

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

Division 5: Corruption and Crime Commission, \$29 748 000 —

Ms L.L. Baker, Chairman.

Mr C.J. Barnett, Premier.

Mr L. Roberts-Smith, Commissioner.

Mr M. Silverstone, Executive Director.

Mr A. Abraham, Chief Finance Officer.

Mr R. May, Deputy Chief of Staff, Office of the Premier.

[Witnesses introduced.]

The CHAIRMAN: The member for Mindarie.

Mr J.R. QUIGLEY: I thank the Premier.

Mr C.J. BARNETT: Surprise, surprise!

Mr J.R. QUIGLEY: The Premier has said in this chamber that he hopes the Corruption and Crime Commission will have a greater emphasis on organised crime. I refer to page 110 of the *Budget Statements*. The fourth dot point states, in part —

Increasing activity is anticipated as the Western Australia Police develops its expertise and increasingly realises the value of these powers to enhance organised crime investigations ...

At the bottom of the page, the commission rates its achievement of investigative goals at 100 per cent. Given all that, I wonder why there is no budgeted item for the organised crime function in the service summary table on page 109. There was estimated actual expenditure of \$43 000 in 2008-09, but there is no budgeted item going forward. I realise that it requires applications from the Commissioner of Police, but there does not appear to be any budgeted capacity.

Mr C.J. BARNETT: That is a fair observation. It is certainly my hope, and I think most members would agree, that the resources of the Corruption and Crime Commission and the very extensive powers of the CCC should increasingly focus on dealing with organised crime. That is certainly the intent of the government. The Attorney General is working on some legislative changes to give the CCC some powers to do that. At the moment, it is my understanding and I think the member has just explained it, if the CCC goes into that area, it really is in response to a request from the Commissioner of Police. That matter is being looked at by government, and perhaps the commissioner, who will obviously play a key role in this, might also care to comment.

Mr L. Roberts-Smith: The position at the moment is that the only power in relation to organised crime that the commission has is to authorise the Commissioner of Police to use exceptional powers under part 4 of the Corruption and Crime Commission Act. If an exceptional powers finding is made on application of the Commissioner of Police, that enables the police to access those powers in the conduct of their own police investigations. It does not enable the Corruption and Crime Commission to conduct any investigation of organised crime. The proposal that has been put forward by the commission jointly with the Commissioner of Police is for the commission itself to be given an authority to investigate organised crime proactively, either alone or in conjunction with the WA Police or some other law enforcement or appropriate body, on approval of a reference group, which would consist of the Commissioner of Police and the Corruption and Crime Commissioner. That is the proposal that has been jointly put forward by the police and the commission and it was a model that the previous government endorsed, and it received bipartisan support at the time. The present government has also supported that and, as I understand, is preparing legislation or drafting instructions to achieve that.

As far as the budget estimates are concerned, of course, we presently still operate under the current regime of the act, which means that we can only grant those powers to the police and we then have to monitor them. The costs for the commission that are associated with that, as things presently stand, are really confined to the commission, obviously, receiving the applications and dealing with them and then monitoring the exercise of the powers by the police, which again is an obligation under our act. The only active role, I suppose one could say, the commission plays with that is the exercise of one of those powers, which is the requirement of individuals to attend before the commission in private hearing on an organised crime summons, at which time the hearing is effectively conducted by counsel representing the Commissioner of Police, although of course the commission will have counsel assisting present as well. Therefore, the costs associated with that are probably the most significant ones; that is, the actual conduct of the hearing, the availability of the hearing room, the time of the commission's counsel assisting and so forth. That is why we have made that limited allowance in the budget.

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

[12.10 pm]

Mr J.R. QUIGLEY: The commissioner said that under the proposals there will be authority for the commission to conduct its own investigations. What processes and safeguards will there be to avoid duplication or the possibility of the organised crime squad of WA Police and the commission running across each other's trails?

Mr C.J. BARNETT: Obviously, that possibility will be taken into account during the drafting but I imagine that, in a more practical sense, there would need to be some sort of protocol or working arrangement between the Corruption and Crime Commissioner and the Commissioner of Police. If the commissioner wishes to comment, I invite him to do so.

Mr L. Roberts-Smith: The model involves, as I said, a reference group. The starting point would be that the Commissioner of Police and the Corruption and Crime Commissioner have initial control over what the commission will become involved in. Below that, the model contemplates having a joint management group that would be composed of members of WA Police, the commission and, depending on the circumstances, some other agency, if another agency is involved. Below that, it gets into the operational level. In effect, there will be—I am not using the technical nomenclature—an operations group that will control the running of the operation. Obviously, it will coordinate who does what and the sharing of information and so forth. It will report upwards to the overall management group and to the reference group on a constant basis. That is the model that has been put forward. What comes out of it down the track will depend upon the legislation.

Mr J.R. QUIGLEY: My question relates to exceptional powers findings. I ask, without going too far into operational matters and bearing in mind the prospect of proscription laws, whether the exceptional powers have so far been used against outlaw motorcycle gangs or have they been used against other organised crime groupings as well?

The CHAIRMAN: Members, can I just check that that is the same reference we gave earlier for the first question, or is there a new reference point?

Mr J.R. QUIGLEY: It is the same reference point—organised crime investigation. Have the exceptional powers findings been only in relation to OMCGs or also to other organised crime networks in Western Australia? I ask the question in relation to flagged proscription laws.

Mr C.J. BARNETT: I think that that is getting perilously close to operational issues, and I know that the member asking the question flagged that issue, but the commissioner is obviously far better qualified than I am to draw the line of distinction. Obviously, there is great concern amongst the public about outlaw motorcycle gangs, and I would hope that that would be an area in which additional powers might be used in future. It is up to the commissioner to decide what is appropriate for him to comment on.

Mr L. Roberts-Smith: I make the point again that we are talking about police investigations, not commission investigations. They are police investigations that are supplemented by the use of the exceptional powers under our act, monitored by the commission. I make that observation because the question of to which area of crime the exceptional powers applications have been directed has come up in the past. I have granted four such applications. The Commissioner of Police has asked me not to identify which category of organised crime is involved.

Dr M.D. NAHAN: I refer to "Outcomes and Key Effectiveness Indicators" on page 110 of the *Budget Statements*. I recognise in the footnote that there have been some changes to these modified key effectiveness indicators. It seems to me that a target of 35 per cent is exceedingly low for surveyed public officers identified as having an appropriate awareness of misconduct risks and reporting obligations. Similarly, the target of 20 per cent for sustained misconduct allegations is a bit high. Could the commissioner comment on those trends? I also refer to the middle item, which sets a very high target of 99 per cent for commission recommendations for improvement to systems, practices and procedures accepted by subject agencies.

Mr L. Roberts-Smith: As the note indicates, there were changes made to the key effectiveness indicators. The present method of measuring that involves canvassing across the whole public sector and not only public officers who, for example, may have attended commission workshops, seminars and the like. The figure of 35 per cent is, I agree, a relatively low figure, which suggests to us that we need to focus in the long term on corruption prevention and education programs. We have sought to do that, as I think is revealed elsewhere in the notes. It is a long-term project, and one of the responsibilities of the commission is to increase awareness within the public sector of misconduct risks and the capacity of the public sector to deal with those risks. I think the member also referred to a figure of 99 per cent.

Dr M.D. NAHAN: The next item was the percentage of misconduct allegations sustained; the percentage was between 20 per cent and 25 per cent in the out years. That is quite a high rate of sustained allegations. Is that

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

related to the fact that many people—in fact, the majority of people—really do not know what the risks and obligations are?

Mr L. Roberts-Smith: The percentage of misconduct allegations sustained is, again, a bit of a movable feast. One of the factors that have impacted on that is the fact that we now selectively audit police misconduct investigations. A second factor concerns drug complaints relating to the Department of Health. A third factor is the reduction in the police proportion of complaints sustained because of an increased representation by other agencies. I will deal with each of those.

Previously, the commission assessed, monitored and reviewed all investigations conducted by WA Police relating to misconduct or reviewable police action. That introduced another factor, because it has a lower threshold than misconduct under our act. To elaborate on the process, when an allegation of misconduct is received by the commission, we have to assess firstly whether it is, in fact, an allegation of misconduct or something else; and secondly, whether the allegation is something that, on the face of it, requires investigation. If the allegation requires investigation, we have to determine whether the commission will carry out the investigation or whether it will be referred to some other agency or department. The thrust of the act in respect of misconduct, as is apparent in section 7B(3), is that the function of the commission is primarily to enable agencies within the public sector to deal with misconduct allegations internally, but the commission reserves to itself the right to investigate misconduct, particularly serious misconduct. The thrust of the act is to enable public sector agencies to deal with misconduct. Against that background, the commission investigates only around one per cent of all allegations. I should say that that is one per cent of 3 000 complaints a year. It is still quite a lot. Of course, they tend usually to be the more complex and difficult ones.

Against that background, I come back to the police complaints process. Previously, we assessed, monitored and reviewed all WA Police investigations. We recorded the substantiation rate when we reviewed them. We changed that process last year to a selective or random audit process so that instead of looking at all of the complaints and investigations, we physically reviewed investigations that we nominated. Most of this was done in situ; in police stations and police establishments. We do not assess them all now. We monitor and review about five per cent of the police investigations, which means that we only get to record the substantiation rate in respect of five per cent. There is an immediate drop there in the figures.

I turn now to drug complaints. Over the past two years the number of complaints relating to drug allegations in the Department of Health has gone from 35 to 250. Most of those reports say that there is no identifiable suspect, which was one of the reasons the Department of Health was not reporting them previously. They are now reporting when they are required to.

[12.20 pm]

Mr J.R. QUIGLEY: Can I seek clarification: is that drugs that have gone missing or allegations that staff in the health department are consuming the drugs?

Mr L. Roberts-Smith: Both; any drug allegation within the Department of Health. Primarily, most of them relate to drugs that have gone missing or have not been accounted for. Questions then arise whether the drugs have just been lost, are there systemic procedural problems, or is there something more sinister going on, including people using drugs.

Mr M. McGOWAN: Are they reports from individuals alleging that someone has misused the drugs or are they reports from hospital administration that these drugs have gone?

Mr C.J. BARNETT: I will ask the commissioner to answer.

The CHAIRMAN: Members, I am mindful of the time.

Mr L. Roberts-Smith: Most of them are notifications under our act, by the responsible authority within the hospital or other agency of the Department of Health. We certainly do get some allegations or complaints from individuals. It is probably a bit of a digression, but the point about the lack of reporting earlier was that there was a view within some hospitals that if drugs went missing, even in circumstances where there might have been a suspicion that they had been stolen or taken inappropriately, unless they had some idea who was responsible for that, it was not misconduct and was not required to be notified to the commission under our act. Once we discovered that was happening, we obviously disabused them of that. Subsequently there was a very sharp spike in notifications from the Department of Health through its proper processes. That fact alone is statistically significant in itself anyway. That again impacts on the percentage.

Finally, the police percentage of all allegations received has now declined to about 35 per cent. Previously it was higher, but I think that is probably because we are making inroads in other departments and agencies and the

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

level of notifications generally is increasing. That then makes the police percentage smaller. Those are just some of the factors impacting on those percentages.

Mr E.S. RIPPER: I refer to the table on the bottom of page 108 of the *Budget Statements*. The commissioner commented that the number of notifications of misconduct is, in fact, going up. If the Premier looks at the table on the bottom of page 108, he will see that about \$3 million has been removed from the resources of the commission to conduct misconduct investigations, including \$273 000 for the current financial year and \$660 000 in the forthcoming financial year. Given that the commission must have had a program of ongoing investigations and a forward program, what is the impact of this loss of \$3 million? Which investigations have been discontinued and which departments will be let off the hook as a result of this budget cut; referring, once again, to the statement the commissioner just gave to the house that the number of complaints of misconduct has risen?

Mr C.J. BARNETT: There have been some cuts to the commission, as indeed to most agencies within government—we are all aware of that. That may affect staff numbers in the commission into the future. I guess it might also affect the balance between work that the commission does itself and matters that are referred to police. Again, the commissioner might comment.

Mr L. Roberts-Smith: The commission has not discontinued, closed or ceased acting in any investigation as a result of any reductions in budget figures. It is useful to start with the primary functions of the commission in the context of what we are talking about, which really is the three per cent cut across the commission; that is, what we have done with it. The primary functions of the commission are, firstly, public sector misconduct investigations and, secondly, corruption and misconduct prevention and education. Other functions within the commission essentially support those two. Any reduction in the level of primary activity in those two areas will also be proportionately reflected in the expenditure of those supporting elements. We have made adjustments to deliver the three per cent efficiency dividend to government. That has so far had a minimal effect on the commission's misconduct investigations. We will continue to investigate the most serious allegations of misconduct having regard to the seniority of the person to whom the allegation relates, whether it might constitute "serious misconduct" as defined in the act, whether there needs to be an independent investigation rather than an investigation by a public sector agency connected to the public officer affected—I explained that process a moment ago—and whether the investigation requires the use of the commission's own powers; which of course are not held by other investigative agencies within the public sector. That is consistent with the provision I referred to a moment ago in section 7B(3) of the act, which requires the commission to help public authorities themselves deal with misconduct whilst reserving to itself the right to do so in serious cases.

Mr E.S. RIPPER: With respect, I think the commissioner has provided an answer. I have a follow-up question to the Premier. Is this the magic pudding, Premier? If \$3 million can be taken out of the commission's budgeted forward estimates and, according to the commissioner, not have an effect on misconduct investigations conducted in the public sector, can we take another \$3 million?

Mr C.J. BARNETT: And another! I doubt it. The effectiveness of the Corruption and Crime Commission will depend on the powers that it is given. As I said at the beginning, I very much want to see the CCC use its powers and investigative abilities in the area of organised crime. I think there is no disagreement about that.

Mr E.S. RIPPER: Will that not in itself result in a further diversion of effort from misconduct investigations in the public sector if resources are not increased? The Premier is cutting resources to misconduct investigations and saying shift those resources to organised crime, but he is not providing additional resources for organised crime investigations. Does that not mean even less effort on public sector misconduct?

Mr C.J. BARNETT: One could, I suppose, draw that conclusion. I do not see it that way. The existence of the CCC, and indeed the previous component, the creation of the Public Sector Commission and other measures relating to standards, hopefully will see even fewer allegations of misconduct within the public sector. Because of the experience of recent years, I hope that we see less misconduct within the Parliament and amongst members of Parliament. One way or another the lesson is being learnt, and in that sense I think it is a natural —

[12.30 pm]

Mr A.J. CARPENTER: The government relies on one of them, does it not? Does the Premier's government not rely on the vote of the member for Kalgoorlie?

Mr C.J. BARNETT: I cannot see the member's point.

Mr A.J. CARPENTER: It is a very strong point. Stop being so hypocritical. The government relies on the vote of the member for Kalgoorlie, yet the Premier sits there lecturing this side of the house about its conduct, not to mention the government's own Whip.

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

Mr C.J. BARNETT: A fair amount of resources have been taken up with parliamentary issues. I hope that that has had a permanent impact and I hope that a similar permanent impact has happened within the public sector. The mere appointment of a Public Sector Commissioner in the role of leadership, in a broader sense, will hopefully have a positive consequence. There are serious issues with organised crime. There are growing concerns about motorbike gangs, ethnically based gangs, drug dealing and the like. Certainly, the direction of this government is to see the resources of the Corruption and Crime Commission directed more to that area, in cooperation with the police. That is our policy position.

Mr A.J. CARPENTER: The Premier is in no position to lecture anyone. Do not do it.

Mr P. PAPALIA: I refer to the third dot point on page 110 of volume 1 of budget paper No 2. Through the Premier to the commissioner, if possible, I refer in particular to the designated investigation team. I would like to seek the commissioner's view on the appropriateness or otherwise of CCC investigators participating actively, perhaps while on leave but at other times also, in the political process—publicly trumpeting their credentials as CCC investigators—and whether that might create perceptions of bias for this investigation team.

Mr C.J. BARNETT: Sorry; I do not understand the question.

Mr P. PAPALIA: I can be more specific.

Mr C.J. BARNETT: Yes, please.

Mr P. PAPALIA: The Liberal Party candidate for the seat of Cockburn at the last election was an investigator in the CCC, as I understand it, and utilised that role in his political advertising. Subsequently, after the election, he continued to make public comment, albeit as the leader of the sub-branch of the Liberal Party in Cockburn, in a negative fashion towards the member for Cockburn. My concern is that that raises a perception of political bias within the CCC. I want to seek the commissioner's view of that perception and whether it is of concern to him.

Mr C.J. BARNETT: The member will get my view first. I think anyone who is a candidate in an election is entitled to say what his occupation is and what his previous occupations were, and to be proud of that in that sense. That is totally appropriate. Indeed, the member has made great sway of his distinguished naval career.

Mr P. PAPALIA: I am not criticising that.

Mr C.J. BARNETT: No. That is the point. I want to make that very clear. Whether it be a CCC investigator, a police officer, a senior public servant or whatever it was —

Mr J.M. FRANCIS: A submariner.

Mr C.J. BARNETT: A submariner—the issue is whether that in some way compromises the organisation that he works for. With the person from the CCC, the commissioner can comment on the general principle. I am sure he is aware of that, and aware of profiles of investigators.

The CHAIRMAN: The member for Mindarie.

Mr P. PAPALIA: I have not finished. I want to get an answer, please.

The CHAIRMAN: I am sorry. Does the member have a further question?

Mr P. PAPALIA: No, I want the commissioner to answer.

Mr C.J. BARNETT: The member can direct questions to me, and if the commissioner wishes to add —

Mr P. PAPALIA: The Premier indicated that the commissioner would be able to answer.

Mr C.J. BARNETT: Yes, I know. If the commissioner wishes to add to it, he can. However, we must be careful to not talk about specific cases, but I am happy if we talk about the general principle.

Mr P. PAPALIA: I had to get specific because the Premier asked me to.

Mr C.J. BARNETT: I did not understand the member's question.

Mr L. Roberts-Smith: Again, I will not comment on the specific case. However, clearly, the commission is in the same position as any other governmental or parliamentary organisation in this respect. If any commission officers seek to engage in political activity, as is their right to do, of course—we cannot stop them doing that and would not seek to do so—we would and do apply exactly the same principles that apply across the public sector generally in terms of, when appropriate, standing people down or removing them to other areas or whatever else. Beyond that, of course, we, like everyone else, are reliant upon the individual concerned to not do anything that would bring the organisation into disrepute or convey any perception that the organisation itself has any political involvement or political bias. Were any individual from the commission to do that, of course I would be very concerned and, indeed, would do something about it.

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

Mr P. PAPALIA: Through the Premier, I say to the commissioner that I am finding it difficult to not be specific, because the commissioner said that were that to occur, he would take appropriate action. However, I am concerned about whether, in this case, counselling was provided to the individual about the possible blurring of those lines and whether it was appropriate.

Mr L. Roberts-Smith: Yes, it was.

The CHAIRMAN: The question was to the Premier.

Mr C.J. BARNETT: The commissioner has answered it now.

Mr J.R. QUIGLEY: I understand why the Premier defers to the commissioner on so much in the questioning on this division, and rightly so. I refer to the placement of this commission in this division. We can go back into the mists of time to the days of Mr John Wickham, QC, and the first corruption body that was placed within the Premier's department back then. Today, with the commission, and the commissioner, focusing on its role going forward with greater emphasis on cracking the hard nut of organised crime and the interlacing of the commission's work with that of the police and the new raft of laws, especially in relation to the investigation perhaps of trans-jurisdictional offences, would it not be better if this commission were within the portfolio of the Attorney General, who has the responsibility of introducing to this Parliament all the anticrime laws and suchlike? After all, he has the responsibility of receiving from the commission information concerning, I think, telephone warrants that have been obtained from a Supreme Court judge et cetera. Would it not be better if this commission were reorganised within the Department of the Attorney General?

Mr C.J. BARNETT: I think the member makes an interesting point. For a moment I thought he was going to suggest that it should be with the police minister. Clearly, that would be inappropriate, given that there are investigations into police, or have been. I have a reasonably open mind on that. For the moment, I intend to leave it where it is in the Premier's portfolio. However, in looking at the legislation, reviewing it and taking on board the recommendations of the Archer report, the Attorney General is basically leading that on my behalf. That is a conversation that I guess we will have. I do not have any set view on that, but for the moment, for present purposes, while this review is going on, the CCC will stay where it is, reporting to the Premier. Long term, the member may well be right. Maybe it would be better suited under the Attorney General. However, that is a conversation that I have not had with the commissioner. I think the member raises a fair point, and I will consider it.

Mr J.R. QUIGLEY: In terms of the superintendence of such a powerful organisation by a responsible minister who reports back to the elected Parliament, I am sure that the Premier would agree that if that minister had detailed knowledge of the CCC act and how the commission is operating under that act, it might be an advantage within this democracy.

Mr C.J. BARNETT: It would, of course, be a very interesting scenario should the member ever become Attorney General.

Mr J.R. QUIGLEY: That might be, but we are looking at the current scenario and generally speaking.

Mr C.J. BARNETT: I certainly do not have a territorial view about it. I think that where it appropriately fits within government administration should be considered. I take on board the member's point.

Mr E.S. RIPPER: In the past year, how many cases that have been sent to the Office of the Director of Public Prosecutions by the CCC for prosecution have resulted in charges being withdrawn; how many briefs were sent to the DPP in which the CCC recommended that charges be laid and the DPP declined to lay those charges; and how many investigations in which public hearings have been held are yet to be concluded—in other words, charges are still to be laid? If information can be provided on those three matters, it would be appreciated.

The CHAIRMAN: Leader of the Opposition, we need a reference point for that.

Mr E.S. RIPPER: It goes to the whole performance of the CCC really. We could look at outcomes and key effectiveness indicators.

Mr C.J. BARNETT: We have been far more generous than the Leader of the Opposition ever was when he was in estimates committees.

The CHAIRMAN: Page 110, "Outcomes and Key Effectiveness Indicators"?

Mr E.S. RIPPER: Yes.

[12.40 pm]

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

Mr C.J. BARNETT: That is a very specific question, and I am conscious that the answer should in no way convey information that might compromise any current case. I will refer to the Corruption and Crime Commissioner and ask him whether he is able to provide an answer now, or whether he will need some time to prepare an answer. Maybe he can answer one now, and the other answers will have to be supplementary information.

Mr L. Roberts-Smith: At the outset, since the question is directed to charges and convictions, I make the point that the Corruption and Crime Commission is not actually about criminal charges and convictions. The commission is a standing committee of inquiry and its function is to investigate and produce reports that contain opinions and recommendations. We can and do charge people as we go through an investigation if we come across people actually committing offences—some are public officers, some are not, but we cannot just let them go. In other cases it is appropriate that we charge people rather than the police doing it; for example, if we are dealing with a police officer.

Having said that, in response to the question I can say that during 2008-2009—that is, this year to date—the commission has charged seven people with 18 offences that were or are being prosecuted by the Director of Public Prosecutions. Of those 18 charges, one has been discontinued by the DPP; the others are all pending—that is to say, they are ongoing. We have not submitted any briefs to the DPP for advice this financial year about indictable matters. I again make the point that we are talking about DPP matters, which are District and Supreme Court matters, not Magistrates Court charges.

During 2007-08 we charged 10 people with 23 offences in this category that were prosecuted by the DPP. Of those 23 charges, two charges were the subject of nolle prosequi as a result of plea negotiations. During that same period we referred 10 briefs of evidence to the DPP for advice, and seven were returned with advice that there was sufficient evidence to charge; two were returned with advice that there were insufficient prospects of conviction; one was returned with advice that the prosecution was not in the public interest; and one is pending.

Mr E.S. RIPPER: I think one matter has not been answered: how many investigations that were the subject of public hearings are yet to be concluded? I refer to those issues which have had public hearings, but for which the CCC's work on them is not concluded?

Mr C.J. BARNETT: If the commissioner is comfortable with that question, I am prepared to take it as a supplementary if it is appropriate that it be answered. I am very conscious that we should not in any way compromise ongoing proceedings.

Mr E.S. RIPPER: The public knows that the investigation has been conducted because there have been public hearings.

Mr C.J. BARNETT: I know, I am just getting some advice on whether it is in order to answer that question. It can be a supplementary if the answer is not available.

Mr L. Roberts-Smith: I can provide some broad information about that, I think.

Mr E.S. RIPPER: I would be prepared to receive that as supplementary information.

Mr L. Roberts-Smith: Six reports are pending out of completed investigations. Four of those have to do with the lobbying investigation, which I think is probably the primary focus of the question.

Mr E.S. RIPPER: I was just really interested in the general issue.

Mr L. Roberts-Smith: We do obviously have ongoing investigations, and it would not compromise the investigation for me to say that, for example, we are conducting an investigation into Department for Planning and Infrastructure vehicle examiners, because we have had public hearings about that. That investigation is ongoing, so therefore there is a report that has not yet come out of that. We also had an operation into the bribery or corruption of Landgate officers. That investigation is in the public arena, too, because we laid charges, and I think all those charges have now been dealt with in the courts and they were all convicted. However, there is a report still to be finished resulting from that investigation that addresses the systemic issues and broadly outlines what happened. We have a report pending in relation to the City of Bayswater, together with four others in relation to the lobbyist inquiry.

All of those that I have just mentioned are subject to the section 86 process under the Corruption and Crime Commission Act 2003, which requires us to notify people who may be adversely mentioned of what we propose to say about them and give them an opportunity to make representations. That is being done, and we are almost at the end of that process. The next step is for me, personally, to go over all those reports again, look at all those representations and actually finish off the reports. I have been otherwise occupied in recent times and I have not been able to attend to that.

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

Mr M. McGOWAN: My question relates to something that the commissioner said earlier about the health agencies and departments. The commissioner indicated that he had received 250 notifications of some types of medications or drugs going missing, and it had been brought to his attention so that an investigation or analysis could be conducted by the CCC. Considering that the commissioner raised it, I assume it is not an operational matter, and my question is: over what time period were those notifications received; and is there a quantifiable amount of drugs above which there is a requirement to notify that drugs have gone missing? I assume that it is not necessary to notify about the loss of a packet of Panadol. Also, what are the types of drugs that the commissioner has been notified have gone missing? I assume they are drugs that could be broadly termed hallucinogenic-type drugs, rather than drugs that relate to, for instance, arthritis or hair loss or something of that nature.

Mr E.S. RIPPER: There is a suspect next to the commissioner!

Mr C.J. BARNETT: It just shows that crime does not pay!

The CHAIRMAN: Will the member give us a reference?

Mr M. McGOWAN: The commissioner was referring to it earlier, but my question relates to page 108 of the *Budget Statements*, under the heading “Appropriations, Expenses and Cash Assets”, and I was inquiring about the amount of money that had been spent on this issue.

Mr C.J. BARNETT: I will ask the commissioner to answer, if he is able to.

Mr L. Roberts-Smith: I want to be reasonably circumspect about this because these are operational matters to the extent that they involve allegations that we are still investigating or have, in the main, referred back to the Department of Health for investigation. There is no specific quantity of drugs that must be reported if they go missing. Under the CCC legislation we are concerned with investigating misconduct as defined under section 4 of the act. I suppose if somebody takes a packet of Panadol, I would imagine that that would not constitute misconduct under our act; but if that person was repeatedly taking large quantities of Panadol out of the hospital premises for whatever reason, that might well constitute misconduct and we would look at that.

We are primarily, of course, concerned with schedule 4 and schedule 8 drugs—drugs of addiction and drugs that people might want to take themselves. There have been examples of allegations of medical personnel using, for personal reasons, drugs that they appropriated from hospitals or other public health sources. We are looking at that, and we are also looking at it in the context of part of a review within the Department of Health. We conduct a number of these reviews with the organisations concerned. One aspect of that review with the Department of Health is looking at how it deals with schedule 8 and schedule 4 drugs, and its risk management processes for misconduct in that area. We have already produced a working paper that has gone to the department for its comment, and we intend to produce a report on it in due course.

Mr M. McGOWAN: Over what period were the 250 notifications received? The commissioner told us I earlier, but I did not catch it.

Mr L. Roberts-Smith: I was simply talking about the current level of reporting. I think it went up from 35 notifications a couple of years ago to 250 or so now. However, again, those figures will change depending on all sorts of matters, including who knows about it, whether they are actually notifying things they ought to be notifying to us, and so on.

[12.50 pm]

Mr A.J. CARPENTER: I know the figures that I am going to ask for are tabled with the parliamentary oversight committee, but, from the latest information at the commissioner’s fingertips, can he tell us how many phone taps the commission has in place as at the latest assessment, how many phone taps have been discontinued in the past 12 months and how many camera surveillance operations are in place at the moment?

The CHAIRMAN: Can we have a reference for that, please, member?

Mr A.J. CARPENTER: The reference is the fourth dot point on page 110.

Mr C.J. BARNETT: It is close to operational matters but in a historical sense it is probably all right.

Mr A.J. CARPENTER: I am not seeking information on any particular inquiry.

Mr L. Roberts-Smith: Again I can appreciate the qualification in the question, and I preface the answer by pointing out that it is a breach of the commonwealth legislation to say whether or not any particular application for a telecommunications interception warrant has been made. That is why we can neither confirm nor deny in any particular case whether one has been sought or is still on.

Chairman; Mr John Quigley; Mr Colin Barnett; Dr Mike Nahan; Mr Eric Ripper; Mr Alan Carpenter; Mr Paul Papalia; Mr Joe Francis; Mr Mark McGowan

Mr A.J. CARPENTER: I am not asking that.

Mr L. Roberts-Smith: For operational reasons, I certainly cannot answer the question by saying how many, if any, telephone intercepts or surveillance devices are currently in operation under warrant, but I can say that over the past year, we have sought telephone intercept warrants on 41 occasions and surveillance device warrants on six occasions. I point out also that, under the legislation applicable to each of those, a warrant operates only for a maximum of 90 days, after which the commission must go back to the judicial officer for a further warrant. One can draw whatever conclusions one wants from that structure of the legislation. But if there is no factual justification for the warrant in the mind of the judicial officer, we will not get an extension.

Mr A.J. CARPENTER: I think I might have a different interpretation of the legislation. I did not think there was any prohibition on the commissioner telling us the number of phone taps.

Mr L. Roberts-Smith: I said for operational reasons.

Mr A.J. CARPENTER: I am not asking for specifics about any particular operation. I would like to know how many phones are being tapped by the CCC, that is all.

Mr L. Roberts-Smith: I will have to take that question on notice. I cannot give the member that answer offhand. The number fluctuates, of course. There is more to the question about the number of phones, because there can be name-person warrants, which enables us to intercept all telecommunications by that person, no matter how many phones he uses, or we can have a name-phone warrant, which gives access to only one.

Mr C.J. BARNETT: With respect to that, the commissioner may be able to provide some further information. I am happy to take that on notice with the proviso that in no way do I commit to anything that would compromise the commission. For what can be appropriately provided, we will provide supplementary information.

The CHAIRMAN: Can the Premier clarify what is being asked in the supplementary question?

Mr C.J. BARNETT: The member is seeking further information on the number of phone taps.

Mr A.J. CARPENTER: Thanks for broadening the definition. The commissioner was right, of course, there are more than phone taps—communications intercepts or whatever monitoring is done.

Mr C.J. BARNETT: That will be at the commissioner's discretion.

[Supplementary Information No A37.]

Mr A.J. CARPENTER: The line of authority or the reporting mechanism used to end up with the Attorney General as the person informed about whose phones were being tapped. Is that still the case or does it now go to the Premier as well?

Mr C.J. BARNETT: I think reporting is still to the Attorney General; I have not been informed of any line taps since I have been Premier, so it is through the Attorney General

The appropriation was recommended.