



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

**CORRESPONDENCE FROM MR KEVIN
HAMMOND, COMMISSIONER OF THE
CORRUPTION AND CRIME COMMISSION
AND MR MALCOLM McCUSKER QC,
PARLIAMENTARY INSPECTOR**

Report No. 2

in the 37th Parliament

2005

Published by the Legislative Assembly, Parliament of Western Australia, Perth, August, 2005.

Printed by the Government Printer, State Law Publisher, Western Australia.



Joint Standing Committee on the Corruption and Crime Commission

Correspondence from Mr Kevin Hammond, Commissioner of The Corruption and Crime Commission and Mr Malcolm Mccusker QC, Parliamentary Inspector.

ISBN: 1 920830 53 7

(Series: Western Australia. Parliament. Legislative Assembly. Committees.

Joint Standing Committee on the Corruption and Crime Commission. Report 2)

328.365

Copies available from:

State Law Publisher
10 William Street
PERTH WA 6000

Telephone:

(08) 9321 7688

Facsimile:

(08) 9321 7536

Email:

sales@dpc.wa.gov.au

Copies available on-line:

www.parliament.wa.gov.au



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

**CORRESPONDENCE FROM MR KEVIN
HAMMOND, COMMISSIONER OF THE
CORRUPTION AND CRIME COMMISSION
AND MR MALCOLM McCUSKER QC,
PARLIAMENTARY INSPECTOR**

Report No. 2

Presented by:

Mr John Hyde, MLA

Laid on the Table of the Legislative Council and Legislative Assembly
on 30 August 2005

COMMITTEE MEMBERS

Chairman

Mr John Hyde, MLA
Member for Perth

Deputy Chairman

Hon Ray Halligan, MLC
Member for North Metropolitan

Members

Ms Margaret Quirk, MLA
Member for Girrawheen

Hon Margaret Rowe, MLC
Member for Agricultural

COMMITTEE STAFF

Principal Research Officer

Ms Andrea McCallum, BA, B Juris, LL B, LL M

COMMITTEE ADDRESS

Joint Standing Committee on the Corruption and Crime Commission
Legislative Assembly
Parliament House
Harvest Terrace
PERTH WA 6000

Tel: (08) 9222 7467
Fax: (08) 9222 7804
Email: jscccc@parliament.wa.gov.au
Website: www.parliament.wa.gov.au

TABLE OF CONTENTS

COMMITTEE MEMBERS	i
COMMITTEE STAFF.....	i
COMMITTEE ADDRESS	i
COMMITTEE'S FUNCTIONS AND POWERS	iii
CHAIRMAN'S FOREWORD.....	iv
APPENDIX One.....	1

COMMITTEE'S FUNCTIONS AND POWERS

On 31 May 2005 the Legislative Council concurred 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.

CHAIRMAN'S FOREWORD

The Commissioner of the Corruption and Crime Commission, Mr Kevin Hammond, sent two letters to the Joint Standing Committee on the Corruption and Crime Commission and the Parliamentary Inspector, dated 26 August 2005 and 29 August 2005 respectively.

The Parliamentary Inspector of the Corruption and Crime Commission, Mr Malcolm McCusker QC, also sent a letter to the Committee on 30 August 2005.

The letters relate to recent public comment on issues associated with the resignation of former Acting Commissioner of the Corruption and Crime Commission, Ms Moira Rayner.

The Committee has decided that it is in the public interest to table these items of correspondence in both Houses of Parliament at the earliest opportunity. They appear in this report as Appendix One.

JOHN HYDE, MLA
CHAIRMAN

APPENDIX ONE



GEN-33

CORRUPTION AND CRIME COMMISSION
OF WESTERN AUSTRALIA



Your ref:
Our ref:

26 August 2005

Mr Malcolm McCusker AO, QC, Cit WA
Parliamentary Inspector
45 St Georges Terrace
PERTH WA 6000

Mr John Hyde
Chairman
Joint Standing Committee on the
Corruption and Crime Commission
Parliament House
PERTH WA 6000

Dear Mr McCusker and Mr Hyde

In this morning's "West" in Robert Taylor's report the following appears:

"Ms Rayner said that the day after her visit to Mr Marquet she informed Mr Hammond of what she had said to Mr Marquet. Mr Hammond then called in the CCC's parliamentary inspector, Malcolm McCusker QC, who immediately launched an investigation."

This report is incorrect. What is correct is that Ms Rayner telephoned me on 3 August to say that she had spoken to Mr Marquet on 2 August and my note of the conversation is attached.

Ms Rayner did not tell me on that date that she had informed Mr Marquet that his phones were tapped.

She did not do that until immediately following her interview with the Parliamentary Inspector on 16 August when she offered her resignation.

I believe I should write this letter as a matter of record.

Yours sincerely


Kevin Hammond
COMMISSIONER

0937 hrs
26 Aug

Encl.

PO Box 7667 Cloisters Square, St George's Terrace PERTH WA 6850
Ground Floor, 186 St George's Terrace PERTH 6000
Telephone: 08 92154888 Facsimile: 08 92154884
Email: info@ccc.wa.gov.au
Website: www.ccc.wa.gov.au

Today 3 August 05 MR phoned me at 1144 hours to say.
She called on LM yesterday.
She says he has weeks not months,
She doubts he is totally lucid and she says he spoke in a "circular" fashion.
He expressed his desire to see me (she says he may wish to make a dying
Declaration).
She says she told him that she didn't think that would happen but she felt she
should pass the request on to me.
Myself non committal.
She sd would see me Tuesday.
KJH 1147 hrs 3 Aug 05.

A large, dark, handwritten scribble or signature, possibly consisting of a vertical line followed by a long, sweeping horizontal stroke that curves upwards at the end.



CORRUPTION AND CRIME COMMISSION
OF WESTERN AUSTRALIA

Rec'd via courier
4.50 p.m. 29/8/05
MM

Your ref:
Our ref: 09999/2005/1

29 August 2005

Mr Malcolm McCusker AO, QC, Cit WA
Parliamentary Inspector
45 St Georges Terrace
PERTH WA 6000

Mr John Hyde
Chairman
Joint Standing Committee on the
Corruption and Crime Commission
Parliament House
PERTH WA 6000

Dear Mr McCusker and Mr Hyde

REPORT TO THE STANDING COMMITTEE

Following my perusal of the Report dated 25 August 2005 released by the Joint Standing Committee on the Corruption and Crime Commission on Friday 26 August, and in the light of some media observations over the last weekend, I seek to make the following comments with respect to what has been referred to as a 'time-line' and on a report in *The West Australian* of a Commission undercover operation.

Time-line

Immediately following the telephone call I received from Ms Rayner at 1144 hours on 3 August and in the light of two facts - that she told me she had called on Mr Marquet the previous day together with the virtual cessation of calls from Mr Marquet's telephone - the matter was the subject of consideration within the Executive of the Commission, particularly as to the secrecy provisions of the *CCC Act* and also the restrictive provisions of the *Telecommunications Interception Act 1979*.

As the Commission had concerns for the appropriateness of Ms Rayner's conduct, first thing on 4 August, I telephoned the Office of the Parliamentary Inspector (whom I believed was out of town) and his secretary contacted him per mobile. He phoned me and arranged to come to the Commission offices where he arrived mid afternoon. Following consultation with the Parliamentary Inspector, the Commission agreed to continue the Marquet investigation. It was also agreed that if the Commission's concerns for Ms Rayner's conduct remained, then there would be a formal referral from the Commission to the Parliamentary Inspector the following week.

PO Box 7667 Cloisters Square, St George's Terrace PERTH WA 6850
Ground Floor, 186 St George's Terrace PERTH 6000
Telephone: 08 92154888 Facsimile: 08 92154884
Email: info@ccc.wa.gov.au
Website: www.ccc.wa.gov.au

- 2 -

The referral by way of formal notification to the Parliamentary Inspector pursuant to s197(4) of the Act on 10 August followed the conclusion that the Commission retained concerns for Ms Rayner's conduct.

I submit that there is simply no substance in any suggestion that there was any delay in reporting the Commission's concerns to the Parliamentary Inspector.


Undercover Operation

Saturday's *The West Australian* contained an article *CCC Sting to uncover a 'rat in the ranks'*. It is clear that the article has as its basis detailed knowledge of some aspects of the Marquet investigation. In response to this, the CCC conducted an intense investigation over the weekend. I can categorically state that the source of the article was the external informer who facilitated the operation and not an officer of the Commission. The CCC, concerned with the breach of confidence by that person, is seeking advice as to whether the supply of information to *The West Australian* constitutes an offence. If an offence is not established, the Commission will consider an application to have the Act amended to create such an offence.

In addition, while the article contains a generally accurate description of the activity, it also contains significant inaccuracies. In particular, the reference to CCC officers being 'stunned by what they had discovered' has absolutely no basis of fact.

While the use of informers in some operations is critical, not being officers of the Commission, they can present risks.

Yours sincerely



Kevin Hammond
COMMISSIONER

30-08-05;12:56 :Metropolitan Management Servcs

:+61 8 9325 3280 # 2/ 2

Rec'd 30/8

1:00 pm



PARLIAMENTARY INSPECTOR
OF THE CORRUPTION AND CRIME COMMISSION
WESTERN AUSTRALIA

Our ref: MJMcC:MET
Your ref:

30 August 2005

The Hon. John Hyde MLA
Chairman, Parliamentary Standing Committee
Parliament House
Harvest Terrace
WEST PERTH WA 6005

Dear Chairman,

RE: CORRUPTION AND CRIME COMMISSION: MS MOIRA RAYNER

As a result of the release of my full report, and the transcript of the Committee hearing last Thursday 25 August, I have had a number of enquiries relating to the question of whether the conversation between Ms Rayner and Mr Marquet at the Hospice on the afternoon of 2 August 2005 was recorded and if so whether there is a transcript of the recording, and why it is not referred to, if it exists, in my report.

To clear up any misconception, the position is that the discussion between Ms Rayner and Mr Marquet of 2 August was not recorded as at that time there was no interception or recording device in the room.

Notwithstanding that, when I interviewed Ms Rayner on 16 August 2005 and questioned her about her discussion with Mr Marquet of 2 August, she freely admitted to me that she had advised Mr Marquet to the effect that he should not make any telephone calls because he was "probably being bugged".

Yours faithfully

MALCOLM McCUSKER Q.C.
Parliamentary Inspector

Box Z5110, St George's Terrace, Perth 6831
Telephone: (08) 9323 2222 Facsimile: (08) 9323 3280
Email: mccusker@linet.net.au
ABN: 39 838 081 950