

*Joint Standing Committee on the Corruption and Crime Commission — Fifth Report —
Police power of arrest: Parliamentary Inspector's report*

Resumed from 24 March.

Motion

Hon PIERRE YANG: I move —

That the report be noted.

Hon NICK GOIRAN: As much as it might be convenient for government members to pass over a committee report without having given it any consideration, it is the view of the opposition that that would be highly inappropriate. This report of the Joint Standing Committee on the Corruption and Crime Commission deals with police power of arrest. I am sure that, in a moment, we will have a large number of backbench MPs suddenly showing an interest, now that the Leader of the Opposition has returned from urgent parliamentary business, but they might like to take a moment to read the report again. Recommendation 1 reads —

That the Minister for Police consider matters raised in the attached report of the Parliamentary Inspector and respond to the request to consider amending the powers of arrest in the Criminal Investigation Act 2006.

What is to happen about this? Are we to just toss this report in the bin? We have four members of Parliament, two from this place and two from the other, who have invested time in this fifth report. They have drawn this to our attention.

Hon Martin Pritchard: Member, you might consider the interest that your backbenchers have shown in committee reports, as well.

Hon NICK GOIRAN: With all due respect to the honourable member, it is the responsibility of the government to respond to this matter, not the opposition. As usual, the government once again—we saw it in the previous report—has nothing to say when it comes to a parliamentary committee undertaking its scrutiny role. This particular committee has said that the Minister for Police needs to do something. Is it going to happen? Who is representing the Minister for Police in this house? He is obviously a member from the other place. Somebody has responsibility for that in this place. This is no time to be ducking and diving. This is the time to take responsibility. This is the time for a member to show what they are getting paid the big bucks for. I would like to know exactly what the government intends to do about this. Are we going to amend the powers of arrest in the Criminal Investigation Act 2006? What I do not want to hear from the government is, “Yes, we accept the committee’s recommendation”.

Hon Martin Pritchard: Member, that’s not going to be provided by a backbencher here.

Hon NICK GOIRAN: I agree with Hon Martin Pritchard. That is a very fair and a very reasonable interjection. I agree. What is happening with the frontbench, then? Somebody needs to respond. I agree it is not the fault of the backbench. They must find it very difficult to operate under this brutal regime, with a Premier who will only have it his way. We have even seen somebody as powerful as the Minister for Regional Development have her views on whether the Labor Party should run a candidate in North West Central cast aside because the Premier says, “No way, this is not going to happen”.

Point of Order

Hon MARTIN PRITCHARD: I ask the member to be relevant to the report.

The DEPUTY CHAIR (Hon Dr Brian Walker): Hon Nick Goiran, I believe that a great point has been made. More relevance to the point to be debated, please.

Committee Resumed

Hon NICK GOIRAN: I agree entirely with Hon Martin Pritchard, and I think he has, again, been very fair this afternoon. I would ask him to go and knock on the door of whoever is responsible for this matter and exercise some of that energy towards the representative for the Minister for Police. What is going to happen about this? As I said, it is no good the minister coming in and saying, “We accept this recommendation.” That is what they said on the last one! We have just noted the report; we have just passed it. Hon Pierre Yang finished his contribution, we noted the report, and there was no response from the frontbench. It is the one-year anniversary of my asking what is happening with the Corruption and Crime Commission review. When will there be a draft of the report? When will there be a draft of the bill? Is the government going to table any documents? There has been nothing from the government for 365 days—nothing at all.

We now move to the next report, which is the one before us, the fifth report of the Joint Standing Committee on the Corruption and Crime Commission. The government would love for us to just fall asleep and pretend that it never existed—we are just going to note it! Noting the report is not good enough; we want action from this

government. What is going to happen and when is it going to happen? Is the government going to amend the Criminal Investigation Act 2006; and, if so, will it happen in a timely fashion? We know that when it wants to, this government can move to amend legislation at lightning speed. But on matters that have been brought to the attention of Parliament through its parliamentary committees, the government moves at the speed of a snail or a tortoise. Why is that? Why does the government have such contempt for the work of parliamentary committees?

In this matter dealing with the police power of arrest, Matthew Zilko, SC, the parliamentary inspector, made the following observations —

My purpose in tabling this report is not to assert that the police and commission have erred in their interpretation of the ... [*Criminal Investigation Act 2006*]. The plain wording of the relevant provision enables a police officer to arrest a person without a warrant for even a trivial offence [in certain circumstances] ... However, although this outcome emerges from the text of the CIA, it appears inconsistent with the Act's overall intent.

The parliamentary inspector identified this matter, which has been brought to the attention of the Joint Standing Committee on the Corruption and Crime Commission and the government but, as per usual, it has been shelved by the government. The government provided a response to this matter on 9 August. I note that this report was tabled on 24 March but the government response was tabled on 9 August. Have we been informed of the precise time line, urgency and priority that this government will give to the reform that the parliamentary inspector has drawn to our attention? I do not believe so. I imagine that the Leader of the Opposition, who is the hardworking deputy chair of the Joint Standing Committee on the Corruption and Crime Commission, will also have something to say about this matter because it is simply not good enough. Week in and week in, we come here on a Wednesday to consider committee reports and the government has a blasé attitude towards these recommendations. Already earlier today we passed over the merits of appointing a commissioner for Aboriginal children and young people. The previous week I asked the government, "What is going to happen with regard to this matter? Provide us with an update." Nothing happened today. There was no government response; the report was noted. We had the one-year anniversary of the previous JSCCCC report, but there was no government response. We have another report that, yet again, contains a recommendation for law reform, but we have had no comprehensive response from the government. This is not the approach that should be taken by individuals who pride themselves on responsible government. The proper approach is to come prepared on a Wednesday and have a lead speaker for the government. This occurs in every other debate. Earlier this afternoon, Hon Donna Faragher moved a motion and the lead speaker for the government came prepared. I was away on urgent parliamentary business, but I am reliably informed by my hardworking colleagues that the lead speaker on that occasion was the Leader of the House. She came in prepared and argued her case, and there was a thorough debate. It seems to me that what happens on Wednesdays is that these reports get tabled and no-one is prepared.

Hon Pierre Yang: You're not ignoring the government responses provided under the standing orders—right?

Hon NICK GOIRAN: I agree with the honourable member, and I acknowledged that earlier. I said that the government tabled a response on 9 August. It just seems to me that the attitude is: "There you go; we have tabled that piece of paper. That is the end of the matter." No. That is the response from the government to the committee report. Now let us debate it. Do we agree with the government response? Do backbench members agree with the government response? If the government is indicating that it is going to provide some law reform, let us get cracking. Let us do something about it. Let us move with the lightning speed that was shown with the Beeliar wetlands bill, the puppy farming bill and the electoral reforms that apparently were not on the agenda. We can move when we want to. I am asking whether this is a priority of the McGowan Labor government. What level of priority is it being given or is it just going to be shelved?

Hon Dr STEVE THOMAS: Thank you, deputy chair, for the opportunity to make a contribution to the debate on the Joint Standing Committee on the Corruption and Crime Commission's fifth report, *Police power of arrest: Parliamentary inspector's report*. This report came about very much because of the actions of the parliamentary inspector, Mr Matthew Zilko, SC, who raised concerns about a particular case. As we discussed in debate on the last committee report, a particular case highlighted by the parliamentary inspector was enough to indicate that a review was needed of whether employees who are not public servants could be investigated. In this case, it is a much more serious event. It comes from a complaint to the Corruption and Crime Commission by a 51-year-old woman who was arrested on suspicion of stealing some hair dye about how she was treated by the police. I ask members at the beginning of my contribution to remember that the woman was innocent of the charge for which she was arrested and detained. I am not going to suggest that the powers of police to arrest and detain in these circumstances should necessarily be removed, but this is very much about the need for a proportionate response. This person was not a threat to police officers. This was an arthritic 51-year-old woman who was, unfortunately, misidentified. At the end of the day, she was released and eventually received an apology. However, it needs to be said that the way that people are treated does matter. In fact, as Mr Matthew Zilko points out, the actual offender was not arrested but received an infringement notice, so much depends on the actions of the person when they face arrest. In this case,

it is worth reflecting that the amount stolen was of relatively low value. I do not necessarily think that that excuses anybody from committing theft. I take the view that theft is theft and the values are probably less important than the act. But, again, we must remember that, in this case, the person who was arrested was innocent of the charge. She was not the person who perpetrated the theft.

In my view, on occasions, police will need to arrest people on suspicion of. That is something that police officers around the world have within their purview. It is a power that they are granted—the capacity to arrest on suspicion of. But, again, the way it is done in particular is problematic. A range of options were open to these officers rather than arresting this person and taking her to the watch house. There were certainly ways that this person could have been better treated following the arrest. There should have been not just an immediate apology, but better treatment by the police afterwards.

In the view of the Parliamentary Inspector, the government should review the power and capacity of the police to arrest. He makes the point that the threshold necessary for arrest could potentially be amended by changing the definition of “serious offence” under the Criminal Investigation Act. The Western Australia Police Force is not restricted to arrest for a serious offence, but in other jurisdictions, that is certainly the case. That was highlighted in the report. It states —

- In England and Wales a police officer’s power of arrest can only be exercised if the officer has reasonable grounds for believing that it is necessary to make the arrest.
- The Commonwealth of Australia expressly provides that arrest should only be used if proceeding by way of a summons would not achieve one or more of a prescribed list of purposes ...
- In New South Wales a police officer may arrest a person if the officer suspects on reasonable grounds that the person is committing or has committed an offence *and* the officer is satisfied that the arrest is ‘reasonably necessary’ for one of more of a set of prescribed purposes.

Basically, it is designed so that officers do not make an arbitrary arrest when other methods could be used to bring the person to account that do not potentially involve being handcuffed, put in the back of a wagon, transferred to a watch house and kept in a holding cell. There are generally other methods available to police. That said, there are issues with restricting the arrest powers of police across the board—certainly in situations in which police are under threat, or have limited circumstances under which they can look after their own safety.

Consideration of report adjourned, pursuant to standing orders.

Progress reported and leave granted to sit again, pursuant to standing orders.