



Joint Standing Committee on the Corruption and Crime Commission

How the Corruption and Crime Commission handles allegations and notifications of Police misconduct

**Report No. 2
June 2013**

Parliament of Western Australia

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**How the Corruption and Crime
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and notifications of
Police misconduct**

Report No. 2

Presented by

Hon Nick Goiran, MLC and Mr Paul Papalia, CSC, MLA

Laid on the Table of the Legislative Assembly and the Legislative Council
on 20 June 2013

Chairman's Foreword

Report number 32 of the Joint Standing Committee on the Corruption and Crime Commission in the 38th Parliament (JSCCCC 38th) was laid on the Table of the Legislative Assembly and the Legislative Council on 15 November 2012. Titled *How the Corruption and Crime Commission Handles Allegations and Notifications of Police Misconduct*, it contained 20 Findings and five Recommendations. That report can be viewed at:

[parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/E0770975F23EFB7B48257AB7000C0398/\\$file/20121115+JSCCCC+Report+32.pdf](http://parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/E0770975F23EFB7B48257AB7000C0398/$file/20121115+JSCCCC+Report+32.pdf).

The previous Government did not respond to the Committee's recommendations and the new Joint Committee has resolved to again bring them to the new Government's attention by tabling them in the 39th Parliament.

The role played by the Corruption and Crime Commission (CCC) is vital. The Western Australian public sector is today stronger and fairer in discharging its functions as a result of the work of the CCC but it is sometimes difficult to adequately quantify the full impact of this work. The JSCCCC 38th believed that the CCC's role in working to enhance and maintain the highest standards of integrity within the WA Police is of paramount importance as they are the front line of the justice system.

When the police themselves break the law the entire justice system is placed into jeopardy, as it creates the perception that the rule of law is unimportant, which in turn diminishes public confidence in the police. As a consequence, independent police oversight is crucial. Throughout the course of the inquiry by the JSCCCC 38th that led to Report 32, it was continually reiterated to the Committee that it is essential that serious and credible public complaints of serious police misconduct – such as those involving either the excessive use of force or else the misuse of police discretion – are subjected to robust investigation and review by an external agency. This negates the perceived conflict of interest that is generated by a police force investigating its own officers.

Report 32 was the outcome of an inquiry by the JSCCCC 38th inspired by the footage of taser weapons being used on Mr Kevin Spratt by WA Police officers in the Perth Watch House on 31 August 2008. Though the public release of this footage on 4 October 2010 by the CCC coincided with the publication of an excellent CCC report – a report that had a positive impact on the use of tasers by WA Police officers – the JSCCCC 38th wanted to find out why the CCC had not undertaken an immediate inquiry into the incident when first apprised of its seriousness in 2008. Of particular concern to the JSCCCC 38th was the apparent reluctance by the CCC to undertake independent investigations of alleged misconduct on the part of WA Police officers.

Unfortunately the inquiry confirmed the view of the JSCCCC 38th that the CCC has not devoted adequate priority to its police oversight role. Furthermore, it was the view of the Committee that the decision of the CCC for the WA Police to internally investigate this serious matter amounted to a serious misjudgement.

It was clear to the JSCCCC 38th that promoting a culture of integrity was the single greatest misconduct deterrent, and such a culture is always best built from within. It seems that the internal culture of the WA Police is very strong and during the inquiry the JSCCCC 38th was pleased to learn about the many ways in which the Professional Standards portfolio of the WA Police worked to continually enhance that culture. While the initial investigation conducted by the WA Police may have been painstaking and thorough, the JSCCCC 38th maintained that it would have been more appropriate and of greater benefit for the CCC to have embarked upon its own inquiry two years earlier than it did.

The JSCCCC 38th was pleased to report that since his appointment to the role of CCC Commissioner in November 2011, the Honourable Roger Macknay QC had overseen the implementation of numerous changes to CCC policy and procedure, with the effect of affording a far greater priority to the CCC's consideration of allegations of police misconduct than had been the case. Since Commissioner Macknay's appointment the CCC has completed (at the time of drafting Report 32) a total of 10 investigations into allegations of the excessive use of force by police. None of these investigations substantiated the allegations upon which they were initiated.

The JSCCCC 38th believed that enhancements to the transparency of the CCC's police oversight role would reap significant benefits. To this end, the JSCCCC 38th was hopeful that the recommendations contained in Report 32 might have been of some benefit to enhance the discharge of the CCC's education and prevention functions with respect to WA Police officers. The JSCCCC 38th believed strongly that the current police oversight model was one that Western Australian citizens could place their trust in.

In all of these circumstances it is important that the Government provide a response to the Parliament on the matters contained in Report 32, the Findings and Recommendations of which are reproduced in this Report.

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

HON NICK GOIRAN, MLC
CHAIRMAN

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Ministerial Response

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Joint Standing Committee on the Corruption and Crime Commission directs that the Minister representing the Attorney General report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.

Findings and Recommendations

Recommendation 1

Section 7A of the *Corruption and Crime Commission Act 2003* should be amended so as to read:

7A. Act's purposes

The main purposes of this Act are –

- (a) to aid the efforts of the WA Police to combat and reduce the incidence of organised crime; and
- (b) to improve continuously the integrity of the Western Australian public sector, and in particular the WA Police.

Finding 1

The Corruption and Crime Commission should have itself commenced an investigation into the 31 August 2008 incident involving Mr Kevin Spratt at the Perth Watch House when, or shortly after, it was first informed of this incident in September 2008.

Finding 2

The Corruption and Crime Commission is, in 2012, an organisation more committed to prioritising the discharge of its misconduct function, by way of independent investigation, with respect to the WA Police than was the case in 2008.

Finding 3

Undue delays in the CCC's inquiry into the use of taser weapons on Mr Kevin Spratt at the Perth Watch House on 31 August 2008 could have been avoided if the *Corruption and Crime Commission Act 2003* facilitated the appointment of a Deputy or Assistant Commissioner.

Recommendation 2

The *Corruption and Crime Commission Act 2003* should be amended to allow for the appointment of a full-time Deputy and/or Assistant Commissioner of the Corruption and Crime Commission to whom specific functions may be delegated by the Commissioner, and who is able to act as the Commissioner in his absence.

Recommendation 3

The *Corruption and Crime Commission Act 2003* should be amended to require the role of the Corruption and Crime Commission's Executive Director to be performed by someone who meets the same criteria for appointment to the role of Commissioner. This would allow the Executive Director to be an Acting Commissioner in the Commissioner's absence.

Finding 4

Independent police oversight bodies – by their very existence – enhance public trust in police agencies.

Finding 5

At the conclusion of an investigation by a police oversight agency which confirms the occurrence of an incident but does not identify any misconduct, there is benefit in the agency reporting that the officer(s) under investigation discharged their police functions exactly as was required in the circumstances.

Finding 6

Constant vigilance and professionalism is a crucial component of internal police investigations.

Finding 7

Whatever police oversight model a society may see it fit to implement, the two most crucial components are a thorough and transparent implementation of the model in line with community expectations, and an unwavering commitment to professional conduct by the staff of the police oversight agency.

Finding 8

A successful police oversight model will ensure that those performing police leadership roles will want to assume direct responsibility for the actions of their officers.

Finding 9

Police oversight agencies will likely often find themselves incident to imbalanced criticism.

Finding 10

With the Corruption and Crime Commission, Western Australia has implemented a good police oversight model.

Finding 11

The independence of a police oversight agency is a critically important component of the proper discharge of its police oversight function.

Finding 12

That CCC findings cannot be drawn upon by other agencies for the purpose of their own disciplinary proceedings is a significant flaw in the *Corruption and Crime Commission Act 2003*.

Recommendation 4

The *Corruption and Crime Commission Act 2003* should be amended to make it clear that the Corruption and Crime Commission may include findings of fact in its reports.

Finding 13

Ensuring adherence to investigation timeframe policy can be a useful function of a police oversight agency.

Finding 14

Misconduct prevention and education efforts reap significant – albeit difficult to quantify – benefits as a result of affecting significant cultural change for the better within organisations.

Finding 15

The timeliness of investigations is an important component of public confidence in a police oversight model.

Finding 16

The Corruption and Crime Commission regularly reviews a substantial proportion of all WA Police internal investigations of allegations and notifications of police misconduct. Overwhelmingly, these reviews demonstrate a strong internal culture of integrity within the WA Police.

Finding 17

Misconduct resistance within any individual Western Australian public sector agency – while enhanced by the existence and work of the Corruption and Crime Commission – is ultimately a function of and a reflection upon the culture within that agency.

Recommendation 5

The Corruption and Crime Commission should report to Parliament on the outcome of any operation that it conducts – even when that outcome is not controversial.

Finding 18

Since being appointed Commissioner of the Corruption and Crime Commission in November 2011, the Honourable Roger Macknay QC has overseen a vast enhancement to the way in which the Corruption and Crime Commission performs its police oversight role, in response to criticism of the Corruption and Crime Commission contained within the Committee report *Parliamentary Inspector's Report Concerning the Procedures Adopted by the Corruption and Crime Commission when Dealing with Complaints of the Excessive use of Force by Police*, which was tabled in Parliament on 8 September 2011.

Finding 19

The fight against internal misconduct is a very complex and difficult undertaking. Efforts by the WA Police to continually enhance their integrity are very much aided by the presence and support of the CCC.

Finding 20

The police integrity model that exists in Western Australia in 2012 is appropriate and comprehensive.

Appendix One

Committee's functions and powers

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.