

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

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 13 OCTOBER 2010**

Members

**Hon Nick Goiran (Chairman)
Mr John Hyde (Deputy Chairman)
Mr Frank Alban
Hon Matt Benson-Lidholm**

Hearing commenced at 10.01 am**ROBERTS-SMITH, HON LEONARD WILLIAM****Commissioner, Corruption and Crime Commission, examined:****SILVERSTONE, MR MICHAEL JOSEPH WILLIAM****Executive Director, Corruption and Crime Commission, examined:****STEYTLER, MR CHRISTOPHER DAVID****Parliamentary Inspector of the Corruption and Crime Commission, examined:****ALDER, MR MURRAY COLIN****Assistant to the Parliamentary Inspector of the Corruption and Crime Commission, examined:**

The CHAIRMAN: Before we get started, for the benefit of our friends from the media who are present, we have permitted some footage to be taken for the first five minutes; and after that point, the cameras will be dismissed.

On behalf of the Joint Standing Committee on the Corruption and Crime Commission, I would like to thank you for your appearance before us today. The purpose of this hearing is for the committee to review with the Commissioner and Executive Director of the Corruption and Crime Commission, and with the Parliamentary Inspector of the Corruption and Crime Commission and his assistant, the content of, and a number of specific items raised within, the annual reports of their respective agencies for the 2009–10 reporting period. I add at this point that that does not necessarily constrain the committee in the questions that it might ask today in terms of its general oversight function. At this stage, I would like to introduce myself as the chair of the committee. To my left is the deputy chair, Mr John Hyde, MLA, the member for Perth, and to his left is Hon Matt Benson-Lidholm, MLC, member for Agricultural Region. To my right is Mr Frank Alban, MLA, the member for Swan Hills.

The Joint Standing Committee on the Corruption and Crime Commission is a committee of the Parliament of Western Australia. This hearing is a formal proceeding of Parliament and therefore commands the same respect given to proceedings in the houses themselves. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of Parliament. This is a public hearing, and Hansard will be making a transcript of the proceedings for the public record. If you refer to any documents during your evidence, it would assist Hansard if you could provide the full title for the record.

Before we proceed to the questions we have for you today, I need to ask you a series of preliminary questions. Have you completed the “Details of Witness” form?

The Witnesses: Yes.

The CHAIRMAN: Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read the information for witnesses briefing sheet provided in advance of today’s hearing?

The Witnesses: Yes.

The CHAIRMAN: Do you have any questions in relation to being a witness at today's hearing?

The Witnesses: No.

The CHAIRMAN: Would you please state your full name and the capacity in which you appear before the committee today?

Mr Silverstone: Michael Joseph William Silverstone, Executive Director of the Corruption and Crime Commission.

Mr Roberts-Smith: Leonard William Roberts-Smith, Commissioner of the Corruption and Crime Commission.

Mr Steytler: Christopher David Steytler, Parliamentary Inspector of the Corruption and Crime Commission.

Mr Alder: Murray Colin Alder, Assistant to the Parliamentary Inspector.

The CHAIRMAN: Thank you once again for your attendance today. In terms of some logistics, I will just make the observation that it is intended that we conclude these proceedings by no later than 11 30 am.

Commissioner, before I embark on the questions that I have, I would like to take this opportunity to acknowledge your recent announcement of your pending retirement from the commission. My assessment of the remaining dates between now and the end of the year indicates that this is likely to be our last opportunity for a public hearing. So I want, on behalf of the committee, to publicly acknowledge the work that you have done in your time on the commission, in what is often a difficult task but from my perspective one of the most important tasks for the people of Western Australia—to ensure that we have integrity within the public sector. So, on behalf of the committee, I want to thank you for your contribution in that regard, and acknowledge the work that you have done.

Mr Roberts-Smith: Thank you, Mr Chairman.

The CHAIRMAN: Commissioner, I will start with you in terms of the questions that we have for you and the inspector today. In particular, I think that it would be remiss of us not to take this opportunity to discuss the recent report that has been provided by the commission on the use of taser weapons by WA Police, dated 4 October 2010. I acknowledge that that report has been handed down outside of the reporting period, but obviously a lot of the work that has been done would have occurred during the reporting period itself.

Mr Roberts-Smith: Yes.

The CHAIRMAN: I want to be clear, commissioner, as to the originating force behind this particular report. It is my understanding that it was not necessarily prompted by the particular incident that has received a lot of coverage, but rather that it was actually on a referral by the Deputy Commissioner of WA Police, and that, if you like, separately the commission happened to be investigating the matter, which has received a lot of coverage. Can you clarify that?

Mr Roberts-Smith: Yes. The initiation of the research project, which is what it was under our corruption prevention directorate, was the result of an awareness generally of concerns across Australia and internationally about the use of taser weapons by police officers and others. Quite a lot of work had been done in other jurisdictions, in Canada notably, but also in other Australian jurisdictions, and it seemed to us timely to look at the position in Western Australia, given that taser weapons had been rolled out to all police officers in Western Australia, and not just select units, as is the case still in a number of other Australian jurisdictions. Tasers have been in operation for some time, and, as I say, there were some concerns about how these were being managed and what risks they posed in terms of misconduct and other risks within the police community and within the community at large. So that was how that initiated. We were conducting that research through the

corruption prevention directorate, not as the result of any particular notification of any incident at all, but only in that general way.

As it happened, I think it was about a year ago that the Deputy Commissioner of Police, Chris Dawson, brought this to the commission's attention. I recall that he did this at one of our regular meetings that I and the Commissioner of Police and our various officers conduct from time to time. He raised it with the commission on that occasion. In fact, it must have been longer than that. It must have been almost two years, because it was very shortly after the incident itself. He expressed very considerable concern about that incident and was very anxious that the commission should oversight the police investigation into it—which of course we also recognised we needed to do. So that came to our attention then. It was a police investigation of that incident. It was not something that we were conducting. In the meantime, our general review of the use of taser weapons was continuing as a research project, and that of course factored into it. So far as that was concerned, we needed to wait until the police investigation was concluded before we could draw any lessons from it or include it in the research project. We did that, and, as you can see, it has received considerable attention in the report itself. We are still conducting the actual review of the police investigation, and that is all the more so at the moment, because I understand that the police commissioner, in light of recent developments, has again referred it, according to media reports, to the Director of Public Prosecutions; and we will be requesting the Commissioner of Police to provide to us, as part of our review of their investigation into the incident, any further correspondence or material which comes out of that exercise, and we will include that in our review of the police investigation.

The CHAIRMAN: Commissioner, so that we are clear on this, as I understand it, there is an option for the commission to, if you like, audit or review an internal police investigation. There is also an option for the commission to undertake its own investigation. Is there in fact a difference?

[10.15 am]

Mr Roberts-Smith: There is a difference. The theme of the Corruption and Crime Commission Act in relation to our misconduct function recognises that the primary purpose of the commission is to enable public authorities to themselves identify and deal with and manage misconduct within their own authority. The commission's role in relation to that is enabling and supportive. We do retain the capability under the act to conduct investigations ourselves, but obviously we do not have the resources to do that in a huge number of cases. One must recognise that we receive in the order of 3 000 notifications or allegations of misconduct each year, and 99 per cent of those that require further investigation we refer back to the agency or authority concerned, consistent with that intent of the legislation. Obviously that means that we investigate ourselves only about one per cent of those matters. Now the one per cent will ordinarily be those that require use of the commission's particular powers to investigate—that is to say, they could not effectively be investigated by the public authority or agency, or they are particularly serious, or they involve allegations of misconduct against very senior people, such as ministers or CEOs or the like; and there is range of other factors. We are, of course, also constrained by our resources. We do not have a physical capacity to conduct a huge number of investigations. We are ordinarily running about 30 or so operations—that is to say investigations—at any one time. But as I said, usually they seem to be quite big ones anyway and extend for a considerable period of time.

In this particular case, when we were notified by Deputy Commissioner Dawson of this particular matter, the police had already begun their internal investigation of that, as was right, and we thought the best thing to do was to leave that to them and to monitor what they were doing with it and review it in due course.

The CHAIRMAN: Does that prohibit the commission from undertaking its own investigation?

Mr Roberts-Smith: No, it does not. What does sometimes happen is that, either during the course of a public authority misconduct investigation, if we are of the view that the agency is demonstrating an incapacity to conduct the investigation, or for some reason not doing it properly,

and not responding, for example, to suggestions that we might be making as to how they ought to be progressing it, or, at the end of the investigations, if when we review it we come to a view that there were some serious deficiencies in it which are not likely to be remedied if we send it back to them to get them to do it again, then we will bring it in and conduct our own investigation. It has sometimes happened that what we see in those sorts of circumstances is that we are then conducting an investigation into the original incident of alleged misconduct. But we will sometimes also find ourselves investigating the investigation, if, for example, it has been affected by bias, or if there has been some untoward involvement of individuals in the investigation or what one might call a cover up or something of that kind. I am not referring to anything specifically here, but that is the kind of thing we might find ourselves investigating at the end of a public authority investigation.

The CHAIRMAN: When would the commission first have seen the footage of the incident in August 2008 at the East Perth Watch House?

Mr Roberts-Smith: I am not sure when we first saw it. I am told it was about nine or 10 months after the event.

The CHAIRMAN: Okay. Once the commission had seen that footage, I will make the assumption that it would then trigger a consideration as to whether this type of incident would be a serious matter. I think that was one of the criteria that you indicated earlier might be a reason for the commission to take over an investigation that an agency might already be undertaking itself.

Mr Roberts-Smith: Well, it was obviously always a serious matter. The way it was described to us by Deputy Commissioner Dawson demonstrated that it was particularly serious. He had that view, and we shared that view at the time.

The CHAIRMAN: So if it was deemed to be serious, I just want to understand why the commission would not undertake an investigation but would rather take the first option. I understand what you said earlier in terms of the overriding provisions under the act and about how the commission should be enabling and supportive of public agencies to provide their own investigations. But there is a rider on that where there is a serious incident. So clearly a determination was made that this was serious, but nonetheless you would still allow WA Police to undertake an investigation themselves.

Mr Roberts-Smith: Yes, that is correct. There is, as I said, a range of considerations, a range of criteria, that we have to have regard to. Some of them are set out in the act; others are practical ones such as I have mentioned—resources and the like.

The CHAIRMAN: Sorry, commissioner, to interject, but resources in this particular instance presumably would not be a factor if a matter is sufficiently serious. If the resources issue is a factor, that would indicate that this was not in the one per cent category; this was in the 99 per cent category.

Mr Roberts-Smith: This was in the 99 per cent category, because we left it with the police. As I said, they were already conducting an investigation. Certainly from Deputy Commissioner Dawson's response, it was quite apparent that he, and therefore one assumes the police generally, were taking this particularly seriously and would deal with the investigation in an appropriate way. But what we do have to remember here is, of course, that the police, like any other public authority, must be accountable themselves for their own internal misconduct and disciplinary and other processes. Unless we had a reason to think at that time, or at any subsequent time, that they were not capable or were not going to deal with it appropriately, then there would be no reason for us to step in and take it over.

The CHAIRMAN: So at what point, then, did it become apparent in this chronology to the commission that the police are not going to lay charge against their own officers?

Mr Roberts-Smith: As I said a moment ago, it is not apparent yet that they are not going to. The media reports I have been reading in the last few days indicate that Commissioner O' Callaghan has

referred the whole thing back to the Director of Public Prosecutions for advice on whether or not charges should be laid. I assume, therefore, that if the advice of the DPP were to be that charges should be laid, the police would lay them. There would be no point in referring it to the DPP otherwise.

The CHAIRMAN: Yes. I guess the question that comes to my mind is that that is some two years later; so at what point does the commission then determine that this process has taken too long, there is not a satisfactory resolution in the mind of the commission, and we are now going to step in?

Mr Roberts-Smith: I think we are getting to that point now. Once we finalised the taser report, that matter was left where it was, if you like, by the time we had finalised the taser report. There had been no further action by the police on it at that point, other than internal disciplinary action. Now they had their reasons for that, which I think they have articulated recently. We are in the process still of conducting the review of their investigation now that we have completed the generic report. I think to some extent it was possibly premature to do it until we had put the thing in the proper context. Our views may differ about that, of course, but certainly the position now has changed again, as I have said, because the Commissioner of Police has decided to revitalise their investigation in terms of their approach to the DPP.

The CHAIRMAN: I will open the floor to questions from other members. But I just make this observation, commissioner, that in one sense it is almost a bit unfortunate, the timing of some of these events, because it is clear to me now that this report was actually a proactive report on the part of the commission, not a reactive one.

Mr Roberts-Smith: Yes, that is correct.

The CHAIRMAN: But because of the way events have now unfolded, at first glance it appears to be a reactive report, unless you take the time to consider it in its context.

Mr Roberts-Smith: You are quite right, Mr Chairman. The report itself is not reactive to that, nor, indeed, any other incident. It was proactive in the sense it was a corruption prevention, educational research activity by the commission, in the context and for the reasons that I indicated earlier.

The CHAIRMAN: I will come back to the importance of the education function at a later stage. I now open it up to questions from members.

Mr J.N. HYDE: Chairman, I want to move to one of the other excellent reports that you did during this time. That was into the Department of Health and the misuse of section 4 and section 8 drugs by Department of Health staff. I note that in your annual report at page 22 you state, correctly, that —

The review concluded that the Department of Health could not effectively prevent, identify or deal with misconduct risks including misconduct associated with restricted drugs.

Your original report exposed a number of instances from your 300 investigations with staff members about the misuse of very dangerous drugs. My concern is that, I think quite properly, the CCC made four excellent recommendations, and these were given back to the department, yet we note that the Department of Health has not many implemented any of the four recommendations. Do you have a concern about its tardiness or lack of implementation of recommendations?

Mr Roberts-Smith: Yes. As we note in the report, they have been accepted by the department but are yet to be implemented, or certainly were yet to be implemented at the time of writing the report. One of the requirements of our act is that when we do make recommendations, following either agency reviews or any other misconduct-related activity, we are required to monitor the response of the authority or agency to the recommendations that we make. You will see that in the report itself we have reported on that in various places. We would obviously be concerned with any agency or authority that failed over a long period of time to implement recommendations that we would make.

But apart from monitoring that and reporting on it, which we would do if we had a particular concern over a period of time, we also liaise with the department or agency concerned. That is another function of our corruption prevention directorate. We do not just do reports and then walk out and leave things for a public authority or agency to grapple with on their own. We do provide ongoing support and advice and assistance to public authorities and agencies in the implementation of any recommendations that we make, or, indeed, in, you might say, general consultation about misconduct risks and so forth. So far as the Department of Health is concerned, I think they will need a bit more time for us to see just how they are going to implement these recommendations. We do have a number of areas in which we are engaging with the department at the moment as well.

Mr J.N. HYDE: Can we possibly find out exactly when or how far they are implementing them? The Department of Health is the third biggest spender of the government budget, with a huge number of staff and a huge number of hospitals. I think, as your report showed, we have no way of knowing that the very problems and the misuse of these dangerous drugs that was occurring by staff is not still occurring in other hospitals or even in the same hospitals.

Mr Roberts-Smith: One of the reasons that governments or Parliaments have bodies such as the CCC standing commissions of inquiry is, of course, as we have discussed on other occasions, to conduct either investigations or do agency reviews, and to ascertain the facts of various things, and to expose those findings or opinions or conclusions or evidence into the public domain so that the Parliament and the government and departments and ministers can act on the recommendations, or can act on what has been shown. The commission itself, just like any other standing commission or a royal commission, cannot implement its own recommendations. That is something for others to do as part of the ordinary governmental or political process. We can monitor and report, and we can assist in the way that I have described, but that is about all we can do.

Mr J.N. HYDE: Okay. At what point in the time line would you giving them a touch-up if there was still no action?

Mr Roberts-Smith: I do not know that I would describe it as a touch-up! But we, as I said, do have ongoing liaison with the Department of Health, as well as other departments and public authorities, particularly through our corruption prevention directorate. That is a separate activity from the actual monitoring of recommendations. There is obviously a bit of a cross-coverage there. But we do have an ongoing relationship with the Department of Health, and others, and our people are regularly meeting with their people to talk about issues of this kind and other misconduct-related issues.

The CHAIRMAN: I guess the question that comes to mind is: has there ever been a commission report prepared expressing dissatisfaction about the lack of implementation by an agency on previous recommendations?

Mr Roberts-Smith: I do not think we have had the need to specifically table a report saying we made some serious recommendations to agency X, and they have just refused to implement them, or anything of that kind, because the response generally speaking to our recommendations by all departments and authorities has been very positive. I think if you look at page 7 of our annual report, you will see where we actually summarise that. It is addressed elsewhere in the report, but you can see that we have made 160 recommendations out of 24 parliamentary reports, and as at 30 June this year, 151—that is to say, 94 per cent—of those were accepted, of which 129 were implemented.

Mr J.N. HYDE: I guess that is why this one stands out. We have got the examples with local government, the vehicle inspectors, and even the Education Department, where the director general and the ministers are almost thanking you overwhelmingly and cannot wait to get into the office next Monday to implement the recommendations. That is why I have a concern that health seems to be dragging its chains.

[10.30 am]

Mr Roberts-Smith: I think, in fairness, I should make the observation that there have, of course, been structural changes at the Department of Health, and most notably, which probably impacts on this, is the change of the director general. The director general, Dr Peter Flett, who was the director general most of the time—in fact, I think all the time we were conducting the actual review—had left and was then replaced by an acting director general, Kim Snowball, who subsequently became the director general. Obviously, in the caretaker period he would have been limited in what he could do. As a new or incoming director general, obviously he has a lot to deal with, given that, as you say, it is one of the biggest departments of the state.

The CHAIRMAN: Inspector, can I turn to this point and just start a discussion with you about the CCC's oversight role of police incidents of misconduct and corruption? We have explored one example of that so far this morning, with the 2008 incident with the Tasers in East Perth. It has been beneficial that you have been here this morning to hear some of that dialogue because you will have heard me explore this notion of, in some instances—in the majority of incidences—the commission oversees the public agency undertaking its own investigation. In the case of the WA Police, it undertakes an audit function, but it can obviously also investigate of its own volition. I guess I want to ask you as the Parliamentary Inspector: have you had the opportunity in the past 12 months to explore that notion and, in particular, the audit function that the commission undertakes, and, if so, are you satisfied that the audit function or process is adequate?

Mr Steytler: The answer to that is yes, I have had the opportunity to do that and, no, I do not think that the process is adequate. If I had to expand on both those answers, three alleged incidents of police misconduct have arisen over the past year. In each of the three incidents, there has been an internal investigation by the police, and a complaint to the commission either before or after that internal investigation when the investigation has cleared the police of wrongdoing. In one case, the commission declined to act at all. In the other two cases it did act but only by way of reviewing what the police were doing. Now, I do not think that that was an adequate response in any of those cases. I understand—and I got a letter from the commissioner this morning saying that resourcing is a problem and that the commission has to have regard to a range of considerations when it decides what it will or will not do in those respects. It has said to me with some force that where there is, for example, a complaint of serious violence by police against someone who is arrested, then that is one of the events that might go into the one per cent category, but a situation of lesser violence, let us say, or very minor violence, is something that it would have to put into the 99 per cent category. It is very difficult for me to argue that with that assessment because it is a matter of internal prioritisation and resourcing, but the fact that the commission has these resourcing problems is, for me, a real problem.

One of the most important functions it has—if not the most important function—is the oversight of police misconduct. If you get police misconduct of the kind that arose or is said to have arisen in all three instances that I have identified, it has a very real effect on the community. It causes those who are subject to it to lose confidence in the judicial process; it causes them to lose faith in the administration of justice; and if they complain and nothing realistic is done about their complaint—I appreciate that it might be, in some cases, realistic simply to oversee an investigation, but in many cases it is not—these people feel that they are left without any form of redress and with a sense of lasting dissatisfaction about the system, and that is a very bad thing for the community generally. If there are resourcing problems—and I have no doubt that there are—I would urge that something be done to address that.

The CHAIRMAN: Commissioner, this really troubles me, I have to say, because this issue of resourcing comes up regularly in our dialogue. I cannot help but think now to the proposed law reform where the government continues to indicate that it wants to give the commission an expanded jurisdiction to investigate organised crime. The reason this troubles me is because at the present time we have a situation where arguably the commission—sorry, we have been clearly told there is a resourcing issue that prevents the commission from undertaking as many investigations as

it otherwise would be able to do. If that is the case, then granting the commission an opportunity to investigate organised crime is not necessarily going to alleviate that problem, even if a bucketload of money is poured into it. The committee's investigation into this matter determined that you would need to provide at least \$42 million over the next five years. None of us, of course, is any wiser about whether the government is contemplating providing \$42 million or not, but I think that during the investigation we did learn that there was some suggestion that the reforms would be done on a cost-neutral basis. We have talked this morning about the importance of the educative functions to do proactive reports. The use of Taser weapons by WA Police report was an excellent example. It would concern me greatly that this type of proactive work would have to be cut in the event that the government decided to move with the cost-neutral option. I think you have given evidence to our committee previously to indicate that so far as in the period of time when you are the commissioner, the educative function will not be cut because you, like the committee, feel that it is paramount to the ongoing success of the CCC, but that means something else needs to be cut. I am struggling to think of what that could be, other than the misconduct investigation function, which seems to me to be already struggling with the resources that it has. Can I get you to comment on that?

Mr Roberts-Smith: There is a lot in that long question, Mr Chairman. Certainly I do agree, as I have said before, that the corruption prevention, the research and the education function of the commission is critical to the continued effective operation of it, in accordance with the purposes of the act. I have also indicated on another occasion, I think, that if the government—or the Parliament—were to require the commission to undertake additional responsibilities or functions, which it presently does not have, such as investigating organised crime or whatever else it might be, then unless additional funding and other resources were provided for that, quite clearly, self-evidently, we would not be able to do that at all; or, alternatively, if we were to do it, then something else would have to be cut back. We do not know, obviously, what the intention of the government or the Parliament is in terms of what the legislative changes are to be, what structural changes that will necessitate for the commission, or what the funding or other resourcing implications will be. It is difficult, if not impossible, to venture any opinion, or any view on how those things may impact on the commission. We simply do not know because we do not know, with any particularity at all what is being proposed, other than the general proposition, according to the government, that it intends to put into Parliament legislation to give the commission an active investigation into organised crime function. In terms of police, I certainly agree that the oversight of the police, likewise, is one of the commission's most important functions. I would also repeat, however, that it is not the role of the commission, and could never be the role of the commission, to conduct all of the investigations that go to alleged police misconduct. I come back to the point I made a moment ago —

The CHAIRMAN: Is that because there are too many?

Mr Roberts-Smith: For two reasons. One is because if we did nothing else, we could do that, but I take it that no-one is suggesting that we should do nothing else. So in the real world we could not do them all. That is the first point. They range; there is a spectrum of them, of course. There are relatively minor ones ranging to quite serious ones and then one takes the view, as I think the Parliamentary Inspector has mentioned a moment ago, that certain categories of alleged misconduct would always be regarded as serious, and we would accept that as a general proposition. For example, alleged assaults by police officers on people in custody or people in the street or whatever would always be serious things in themselves. Even within that group, there is going to be a range of more serious ones than others, and so on. That is the first point. As a realistic proposition, unless the commission were to devote almost all its resources to doing that, we could not do it all. But the second and, I think, more fundamental point is one of principle. That is the point I raised earlier. The commission was never seen, and I think ought not to be seen, as an investigative agency or a disciplinary type agency that takes over the function of public authorities to run their own business.

Running their own business includes, as part of their core business, maintaining their integrity, maintaining systems and processes to prevent misconduct and other forms of corruption—or corruption and other forms of misconduct, I should say—and to manage those processes and to deal with them effectively themselves. The police are one of those agencies, just the same as any other.

The CHAIRMAN: Yes, but should it be treated the same as the other agencies? In this weighing-up exercise, I think the police need to be given special attention. If we consider back to the origins of the commission and its predecessor and the Kennedy royal commission, which started it all, I think it needs to be put in its own special category, and I think that is how the commission does treat that.

Mr Roberts-Smith: I agree with that entirely, and that is how the commission treats it. We see that we have a special responsibility to oversight the police, and that is right and proper for the reasons that you have indicated. But, as I said, there is a bigger question in a way. Does that mean—if I could ask the rhetorical question—that police ought not to be investigating the police at all? Does that not mean that they should not be responsible for maintaining their own internal integrity and their processes? They have got to be held accountable for how they do things and for maintaining the integrity of the force. The ideal situation would be where they do that and demonstrably do so in a proper and accountable and real way that has the confidence of the community. That is a very big proposition, of course, and one would be a long way from that, I think, at the present time, just in general terms. There is a need for an external oversight body, but there can be, I think, a lot of productive debate around the question of just how it should actually work in terms of the extent to which the oversight agency takes on things from the police as a matter of routine rather than in particular instances where the commission considers that it is necessary for it to do so.

Hon MATT BENSON-LIDHOLM: Can I ask a question of the commissioner?

The CHAIRMAN: The member for Swan Hills.

[10.45 am]

Mr F.A. ALBAN: Taking up what you have just spoken about, commissioner, you know that there have been discussions about an extended role of the CCC into organised crime, and the committee was very much concerned that that would—what is the word you would use?—limit the oversight of the police. We are particularly concerned about the oversight of the police for the same reasons that the parliamentary inspector mentioned some time ago; it is a matter of public confidence. I am a little bit concerned that the incidents that occurred in August 2008 went into the 99 per cent. What would have happened with that particular incident if there had not been so much media attention on that particular issue?

Mr Roberts-Smith: If there had not been? There was not any media attention until we produced our report.

Mr F.A. ALBAN: Recently, there has been a lot of media attention. Has not the commission taken more notice because of it, or did you well and truly have that covered?

Mr Roberts-Smith: No, we well and truly had that covered. It was part of our report and it came to light because we put it in the public domain. When we did so, we indicated that the next step for us was to conduct that review and express a view about whether that was adequate or not and, if not, what ought to be done about it. We were on top of that. I do not think that the public attention had any effect on it at all.

The CHAIRMAN: I think it goes to my earlier point that the reason it has become known is because of the good work of the educative arm and preventive arm of the commission. That is what has brought it to light.

Mr Roberts-Smith: That is correct. We put it in the public domain. I must say that we did not do so lightly, for obvious reasons. We thought that we had no choice and that it was absolutely imperative that that be put into the public domain.

Hon MATT BENSON-LIDHOLM: Commissioner, can I return to the resourcing issue? It is something that we have discussed with you on a number of occasions. I just want to return to this 99 per cent, one per cent issue that has been raised. Have you investigated the capacity, or even the desirability, to reduce that one per cent even further? If so, you would obviously need then a significant change in focus. I suppose that if we are going to be cutting back resources in particular areas—you have indicated the educative function is something that you are going to continue with, and that would appear laudable, as far as I am concerned, but I just want your comments in respect to that particular notion that we may well look at even further reducing that figure, given that you said initially, I think, in your report, that there were 3 000 allegations per annum and obviously one per cent is not a lot. I want to get your comments about the desirability and capacity for the system to deliver savings in that particular area if the resourcing issue is not addressed.

Mr Roberts-Smith: I do not think we can deliver further savings or cuts, as it is described, in the investigative area like that, and we are not contemplating doing so. There are broadly two categories of investigations, I suppose. I might call one preliminary investigations, which are actually also largely done by the corruption prevention directorate, who have the responsibility in the first instance, amongst other things, of receiving the notifications or allegations of complaints. They then need to be assessed; that is to say, assessed in terms of whether, on the face of it, they disclose possible misconduct within our jurisdiction or not, or whether they are trivial, vexatious or whatever the case may be. Some of the matters that we get do not fall within our jurisdiction and they would be sent somewhere or the complainant or notifier would be advised of that. Having then assessed that the notification or complaint is within our jurisdiction, we then need to determine what should be done with it—should we investigate it or should it go back to the authority. That is initially done, in most of the cases, by the corruption prevention directorate people making that assessment. We have teams which work on that which also include representatives from investigations so that those people across the various operational or other activity areas of the commission are all kept informed of what is going on and there is input from all quarters. An assessment or a decision will then be made as to whether a particular matter should go, for example, to the police. If it is a complaint or allegation against a public officer of simple criminal conduct, we might refer it to the police for investigation. Alternatively, we would ordinarily refer it back to the department or agency if they had a capacity to investigate it and it was appropriate that they do so.

Broadly speaking, those are the 99 per cent of the cases. You will see the breakdown of the statistics in relation to the commission's assessment decisions at page 30 of the annual report. If the assessors feel that there is some further investigation required even before a proper assessment can be made about any of those things, they will conduct some preliminary inquiries or investigations themselves. That might be by way of correspondence or by way of contacting other people or whatever, to inform them. There is an area of investigation there. As I have said, I described it as a preliminary investigation. If the matter is taken on by the commission as an investigative operation, then that decision would be made by what we call our tasking and coordination group, which looks at all of those which are recommended for consideration to be taken into the commission. That group meets regularly and considers whether or not it is a matter which ought to be taken in-house and whether or not we have the capacity to do it. For example, at the moment, I think it is fair to say that our investigative capacity within operations, as opposed to the corruption prevention directorate, given the 30 or so operations we are currently running and which are resource intensive because they tend to be big ones, and we have some public hearings coming up and things of that kind which require resources, we have a very limited capacity at the moment to actually take on new investigations internally. In fact, I think last time I was informed we had four matters which the tasking and coordination group had decided to take on which are as yet unassigned to investigators

because we do not have investigators to assign them to. I am informed that if we do take on others at the moment, they are probably not likely to be assigned until January. These are practical limitations. It is all very well to say that we should be doing a lot more investigations, but there are literally physical and resourcing constraints on that.

Hon MATT BENSON-LIDHOLM: Can I ask you a question about public confidence in some sort of internal disputes resolution process. Do you believe that the general public is satisfied with the current situation of this 99 per cent figure? The reason I say that is that, fairly obviously, as members of Parliament, we are dealing with constituents frequently who come to us expressing concerns that rather than the CCC dealing with a particular issue there seems to have been a bit of a flick pass to the department that these particular people might have been dealing with or working with. Is that confidence thing an issue as far as you are concerned?

Mr Roberts-Smith: I think quite often it is a natural reaction. What one would tend to find across the board—not just with the CCC or Western Australia, but generally speaking with agencies of this kind—is that if individual citizens have a complaint against a department or an agency or authority and they do not, as they see it, get anywhere with that, then they invariably would like someone else outside the agency or authority to be dealing with it. That is a natural thing, I think. We have to come back to the proposition that the act is premised on the notion that the commission cannot do all of those and is not intended to. The act contemplates that the commission will assist public authorities and agencies to deal with these matters themselves, in a proper and appropriate way. Of course, if the act is successful in achieving that objective, then people, by and large, one would expect, would be satisfied with the outcomes of those processes. Whether they get the result they want or not, hopefully they will be satisfied with the process.

Hon MATT BENSON-LIDHOLM: It is obviously predicated then on the educative program that you have in place and having that continue for some time?

Mr Roberts-Smith: And returning investigations to public authorities to conduct those investigations and for us to monitor the conduct of them and reviewing them at the conclusion is part of that process. It is not just a flick pass in the sense that we say, “Go back to the department”, and it is left there and no more is heard of it. We actually have an active and ongoing educative role, which is part of the educative process.

Hon MATT BENSON-LIDHOLM: It just appears to me, though, that with the need to dedicate significantly larger resources to major inquiries, there appears to be a significant change in focus, if you like, at the bottom end so that more of this internal disputes resolution work is going back to agencies and departments.

Mr Roberts-Smith: It is not internal disputes resolution; we are talking about misconduct allegations and the conduct of investigations.

Hon MATT BENSON-LIDHOLM: That was just a general term I have chosen to use. I will certainly defer to your description.

Mr Roberts-Smith: I think, with respect, that it is an important distinction. It has to be remembered all the time that the commission’s jurisdiction is in relation to misconduct in the public sector. We do not, for example, in relation to the police or anybody else, have a general oversight authority to look at anything they are doing operationally or otherwise; we can only deal with allegations of misconduct, as defined in section 4 of our act, or with issues, procedures and processes within departments in relation to misconduct, corruption and other forms of misconduct prevention and processes for dealing with them. That is the jurisdiction of the commission.

The CHAIRMAN: Commissioner, I just want to wrap up this issue of resourcing. If I could just get you to turn to page 48 of the annual report, under “financial overview”. My understanding there is that the operating surplus was only \$20 000 for the year. If you go to paragraph 144, it says the commission’s average FTE across the financial year was 150, while the actual FTE for June 2010

was 148. The commission's approved FTE limit is 154. Basically, you could have more staff in accordance with your approved FTE limit, but is the problem that you ran out of money last year—there is only \$20 000 surplus? Can you just explain that?

Mr Roberts-Smith: No, we have not run out of money. As you will appreciate, part of the arrangements with the Department of Treasury and Finance is their constant monitoring of authorities' expenditures, including ours, and, in fact, we returned significant funds to the Department of Treasury and Finance in the course of the year, or towards the end of the year. In fact, I think we have always done that. We actually manage our resources particularly well.

The CHAIRMAN: I am sorry, I am confused.

Mr Roberts-Smith: The short answer is no, it is not because of a lack of money.

The CHAIRMAN: Commissioner, why would you return funds to Treasury at the end of the financial year if you are underresourced? I know this is probably very simplistic, but would you not just employ more people?

Mr Roberts-Smith: We are not allowed to. You cannot simply employ more people.

The CHAIRMAN: That is my point. Do you not have an approved FTE limit of 154?

[11.00 am]

Mr Roberts-Smith: Yes, we do, but you will see in paragraph 144 that what we are talking about there is the actual FTE for June, which was 148. The average FTE across the financial year was 150. We have, in the past, and I think last year, we were significantly over the 154 for a period of time because we needed bodies to do certain things. But we are limited by government to a certain number of FTE. They must average out at not more than 154 over the course of the year. The figure in June, as I say, was 148. There have been periods during the course of the year when it has been over 154. There is also a further complication here, and that is because we have a number of positions vacant in particular areas at the moment, and we have had them vacant for some time, because we do not know what is going to happen with the legislation. I am very reluctant to fill certain positions if, say, before Christmas or whenever the legislation is enacted—I understand that the Premier foreshadowed that it was going to at least be introduced before Christmas—we find that our structure is going to be changed and some of these positions are no longer going to be relevant or possibly not even within the commission. We have been living and operating in an area of considerable organisational uncertainty for the past 12 months or so at least. That in itself is very problematical.

The CHAIRMAN: I can understand that, Commissioner, but at the end of the day, an organisation can work only within the parameters that it is currently legally able to do so.

Mr Roberts-Smith: Yes.

The CHAIRMAN: At the moment, we need to be more concerned about current matters than about what might happen into the future. As you indicated earlier today, none of us has a crystal ball; we do not know exactly what the government is or is not going to do. But we do know what the current role of the commission is. I will just put this proposition forward: if the commission was under-resourced in 2009–10 and said that it did not have the resources to investigate this 2008 East Perth lockup incident and it was returning money to Treasury and it had an approved limit of another four people across the year, I am still lacking clarity on this issue.

Mr Roberts-Smith: I say again that that is for that month. There have been other months in the year when we have had people in excess of the 154 FTE.

The CHAIRMAN: You mentioned to me that the important thing is the average across the year. The report says that the average across the year is 150, but the approved limit is 154. By definition, that means that the commission could, across the year, have employed four more individuals, and it would have had the money because it returned money to Treasury.

Mr Roberts-Smith: The money is not an issue. The FTE position is rather more complicated than that anyway, because of course we do have recruitment issues as well. As you know, people employed by the commission can be employed only on a contract of up to five years; they cannot be appointed for longer than that. Because of the period of time the commission has been operating, that is an issue that has been crystallising for the past 12 months or so in particular as people come up to the five years. People want to know what is going to happen; are they going to stay on? There is a degree of uncertainty. In a climate in which there is a degree of uncertainty about whether or not there is going to be a contract extension or a new contract for another five years, or whatever the term is, combined with the uncertainty about what the commission itself will be doing—I appreciate what you say about going on with business as usual and I am talking in the context in which we do—but the external environment with which we have to deal includes this uncertainty of what is going to happen to the organisation. People who are coming to the end of their five-year contracts are thinking to themselves, “I don’t know what’s happening with the commission. I don’t know what kind of work the commission is going to be doing. I don’t know whether the commission will still be doing, for example, education or corruption prevention or organised crime. And I would rather go and apply for a job somewhere else now so I have certainty in my life.” That sort of thing, combined with the usual turnover of staff, which one gets in any organisation, produces a situation in which positions are vacant from time to time. In the end, it has produced an average of 150 FTE.

Mr J.N. HYDE: To you, Commissioner and Parliamentary Inspector, have you turned your minds to and have you got advice on what are the skill sets, experience or attributes that we should be looking at in the new commissioner of the CCC when you stand down? I ask this in the context that I am the only surviving committee member when the original committee interviewed you and then recommended unanimously that you should be appointed CCC commissioner. I have certainly argued that the CCC today is a more efficient and effective body than it was before you arrived. I think it has evolved and that is very welcome. But, as you note, we have this issue of the Premier stating that the CCC will become an organised crime-fighting body. Even though we have a bipartisan and erudite parliamentary committee with two fine Liberal Party members who have recommended that that should not happen, my experience in politics is that Premiers usually get their way. In light of that, one of the legislation issues that I was rolled on in the original CCC act eight or nine years ago was that a person who has served as a police officer is excluded from being the CCC commissioner. I argued against that, and the rest of my party and the Parliament did not. Given that the Premier is looking at an organised crime role, would that be perhaps one of the skill sets that could be amended in the CCC act so that a modern police commissioner from Scotland or elsewhere and those sorts of skill sets could be thrown into the mix if there is to be an organised crime role, and any other comments you might have?

The CHAIRMAN: That is to both the commissioner and the inspector?

Mr J.N. HYDE: Yes.

Mr Roberts-Smith: Speaking for myself, I would not like to proffer a view on that, but I would say this: I think the point that has been raised is an important one, because obviously the sorts of skill sets, background and experience that one would be looking for in a commissioner of a CCC that may have very different functions will depend to some extent at least on the functions that the new body or the evolved body is going to have. I would have thought that was a fairly sensible consideration, but beyond that I would not venture a view.

If I might just come back to make a short point in response to the chairman’s last question: I think at the beginning of that question the proposition was put that the reason that the commission itself did not investigate the incident at the Perth watch-house was a lack of resources. That was not the case. I did not say that, I think, at the time. When we made that decision, it was on the basis that the police were already investigating the matter. They had brought it to our attention in circumstances that suggested, certainly to me personally, that they were taking it very, very seriously indeed.

There was no reason to think that they would not investigate it properly. It was, on the face of it, relatively simple insofar as there was, as we understood it, a video recording of what had taken place. There was no reason, we thought at that stage, why we should not leave it with them and monitor and review what they did with it.

Mr J.N. HYDE: Commissioner, we have said that this may be the last public hearing with you, but I would certainly hope that we get to have a private hearing with you and maybe an exit interview, as the committee was involved in your appointment, and you may have some views to share privately then. Inspector?

Mr Steytler: For me, the most important consideration in the appointment of a successor would be integrity. There has to be someone whose integrity is beyond question and someone who has an understanding of what it means to exercise extraordinary power. Without those two things, there is a very real risk that the power will be abused. What happens in any organisation that investigates corruption or other misconduct is that there becomes an attitude, or there can very easily become an attitude, that says that the ends justify the means: these people are criminals or corrupt individuals; we need to be able to expose them and we can take some shortcuts in doing that if we have to. You need to have somebody who will stop that from happening and who understands the responsibilities that come with those kinds of extraordinary powers.

In terms of administrative skills, a lot depends on the chief executive. I would hope that you have a chief executive officer of the commission, as it does now, who has a full understanding of the administrative obligations and the administrative functioning of the commission and who is able to take on that role, subject to the oversight of the commissioner. Although you need someone with administrative skills, I would suggest that they are not as critical as the other attributes that are needed. You also need somebody with interpersonal skills, because whoever it is obviously is going to have to liaise with, to a degree, a demoralised staff at the commission and liaise with what has been a largely hostile media and with a vigorous and, some might think, overvigorous inspector. Whether you get those attributes, or even an applicant of that kind of standing, is another matter, but ideally those are the attributes I would think you would be primarily focusing on.

Mr J.N. HYDE: The exclusion of a serving police officer is not dumbing down the gene pool?

Mr Steytler: It may be, but I would nonetheless think that it is best to exclude a serving police officer. I think that there is too great a risk of conflicts of interest.

The CHAIRMAN: With which I wholeheartedly agree.

Mr J.N. HYDE: As do most of my colleagues.

Mr F.A. ALBAN: My question is not that serious after all that, but I may as well ask it. It is something I should have raised earlier. At page 3 of your report, Commissioner, paragraph 15 says —

Misconduct management and the issue of misconduct risks in local government is a current priority for the Commission ...

Why is it a priority?

Mr Roberts-Smith: I think the experience, certainly Australia-wide, has been that there are very serious misconduct risks involved with local government. Structurally, there are also practical difficulties with local government as well because you have so many different local governments. You have elected members of councils or shires working with executive officers or full-time officers of the council or the local government body. Local governments deal with very sensitive issues close to the local population on things like planning approvals, the regulation of all sorts of activities within the local government area and so forth. There is a difficult relationship between individual local governments and the department of local government and regional affairs. That department has limited influence over and responsibility for the processes within local

governments. Experience interstate—certainly with the Independent Commission Against Corruption and the Crime and Misconduct Commission in Queensland—has demonstrated that quite often the risks of which I speak have been translated into actual corrupt or other forms of misconduct. Certainly, in terms of reporting to the commission, we have had to deal with a lot of notifications or matters coming out of local government councils. We will be conducting certainly one public hearing next month in relation to a local government in the Perth metropolitan area. I think what will come out of that will indicate some of the sorts of concerns we have that are consistent with the sorts of issues raised elsewhere.

[11.15 am]

The CHAIRMAN: Commissioner, I might just take up that issue. During the reporting period, there was some ongoing consternation about the use of public hearings by the commission. It tends to come up from time to time, as you know. It is probably timely that I ask you this question, given that you have indicated that you will be retiring at the end of the year. Do you maintain that there is still a role for public hearings by the commission?

Mr Roberts-Smith: Very much so. If anything, I think in my time there, we have probably had fewer public hearings or public examinations than desirable. I am not saying that the decisions that I have made in relation to whether the ones we have had should have been public or private have been incorrect decisions; I am simply saying that there were not enough instances, I think, when we were able, properly in accordance with section 140 of the act, to have public examinations as opposed to private ones. The committee is well aware that the act itself says that the default position is that all hearings or examinations are to be conducted in private. That is in section 139 of the act. It is only if the commissioner, having weighed up the benefits of public exposure et cetera against privacy considerations and so forth, comes to the conclusion that it is in the public interest to have a particular examination in public that it can be done in public. Over the past two years, which is not my full term—I have been there over three now, of course—I think we have had 22 private and nine public hearings. I might need to be corrected about that. No; in fact, I think it is not even nine. No, it is not nine. I could take that probably as low as two. Certainly, the point is that there is a very substantial balance of public–private —

The CHAIRMAN: I think it is two.

Mr Roberts-Smith: Yes, it is two, I think. I am thinking of another matter for the figure of nine. That goes somewhere else.

To come back to the question, I think it is very important for the commission to have public examinations whenever that is appropriate and in the public interest for a whole range of reasons that will be particular to the individual case, but also generally speaking for transparency so that the public can see what the commission is doing, the sorts of things it is looking at, how it goes about its business and how it is dealing with things. It also puts people on notice, for example, of particular things that we find happening so that departments or authorities can take immediate action to address some of those issues without having to wait perhaps many months down the track before some kind of report is tabled.

The CHAIRMAN: Commissioner, thank you for that. I turn to the issue of the length of investigations. I note that the average time for a misconduct investigation was 130 days against the target of 54 days and that this was an increase from the previous year of 100 days.

Mr Roberts-Smith: This is page?

The CHAIRMAN: It is page 44. Can you indicate why the investigations are taking so much longer than the target? I will just explain why I ask that. One of the ongoing concerns that sometimes bubble to the surface is that it takes too long and that people are under a shroud of pressure if they are involved or if they are a witness. If it is a public matter, their reputation is

negatively impacted on for too long. There is a desire for the investigation to be as short as possible, yet rigorous. Someone has determined a target of 54 days. I just want to understand that better.

Mr Roberts-Smith: It is difficult, if not impossible, to actually set a target for the very sensible reason that investigations are very much like the length of a piece of string; you do not know how long it is going to be until you get it.

The CHAIRMAN: It is like a court case.

Mr Roberts-Smith: I can address that analogy because it is actually different. It is different, too, from a criminal investigation. I will mention that in a moment. Obviously, until we receive an allegation, we do not know what it is. We do not know how serious it is going to be, we do not know what it is going to involve and therefore we do not know how long the investigation is going to take. Setting targets for that is almost impossible. We are talking about what is going to happen next year, for example, so we set a target now that all our investigations are going to take 10 days or 150 days or whatever it is. We cannot possibly know that until we get there.

The next point is of course, as I indicated earlier, that a lot of our investigations do take longer because they are more serious investigations in any event and require more serious and more sophisticated investigative techniques, which take some time. For example, if you are going to be doing telecommunications intercepts and so forth as part of it, you are looking at 90-day warrants; and, if they need to go over the 90 days, you have to keep going back to the judge to get another warrant or an extension and so forth. But you would not expect to put a telecommunications interception on today and get a result tomorrow, because, again, you do not know when people are going to talk about the sorts of things that you are waiting for them to talk about, or whatever the case may be.

The next point of course is that some of the other techniques require a lot of documentary material and analysis; for example, we have forensic accountants looking at whole boxes of documents. We have one investigation at the moment for which we have virtually a room full of documents that need to be physically examined and then analysed, and then people need to be interviewed and talked to about that. These things can literally take years. On the other hand, some investigations can be serious but relatively short. It is impossible to set a target, and the figures will always vary from year to year.

The CHAIRMAN: If that is the case, would the best guide be the most recent data? This past year was 130 days, the previous year was 100 days, and the year before that was 66 days. All three of them are over and above the 2009–10 target of 54. I am sorry if the information is in the report, but I have not come across it. What is the target for 2010–11? Perhaps you can take it on notice.

Mr Roberts-Smith: Yes. As I have said, I would be hesitant to place any great reliance on a target for something we do not know about at the moment.

The CHAIRMAN: No. Presumably, 54 is not going to cut it.

Mr Roberts-Smith: We do not know. It might; we might come in under that.

The CHAIRMAN: There would be a remarkable difference in the coming year from what has happened in the past three years.

Mr Roberts-Smith: There would. I think it is a generally fair proposition to say that most of our investigations tend to be quite long term.

The CHAIRMAN: Do members have any concluding questions?

Mr J.N. HYDE: There are probably a number of other matters, but perhaps we could forward them and get them dealt with on notice.

The CHAIRMAN: Yes, I think so. I have just a final question, Commissioner. Since the inspector is here, I think it is useful to get his view on it as well. One of the other controversial issues that

occurred during the reporting period that tends to bubble to the surface is whether the commission ought to have the ability to lay charges and to prosecute. My view is that that is not really well understood in the general sphere. Is it the case that for the purpose of independence, it would always be better for the commission to provide a recommendation and leave the charging and prosecuting to the police or the DPP?

Mr Roberts-Smith: I do not think so. Many of the things that we would be dealing with, I think, given the competing pressures on them, the police would not be particularly interested in taking on in any event. Secondly, it seems to me not to make much sense for us to be investigating something and to have gained all the evidence and then to have to send it to the police for them to go over it all and form a view about it and then send it on to the Director of Public Prosecutions, particularly if it is only a summary matter. It needs to be borne in mind that our position is the same as that of the police in respect of charging people and in terms of our relationship with the Director of Public Prosecutions. I should also point out that, unlike the Crime and Misconduct Commission in Queensland, all our investigators first of all are actually ex-police officers from various jurisdictions; only a couple are from Western Australia. We have people who have long histories as senior police officers or senior investigators in other jurisdictions, so they are accustomed to that. They also are authorised persons under the Corruption and Crime Commission Act, which in effect relevantly vests in them the powers of a police officer in Western Australia. If we are conducting an investigation and come across somebody committing an offence—if we, say, move in on a public officer buying drugs or whatever—we can deal with that ourselves, and we do. We would charge them and we are able to prosecute them in the Magistrates Court. As with the police, if it is a particularly difficult or complex issue, or there is a public interest consideration that would suggest that we need advice from the DPP on that, we go to the DPP and get that advice, just like the police do. But, like the police, we do it only in those circumstances. Alternatively, when it is going to be an indictable matter that is going to have to go to trial in a superior court, which the DPP would have to prosecute anyway, we would get the advice of the DPP in relation to that. Bearing in mind that the DPP is not a charging authority—they do not conduct investigations or charge people—if their advice to us is, “Yes, there is evidence of an offence. The person should be charged”, we would charge them, as the police would if they were in that situation.

The CHAIRMAN: Inspector, do you have a view on this?

Mr Steytler: Yes. My inclination is that the commission should have the power to lay charges. Whether it should have the power to prosecute is a more difficult position. In my opinion, it should not. I think that there is always an advantage in separating the investigating arm from the prosecuting arm. I appreciate that that does not happen in terms of charges brought and prosecuted by police, but I think it is a desirable situation.

The CHAIRMAN: If there are no further questions, Commissioner, Inspector, do you have any final comments?

Mr Roberts-Smith: Can I just draw the committee’s attention to a couple of minor corrections at pages 89 and 91 of the report? At the top of page 89, the word “contract” should be “contact”. In paragraph 206, as appears from the analysis of the table above, the analysis says “significant fall in the cost per contract”. That should actually be a “significant increase in the cost per contact”. The same applies in paragraph 210 where the analysis says that there has been a small reduction in costs, whereas it is apparent from the table above that there has actually been a small increase.

The CHAIRMAN: Thank you for that, Commissioner. Is there anything further?

Mr Roberts-Smith: No, thank you, Mr Chair.

The CHAIRMAN: Thank you all for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript.

If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you.

Hearing concluded at 11.30 am