



CHIEF JUSTICE OF WESTERN AUSTRALIA

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8 September 2016

The Hon Nick Goiran MLC
Chairman
Joint Standing Committee on the Corruption and Crime Commission
Legislative Assembly Committee Office
WA Parliament
Level 1, 11 Harvest Terrace
WEST PERTH WA 6005

Dear Mr Goiran

Thank you for your letter of 18 August 2016 inviting me to make a submission with respect to the Committee's inquiry into issues arising from the decision of the Court of Appeal in *A v Maughan*.

I am grateful to have been given the opportunity to provide a submission. However, as I am sure you would appreciate, there are limits upon the extent to which it is appropriate for a judge or court to comment upon policy issues under consideration by the Parliament or a committee of the Parliament. Without attempting to exhaustively define those limits in this letter, generally speaking, it will be appropriate for a judge or a court to comment upon issues which have a direct effect upon the operations, work or resources of the courts, but inappropriate to comment upon matters of broader general policy.

The courts of Western Australia have an interest in the ready and certain identification of the person or persons who have authority to commence proceedings in the court. If the relevant legislation clearly identifies the agencies or officials who have that authority, issues of the kind raised and resolved in *A v Maughan* are unlikely to arise. On the other hand, the courts do not have any particular interest in the question of which agencies or officials should be given that authority, as that question



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raises issues of policy with respect to the investigation of possible contraventions of the law and the exercise of the discretion with respect to the prosecution of such offences which do not have any direct impact upon the activities, work or resources of the courts.

For these reasons, apart from the observation that the clear and certain identification of the agencies or officials who have authority to initiate proceedings in the courts is in the interests of the administration of justice, I have no submission to make with respect to the particular issues under consideration by your Committee. I am nevertheless grateful for having been provided with the opportunity to comment.

Yours sincerely

A handwritten signature in blue ink, reading "Wayne Martin", with a horizontal line underneath.

The Hon Wayne Martin AC
Chief Justice of Western Australia