

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

Seventh Report — Annual report 2021–22 — Tabling

MR M. HUGHES (Kalamunda) [11.00 am]: I am pleased to present for tabling the seventh report of the Joint Standing Committee on the Corruption and Crime Commission titled *Annual report 2021–22*.

[See paper [1738](#).]

Mr M. HUGHES: This report is much more mundane than the report that was just tabled in this house. As members may be aware, the role of the committee is to monitor and report on the exercise of the functions of the Corruption and Crime Commission and Parliamentary Inspector of the Corruption and Crime Commission; to commence own-motion inquiries relating to the means by which corruption prevention practices may be enhanced within the public sector; and to carry out functions under the Corruption, Crime and Misconduct Act 2003. The 2021–22 year was a busy one for the committee. We held 17 deliberative meetings and five formal evidence hearings with 22 witnesses, tabled six reports with a combined total of 56 findings and 16 recommendations, and initiated one own-motion inquiry. I will not canvass each of the six reports we tabled this year, but note the following.

The third report, tabled in February 2022, discussed the work of Matthew Zilko, SC, the Parliamentary Inspector of the Corruption and Crime Commission, including the increase in investigations by his office, his views on the potential need for legislative change to ensure that the Corruption and Crime Commission provides sufficient information to complainants, and the usefulness of police body-worn camera footage to integrity investigations. The work of the office of the parliamentary inspector is vital to ensuring public confidence in the integrity of our public sector.

The fourth report, tabled in March 2022, highlighted flaws in the definition of “public officer” in the Corruption, Crime and Misconduct Act 2003. The scope and clarity of the definition of “public officer” is of great importance because the commission, parliamentary inspector and agencies may only deal with an allegation of serious misconduct, or corruption, against a public officer as that term is defined. The parliamentary inspector raised concerns about this definition and Commissioner Hon John McKechnie, KC, noted that legislation had not evolved to recognise the public sector’s increasing use of varying employment arrangements, including contractual arrangements. Just as a reminder to members, the question of when a contractor is a public officer came to the attention of the parliamentary inspector when investigating a complaint about a decision of the commission. This case exemplified the difficulties and resources expended in determining when a contractor is a public officer.

The situation investigated by the commission was that of an 84-year-old complainant who alleged that he was assaulted and deprived of his liberty by two security guards at Albany Health Campus, where he was a voluntary patient. The security guards were employed by a company contracted by the WA Country Health Service. The problem in this case was that some evidence pointed towards the security guards being employees of the WA Country Health Service, such as staff at Albany Health Campus being entitled to give instructions to security guards and expecting them to be obeyed, while other evidence did not, such as the public sector not paying the guards or being able to terminate their employment. In this case, the parliamentary inspector concluded that it was more likely than not that the security guards were not public officers. The commission came to the same conclusion. The committee recommended that the Attorney General direct the Department of Justice to review the definition of “public officer” as part of its current project to modernise the Corruption, Crime and Misconduct Act 2003. The committee is pleased the government accepted its recommendation.

More broadly, I eagerly 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 in light of the substantial body of opinion accumulated over the past 15 years or so and reiterated in the seventeenth report of the JSCCCC of the fortieth Parliament, titled *Meaningful reform overdue: The Corruption, Crime and Misconduct Act 2003*, that pointed to a need for substantial revision, if not a complete rewriting, of the act.

In the committee’s sixth report, *The Corruption and Crime Commission’s unexplained wealth function: The review by the Honourable Peter Martino*, tabled in March 2022, the committee tabled the report by Hon Peter Martino on his review of the commission’s use of its unexplained wealth powers. Members may be aware that since September 2018, the commission has had the power to investigate unexplained wealth and criminal benefits and initiate and conduct confiscation proceedings. The law seeks to deter crime, particularly organised crime, by reducing the profitability of illegal activities. As Hon Peter Martino observed, the effective use of unexplained wealth and criminal benefit powers requires significant resources and involves a range of expertise and specialised skills. However, until this year, the commission had undertaken its unexplained wealth function within current resourcing levels. It is not difficult to appreciate that this could affect resources available to allocate to its other functions, including its serious misconduct or corruption function.

In February 2022, Commissioner Hon John McKechnie, KC, told the committee that the commission could not continue to undertake this function and properly fulfil its other functions within current resourcing. The commission sought funding just short of \$5 million to undertake its unexplained wealth function over the next five years. Although I was pleased to note that the 2021–22 state budget allocated additional funding of \$2.8 million, plus \$480 000 for capital works, to the commission to continue the operation of its unexplained wealth function in 2022–23, I hope and anticipate that funding for this function will continue beyond this financial year. As the committee said in its sixth report, the commission should be appropriately funded to undertake all its functions.

Finally, this year the committee also commenced an own-motion inquiry, called “What happens next? Beyond a finding of serious misconduct”. We are inquiring into what happens after a public officer is found to have engaged in serious misconduct, including disciplinary and other sanctions imposed by government agencies, criminal prosecutions arising from serious misconduct investigations, and the roles and systemic response of various agencies. Limited public information is available about the 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 will continue to conduct hearings and gather evidence and intends to report on this inquiry by 30 November 2023.

I take this opportunity to thank the parliamentary inspector, Matthew Zilko, SC, and his principal adviser, Sarah Burnside; and the Corruption and Crime Commission Commissioner, Hon John McKechnie, KC, and his staff for assisting the committee to effectively carry out its oversight role.

I also thank my colleagues on the committee, Deputy Chair Hon Dr Steve Thomas, MLC, member for South West Region; Mr Shane Love, MLA, member for Moore; and Hon Klara Andric, MLC, member for South Metropolitan Region. In closing my remarks, on behalf of the Joint Standing Committee on the Corruption and Crime Commission, I extend our sincere thanks to the committee staff, our principal research officer Ms Suzanne Veletta and research officer Ms Jovita Hogan, for their outstanding support of the work of the committee throughout the year.

MR R.S. LOVE (Moore — Deputy Leader of the Opposition) [11.11 am]: I would like to join the chair, the member for Kalamunda, in thanking the members of the committee and also the staff. The chair has given a good report and breakdown of the activities of the committee, so I will not go into that, but I would like to also put on the record my thanks to Suzanne Veletta and Jovita Hogan for their outstanding work in supporting the activities of the committee. It is the second committee on which I have worked with Jovita and she is always a very professional staff member and I thank them both for their service.