

Joint Standing Committee on the Corruption and Crime Commission

Report 2: If not the CCC ... then where? An examination of the Corruption and Crime Commission's oversight of excessive use of force allegations against members of the WA Police Force.

Government response:

(Note: at the request of the Joint Standing Committee, this Government response includes the response to recommendations directed at the CCC)

CCC Recommendations:

Report Recommendation	Supported/ Not supported	Action
Recommendation 1: In the interest of transparency, the Corruption and Crime Commission should report where there is a difference of opinion with police about sanctions applied in cases of excessive use of force.	Not supported	Police sanctions are a matter primarily for the WA Police Commissioner.
Recommendation 2: The Corruption and Crime Commission should refocus its efforts and current resources on police oversight primarily, in line with what is arguably a key mandate. It is not enough for police oversight to be treated as one of several strategic themes.	Not supported	The Commission's serious misconduct function under the CCM Act does not articulate this intent and is therefore not a key mandate. Accordingly the focus of the Commission is on the entire public sector and not just the WA Police.

<p>Recommendation 3:</p> <p>The Corruption and Crime Commission should regularly interrogate WA Police Force data in order to identify trends and conduct analysis of at-risk areas or officers -and any other such activities that would assist in identifying a particular officer, or cohort exhibiting problematic behaviour.</p>	<p>Supported</p>	<p>The WA Police Force is a strategic theme and a Commission priority. The Commission engages in activities, both proactive and reactive by using the Commission's intelligence gathering capabilities and investigative techniques to identify WA Police Force employees who are at risk of undertaking acts of serious misconduct. These activities includes the interrogation of data from multiple sources including data sourced from the WA Police Force holdings.</p>
<p>Recommendation 4:</p> <p>The Corruption and Crime Commission should undertake regular audits of the WA Police Force IAPro system, or any other relevant internal police system, in order to determine whether use of force incidents are being adequately reported, and if necessary, adequately investigated.</p>	<p>Supported</p>	<p>The Strategic Intelligence Team have conducted an audit and analysis of WA Police Force Use of Force Reports and Commission Excessive Use of Force data for the period 1 July 2015 to 30 June 2020 which culminated in an internal Commission report <i>WA Police Force - Use of force trends</i>.</p> <p>A number of general observations were made to include:</p> <ul style="list-style-type: none"> • No significant trends or issues were observed in the Use of Force data relating to the Commission's strategic theme focus areas or reported crime data. • The data did not reveal any indicators signifying systemic or cultural issues or corrupt conduct relating to the Use of Force. • The introduction of Body Worn Cameras for WA Police Officers, the availability of supplementary evidence such as smart phone footage and ease of Commission access to such related evidence, has aided Assessment and Enquiry Officer to make more informed assessments of matters. • The Commission has a lack of visibility regarding use of force involving empty hand tactics where no serious injury is perceived or sustained and as such, there is no requirement to report such an incident.

<p>Recommendation 5:</p> <p>The Corruption and Crime Commission should engage with specialist community organisations in order to improve its responsiveness to the needs of vulnerable complainants</p>	<p>Supported</p>	<p>The Commission continues its regular engagement with ALS to ensure the Commission is responsive to the needs of their clients. These meetings are held every six months at the request of ALS.</p> <p>The Commission has participated in two scheduled Ombudsman WA Regional visits in 2021 to increase awareness and visibility of the Commission with particular emphasis on vulnerable persons:</p> <ul style="list-style-type: none"> • 31 May 2021 - Pilbara (remote forum) • 30 August - 2 September 2021 - Kununurra, Warmun and Halls Creek <p>Further visits to Broome, Derby and Fitzroy Crossing are scheduled in October 2021.</p> <p>In March 2021, the Commission created a new attribute on its Case Management System (CMIS) to assist in the identification of a matter where it involves a vulnerable person. A <i>vulnerable person</i> includes where a victim is Aboriginal, TSI, youth / child, mentally impaired, from a CALD community, disabled, LGBTQI or homeless. The new attribute will assist the Commission to measure the number of matters that involve a vulnerable victim. Whilst this is intended to provide greater visibility of 'vulnerable persons', it is limited to the information received or gleaned at the time of receiving a notification.</p>
<p>Recommendation 6:</p> <p>The Corruption and Crime Commission should reconsider its prioritisation of complaints to ensure a renewed focus on the needs of Aboriginal people in Western Australia.</p>	<p>Supported</p>	<p>The Commission has always and continues to focus on the needs of Aboriginal people in WA. The Commission has:</p> <ul style="list-style-type: none"> • Participated in Regional WA visits with the Ombudsman to increase awareness and visibility of the Commission with particular emphasis on vulnerable persons • Enhanced its case management system to assist in identifying vulnerable people (to include aboriginal people) so matters known to involve vulnerable people as the reporting person or victim of alleged excessive Use of Force can be readily accessed and searched. • Continued its regular engagement with ALS to ensure the Commission is responsive to the needs of their clients.

<p>Recommendation 7:</p> <p>In assessing whether an allegation of excessive use of force meets one or more of the seriousness thresholds the Corruption and Crime Commission should consider whether the conduct is accompanied by racist comments or conduct.</p>	Supported	<p>The Commission has reviewed and updated the s 30 guidelines for WA Police to include the requirement to report racial conduct.</p> <p>In assessing allegations, the Commission considers whether the conduct is accompanied by racist comments or conduct. The penalty for assault may be increased if accompanied by circumstances of racial aggravation in accordance with the Criminal Code section 80I.</p>
<p>Recommendation 8:</p> <p>The Corruption and Crime Commission should be more proactive in investigating the systemic issues being raised by the Aboriginal Legal Service of Western Australia.</p>	Supported	<p>The Commission continues to be proactive in investigating matters raised by the ALS.</p>
<p>Recommendation 9:</p> <p>The Corruption and Crime Commission should undertake an audit of dog bite incidents to determine whether the use of force was justified and adequately reported by the WA Police Force.</p>	Supported	<p>The Strategic Intelligence team have interrogated WA Police Force data which has resulted in completion of the following papers:</p> <ul style="list-style-type: none"> • <i>WA Police Force - Use of force tactical option: Police Dog</i>). This paper was completed in February 2021. A copy was provided to the Commissioner of Police and a disclosure made to ALSWA. • <i>WA Police Force - Use of force trends</i> which was completed in July 2021. <p>The Oversight Team have also conducted a Thematic Review of WA Police Force Use of Force Tactical Option: Police Dog.</p>

<p>Recommendation 10:</p> <p>The Corruption and Crime Commission should establish mechanisms to improve its engagement with Aboriginal people in Western Australia. Initiatives developed could also facilitate better engagement with other diverse groups, including those that may be marginalised or vulnerable.</p>	Supported	<p>The Commission continues to actively seek engagement with Aboriginal people and other diverse groups in Western Australia.</p> <p>A significant barrier has been a lack of regular engagement by ALS and their reluctance to report matters to the Commission in a timely manner.</p>
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Government recommendations:

Report Recommendation	Supported/ Not supported	Action
<p>Recommendation 11:</p> <p>That the Attorney General ensures that the Office of the Parliamentary Inspector of the Corruption and Crime Commission is sufficiently resourced to provide services that are culturally appropriate and accessible for Aboriginal people.</p>	Supported	<p>The Attorney General has written to the Parliamentary Inspector of the Corruption and Crime Commission to seek his views on whether his office was sufficiently resourced to provide such services.</p> <p>The Parliamentary Inspector replied that he did not presently have any concerns as to the overall resourcing of his office. He did consider that a thorough understanding of Aboriginal cultures and history would enhance the assistance provided to Aboriginal complainants who contacted his office. Both the Parliamentary Inspector and his Principal Advisor have completed the Public Sector Commission's Aboriginal and Torres Strait Islander cultural awareness program. In addition, both the Parliamentary Inspector and Principal Advisor completed the Ways of Working Cultural Awareness Program at Curtin University on 9 September 2021, the cost of which was met from within existing resources.</p>

<p>Recommendation 12:</p> <p>That the Attorney General ensure that the Corruption, Crime and Misconduct Act 2003 is redrafted as a matter of priority. As part of this process, consideration should be given to the prioritisation of police oversight within the legislation.</p>	Supported	<p>On 6 April 2021 the Attorney General tasked the Department of Justice with a wholesale review of the Corruption, Crime and Misconduct Act 2003, to include consideration of the Joint Standing Committee Reports <i>'If not the CCC... then where?'</i> and <i>'Meaningful reform overdue'</i>.</p>
<p>Recommendation 13:</p> <p>That the Minister for Police and the Attorney General ensure that the WA Police Force and the Corruption and Crime Commission publish statistics on their investigations into allegations of excessive use of force.</p>	Noted	<p><u>Minister for Police</u></p> <p>The WA Police Force advises that it provides statistics on Use of Force, which are published in the agency Annual Report. The statistics include:</p> <ul style="list-style-type: none"> ▪ Total reported incidents of Use of Force by Police across the agency. ▪ The number of Use of Force matters which were subject to an internal investigation, and the number of these investigations which resulted in a sustained outcome. <p><u>Attorney General</u></p> <p>The Attorney General acknowledges the CCC already publishes the number of received allegations in its annual reports and quarterly 'overview of serious misconduct' reports, but notes that this does not include the further details cited as desirable by the Joint Standing Committee in paragraph 7.12 of the report. These details included number and type of complaints and allegations, type of force used, investigations undertaken, imposition of sanctions, the number of allegations found to be unsubstantiated and the number of officers exonerated. As the CCC is an independent agency, the Attorney General is unable to direct it to publish these details. However the Office of the Attorney General inquired as to the feasibility of the CCC publishing the details cited in paragraph 7.12. The CCC advised that the Commission has commenced work on how it records information about allegations received and improving the quality of information extracted from its case management system. As part of this process it will consider what can be done to address the issues raised by the Joint Standing Committee.</p>