



***JOINT STANDING COMMITTEE ON
THE CORRUPTION AND CRIME
COMMISSION***

**REPORT ON RELEASE OF RECORDS
PERTAINING TO THE JOINT STANDING
COMMITTEE ON THE CORRUPTION AND CRIME
COMMISSION AND ITS PREDECESSOR THE
JOINT STANDING COMMITTEE ON THE ANTI-
CORRUPTION COMMISSION**

**Report No. 21
in the 37th Parliament**

2007

Published by the Legislative Assembly, Parliament of Western Australia, Perth, March 2007.

Printed by the Government Printer, State Law Publisher, Western Australia.



Joint Standing Committee on the Corruption and Crime Commission

Report on Release of Records Pertaining to the Joint Standing Committee on the Corruption and Crime Commission and its Predecessor the Joint Standing Committee on the Anti-Corruption Commission

ISBN: 978-1-921355-05-9

(Series: Western Australia. Parliament. Legislative Assembly. Committees.
Joint Standing Committee on the Corruption and Crime Commission. Report 21)

328.365

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CORRUPTION COMMISSION**

Report No. 21

Presented by:
Mr John Hyde, MLA and Hon. Ray Halligan, MLA
Laid on the Table of the Legislative Assembly and Legislative Council
on 29 March 2007

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COMMITTEE'S FUNCTIONS AND POWERS

On 31 May 2005 the Legislative Council concurred with a resolution of the Legislative Assembly to establish the Joint Standing Committee on the Corruption and Crime Commission.

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.

CHAIRMAN'S FOREWORD

The State Records Commission releases Cabinet documents after 30 years, enabling general perusal by the public of Western Australia on matters of interest. The Committee is firmly of the view that the same opportunity should be afforded in respect to the records of the Joint Standing Committee on the Corruption and Crime Commission and its predecessor, the Joint Standing Committee on the Anti-Corruption Commission. As detailed within this report, a large proportion of these records pertain to issues of political and public policy, something which this Committee contends holds significant public interest.

The Standing Orders of the Legislative Assembly currently allow for release of unpublished Committee records after 10 years of date of receipt or production, on endorsement of the Speaker of the Legislative Assembly. This excludes *in-camera* material which may be released under the same arrangement after a lapse of 30 years.

The Committee contends that the release of all Committee related documentation as a matter of course after 30 years provides protection for persons named within, allows for general perusal of documentation by the public, and ensures a commitment to open and transparent Government. The current arrangements requiring the Speaker's approval for release of documents after 30 years is largely reliant on the public being aware of the information contained within Committee records. The Committee considers this process to be restrictive.

MR JOHN HYDE, MLA
CHAIRMAN

CHAPTER 1 RELEASE OF RECORDS

1.1 Background

Under Section 61 of the *State Records Act 2000*, the State Records Commission determines the principles and standards in relation to which State records should be State archives and at what point they should be released to enable public access. This includes a restricted access record such as a Cabinet document. The State Records Commission has determined in consultation with the Department of the Premier and Cabinet that such documents should be publicly available after a period of thirty years.

Prior to thirty years, such restricted access records are governed via provisions of the *Freedom of Information Act 1992* (FOI Act). Essentially, under the FOI Act applicants are not entitled to Cabinet Executive Council documents, however, there is a limitation of ten years placed on documents dated post enactment of the FOI Act in 1993. A fifteen year rule applies to documents dated prior to the introduction of the FOI Act. Within the thirty year release date, the applications remain subject to certain exemptions (such as legal privilege, commercial sensitivity and so forth).

Under Standing Order (SO) 30 of the Legislative Assembly, 'evidence or documents collected or produced by a committee which have not already been published by the Assembly or a committee may be disclosed to any person if the documents have been in the custody of the Clerk for at least 10 years and in the opinion of the Speaker it is appropriate that they be disclosed'. This ten year 'release' date excludes *in camera* evidence which, again with the endorsement of the Speaker, can be released after thirty years from the date on which the evidence was taken in accordance with SO 31. Under SO 32, there are reporting requirements on the part of the Speaker regarding requests for access, nature of documentation, granting or denial of request and so forth.

The Joint Standing Committee on the Corruption and Crime Commission (JSCCCC) recently considered the issue of public access to JSCCCC records and those of its predecessor Committee, the Joint Standing Committee on the Anti-Corruption Commission. The JSCCCC believes that there is benefit in open public access to all committee records after a period of thirty years. Whilst the Committee does not recommend any change to SO 30 (providing release of most committee documents after ten years), the JSCCCC believes that SO 31 should be amended to provide that all unpublished evidence or documents, including *in camera* evidence, should be released as a matter of course after the expiration of thirty years, as is the case with Cabinet documents. The JSCCCC believes that a large proportion of its records pertain to issues of political and public policy, and would therefore hold significant public interest. The JSCCCC also contends that whilst the thirty year delay (or 10 years if deemed appropriate by the Speaker) in release of documents protects the safety of those named within, it also ensures a commitment to open and transparent

Government. This is particularly important when you consider that the Committee is tasked with scrutinising certain aspects of the performance of the Executive. The current system whereby the Speaker endorses release of information does not provide ease of access, and is reliant on the public being aware of the information contained within the Committee's records. Essentially the current system precludes the public from general perusal of the records as a matter of interest.

Recommendation 1

That the Legislative Assembly Procedure and Privileges Committee consider a proposal to amend the Standing Orders of the Legislative Assembly to provide for the automatic release of the records of the Joint Standing Committee on the Corruption and Crime Commission and its predecessor Committee, the Joint Standing Committee on the Anti-Corruption Commission, after the expiration of 30 years from the date of receipt or production of the records by the Committees.