings of the Joint Agency Steering Group since 16 October 2013.

Recommendation 1

Page 13

The Corruption and Crime Commission should review its electronic records management system and database to ensure that it is suitable for the task of providing documents in a timely fashion, as has been the Committee's experience with WA Police and the Parliamentary Inspector of the Corruption and Crime Commission.

Recommendation 2**Page 13**

The Corruption and Crime Commission report progress on its review of its electronic records management system and database in its future annual reports until such time as any recommendations arising from its review have been fully implemented.

Chapter 1

Acknowledgement of an error in JSCCC Report 18

Introduction

On 26 March 2015 the Joint Standing Committee tabled in the Parliament its Report 18- *Improving the working relationship between the Corruption and Crime Commission and Western Australia Police*.² This report was the culmination of the Committee's Inquiry into improving the working relationship between the Corruption and Crime Commission (CCC) and the Western Australia Police (WAPOL). During the Inquiry the Committee received evidence from the CCC and WAPOL as well as from similar police and oversight agencies in a number of interstate overseas jurisdictions.

In each of these other jurisdictions there was tension between the police force and their oversight agency. In Western Australia, the Committee's Report 18 summarised tensions between WAPOL and the CCC that ranged over a broad and diverse range of operational issues.

The CCC and WAPOL provided a joint submission to the Committee in which they suggested that their "wide ranging and complex interactions can, from time-to-time, create tension" and that "tension between agencies that work in an investigative and review context is to be expected and is perfectly normal."³

Whilst it is correct to describe tension in such relationships as 'normal' and 'to be expected', nevertheless the Committee's Inquiry sought to determine whether the expected tension could be described as 'healthy' or 'unhealthy'.

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- 2 Joint Standing Committee on the Corruption and Crime Commission, *Improving the working relationship between the Corruption and Crime Commission and Western Australia Police*, 26 March 2015. Available at: [www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/AA9F80596E A62F7548257E120029D8C1/\\$file/Report%20%2018-%20Tensions%20Inquiry-%20FINAL.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/AA9F80596E A62F7548257E120029D8C1/$file/Report%20%2018-%20Tensions%20Inquiry-%20FINAL.pdf). Accessed on 2 June 2015.
 - 3 *Joint Submission to the Inquiry by the Joint Standing Committee on the Corruption and Crime Commission into Improving the Working Relationship Between the Commission and the Western Australia Police*, 8 August 2014. Available at: [www.parliament.wa.gov.au/Parliament/commit.nsf/\(Evidence+Lookup+by+Com+ID\)/571BE0CED 29BF39748257E14000F975C/\\$file/18947857.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Evidence+Lookup+by+Com+ID)/571BE0CED 29BF39748257E14000F975C/$file/18947857.pdf). Accessed on 2 June 2015.

Chapter 1

The common message received by the Committee from agencies in the other jurisdictions was that regular communication between the two agencies allows a level of ‘healthy’ tension to exist while not impeding their operational effectiveness. More specifically, a key measure of how effective the working relationship was between police and their oversight bodies was the level of communication, especially informal communication, between the two respective Commissioners. In these other jurisdictions the Commissioners had regular, formal, meetings every 3-6 months.⁴

The need for the CCC and WAPOL Commissioners to meet at least every six months is outlined in the existing MOU between the agencies. The MOU was signed in August 2007. These meetings of the Commissioners and their senior staff are termed the Joint Agency Steering Group (JASG), and one of its purposes is “the swift resolution of problems that may arise.”⁵

The Police Commissioner, Dr Karl O’Callaghan, gave evidence to the Committee at a closed hearing in September 2014 that the two Commissioners had not met since 2009 and had only agreed to have regular meetings just before Commissioner Macknay left the CCC in April 2014:

*I think there was dialogue probably a little bit more than a year ago now that the two organisations had not met for about five years. Roger Macknay re-implemented that on sort of a quarterly basis, and that was fine. Once he retired, the new [Acting] Commissioners have not chosen to keep that going.*⁶

Assistant Commissioner Staltari provided similar evidence at the Committee’s hearing to that of the Police Commissioner about the length of the hiatus between the formal Joint Agency Steering Group meetings:

*The Joint Agency Steering Committee (sic), which is the high-level committee that the Commissioner and the CCC Commissioner attend—we had the first one in five years probably about six months ago. Then we had a follow-up one and that was it. We have not had one since.*⁷

4 Joint Standing Committee on the Corruption and Crime Commission, *Improving the working relationship between the Corruption and Crime Commission and Western Australia Police*, 26 March 2015, p32. Available at: [www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/AA9F80596E A62F7548257E120029D8C1/\\$file/Report%20%2018-%20Tensions%20Inquiry-%20FINAL.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/AA9F80596E A62F7548257E120029D8C1/$file/Report%20%2018-%20Tensions%20Inquiry-%20FINAL.pdf). Accessed on 2 June 2015.

5 Ibid, p52.

6 Dr Karl O’Callaghan, Commissioner, WA Police, *Transcript of Evidence*, Closed hearing, 17 September 2014, p9.

7 Mr Dominic Staltari, Assistant Commissioner, Professional Standards, WA Police, *Transcript of Evidence*, Closed hearing, 17 September 2014, p10.

Given the evidence from the two WAPOL senior officers, the Committee made a Finding in its report that:

There were no meetings of the Joint Agency Steering Committee (sic) for a five year period between 2009 and 2014 despite the expectation for such meetings in a Memorandum of Understanding between the two agencies.

The statement that the two Commissioners had not met for a five year period between 2009 and 2014 was repeated in the Chairman's Foreword in the report. These statements were erroneous.

The Committee had overlooked correspondence from the Commission on 6 November 2014 in answer to questions taken on notice from a hearing on 15 October 2014. This 34-page document included on page two information that the JASG had met on 5 June 2013 and 16 October 2013, meaning that the hiatus was about four years. Both of these dates were earlier than that given by the Police Commissioner in his evidence to the Committee, and which it used to make its Finding about the gap in meetings of the Commissioners.

Finding 1

The Joint Standing Committee's Report 18- *Improving the working relationship between the Corruption and Crime Commission and Western Australia Police*, tabled in the Parliament on 26 March 2015 contained an error in the Chairman's Foreword and Finding 12 as to the time between formal meetings of the Police and Corruption and Crime Commissioners.

The request made to Acting Commissioner Douglas to provide the most recent dates of any formal meetings of the Commissioners arose during a closed hearing with the CCC in regard to the Committee's Inquiry. Acting Commissioner Douglas confirmed that there had not been a formal meeting of the Acting Commissioners with the Police Commissioner since Commissioner Macknay had retired. Each Acting Commissioner had met separately with Dr O'Callaghan in informal meetings to discuss "specific issues". Acting Commissioner Douglas thought that any future formal meeting with the Police Commissioner should wait until the appointment of a new CCC Commissioner.⁸

8 Mr Neil Douglas, Acting Commissioner, Corruption and Crime Commission, *Transcript of Evidence*, 15 October 2014, pp6-7.

Request to the Corruption and Crime Commission for further information

Commission's response to the report

After the tabling of the Committee's Report 18 on 26 March 2015, Acting Commissioner Douglas wrote to the Committee on 2 April 2015 and pointed out the error in the report in regard to the JASG meeting dates:

...I would have expected that, in a report by the Committee to the Parliament, a formal finding about meetings attended by the Commission over a five-year period would not be made by the Committee without:

(1) giving the Commission an opportunity to provide information about those meetings over that period; and

(2) taking into account the information provided by the Commission.⁹

The Commission's letter also included other concerns that it had with the Committee's report. Mr Douglas was particularly concerned that the Committee had not allowed the Commission to respond to a draft of the report and the material it contained:

The Committee has recently expressed its view that, even where there is no legal requirement to do so, the Commission should afford procedural fairness before tabling a report in Parliament, even in respect of a relatively insignificant statement. In these circumstances, it is reasonable to expect that the Committee would welcome having its attention drawn to its own departures from those standards.

The second is that, apart from the issue of procedural fairness, there is a greater likelihood of a report being accurate and soundly based if the evidence and propositions on which it relies are subject to a degree of scrutiny and perspective that often results from giving those involved an opportunity to respond.¹⁰

He concluded his letter with an acknowledgement of the value of the Committee's Inquiry:

The Commission has expressed appreciation to the Committee for its interest in wishing to improve the effectiveness of the working relationship between the Commission and WA Police. The significant improvements over the past six months that have taken place –

9 Mr Neil Douglas, Acting Commissioner, Corruption and Crime Commission, Letter, 2 April 2015.

10 Ibid.

although, regretfully, not mentioned in the Report – are due in no small measure to the Committee’s attention to this issue.¹¹

Committee’s acknowledgement of the error

On 15 April 2015 the Committee met with Acting Commissioner Douglas and other senior Commission staff in a closed hearing about other matters. At the conclusion of the hearing the Committee’s Chairman raised the matter of the error in Report 18 and subsequent Committee correspondence it proposed to send to the Commission:

The first of those letters relates to a letter we received dated 2 April arising out of the most recent report tabled by the Committee, report number 18 entitled Improving the working relationship between the Corruption and Crime Commission and Western Australia Police. Hopefully, the correspondence that will come to you will be self-explanatory but, as I say, I feel the need to take the opportunity while you are here with your senior staff just to foreshadow that a response will come.

In essence the response will acknowledge an unintentional oversight on the part of the Committee, specifically around the lack of reference to your letter of 6 November 2014. That was an oversight. I apologise for it, and I have to confess that I missed it myself, so there is a desire by the Committee to rectify that. Some questions will be provided to the Commission specifically around the number of meetings that took place between Commissioners or Acting Commissioners and the Police Commissioner and the JASG and so forth. So, just to foreshadow that that will be coming.¹²

The Committee wrote to Acting Commissioner Douglas on 20 April 2015 about the report error and the Chairman formally apologised again:

I acknowledge and apologise for the error in the report that you have identified. The Committee unintentionally overlooked the information provided by the Commission on 6 November 2014 that the then-Commissioner, Mr Roger Macknay QC, and the Police Commissioner, Dr Karl O’Callaghan, and other staff had met twice as the Joint Agency Steering Group (JASG) during 2013.¹³

11 Ibid.

12 Hon Nick Goiran MLC, Chairman, Joint Standing Committee on the Corruption and Crime Commission, *Transcript of Evidence*, 15 April 2015, p18.

13 Hon Nick Goiran MLC, Chairman, Joint Standing Committee on the Corruption and Crime Commission, Letter, 20 April 2015.

Chapter 1

The Committee told the Commission that it was “presently minded to report further on this matter to the Parliament” and requested further information about meetings between the WAPOL and CCC Commissioners from 2007:

- The dates of all formal meetings of the CCC and WAPOL Commissioners since the tenure of Hon Len Roberts-Smith, QC commenced in May 2007;
- Which of these meetings were meetings of the JASG; and
- The other staff who attended those JASG meetings.¹⁴

The Committee’s request for further information was in response to the Commission’s letter of 2 April 2015 in which Acting Commissioner Douglas raised his concern that the Commission was not given an opportunity to provide information about the JASG meetings over the five-year period reported on by the Committee.¹⁵

Commission’s response to the Committee’s request for information

Acting Commissioner Douglas replied to the Committee’s request for further information about the meetings of the Commissioners on 29 April 2015 and said that “I would be grateful if the Committee would reconsider its request.” His request was based on the following reasons:

I am advised that this would be a very time consuming task. The Commission does not have a dedicated file in relation to the formal meetings between the CCC Commissioner and the Commissioner of Police; its only relevant dedicated file is in relation to meetings of the Joint Agency Steering Group.

In addition, due to an upgrade from MS Office 2003 to MS Office 2010 the Commission no longer has access to former Commissioner Len Roberts-Smith’s Outlook Calendar. The former Commissioner did not maintain a hard copy diary.

Although it is possible to search through restored emails from the relevant period and other IT records, that would involve a substantial diversion of already stretched Commission resources from our core functions.¹⁶

The Committee considered this reply from Acting Commissioner Douglas and the reasons he proposed for the Commission not being able to provide the requested information. It resolved to respond to the new CCC Commissioner, Hon John

14 Ibid.

15 Mr Neil Douglas, Acting Commissioner, Corruption and Crime Commission, Letter, 2 April 2015.

16 Mr Neil Douglas, Acting Commissioner, Corruption and Crime Commission, Letter, 29 April 2015.

McKechnie QC, advising that if it was to report fully on this matter to the Parliament then it required the information that it had requested in its original letter of 20 April 2015.

The Committee wrote to Commissioner McKechnie QC on 14 May 2015. It received a response from him on 27 May 2015 that attached information about the JASG meetings held during Hon Len Roberts-Smith's tenure as Commissioner, but none of the other requested information.

In his reply, Commissioner McKechnie QC said:

In relation to meetings of the Joint Agency Steering Group (JASG), as indicated in the letter to you of 29 April 2015 from Acting Commissioner Douglas, the Commission has a dedicated file. An interrogation of that file provided the attached information in relation to meetings of the JASG during the tenure of Commissioner Roberts-Smith.

I am advised that to supplement the attached information would be at a cost to the Commission of between \$37,000-\$53,500. That amount is comprised of both direct and indirect costs associated with the purchase of necessary hardware and software and payment of salaries for 285-300 hours of work.

As advised in the letter from Acting Commissioner Douglas this would divert "already stretched Commission resources from our core functions", specifically operational priorities, including investigations. As the accountable authority under the Financial Management Act 2006 I am not prepared to authorise this expenditure.¹⁷

The Committee was pleased to hear from Commissioner McKechnie at the conclusion of his response that he had already "met Commissioner O'Callaghan twice and we speak regularly by phone or otherwise. A Memorandum of Understanding and other agreements are close to finalisation."¹⁸

Finding 2

The Corruption and Crime Commission did not provide the Committee with the information it had requested about the meetings of the Police and Corruption and Crime Commissioners between 2007 and 2014 as to do so would have come at a cost of

17 Hon John McKechnie QC, Commissioner, Corruption and Crime Commission, Letter, 27 May 2015.

18 Ibid.

Chapter 1

\$37,000-\$53,500, which the Corruption and Crime Commissioner was not prepared to authorise.

Request to WA Police for meeting information

Concurrently with writing to the CCC seeking information about the meeting of the two Commissioners since 2007, the Committee also wrote to the Police Commissioner, Dr Karl O’Callaghan, on 13 May 2015 seeking the same information and providing the same deadline of 29 May 2015. The Police Commissioner provided the complete information requested to the Committee in a letter dated 20 May 2015 and received by the Committee on 26 May 2015.

Finding 3

The WA Police Commissioner did provide the Committee, within two weeks, the information it had requested about the meetings of the Police and Corruption and Crime Commissioners between 2007 and 2014.

Meetings of the Commissioners between 2007 and 2014

The information provided by the Police Commissioner allows the Committee to confirm the dates and regularity of meetings between the two Commissioners during the tenure of Commissioner Len Roberts-Smith QC (May 2007 — January 2011) and Mr Roger Macknay QC (November 2011 — April 2014).¹⁹ The dates provided by the CCC for the JASG meetings held between 2007-09 confirm those provided by WAPOL. This information is included in Table 1 below.

Table 1- Meetings of the Police and Corruption and Crime Commissioner, 2007-15

Year	JASG Meetings	Other Meetings	Total Meetings
Commissioner Len Roberts-Smith RFD, QC			
2007	2	-	2
2008	2	5	7
2009	3	4	7
2010	-	-	-
2011	-	-	-
Mr Roger Macknay, QC and Acting Commissioners			
2012	-	-	-
2013	2	3	5
2014	-	1	1
Hon John McKechnie, QC and Acting Commissioners			
2015 (as at 27 May 2015)	-	2	2

¹⁹ Corruption and Crime Commission, *The Commissioner*, 2015. Available at: www.ccc.wa.gov.au/AboutCCC/Commissioner/Pages/default.aspx. Accessed on 2 June 2015.

Finding 4

Information provided by WA Police and the Corruption and Crime Commission confirm, that after meeting regularly between 2007-09, there was a gap in meetings of the Joint Agency Steering Group (JASG) of three years and seven months, and formal meetings between the Commissioners of three years and five months.

Finding 5

After the meeting on 27 September 2013, there was then a further gap of meetings between the Commissioners of a period of 14 months. Based on information provided by WA Police, there have been no further meetings of the Joint Agency Steering Group since 16 October 2013.

Previous issue with Committee accessing Commission correspondence

The difficulty the Committee faced in accessing Commission records in regard to the meetings between Commissioners is not its first instance of having trouble accessing Commission documents. On 6 November 2014 when the Commission provided its answer to questions on notice (QONs), including the most recent meeting dates for the meeting of the Police and CCC Commissioners, the Committee was evaluating hundreds of documents relating to a disagreement between the Parliamentary Inspector (PICCC), Hon Michael Murray QC, and Acting Commissioner Douglas. In October the PICCC's annual report included a statement about the Commission's response to documents requested by WAPOL as part of its investigations into allegations made against Commission staff. Acting Commissioner Douglas tabled a report from the Commission that rebutted the PICCC's assertions on the day before he provided his QONs to the Committee.²⁰

The Committee became aware that the Commission was to table this section 88 report on 5 November 2014. It requested all documents and emails from the PICCC, WAPOL and the CCC relating to WAPOL's investigation of the allegations made against CCC officers. This material was requested to be provided by close of business Wednesday 12 November in advance of a closed hearing scheduled with Acting Commissioner Douglas on 17 November 2014.

The Committee received more than 200 documents from the PICCC and WAPOL covering the period 18 July 2013 to 11 November 2014. In the initial response from the CCC on 12 November 2014, however, Acting Commissioner Douglas provided just

20 Corruption and Crime Commission, *Report on an Administrative Matter Relating to the Functions of the Commission Pursuant to Section 88 of the Corruption and Crime Commission Act 2003*, 5 November 2014. Available at: www.ccc.wa.gov.au/Publications/Reports/Published%20Reports%202014/CCC%20Section%2088%20Report%20on%20an%20Administrative%20Matter.pdf. Accessed on 2 June 2015.

Chapter 1

16 documents in total. These consisted of eight pieces of correspondence to/from the PICCC and eight pieces of correspondence to/from WAPOL.²¹

The Committee responded to Acting Commissioner Douglas on 20 November 2014 about the limited number of documents provided by the Commission:

I advise that the Committee also requested copies of correspondence about this matter from the PICCC and WAPOL. The information those agencies provided to the Committee indicates a far greater number of correspondence between them and the Commission than the 16 items provided to the Committee on 12 November. I request that the Commission ascertain whether it has in its possession any other correspondence of the type sought by the Committee.²²

In his reply to the Committee of 24 November 2014, Acting Commissioner Douglas did not provide any further documents, but sought to clarify what documents were being requested:

It was in that context that I construed the Committee's request for "copies of all correspondence between [the Commission, Western Australia Police ("WA Police") and the Parliamentary Inspector] in regard to these allegations". In particular, the reference to "these allegations" was construed to mean the allegations, the subject of the Section 88 Report, that were referred by the Parliamentary Inspector to WA Police for investigation.

I am advised that the copies of the 16 documents that I sent to the Committee on 12 November 2014 constitute all correspondence relating to those allegations.

...

The Commission understands that, in the course of its investigation into those [redacted] allegations, WA Police has also undertaken investigations into other matters. From the information that has been given to the Commission by either WA Police or the Parliamentary Inspector, the Commission understands that these matters (none of which are "allegations" under the Corruption and Crime Commission Act 2003) include...

21 Mr Neil Douglas, Acting Commissioner, Corruption and Crime Commission, Letter, 12 November 2014.

22 Hon Nick Goiran MLC, Chairman, Joint Standing Committee on the Corruption and Crime Commission, Letter, 20 November 2014.

There is a great deal of correspondence between the Commission and WA Police or the Parliamentary Inspector (or both) about these matters. Please let me know if the Committee would like copies of all correspondence held by the Commission in relation to some or all of these matters.

...

I appreciate that your request for additional documents is expressed more broadly. In responding to your request it would assist the Commission if you would confirm whether the copies of any other written complaints that you are seeking are written complaints made to the Commission which the Commission has referred to the Parliamentary Inspector that identify:

- 1. allegations or matters, that to the Commission's knowledge, are currently being investigated by WA Police, or that have been investigated by WA Police; or*
- 2. other allegations or matters (that is, those that are not being investigated, and have not been investigated, by WA Police).²³*

Following a closed hearing with Acting Commissioner Douglas on 26 November 2014 regarding the Commission's section 88 report, the Committee clarified the information that it had sought from the Commission in its letter of 20 November 2014. The Committee also wrote to Acting Commissioner Douglas on 5 December 2014 requesting "copies of the allegations held by the Commission made against CCC officers that were referred by the PICCC to WAPOL for investigation"²⁴ to be provided by 19 December 2014.

On 9 January 2015, Acting Commissioner Douglas provided the Committee with:

the 'additional requested material' referred to in the penultimate paragraph of your letter of 5 December 2014 and discussed during the Committee's closed hearing on 26 November 2014 ... An index of the additional material provided in reverse chronological order, from 20 October 2014 to 18 July 2013, is also attached for ease of reference.²⁵

23 Mr Neil Douglas, Acting Commissioner, Corruption and Crime Commission, Letter, 24 November 2014.

24 Hon Nick Goiran MLC, Chairman, Joint Standing Committee on the Corruption and Crime Commission, Letter, 5 December 2014.

25 Mr Neil Douglas, Acting Commissioner, Corruption and Crime Commission, Letter, 9 January 2015.

Chapter 1

Included in this correspondence were copies of another 32 documents, adding to the original 16 provided on 12 November 2014 and two provided to the Committee during the closed hearing on 26 November 2014. This totalled 50 documents which the Commission had provided to the Committee in the two months since its original request.

In comparing the documents from the three different agencies, the Committee found that the PICCC and WAPOL were able to provide the Committee with copies of 127 documents which the Commission did not provide. An overview of the documents not provided by the Commission is contained in Table 2 below.

Table 2- Summary of documents not provided to the Committee by the Corruption and Crime Commission

	Letters	Emails
From the PICCC to CCC	9	-
From the CCC to the PICCC	22	-
From WAPOL to CCC	5	45
From CCC to WAPOL	10	36

The Committee followed up the matter of the documents that had not been provided by the Commission with Acting Commissioner Douglas and senior Commission staff during a closed hearing on 25 March 2015. The Commission's Director, Legal Services told the Committee that "[w]e have met that expectation" to provide the requested documents.²⁶

The Committee is concerned that the Commission has struggled on these two separate occasions to provide the relevant documents to the Committee while both WAPOL and the PICCC were able to do so in a timely fashion. It heard evidence in its most recent hearing on this issue that the Commission uses an Objective electronic records management database while many other State public sector agencies use the TRIM records management system.²⁷

The Commission's Acting CEO explained to the Committee during a closed hearing on 25 March 2015 that during the WAPOL investigation into the allegations surrounding CCC officers:

...there were just multiple people involved across the Commission, people assessing allegations and the assessment area. We had

26 Mr Paul O'Connor, Director, Legal Services, Corruption and Crime Commission, *Transcript of Evidence*, Closed hearing, 25 March 2015, p2.

27 Ms Peta Mabbs, Acting Chief Executive, Corruption and Crime Commission, *Transcript of Evidence*, Closed hearing, 25 March 2015, p1.

*investigators investigating matters and then we have Paul's area, Director Legal Services, being the conduit with the PI's office via the Acting Commissioner. There are a number of different players involved. I think we possibly have a breakdown in the records management space, which is something that we can certainly have a look at.*²⁸
(emphasis added)

Recommendation 1

The Corruption and Crime Commission should review its electronic records management system and database to ensure that it is suitable for the task of providing documents in a timely fashion, as has been the Committee's experience with WA Police and the Parliamentary Inspector of the Corruption and Crime Commission.

Recommendation 2

The Corruption and Crime Commission report progress on its review of its electronic records management system and database in its future annual reports until such time as any recommendations arising from its review have been fully implemented.

Draft report provided for comment

The Legislative Assembly's Procedure and Privileges Committee Report No. 3, *Changes to the Speaker's Procedural Rules: Enhancing Procedural Fairness*, was tabled on 3 December 2013. It recommended amendments to the Speaker's Procedural Rules in relation to the operation of the Assembly's Standing Order 267, *Examination of witnesses*. These amendments were accepted by the Assembly and require Committees, such as the JSCCCC, to provide a person or organisation with notification where significantly adverse references are proposed to be made by the Committee in a report, and give them a reasonable opportunity to provide a response.²⁹

A draft copy of this report was provided for comment to both Corruption and Crime Commissioner McKechnie QC and WAPOL Commissioner O'Callaghan APM on 18 June 2015. They both responded on 2 July 2015 that they had no comment about the draft.

28 Ibid.

29 Parliament of Western Australia, *Standing Orders of the Legislative Assembly of the Parliament of Western Australia*, 26 June 2014, p130. Available at: [www.parliament.wa.gov.au/WebCMS/WebCMS.nsf/resources/file-assembly-standing-orders/\\$file/Assembly%20Standing%20Orders%2015082014.pdf](http://www.parliament.wa.gov.au/WebCMS/WebCMS.nsf/resources/file-assembly-standing-orders/$file/Assembly%20Standing%20Orders%2015082014.pdf). Accessed on 3 July 2015.

Appendix One

Committee's functions and powers

On 21 May 2013 the Legislative Assembly received and read a message from the Legislative Council concurring with a resolution of the Legislative Assembly to establish the Joint Standing Committee on the Corruption and Crime Commission.

The Joint Standing Committee's functions and powers are defined in the Legislative Assembly's Standing Orders 289-293 and other Assembly Standing Orders relating to standing and select committees, as far as they can be applied. Certain standing orders of the Legislative Council also apply.

It is the function of the Joint Standing Committee to -

- a) monitor and report to Parliament on the exercise of the functions of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission;
- b) inquire into, and report to Parliament on the means by which corruption prevention practices may be enhanced within the public sector; and
- c) carry out any other functions conferred on the Committee under the *Corruption and Crime Commission Act 2003*.

The Committee consists of four members, two from the Legislative Assembly and two from the Legislative Council.