

**Division 39: Corruption and Crime Commission, \$30 114 000 —**

Ms J.M. Freeman, Chairman.

Mrs L.M. Harvey, Minister for Police representing the Attorney General.

Mr R. Warnes, Chief Executive.

Mr M.W.R. Hanrahan, Chief Finance Officer.

Mr M. Connolly, Chief of Staff, Office of the Attorney General.

[Witnesses introduced.]

**The CHAIRMAN:** This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day.

It is the intention of the Chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. It will greatly assist Hansard if members can give these details in preface to their question.

The minister may agree to provide supplementary information to the committee rather than asking that the question be put on notice for the next sitting week. I ask the minister to clearly indicate what supplementary information she agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the minister's cooperation in ensuring that it is delivered to the principal clerk by Friday, 3 June 2016. I caution members that if a minister asks that a matter be put on notice, it is up to the member to lodge the question on notice with the Clerk's office.

I give the call to the member for Girrawheen.

**Ms M.M. QUIRK:** I refer to page 465 of the *Budget Statements* and to the organised crime function of the Corruption and Crime Commission. I take it that the police have not availed themselves of those powers in the last year.

**Mrs L.M. HARVEY:** I will ask Mr Warnes to respond.

**Mr R. Warnes:** That is correct.

**Ms M.M. QUIRK:** Is the CCC still seeking amendments to its legislation to clarify its position on organised crime?

**Mr R. Warnes:** There are a number of elements with the CCC that it is seeking clarification on with this legislation. That process is in hand.

**Ms M.M. QUIRK:** Where is that legislation at? Is it still in the Assembly or has it not been introduced? I lose track of these things.

[4.20 pm]

**Mrs L.M. HARVEY:** Mr Warnes advises me that the request for amendments has not been put to the Attorney General or to government yet.

**Mr J.R. QUIGLEY:** I have a further question. For the sake of anchoring the question, I refer to the table headed "Relationship to Government Goals" on page 465. Under "Government Goal", it states —

Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

Under "Desired Outcomes", there is "Reduced incidence of organised crime" and under "Services" is "Organised Crime Function".

I also note from the Corruption and Crime Commission's annual report that the commissioner refers several times to the Joint Standing Committee on the Corruption and Crime Commission's recommendation to change the definition of "organised crime" and when the CCC can investigate organised crime. Is this the amendment the minister is referring to?

**Mrs L.M. HARVEY:** Mr Warnes.

**Mr R. Warnes:** Yes, that is correct.

**Mr J.R. QUIGLEY:** Is it anticipated that the amendment will come before this Parliament?

**Mrs L.M. HARVEY:** I would say that that is unlikely, given the government’s legislative agenda for the next session of Parliament. If those requests for amendments have not yet been put to government, it would be highly unlikely that they would be considered in this term.

**Mr J.R. QUIGLEY:** Therefore, it is not likely that the government’s goal will be delivered upon anytime soon—that is, the goal that I read out, which is to reduce the incidence of organised crime through the CCC. That will not be delivered on anytime soon.

**Mrs L.M. HARVEY:** I am not really sure what the member is asking me.

**Mr J.R. QUIGLEY:** In his report, the commissioner identified the definition of “organised crime” and that when the commission can commence upon inquiries into organised crime is frustrated by that definition in the CCC legislation. The minister said that the amendments will not be introduced in this Parliament, so I put it to the minister that the government has failed to deliver on its aspiration of using the CCC to reduce the incidence of organised crime.

**Mrs L.M. HARVEY:** Currently, the commission’s only possible activity under that organised crime function is to consider and approve applications received from the Commissioner of Police for the use of exceptional powers or fortification warning notices. Mr McKechnie has been very clear about redirecting the Corruption and Crime Commission’s efforts and I believe that the proposed amendments that Mr Warnes referred to will be put to government in due course. My understanding, certainly as Minister for Police, is that WA Police, through the Joint Organised Crime Task Force with our federal counterparts, is working very, very actively to combat organised crime and criminal activities in Western Australia and, indeed, across Australia. Whether the Corruption and Crime Commission should or could value-add to that is a discussion between Mr McKechnie and government. However, at the moment, government does not have any requested legislative amendments to consider from the Corruption and Crime Commission.

**Mr J.R. QUIGLEY:** I have a further question. I refer to the outcomes and key effectiveness indicators on page 466 of the budget papers. Looking at the number of applications for the use of exceptional powers findings or fortification notices, the numbers are nil, nil, nil, nil and nil, as they are every year. The third note states —

... due to the legislative impediments of the Act acknowledged by the Joint Standing Committee in the Commission’s Report, ‘WA Police’s Use of Part 4 exceptional powers in the Act’ ...

That report goes back to 2014! The government has known about this impediment for years. Why has no amendment been introduced? The government has had the joint standing committee’s recommendation for years and the police cannot use the legislation because of that impediment. That is what it told the committee. Why has legislation not been introduced?

**Mrs L.M. HARVEY:** As I said, member, it is up to the Corruption and Crime Commission and WA Police to work together to determine whether those exceptional powers do indeed enhance the ability to combat organised crime. At the moment, people only need to look at the news to see the effectiveness of the WA Police’s current efforts through the directive. Yes, the report was handed down —

Several members interjected.

**The CHAIRMAN:** Members! One at a time. The minister has the floor.

**Mrs L.M. HARVEY:** There is a reason for the lack of applications to amend part 4. The definition of organised crime in the act is narrow and somewhat confusing and the enactment of the Criminal Investigation (Covert Powers) Act 2012 has made many of the exceptional powers directly available to WA Police. Only coercive examination, search and anti-fortification powers—as in fortification warning notices—now need to be sought from the CCC. WA Police is also able to apply for coercive examinations through the Australian Crime Commission. Regarding the fortification warning notices, member, a shortcoming fails to discourage organised crime groups from re-fortified premises previously dismantled. In effect, police have had exceptional powers enhanced through the Criminal Investigation (Covert Powers) Act 2012 and they use their coercive examination opportunities through the Australian Crime Commission. The fact that this legislation has not be amended is certainly not an impediment to police activity regarding organised crime.

**Ms M.M. QUIRK:** I refer to the “Number of reports published in accordance with the Act” line item on page 466 and in particular to the “Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth”. The minister will probably need to take this on notice but I am trying to get an assessment of the resources involved in that investigation for the CCC. I do not know whether costs are attributed to each investigation; but, if so, what were they, how many people worked on the investigation and so on?

**Mrs L.M. HARVEY:** My understanding is that the Corruption and Crime Commission is given a budget to perform its duties. It does not necessarily quantify the cost of individual investigations, but I will ask Mr Warnes to further clarify that.

**Mr R. Warnes:** That is correct; we do not attribute costs to specific investigations. At the moment, we have around 35 investigations on hand. Some of them are preliminary investigations that we would look at initially to see whether they need the full weight of the powers that we have, but we do not cost those. We have a team of investigators and we have a team of covert operatives. Those skills are applied when they are needed, but we do not cost them through the process of an investigation.

**Ms M.M. QUIRK:** Is it possible to attribute some costing to that by way of supplementary information?

**Mrs L.M. HARVEY:** I will ask Mr Warnes to respond but I understand that that work is not ordinarily done.

**Ms M.M. QUIRK:** I am not saying it is, minister, I am just asking.

**Mr R. Warnes:** No, it is unlikely for us to be able to do that.

**Ms M.M. QUIRK:** By virtue of the personnel involved, the duration of the hearing, the number of examinations on oath that were heard and other infrastructure, on an accounting basis, the costs of the inquiry cannot be quantified. I find that extraordinary.

[4.30 pm]

**Mrs L.M. HARVEY:** I will ask Mr Warnes to respond on whether that is something that is prioritised.

**Mr R. Warnes:** It is probably not something that we prioritise.

**Ms M.M. QUIRK:** I do not know where that word came from.

**Mr R. Warnes:** We have an attribution system for our investigators, but it is for the small cohort of people involved in investigations. If an investigation requires a technical operative or someone who is going to do surveillance, we do not cost those hours and attribute them to a particular investigation.

**Ms M.M. QUIRK:** I appreciate that, but all I am after is what the commission currently does which is, I think, a general attribution, as Mr Warnes called it.

**Mrs L.M. HARVEY:** Mr Warnes advises me that that would not be a complete indication of the cost of an investigation —

**Ms M.M. QUIRK:** I appreciate that. It would be at the lower end of the range, minister.

**Mrs L.M. HARVEY:** If Mr Warnes would like to respond and perhaps articulate that. There is obviously some reticence on Mr Warnes' part to agree to provide that information. For the committee's sake, could Mr Warnes explain what that is for?

**Mr R. Warnes:** It is not because we are trying to be secretive in terms of the resources that are thrown, it is the attribution model that we do not have in place for our lawyers, for the commissioner's time and for our investigators into the research that might take place on a matter that could be 12 months, or could be less time. Around 57 per cent of our investigations are done within 12 months, but the model is not in place for us universally in the commission to attribute every officer's time. That is as I have found it in the 10 months I have been in the organisation. It may not be something that we are trying to evolve to, it might be something we are trying to get better at doing, but at this point I do not have the capacity to provide the member with the information she is after.

**Ms M.M. QUIRK:** It sounds like the good, old days at the Department of Corrective Services.

Surely when there are budget bids, there must be calculations or estimates as to what the CCC needs to conduct its work. This was one of a number of major investigations last year. Do we just divide that by the number of investigations in the total appropriations? I just need some guidance as to how we get a figure.

**Mrs L.M. HARVEY:** I will ask Mr Hanrahan to respond with respect to how those budget costs and requests are put together.

**Mr M.W.R. Hanrahan:** Within the commission we plan for personnel; we do not plan for the number of investigations. What happens in any given year varies markedly for us because we obviously cannot predict what comes through the door. We fund a number of investigators, a number of lawyers and a number of other key personnel throughout the organisation. We do not particularly forecast the number of investigations; we have moved away from that in past years because the depth and breadth of what is required for each investigation varies markedly depending on what it is. As I said, we budget for a number of resources and we do not particularly track costs on that, although it is something that we will try to get better at in the future.

**The CHAIRMAN:** Just from the point of view of Hansard and the advisers, just a question and answer. We can keep asking further questions.

**Ms M.M. QUIRK:** I understand what has just been said. We are not talking about predicting and I have some experience in these matters. I understand that we cannot predict how long an investigation will be and how many resources will be used, but we are talking about an investigation that has concluded. What I am asking is: is there not some possibility of doing some calculations—I accept that it might not include all the bells and whistles—in general terms, at the lower end of the scale, on what the cost of this investigation was?

**Mrs L.M. HARVEY:** Just to summarise what Mr Warnes has said: I would be very reluctant to provide information that we could have confidence in, given Mr Warnes' assessment that not all the input with respect to these investigations is necessarily accounted for or has had a cost assigned to it. Whilst I understand that one of the roles of the commission and one of the areas it is looking at is trying to quantify and allocate costs to these investigations, at present it is not doing that with the level of confidence it would like to have to be able to provide that information to the member. I will not give the member an undertaking to provide the cost of that particular investigation because Mr Warnes and the commission advised me that —

**Ms M.M. QUIRK:** Sorry, there is not a commissioner here. The commissioner is not here. Where is he?

**The CHAIRMAN:** One question at a time. The minister has the floor.

**Mrs L.M. HARVEY:** Mr Warnes, from the commission, has advised me that the commission would not have confidence in assuring the member that all the costs involved in that investigation could currently be quantified, so I would rather not be accused of misleading Parliament by providing a figure that is not accurate and that the commission does not have confidence in.

**Ms M.M. QUIRK:** Where is the commissioner?

**Mrs L.M. HARVEY:** He is currently on leave, which was scheduled well before the date of this estimates hearing was scheduled.

**Mr J.R. QUIGLEY:** I refer to the line item “Employees (Full Time Equivalents)” under service 1, “Building public sector agency integrity and capacity to deal with misconduct” on page 467 of budget paper No 2. It is indicated that the estimated actual and the budget target for this year is 129 FTE. To put my question in context, on 21 December last year a public sector jobs freeze was announced and I understand that on 24 February this year an application was made by the CCC for an exemption from that jobs freeze. When I checked on 15 March, that application was still under consideration and a number of the positions at the CCC had not been filled, including surveillance and team leaders for physical and technical surveillance. Has there been a reply to the commission's application for exemption from the jobs freeze?

**Mr R. Warnes:** Yes, we have. We received it a number of weeks ago.

**Mrs L.M. HARVEY:** However, the freeze is finished.

**Mr R. Warnes:** Given that notification, we were able to quickly move to advertise the positions, and the positions —

**Mr J.R. QUIGLEY:** Sorry?

**Mr R. Warnes:** The notification of our exemption enabled us to quickly move to advertise the positions the member referred to and a number of others that had been stalled as a result of some organisational change we were trying to bring in. Those positions have now been advertised and we are moving to fill them.

**Mr J.R. QUIGLEY:** Correct me if I am wrong, but is it correct that there were 18 positions to be filled?

**Mr R. Warnes:** There were two lots of requests for exemption. One was for a tranche of employees associated with my commencement and the commissioner's commencement when we reshuffled our executive office. The larger one, which the member is referring to—around 18 people—was as a consequence of the legislation change in which we lost the areas of minor misconduct and crime prevention. With those areas changing, we restructured our assessment and strategic areas.

**Mr J.R. QUIGLEY:** Given the amendment to the legislation and minor misconduct going over to the public service sector, would that not have reduced the workload? That is what we were told—that there are 18 extra positions.

**Mr R. Warnes:** It reduced the minor misconduct that the organisation was probably swamped with. We tracked a number of serious misconduct matters that came through, and that stayed pretty consistent before and post-legislation. That is the workload that these FTEs are attributed to.

[4.40 pm]

**Mr J.R. QUIGLEY:** Are the positions that have been advertised new positions or was the organisation not operating at full strength before the exemption was granted?

**Mr R. Warnes:** If I may paint a quick context, that 150-odd FTE included the minor misconduct–crime prevention cohort. The reduction reflects the fact that we no longer have those FTE. It also reflects further workforce savings that we have been able to make in the organisation. We have restructured the crime prevention area. It was not just a matter of removing those people; we looked at the whole process of how we deal with assessments. This is a crude term, and I apologise, but we did a “spill-and-fill” of a particular directorate. That directorate now has 18 FTEs, and that is what we have advertised to fill.

**Ms M.M. QUIRK:** What is the total number of personnel currently at the Crime and Corruption Commission?

**Mr R. Warnes:** It is 130.

**Mr J.R. QUIGLEY:** If the CCC legislation is changed to reflect the new definition of “organised crime”, will that mean that the workload of the CCC will increase and more employees will be required?

**Mrs L.M. HARVEY:** Mr Warnes advises that that is unknown until they have worked through the potential impact of the new legislation, but that will obviously be a consideration if the legislation is implemented.

**The appropriation was recommended.**