

*Joint Standing Committee on the Corruption and Crime Commission —
First Report — Annual report 2020–21 — Motion*

Resumed from 16 February on the following motion moved by Hon Dr Steve Thomas —

That the report be noted.

Hon JACKIE JARVIS: I rise to speak on the first report of the Joint Standing Committee on the Corruption and Crime Commission, which is the annual report for the 2020–21 period. As I think I might have mentioned last time I spoke on the Joint Standing Committee on the Corruption and Crime Commission—I cannot remember; it was so long ago—this was a report tabled by Hon Dr Steve Thomas, who is, of course, a member of this committee. I note that this report includes a forward from Mr Matthew Hughes, MLA, who is the chair of the committee. Just as an overview, this report basically covers two sitting periods, the fortieth and the forty-first Parliament. One of the main priorities of that committee during the fortieth Parliament was to welcome Matthew Zilko, SC, the Parliamentary Inspector of the Corruption and Crime Commission, to the new role. His appointment in November 2020 was noted by the committee and it also noted that it was the first new appointment to this office since 2013, when the late Hon Michael Murray, AM, was appointed. The Office of the Parliamentary Inspector of the Corruption and Crime Commission will obviously be working closely with the reappointed commissioner, Hon John McKechnie, QC, to ensure that that ongoing role of ensuring the integrity of the public sector for the benefit of all Western Australians.

I look forward to seeing what the committee does now in this fortieth Parliament—sorry in the forty-first Parliament—that we are in now. We are reflecting on the annual report. The report before us summarises the activities of this joint standing committee for that period. During that period, the committee had 11 deliberative meetings between 1 July 2020 and 30 June 2021. The committee conducted one formal inquiry, which I think is admirable considering that it did not meet for an extended time during the election period. It had nine formal evidence hearings and took statements from 26 witnesses. As a reminder, the function of this committee is to monitor and report to Parliament on the exercise of the functions of the Corruption Crime Commissioner and the parliamentary inspector and to inquire and report to Parliament on the means by which corruption prevention practices may be enhanced in the public sector, which is, of course, an incredibly important function that cannot be understated, and to administer and carry out other functions as determined in the Corruption, Crime and Misconduct Act 2003. I mentioned that there were a number of hearings during this this annual report period. There were four hearings that related to the previous committee's formal inquiry into the Corruption and Crime Commission's oversight of police misconduct investigations, particularly with regard to allegations of excessive force. That report is being dealt with separately, and it will continue to be discussed in this chamber as a separate matter. The committee also held two annual report hearings, which is part of this committee's oversight role of government agencies, namely with the Corruption and Crime Commission and the Public Sector Commission.

During this reporting period, the committee tabled some really interesting reports. One of those reports was *If not the CCC ... then where? An examination of the Corruption and Crime Commission's oversight of excessive force allegations against members of the WA Police Force*. That report was tabled in both houses on 24 September 2020. That report has also been the subject of other discussions in this place and is being dealt with as a separate matter, so I certainly will not dwell on that.

The committee also tabled the report *Meaningful reform overdue: The Corruption, Crime and Misconduct Act 2003*. That report was tabled in the other place on 19 November 2020 and in this place on 20 November 2020. That report basically looked at what stage the Corruption, Crime and Misconduct Act would be reviewed. I understand that process is underway. The committee noted in that report that it is abundantly clear from feedback from stakeholders that a review of the CCM act, as it is known, is required. In June 2021, the government advised the Legislative Council that the Department of Justice is undertaking a major review of that act. We await that with interest.

This report is a fairly stock-standard committee annual report. We have allocated more time to the consideration of that report than is necessary, but I know that we will continue to discuss that report, as we do with all the committee reports on our list for consideration. Some of us new members are learning the process. With that, I conclude my comments on the Joint Standing Committee on the Corruption and Crime Commission annual report.

Hon PIERRE YANG: Today I wish to continue my remarks on the report in front of us, the first report of the Joint Standing Committee on the Corruption and Crime Commission, *Annual report 2020-21*. On the last occasion that we considered committee reports, and also on a number of occasions before that, I talked about the importance of supporting WA Police Force, which I am sure all members of this place would agree with, and also the importance of having a robust oversight system of WA police.

The annual report refers to the fifteenth report of the Joint Standing Committee on the Corruption and Crime Commission in the fortieth Parliament. Today, I want to talk about a very important distinction between the Western Australian Corruption and Crime Commission Act and its roles and function, and the equivalent legislation in our neighbouring jurisdiction, the Northern Territory. Members may or may not know that our Corruption and

Crime Commission, as enabled by the CCC act, has the ability to provide oversight of public entities. What our act is unable to do is look at organisations that are in receipt of public funding. That is a different approach from the one taken in the Northern Territory. The Northern Territory Independent Commissioner Against Corruption Act differs from our CCC act in that it also defines as public entities private organisations that are in receipt of public funding; therefore, it provides for oversight of those organisations. I found that very interesting when I was doing my research, because it increases the breadth of supervision in that jurisdiction.

That is entirely relevant to this debate, because the fifteenth report from the Joint Standing Committee on the Corruption and Crime Commission in the fortieth Parliament refers to oversight of WA police and oversight of the CCC. Page 27 refers to one of the committee's functions between 2003 and 2014. I quote from paragraph 3.8 —

Police oversight has been carried out with varying levels of rigour over time by the CCC. Concerns about police oversight were expressed throughout the course of the 2008 *Review of the Corruption and Crime Commission Act 2003* (known as the Archer Review). For example, the ALSWA expressed concerns that the CCC:

- rarely interviewed complainants
- did not often interview witnesses identified by complainants
- rarely (if ever) consulted with the ALSWA
- requested any further information required directly from the WA Police Force.

I discussed that in my previous contribution on this report. Paragraph 3.9 continues —

The ALSWA concluded that ‘this in effect is a non-investigation and has the inevitable outcome of creating a perception that the police are biased in favour of their own and that the CCC is not willing to examine or challenge the police investigation’.

Paragraph 3.10 states —

Furthermore, the ALSWA criticised the CCC's practice of referring complaints to the WA Police Force for investigation, rather than conducting an independent investigation. It submitted that 99 per cent of its complaints were referred back to the WA Police Force to investigate itself. This figure was largely corroborated with other evidence given to the review.

Paragraph 3.11 states —

However, the review concluded that the CCC still monitored ‘far more home agency investigations than similar oversight bodies in other jurisdictions’ and that it did give particular attention to the WA Police Force.

I have talked previously about the importance of having a strong police force to ensure the safety and security of the residents of this state. At the same time, there must be a robust system to provide oversight and to ensure that if there is any misuse of the powers given to those who are exercising their duties under oath to protect the state and its people, investigations are carried out. I am sure that, as I discussed previously, these sentiments are shared widely by the members of this place.

Paragraph 3.31 on page 31 of the fifteenth report from the fortieth Parliament states —

There was significant change to the way the CCC operated in 2015. Legislative change saw responsibility for minor misconduct removed from its remit and assigned to the Public Sector Commission. All misconduct allegations against members of the WA Police Force remained the purview of the CCC.

I think that was an effective change to make sure that the Corruption and Crime Commission can direct its focus and attention to more important allegations. The Public Sector Commission can share the load by dealing with other important allegations against members of the police force, leaving the CCC to deal with the most significant allegations. The report continues —

The re-positioning of the CCC under the leadership of Acting CCC Commissioners Mr Neil Douglas and ... led to a more strategic approach to CCC oversight across all organisations, including the WA Police Force.

I think that is a good change. As I said earlier, that allows the CCC to deal with more significant allegations. Obviously, any organisation's budget and resources are finite, and the CCC must prioritise its tasks. It was a good change. I wish to continue along this line and perhaps talk about the next part.

The DEPUTY CHAIR: It would be handy if members would verbally seek the call. I will give the call to Hon Nick Goiran.

Hon NICK GOIRAN: Thank you for the reminder, deputy chair; my apologies. I seek the call and thank you for providing it. I note that the other honourable member is a hardworking member of this committee. I will try to make my remarks brief so that we can hear from the honourable member.

I note that this is essentially the fourth and last time we will have an opportunity to consider this first report of the Joint Standing Committee on the Corruption and Crime Commission. That said, there will probably be an opportunity, albeit brief, in the next sitting week to conclude this debate once and for all, which will have totalled some four hours. I think it may be the first of the reports that we will deal with in this fashion under the new arrangement. I simply want to make a couple of points as we conclude the debate on this important report. There has been an opportunity during the course of this four-hour debate, albeit over a very extensive time going back as far as 15 September last year, for members to consider a range of matters pertaining to the work of the Corruption and Crime Commission and the oversight committee. I note that as far back as September last year, I raised a concern with the government, and it was the hardworking and usually cool operator Hon Stephen Dawson, the Deputy Leader of the House, who kindly then, because of the points that I made on 15 September last year, took it up with the government and made sure that a document had been tabled. I once again thank him for doing that. This is one example of the benefits of being able to address these matters over a sequence of weeks, indeed months.

It is interesting that that document, which the honourable member ensured had definitely been tabled in Parliament, pertained to a review that had been undertaken. To cut a very long story short, a memorandum of understanding was to be developed between the Corruption and Crime Commission, the State Solicitor's Office and the Office of the Director of Public Prosecutions. That memorandum of understanding was to be developed within six months of the tabling of the report. That time has now long passed. The questions that arise are: What has happened to that memorandum of understanding? Does it exist? It might exist, but it would be good if a member of the government could rise and indicate to the house that this memorandum of understanding does exist and when exactly it came into existence. Was it done within the six-month time frame as per the review recommendation or is it yet to be done? If it is yet to be done, why is that the case and when will it be done? That would be a useful way in which we could then conclude this debate.

The other matter that arises is one that pertains to the seventeenth report tabled by the committee, entitled *Meaningful reform overdue: The Corruption, Crime and Misconduct Act 2003*. Members will see reference to that in this annual report. As we discussed on one of the previous occasions, specifically on 1 December last year, a range of stakeholders contributed to the committee inquiry. Two of them in particular warrant a response from government: the submissions made by the former Parliamentary Inspector of the Corruption and Crime Commission and the WA Police Force. The submission of the parliamentary inspector at the time, Hon Michael Murray, identified a number of unresolved issues and drew them to the attention of the committee and the government. These matters had been raised by not only him, but also, in fact, his predecessor, Hon Chris Steytler. They pertain to matters such as excessive force; oversight into misconduct within the CCC; jurisdictional issues between the CCC and the parliamentary inspector regarding industrial matters; clarifying that the CCC has no power to prosecute and therefore arrest; misconduct by officers who subsequently become CCC officers; the CCC being able to deal with minor misconduct of its officers, subject to the oversight of the parliamentary inspector; and, lastly, the collateral damage that arises from being identified without the benefit of court processes to clear one's name. That lengthy list of matters that had been identified by the former, now late, parliamentary inspector for the benefit of the committee and, ultimately, the government remains not responded to by the McGowan Labor government. It would be a shame if this final episode, if you like, in this four-part series dealing with the consideration of this committee report were to conclude without the government having provided some form of position on those matters from the former parliamentary inspector.

The same goes for the submission made by WA police, which identified a few issues, including a need to update the act; a need to include emails and electronic notification methods to satisfy the requirement to notify in writing; the conflicting requirements for agency heads to notify the CCC on certain misconduct; and, furthermore, the need for timely notification of the review of section 42 notices. That series of issues, albeit a smaller list than the one of the parliamentary inspector, were raised by WA police for the benefit of the government and to facilitate the joint standing committee, yet here we are at the conclusion of a debate, which began as far back as September last year, with no indication that there will be any response from the government on those matters. The government may well say that it is conducting a whole-of-statute review, and I believe that that is the case, although I note that it is some 14 years since the last such review was done by Gail Archer in her then capacity as a Senior Counsel in Western Australia. Of course, she is now a Justice of the Supreme Court. As I say, these matters warrant the attention of government. The question is: has anybody in government considered these matters and will they be providing a response, not merely on those particular matters, but also of course to any of the other stakeholders that contributed to the seventeenth report, *Meaningful reform overdue: The Corruption, Crime and Misconduct Act 2003*.

As I conclude my remarks on this debate, I very much encourage the government, noting that it will still have the best part of half an hour, to respond to those issues identified and not to forget to also identify for the benefit of members exactly what is happening with the memorandum of understanding between the Director of Public Prosecutions, the State Solicitor's Office and the Corruption and Crime Commission. My understanding is that that memorandum of understanding was to be developed as a result of the late realisation by the CCC that it does not have the power to prosecute. A review was undertaken by the Attorney General, Mr Quigley, into that matter,

albeit belatedly, as I have indicated on previous occasions, including in September and October last year. Ultimately, that review by Mr Quigley's department concluded that the existing arrangement should continue—that is, that the CCC should not be able to prosecute matters and will need to continue to work through the State Solicitor's Office and the Office of the Director of Public Prosecutions. I make no criticism of that conclusion. I simply note that, as part of that, a memorandum of understanding was to be developed within six months and I simply ask the question: was that done? As I say, it would be a shame if the final episode in this consideration of the first annual report of the Joint Standing Committee on the Corruption and Crime Commission were to conclude without the government having fulfilled its duty and provided a response on the memorandum of understanding, the feedback provided by the former parliamentary inspector and, of course, the feedback provided by the Western Australia Police Force on the overdue reforms.

Hon KLARA ANDRIC: Once again, I am pleased to be given the opportunity to speak briefly on the Joint Standing Committee on the Corruption and Crime Commission's *Annual report 2020–21*. As a member of the committee, I have spoken on this report on several occasions, as has Hon Nick Goiran and Hon Pierre Yang. This report was laid on the table of the Legislative Assembly and the Legislative Council on 9 September 2021. I would like to start by reminding the chamber of the committee's functions. Its role is to monitor and report on the exercise of the functions of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission; to commence own-motion inquiries relating to the means by which corruption and prevention practices may be enhanced within the public sector; and to carry out functions under the Corruption, Crime and Misconduct Act 2003.

With the CCC being WA's leading anti-corruption body, I know that members of this chamber understand the importance of investigating corruption and crime in our state. I had the privilege of visiting the Corruption and Crime Commission office with the Corruption and Crime Commissioner and committee members sometime last year. I had the opportunity to see the great work that those who work at the CCC do and the level of intelligence of all the fantastic staff who make it happen.

As the annual report notes, between 1 July 2020 and 30 June 2021, the committee held 11 deliberative meetings and nine formal evidence hearings with 26 witnesses. The previous committee undertook one formal inquiry and tabled three reports, the first of which, as is outlined in this report, was the fifteenth report, *If not the CCC ... then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force*. That report was tabled in both houses on 24 September 2020. The sixteenth report, *Annual report 2019–2020*, was also tabled in both houses on 12 November 2020, and the seventeenth report, *Meaningful reform overdue: The Corruption, Crime and Misconduct Act 2003*, was tabled in the Legislative Assembly on 19 November 2020 and in the Legislative Council on 26 November.

During the reporting period, as I have said, the committee held 11 deliberative meetings, one formal inquiry and nine formal evidence hearings and had 26 witness appearances. As I mentioned earlier, three reports were tabled, and 52 report findings and 13 report recommendations were tabled. The committee also held six public hearings, taking evidence from 21 witnesses during these hearings. Four of the hearings were related to the previous committee's formal inquiry into the CCC's oversight of police misconduct investigations. The other two hearings were related to the annual reports of agencies as part of the committee's oversight role.

Once again, I want to take this opportunity to welcome the new appointment—not so new now—of the Parliamentary Inspector of the Corruption and Crime Commission, Mr Matthew Zilko, SC. I had the pleasure of meeting Mr Zilko sometime last year—I do not recall the exact month—when I was appointed to the CCC committee. It is also worth noting that the appointment of Mr Matthew Zilko in November 2020 was the first new appointment to this office since 2013.

I want to take the opportunity to thank the staff of the committee in the forty-first Parliament: the principal research officer, Ms Suzanne Veletta, and the research officer, Ms Jovita Hogan. They have been of great assistance to me in explaining a few things that I might not necessarily have understood first off, so I really do appreciate their time in assisting committee members.

I really ought to thank my fellow members of the CCC committee, whom I am quite honoured to work with: the chair, Mr Matthew Hughes, member for Kalamunda; Hon Dr Steve Thomas, member for South West Region, a member of this house who is attending to urgent parliamentary business; and Mr Shane Love, member for Moore. We all work very collaboratively on this committee. We understand the importance of the committee and the work that we and the commission do. I am delighted that I have the opportunity to work with them and I thank them for their support. In my final comments, I want to say that I look forward to continuing the important work of this committee.

Hon PIERRE YANG: As I said earlier today, I was looking forward to the opportunity to continue my remarks. Before I continue, I acknowledge Hon Klara Andric for her work as a member of the Joint Standing Committee on the Corruption and Crime Commission and I look forward to the work she will do in the coming three years of

the forty-first Parliament. I also acknowledge the Leader of the Opposition, Hon Dr Steve Thomas, and our colleagues from the other place, the member for Kalamunda, Mr Matthew Hughes, MLA, and Mr Shane Love, MLA.

Deputy Chair, I referred to the fifteenth report of the Joint Standing Committee on the Corruption and Crime Commission in the fortieth Parliament, which was cited in first report of the Joint Standing Committee on the Corruption and Crime Commission in the forty-first Parliament. On the last occasion, I referred to paragraphs 3.31, 3.32 and 3.33 and the changing role of the Corruption and Crime Commission from 2015. I wish to pick up from there and continue to refer to the changing nature of the oversight role of the CCC. I was discussing the two practical outcomes of this approach: a moral and strategic approach to the CCC's oversight across all organisations, including the WA Police Force. One outcome is that fewer investigations are carried out, all of which are monitored by the CCC with a greater emphasis placed on active oversight as detailed in those sections. The other outcome is that oversight of the WA Police Force is undertaken as part of a wider strategy and an assessment process.

We are fortunate to live in a liberal democracy that is guarded and protected by a strong rule of law. It is absolutely important to ensure all we can to support the mechanisms that are the fundamental pillars of our democracy, because at present it all comes down to accountability and transparency. These two principles are paramount in modern liberal democracies. For a government to have legitimacy, it must not only be elected at a popular election with universal suffrage where all adults over the age of 18 who are enrolled cast their vote in selecting their government and their representatives who will be sitting in the nation's Parliament or any of the state Parliaments, including the Parliament of Western Australia, but also it is important we adhere to and do everything we can to protect those crucially important principles of transparency and accountability in our work.

As we are talking about elections, an election is coming on 21 May. I know how I will vote and which party I will be supporting, as do many members in this place. I am sure we will see a significant groundswell and changes coming to our great nation. I certainly hope to see a change of government in Canberra and to have a Labor government led by our new prime minister Anthony Albanese to deal with the issues in the aged-care sector, which we debated in a motion earlier today; the issues we are facing as a nation in early childhood education sector; as well as all the other issues. It is important that we have a government that is transparent and accountable to the people.

Hon Tjorn Sibma: Can I make an interjection?

Hon PIERRE YANG: From you, yes!

Hon Tjorn Sibma: In the previous debate I was struck by references to relevance, so I am following your remarks with great interest and looking forward to how they relate to the committee report under consideration. I do not want to raise a point of order, or whatever.

The DEPUTY CHAIR (Hon Jackie Jarvis): I note a point of order has not been made, but I was wondering the same myself, Hon Pierre Yang.

Hon PIERRE YANG: I thank the honourable member opposite for his question, and I also thank the deputy chair for her similar question on relevance. This is very relevant because the Joint Standing Committee on the Corruption and Crime Commission looks after issues surrounding the CCC and the Parliamentary Inspector of the CCC and provides ultimate parliamentary oversight. The CCC, as an oversight organisation in this state, helps to protect the transparency and accountability of public organisations. I referred to private entities that receive public funding. In the Northern Territory, they come under the purview of the Northern Territory Independent Commissioner Against Corruption Act and the Office of the Independent Commissioner Against Corruption in that jurisdiction. When we talk about liberal democracies and other democracies, transparency and accountability are two fundamental principles that underpin the health and wellbeing of our democracy and foster trust and belief in our system. We must have a transparent system, a system that is accountable—unlike the federal government, which promised the people of Australia, including the people of Western Australia, that there would be a federal commission against corruption. Where is it? It has been three years. A lot of promises were made by the federal government. I am sure that the voters of this country will hold them to account, deputy chair. That is my explanation for why I am saying these things are relevant to the report in front of us and why it is very important that we discuss these things.

Coming back to the fifteenth report of the Joint Standing Committee on the Corruption and Crime Commission in the fortieth Parliament that is referred to in the first report of the forty-first Parliament, page 35 talks about the use of excess force by police. One of the things noted by the Joint Standing Committee on the Corruption and Crime Commission is that allegations of serious misconduct against WA Police Force members account for just over half of the allegations received by the CCC, and around 12 per cent of the allegations relate to excess use of force. I will conclude on this point on this occasion, but if I have the opportunity to continue I will.

In the remaining 26 seconds I want to refer to paragraph 3.47, which states —

Such abuses of power by members of the WA Police Force undermine the integrity of the WA Police Force and undermine public trust in this institution.

This comes back to what I was saying about transparency and accountability. They are fundamental principles for our liberal democracy.

Hon MARTIN PRITCHARD: Deputy Chair, I seek your guidance. There seems to have been a lot of debate on this annual report. Would it be appropriate to move that the report be noted?

The DEPUTY CHAIR: Members are speaking to the motion that the report be noted. If there is no-one else seeking the call, the question will be put to the chamber. Are you seeking the call to report, member?

Hon MARTIN PRITCHARD: I am not.

Question put and passed.