

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

Tenth Report — Annual report 2022–23 — Tabling

MR M. HUGHES (Kalamunda) [10.17 am]: I present for tabling the tenth report of the Joint Standing Committee on the Corruption and Crime Commission, *Annual report 2022–23*.

[See paper [2429](#).]

Mr M. HUGHES: I am pleased to table the annual report of the Joint Standing Committee on the Corruption and Crime Commission for 2022–23, which was a busy year for the committee. It held 16 deliberative meetings and had 18 formal evidence hearings, with 63 witnesses appearing. The committee had three briefings—two in relation to its inquiry “What happened next? Beyond a finding of serious misconduct”, and one in relation to the committee’s oversight role of the Corruption and Crime Commission. The committee tabled three reports. One of the three reports tabled was the annual report of activities for the previous year. I will briefly comment on the remaining two reports.

In the committee’s eighth report, *Unlawful detention in public hospitals—Parliamentary inspector’s report*, tabled in March 2023, the committee provided an update by the parliamentary inspector on his 2022 report, titled *Report on the operation of the Corruption, Crime and Misconduct Act 2003: The definition of ‘public officer’*. The supplementary report alerted Parliament to another case of unlawful detention in a public hospital and a recent District Court of Western Australia ruling on this issue. The Parliamentary Inspector of the Corruption and Crime Commission observed that the law on the right to detain the patient was not well understood by hospital staff, thereby creating a serious misconduct risk. The parliamentary inspector suggested that the cases he highlighted demonstrated a need to ensure that all hospital staff are made aware of the law to avoid future incidents. The matter received attention at a recent Australian Nursing Federation legal conference held in Perth. Here the rights of a patient to decline care was discussed with a key message that if a patient is competent, their autonomy is paramount. The government’s response to the committee’s report indicated that a new policy on restricted practices would be developed to address both the restraint and detention of patients in non–mental health settings. The minister also advised that an education package on restraint and detention was being developed, which will be disseminated to staff across the Western Australian health system. The committee has also asked the Department of Health to provide an update to the committee on further action taken to address the matters raised in the report.

The ninth report, *A need for clarity: Parliamentary inspector’s report: Can the Corruption and Crime Commission decline to form an opinion that serious misconduct has occurred despite the definition being met?*, was tabled in March 2023. It informed Parliament of a disagreement between the parliamentary inspector and the commission on the nature of the commission’s power to form opinions on serious misconduct. Essentially, the parliamentary inspector is of the view that when it is clear that a public officer has engaged in conduct that meets the definition of “serious misconduct” in the Corruption, Crime and Misconduct Act, it is not open to the commission to decline to form an opinion that serious misconduct has occurred. The commission, however, takes a view that its ability to form an opinion of misconduct is discretionary in nature, and it is not bound to form such an opinion despite the definition being met.

The committee sees an opportunity to address this uncertainty as part of the Department of Justice’s current project to modernise the Corruption, Crime and Misconduct Act 2003 and recommended this be done. The committee is pleased that the government has accepted this recommendation, with the Attorney General undertaking to direct the department to examine the matter. I, along with other members of the committee, look forward to seeing the outcomes of the Department of Justice’s project to reform the Corruption, Crime and Misconduct Act 2003 and a new bill to modernise that act.

The committee’s annual report also brings two other matters to the attention of Parliament. The first is in relation to the commonwealth’s Telecommunications (Interception and Access) Act 1979 and its relationship to the work of the parliamentary inspector. The functions of the parliamentary inspector include auditing any operation carried out pursuant to the powers conferred or made available by the Corruption, Crime and Misconduct Act, the audit function, and assessing the effectiveness and appropriateness of the commission’s procedures, which is the basis of parliamentary inspector’s investigative or complaints function. Under the provisions of the act, the parliamentary inspector is unable to view or access telecommunications information lawfully interpreted by the commission or interpret warrant information, including the affidavit to support the application for a warrant, unless it is for the purpose of dealing with matters of misconduct by the commission, an officer of the commission or his own officer.

This issue is not new. This gap in the parliamentary inspector’s ability to oversight and scrutinise the work of the commission is of ongoing concern to this committee and others. The current and previous parliamentary inspectors have raised deficiencies in oversight due to the operations of the Telecommunications (Interception and Access) Act with this and previous committees. This committee continues to encourage the state government to work with the commonwealth government to pursue a legislative solution to this problem. The Attorney General has asked the

commonwealth government to consider introducing appropriate amendments to its legislation to ensure state oversight agencies can appropriately carry out their function.

The second matter concerns information sharing between officers of the Western Australia Police Force in situations following incidents for which an investigation against an officer is likely to occur. The situation arose following an incident in which a member of the public was injured during an arrest and the officer that caused the injury was subsequently convicted of dangerous driving. At trial in the Magistrates Court, the magistrate was critical of the actions of that officer, who, the magistrate said, was dishonest and adjusted his testimony to absolve himself from criminal liability. The officer used information that was made available to him after the other officers involved in the arrest completed their documentation for the district awareness summary entries. Noting the Western Australia Police Force's response that standard procedures were being followed, the committee is asking the Western Australia Police Force to investigate ways to better manage information in circumstances that could result in an allegation of police misconduct. I encourage members to read the report for a full explanation of what transpired to have the magistrate comment as he did.

Finally, the committee continues to work on its inquiry titled "What happens next? Beyond a finding of serious misconduct". The committee is inquiring into what happens after a public officer is found to have engaged in serious misconduct, including disciplinary and other sanctions imposed by other government agencies, criminal prosecutions arising from serious misconduct investigations and the roles and systemic responses of various agencies. There is limited public information on personal outcomes and institutional responses that follow a finding of serious misconduct. Instances of serious misconduct can shine a light on action needed at an agency or sector-wide level to prevent serious misconduct and enhance the public sector's capacity to prevent misconduct. The committee intends to report on this inquiry by 30 November this year.

In closing, I take this opportunity to thank the Parliamentary Inspector of the Corruption and Crime Commission, Matthew Zilko, SC, and the Corruption and Crime Commissioner, Hon John McKechnie, SC, and their respective staff for assisting the committee carrying out their oversight role. I also thank my colleagues on the committee, Hon Dr Steve Thomas, MLC, deputy chair; Hon Mia Davies, MLA; and Hon Klara Andric, MLC. In particular, the committee extends its thanks to its research officers, Suzanne Veletta and Jovita Hogan, for their dedicated support without which the committee simply could not carry out its work.