



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

**EXAMINATION OF THE 2003–2004  
ANNUAL REPORT OF THE  
CORRUPTION AND CRIME  
COMMISSION**

**Report No. 2**

**2004**

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Joint Standing Committee on the Corruption and Crime Commission

Examination of the 2003–2004 Annual Report of the Corruption and Crime Commission

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**Report No. 2**

Presented by:  
**Hon Derrick Tomlinson, MLC**  
**Mr John Hyde, MLA**

Laid on the Table of the Legislative Council and Legislative Assembly  
on 12 November 2004



## COMMITTEE MEMBERS

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**Deputy Chairman**

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Member for Perth

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Member for Kingsley

Hon Graham Giffard, MLC  
Member for North Metropolitan  
Region

## COMMITTEE STAFF

**Principal Research Officer**

Ms Katherine Galvin, BSW

## COMMITTEE ADDRESS

Joint Standing Committee on the Corruption and Crime Commission  
Legislative Assembly  
Parliament House  
Harvest Terrace  
PERTH WA 6000

Tel: (08) 9222 7494  
Fax: (08) 9222 7804  
Email: [jscccc@parliament.wa.gov.au](mailto:jscccc@parliament.wa.gov.au)  
Website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)



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## COMMITTEE'S FUNCTIONS AND POWERS

On 13 May 2004 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 289-292 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

This is the final hearing for 2004 and for the Joint Standing Committee on the Corruption and Crime Commission under the 36<sup>th</sup> Parliament. As a retiring Member of Parliament and Chair of both this Committee and the former Joint Standing Committee on the Anti-Corruption Commission, I afford myself some opportunity for reflection. The development of the current model for corruption and crime prevention within the Western Australian Public Sector is the result of an evolutionary process. In this regard I acknowledge the extensive input of my fellow Committee Members, Commission Executive and staff and other relevant professionals, and members of the community. It is anticipated that the current model, incorporating enhanced powers, a corruption prevention function and greater transparency and accountability will engender in Western Australians improved confidence in its public institutions.

This report principally documents the Joint Standing Committee on the Corruption and Crime Commission's (JSCCCC's) examination of the Corruption and Crime Commission's Annual Report 2003–2004 at a formal hearing on 25 October 2004. To provide focus, an initial review of the Annual Report was undertaken and a series of questions without notice constructed. The Committee's examination is brief and it is important that this be considered in context. The Corruption and Crime Commission (CCC) was established on 01 January 2004 and as cited in the Committee's report on the CCC of 05 July 2004, the initial six month period was dedicated to "people and resource issues"<sup>1</sup>. As reflected in hearings with the Commission to date, the CCC's commitment to "getting things right" has entailed a rigorous approach, particularly with respect to recruitment, the integration and/or evaluation of Information Technology, document management and Telecommunications Interception systems, administrative policies and processes and other operational frameworks. This has all occurred within a pressured environment of increasing numbers of complaints and notifications of misconduct. In summary therefore, the information contained within the Annual Report and on which the Committee bases its assessment of the Commission's performance is limited.

The Commission has notified of its intention to consolidate its operations over the next six months with the development of business and strategic plans and the implementation of tailored information technology systems that will enable interrogation of information and delivery of comprehensive data. The Committee's expectation is that the CCC's Annual Report 2004–2005 will incorporate more qualitative and quantitative information, enabling better scrutiny of accountability and performance.

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<sup>1</sup> Legislative Assembly of Western Australia, Joint Standing Committee on the Corruption and Crime Commission, *Report on the Hearing with the Corruption and Crime Commission on 05 July 2004*, Report No.1, 26 August 2004, p.1.

A number of issues raised in the report warrant particular attention. The first is the complexity of observance of recruitment standards prescribed for the Public Sector and the *Public Sector Management Act 1994*. The Commission is an independent statutory authority with broad jurisdiction over more than 115,000 public sector officers and is endowed with exceptional powers for the investigation of misconduct. The *CCC Act 2003* that governs the operations of the CCC, prescribes rigorous compliance requirements. An adequate staffing complement is essential to maximising the Commission's effectiveness and accountability. The Commission's experience of lengthy delays as a result of compliance with recruitment standards and the *Public Sector Management Act 1994* gives cause for concern.

The Committee commends the Corruption Prevention, Education and Research Directorate for the strategic nature of its activities, evidenced within this hearing, wherein misconduct prevention is underpinned by intelligence. It will, with interest, monitor the progress of its forthcoming inquiry into unauthorised access to/and/or unauthorised disclosure of personal information.

The JSCCCC notes the substantial increase in complaints and notifications since the Commission's commencement and will examine the impact of revised complaint handling processes on management of the latter. Further, it promotes consideration by the Commission of an effective mechanism for handling those complaints against officers of the Western Australia Police Service (WAPS) that would formerly have gone to the Parliamentary Commissioner for Administrative Investigations (Ombudsman).

Finally, the issue of lack of utilisation of the Organised Crime powers available under Part 4 of the *CCC Act 2003* by the WAPS was raised at an earlier hearing and is reflected in the Annual Report. The Committee is pleased to see progress in relation to the cooperative development of proposals by the Commission and the WAPS to use these powers. At a future date the JSCCCC will assess the impact of these developments.

I commend this report to the Parliament.

HON DERRICK TOMLINSON, MLC  
CHAIRMAN

## ABBREVIATIONS AND ACRONYMS

“ACC”	Anti-Corruption Commission
“ <i>CCC Act</i> ”	Corruption and Crime Commission Act 2003
“CCC”	Corruption and Crime Commission
“JSCACC”	Joint Standing Committee on the Anti-Corruption Commission
“JSCCCC”	Joint Standing Committee on the Corruption and Crime Commission
“MLA”	Member of the Legislative Assembly
“MLC”	Member of the Legislative Council
“TI”	Telecommunications Interception
“WAPS”	Western Australia Police Service
“ <i>TI Act 1979</i> ”	<i>Telecommunications (Interception) Act 1979 (C’wth)</i>



## GLOSSARY

“Complaint”

Allegations of misconduct made orally or in writing directly to the CCC and not through a “notifying authority” as defined under section 3 of the *Corruption and Crime Commission Act 2003*.

“Notification”

Allegations of misconduct notified to the CCC in writing by a “notifying authority”, as defined under section 3 of the *Corruption and Crime Commission Act 2003*





## CHAPTER 1 INTRODUCTION

### 1.1 Background

The Joint Standing Committee on the Corruption and Crime Commission (JSCCCC) convened a hearing with the Corruption and Crime Commission (CCC) on 25 October 2004<sup>2</sup>. The Committee has formally resolved on fixed tri-annual meetings with the Commission perceiving this to provide a consistent and appropriate level of public accountability in the scrutiny of the Commission's activities. One of these hearings allows for an examination of the CCC's Annual Report (herein known as "the Annual Report"), drafted in accordance with section 66 of the *Financial Administration and Audit Act 1985 and 91 of the Corruption and Crime Commission Act 2003 (CCC Act 2003)*, the report is a principal document in accountability and performance. The Commission's Annual Report 2003–2004<sup>3</sup> forms the focus of this, the Committee's second report.

The Committee's commitment to a regimen of 3 hearings does not preclude it from conducting inquiries into other matters of public interest as they arise, or those of a confidential nature which require inspection but cannot be reported as they may jeopardise the day to day operations of the Commission.

As with the previous hearing with the CCC<sup>4</sup>, Mr Hammond, Commissioner, CCC (herein known as "the Commissioner") and the majority of the Directorate tendered evidence. The Commission's Media Coordinator was also in attendance. Details of witnesses are provided at Appendix One.

Although the Committee recognises the interplay between the various functional areas of the Commission, for ease of reference, issues raised in the hearing have generally been categorised under the various Directorates. This in part reflects the format of the Annual Report.

A transcript of the open evidence is available on the Parliamentary website at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au).

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<sup>2</sup> Legislative Assembly of Western Australia, Joint Standing Committee on the Corruption and Crime Commission, Transcript of Evidence, 25 October 2004. Available at [www.Parliament.wa.gov.au](http://www.Parliament.wa.gov.au).

<sup>3</sup> Corruption and Crime Commission, *Annual Report 2003–2004*, September 2004. Available at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au) or at [www.ccc.wa.gov.au](http://www.ccc.wa.gov.au).

<sup>4</sup> Legislative Assembly of Western Australia, Joint Standing Committee on the Corruption and Crime Commission, Transcript of Evidence, 05 July 2004.

## 1.2 Business Services

It is clear that the Business Services Directorate is critical to the efficacy of many of the operational units, given reliance of the latter on skilled staff, tailored information technology and document management systems. Comments on page 23 of the Annual Report imply an added reliance on this Directorate and perhaps increased pressure to perform because of the requirement for special accounting and business processes to provide for the Commission's covert activities.

The Commissioner noted in his opening address that the CCC has placed considerable emphasis on the Business Services area with the development of "appropriate information technology, and records and financial management processes". He details however that there is still considerable work to be undertaken in the development of administrative policies and processes but that the Commission is committed to this task<sup>5</sup>.

### (i) *Staff of the CCC*

Both the JSCCCC and the former Joint Standing Committee on the Anti-Corruption Commission (JSCACC) have placed significant focus on staffing issues in their respective reports to Parliament<sup>6</sup>. The Committee understands that the majority of staff employed from the former Anti-Corruption Commission (ACC), Kennedy Royal Commission<sup>7</sup> and external applicants, were initially engaged on short-term contracts. This enabled the Commission to operate whilst conducting permanent recruitment in compliance with the *Public Sector Management Act 1994* and Public Sector Standards in Human Resource Management. Although the CCC acknowledges the importance of adherence to the latter, it has been reported that the complexities associated with both the standards and the Act have caused lengthy delays<sup>8</sup>. Although generally non specific, the Commission cited in evidence an instance where it took in excess of 100

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<sup>5</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, p.3.

<sup>6</sup> Legislative Assembly of Western Australia, Joint Standing Committee on the Anti-Corruption Commission, *Report on Hearing with the Anti-Corruption Commission on 07 April 2003*, Report No.4, 17 April 2003, p.3, *Report on the Hearing with the Anti-Corruption Commission on 25 August 2003*, Report No.6, 23 October 2003, p.3, *Report on the Hearing with the Anti-Corruption Commission on 29 March 2004*, Report No.8, 13 May 2004, p.6 and Joint Standing Committee on the Corruption and Crime Commission, *Report on the Hearing with the Corruption and Crime Commission on 05 July 2004*, Report No. 1, 26 August 2004, p.2.

<sup>7</sup> Royal Commission Into Whether There Has Been Any Corrupt Or Criminal Conduct By Western Australian Police Officers.

<sup>8</sup> Mr Hammond, Commissioner CCC, Transcript of Evidence, 05 July 2004, p.2 and Transcript of Evidence, 25 October 2004, p.5.

days to resolve a claim of breach of standard. In the interim, the nominated “successful” applicant waited for confirmation of employment<sup>9</sup>.

As an aside, the Committee notes that of the three claims of breach of standard [4% of advertised positions] lodged against the Commission, none were upheld<sup>10</sup>. The Commissioner attributed this to internal recruitment processes rather than those benchmarks prescribed by the Public Sector.

The Commissioner cited that staff complement as at 20 October 2004, comprised of 105 personnel with 12 short-term and 77 long-term contracts and 17 on secondment<sup>11</sup>. This compared with data noted on page 11 of the Annual Report of 97 personnel, comprising 81 short-term and 16 long-term contracts as at 30 June 2004, shows considerable progress in finalising recruitment. The Commission confirmed that the change in tenure had brought stability to the Commission, enabling it “to accelerate the tempo of its activities”<sup>12</sup>. Inherent in the Commissioner’s comment, is the importance of stability of staffing to the effective functioning of the Commission.

The Commissioner also informed at hearing of the appointment of Ms Patti Chong to General Counsel, CCC, on a one-year secondment. Ms Chong is a Senior Prosecutor with the Office of the Director of Public Prosecutions. Although not provided for in the initial framework developed for the Commission, General Counsel is a position that exists in other equivalent interstate agencies. Ms Chong will assist in the conduct of Commission hearings, in part, minimising the need to engage external legal counsel. It was also implied that she would provide, at least informally, positive mentoring for less experienced staff<sup>13</sup>.

## **(ii) Information Technology**

As cited on page 24 of the Annual Report, the Commission is currently using the Legacy Network from the Kennedy Royal Commission. Whilst the CCC notes that the system was “adequate for that Commission”, it does not meet their requirements. They attribute this to the manufacturer no longer supporting the network system and, in evidence, cited its inability to support the Commission’s larger workforce. A new system is currently being sought via tender. It will be operational in February 2004<sup>14</sup>.

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<sup>9</sup> Dr Froyland, Director, Corruption Prevention, Education and Research, Transcript of Evidence, 25 October 2004, p.5

<sup>10</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, 25 October 2004, p.5 and Corruption and Crime Commission, *Annual Report 2003-04*, September 2004, p.34.

<sup>11</sup> *Ibid*, p.2.

<sup>12</sup> *Ibid*, p.2.

<sup>13</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, p.14.

<sup>14</sup> Ms Grant, Director, Business Services, Transcript of Evidence, 25 October 2004, p. 12.

**(iii) Budgetary Issues**

The Commission detailed that to date, in consultation with the Department of Treasury and Finance, it has managed to remain within its overall capital allocation from Government. However, that it would not be able to determine its ongoing budgetary requirements until it had been functioning for one year, given that it has no history on which to base its budget forecasts. It noted that utilisation of the 2004–2005 figures may still prove problematic given both a steady increase in “operational tempo” and a need to finalise staff recruitment<sup>15</sup>.

The Commission stated that it will aim to limit the financial implications of replacement of the Legacy Computer System detailed above, at least with respect to the large applications required for the electronic document management system. This will occur by using the existing application under license from either the Kennedy Royal Commission or the ACC. Cost will be implicit in updating the application versions<sup>16</sup>.

Mr Silverstone, Executive Director, detailed that the forecasts for the Commission’s capital requirements for information systems were underestimated, however that no additional expense had been incurred to date given effective management of the overall capital budget and cost savings in other areas. He noted that these savings would not prejudice “the capital program amounts for future requirements identified for specific purposes”<sup>17</sup>.

The Commissioner noted that appointment of General Counsel would result in cost savings because it would minimise the need to engage external legal counsel for Commission hearings<sup>18</sup>.

### **1.3 Corruption Prevention, Education and Research Directorate**

The Committee noted in its report on the 05 July 2004 hearing that the *CCC Act 2003* introduced a Corruption Prevention, Education and Research component to complement its investigative role. Further, it cited an interest in intelligence activity informing research and education<sup>19</sup>. It therefore welcomed the comment on page 19 of the Annual Report that the “[d]irectorate eschews a random approach to undertaking

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<sup>15</sup> Mr Silverstone, Executive Director, CCC, Transcript of Evidence, 25 October 2004, p.12.

<sup>16</sup> Ms Grant, Director, Business Services, CCC, Transcript of Evidence, 25 October 2004, pp.12–13.

<sup>17</sup> Mr Silverstone, Executive Director, CCC, Transcript of Evidence, 25 October 2004, p.13.

<sup>18</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, 25 October 2004, p.14.

<sup>19</sup> Legislative Assembly of Western Australia, Joint Standing Committee on the Corruption and Crime Commission, *Report on the Hearing with the Corruption and Crime Commission on 05 July 2004*, Report No.1, 26 August 2004, p. vii.

its activities, preferring to be strategic in the identification of problem areas and in the targeting of interventions in high risk agencies and activities". In sync with this, the Commission informed that despite the inadequacies of its current database, they have been able to chart emerging trends in misconduct. As a consequence, the Commissioner has determined that a public inquiry will be held into unauthorised access to/and/or unauthorised disclosure of personal information<sup>20</sup>. Considerable research has been undertaken to underpin the inquiry and it is envisaged, where feasible, that there will be collaboration with other agencies<sup>21</sup>.

To continue to inform the intelligence process, Dr Irene Froyland, Director, Corruption Prevention, Education and Research, detailed that her unit were providing input into the CCC's database requirements to enable better interrogation of information<sup>22</sup>.

The Commission reiterated previous comments provided in 05 July 2004 hearing with the Committee<sup>23</sup> and its Annual Report to the effect that it has been delivering a series of specifically tailored regional outreach programs, with five more to be conducted in the metropolitan area shortly<sup>24</sup>. The objectives of this program are outlined on page 20 of the Annual Report.

## 1.4 Operations

### (i) *Complaints and Notifications*

The Commissioner reflected on figures detailed on page 13 of the Annual Report relating to externally generated complaints and notifications of misconduct received in the six months to 30 June 2004. He noted, that as at this date there were 690 open complaint and notification files, however, that this had increased substantially by about 53% [actual figure 60%] to 1104 files by 20 October 2004. He cited a need for the Commission to review its processes for handling complaints within the context of this "upwards trend". He also implied that a possible lack of understanding of required notification of misconduct within the Public Sector and the implementation of a comprehensive strategy to engage more fully Chief Executive Officers of Government agencies, could lead to a further increase in reporting and workload<sup>25</sup>.

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<sup>20</sup> CCC, inquiry into "Unauthorised Access and Disclosure of Confidential Personal Information", announced 05 November 2004. Information available at [www.ccc.wa.gov.au](http://www.ccc.wa.gov.au).

<sup>21</sup> Mr Hammond, Commissioner, CCC and Dr Froyland, Director, Corruption Prevention, Education and Research, Transcript of Evidence, 25 October 2004, p.14.

<sup>22</sup> Dr Froyland, Director, Corruption Prevention, Education and Research, CCC, Transcript of Evidence, 25 October 2004, p.8.

<sup>23</sup> Transcript of Evidence, 05 July 2004, p.3.

<sup>24</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, 25 October 2004, p.3.

<sup>25</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, 25 October 2004, p.2.

The Committee expressed concern at the level of complaints and notifications received by the CCC in respect of the Western Australia Police Service (WAPS), 63%<sup>26</sup>, compared with its predecessor, the ACC, which stood on average at about 47%<sup>27</sup>. It was suggested that this difference was attributable to the CCC's receipt of complaints and notifications that would formerly have gone to the Parliamentary Commissioner for Administrative Investigations (Ombudsman). The Committee suggested that perhaps those matters previously captured by the Ombudsman could be forwarded directly to WAPS for investigation, with CCC oversight<sup>28</sup>. The Commissioner detailed that although many complaints are forwarded to WAPS almost immediately for internal complaint resolution, this is not always possible as a standard because trivial and serious complaints are often interlinked. He indicated however that a "two-tiered system" could be considered in the development of complaint management processes<sup>29</sup>.

The Committee informed the CCC that the data provided in the Annual Report on complaints and notifications of misconduct and the categories and agencies they pertained to<sup>30</sup>, needed to be refined given the public right to more statistical and qualitative information. It also emphasised the importance of, and variation in detail of statistical and associated information required by, other categories of stakeholder, including the Committee, public sector agencies and the Corruption Prevention, Education and Research Directorate. In relation to the last two categories, useful data was seen as vital to informing their respective educational programs<sup>31</sup>.

The Committee in the 05 July 2004 report on the CCC, acknowledged the limitations on the Commission's capacity to provide an appropriate level of data at this time. This, given the recency of its establishment and need to manage a number of considerations prior to the introduction of an electronic management system, suited to the Commission's requirements. In that hearing the Commission detailed that systems development would be the focus for the period July 2004–April 2005<sup>32</sup>.

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<sup>26</sup> Corruption and Crime Commission, *Annual Report 2003-04*, September 2004, p.13.

<sup>27</sup> Legislative Assembly of Western Australia, Joint Standing Committee on the Anti-Corruption Commission on 29 March 2004, *Report on the Hearing with the Anti-Corruption Commission on 29 March 2004*, 13 May 2004, pp.15,29, Report on the Hearing with the Anti-Corruption Commission on 25 August 2003, 23 October 2003, pp.11,25, *Report on the Hearing with the Anti-Corruption Commission on 7 April 2003*, 17 April 2003, p.7.

<sup>28</sup> Transcript of Evidence, 25 October 2004, pp. 5–6.

<sup>29</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, p.6.

<sup>30</sup> Corruption and Crime Commission, *Annual Report 2003–2004*, September 2004, p.13.

<sup>31</sup> Transcript of Evidence, 25 October 2004, pp.7–8.

<sup>32</sup> Legislative Assembly of Western Australia, Joint Standing Committee on the Corruption and Crime Commission, *Report on the Hearing with the Corruption and Crime Commission on 05 July 2004*, Report No. 1, 26 August 2004, p.1.

**(ii) Investigations**

The Commissioner referred to investigation statistics on page 16 of the Annual Report, noting that 10 of 28 investigations either received from the ACC or Kennedy Royal Commission or initiated by the Commission itself, were completed as at 30 June 2004. It was cited that on 20 October 2004, the Commission had 21 active major investigations. The Commissioner acknowledged that the CCC's investigative activities had for the first six months been relatively "slow", however attributed recent increases to the establishment of a stable staff complement, processes and procedures for the management of investigations and matters more generally related to the Commission's establishment<sup>33</sup>.

**(iii) Hearings**

The Committee queried the Commissioner's statement in evidence that one person attending a hearing had not been legally represented. The Commissioner noted that in that instance the person was "peripheral" to the matter under investigation, however that all persons are informed of their right to legal counsel. Further that the Commission would be extremely reticent to allow a person of considerable interest to appear unrepresented.

He cited that that this issue was a matter under current discussion with the Legal Aid Commission of Western Australia<sup>34</sup>.

## **1.5 Special Operations**

**(i) Coercive Investigative Powers**

The Committee notes that the figure of 7 warrants issued to the Commission under the *Telecommunications (Interception) Act 1979 (TI Act 1979)* of the Commonwealth, detailed on page 29 of the Annual Report, does not encapsulate the number of applications for warrants refused by the approving authority. Section 91 (o) of the *CCC Act 2003* does not require this level of detail, although this is reported in the Commission's Annual Report to the Federal Attorney-General required under the Commonwealth Telecommunications Interception (TI) legislation. That report, considered by the Committee, notes a refusal of two applications<sup>35</sup>. Under the *TI Act 1979 (C'wth)*, applications must be approved by a Federal or Supreme Court Judge, based on evidence presented in an affidavit. The offence for which the warrant is

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<sup>33</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, 25 October 2004, pp.2-3.

<sup>34</sup> *Ibid*, p.15.

<sup>35</sup> Corruption and Crime Commission, *Annual Report pursuant to the Telecommunications (Interception) Act 1979*, 14 September 2004, p.1. Available at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au).

sought must attract a penalty under the *Criminal Code Act Compilation Act 1913 (Western Australia)* of three or more years imprisonment<sup>36</sup>.

The Commission detailed that one application for two warrants was submitted to a Judge who was not satisfied that the evidence tendered in affidavit supported the offence specified for the warrants. The CCC advised that the application was later approved on renomination of a primary offence<sup>37</sup>.

The Committee requested the Commission submit further data on its use of its TI powers, enabling additional scrutiny to ensure compliance. The Commission agreed to provide this as a supplementary submission to the hearing<sup>38</sup>.

## 1.6 Legal Services

### (i) *Legislative amendment*

Under Section 91 (2) (q) of the *CCC Act 2003*, the Commission is required in its Annual Report to inform of “any recommendations for changes in the laws of the state that the Commission considers should be made as a result of the performance of its functions”. The Commissioner, consistent with comments in the Annual Report<sup>39</sup>, detailed that no recommendations had been made. He stated that although the CCC has “far greater experience of the use of the Act” it was still too early to determine requirements for change to the law<sup>40</sup>.

## 1.7 Executive

### (i) *Media Liaison Coordination*

In the drafting of the CCC Bill, some of the strictures on confidentiality to which the former ACC was subject, were relaxed. This has provided the Commission with some discretion to inform the media of its activities.

The Committee queried the likely content of the Commission’s media strategy, referred to on page 25 of the Annual Report<sup>41</sup>. Mr Silverstone indicated that the

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<sup>36</sup> Legislative Assembly of Western Australia, Joint Standing Committee on the Anti-Corruption Commission, *Report on the Hearing with the Anti-Corruption Commission on 25 August 2003*, Report No.6, 23 October 2003, p.41.

<sup>37</sup> Mr Hammond, Commissioner, CCC and Mr Anticich, Director, Operations, Transcript of Evidence, 25 October 2004, pp.6–7.

<sup>38</sup> Transcript of Evidence, 25 October 2004, p.7.

<sup>39</sup> Corruption and Crime Commission, *Annual Report 2003–2004*, September 2004, p.23.

<sup>40</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, 25 October 2004, p.3.

<sup>41</sup> Transcript of Evidence, 25 October 2004, p.10.



premise is to respond to media queries but not when it is likely to jeopardise the integrity of investigations and the reputations of the innocent. As such, the Commission has refrained from issuing pro-active media statements on matters likely to have that result, instead opting to counter misinterpretation. In saying this though, the Commission is careful not to engage in ongoing debate because media speculation is incorrect<sup>42</sup>.

Specific confidentiality provisions of the former *Anti-Corruption Commission Act 1988* restricted persons from commenting on, including publishing, information on allegations received or initiated by the ACC. The Committee noted the intention in the drafting of the CCC Bill for more openness and transparency, although expressed general concern at what it perceived to be a lack of restriction on public commentary on the operations of the Commission or the *CCC Act 2003*. More pointedly, it raised the example of recent statements by senior public officials in close proximity to an alleged target of an ongoing investigation, that they were not themselves implicated. Although not detailed at the hearing, the Committee was referring in part to statements made in media articles mostly generated in the West Australian Newspaper in October 2004<sup>43</sup>. The Commission detailed that the issue had been referred for opinion to the State Solicitor and that it would on receipt of advice consider drafting an “edict” defining the parameters on public comment in relation to the matters raised herein<sup>44</sup>.

The Commission noted that a non-disclosure order had been placed on private hearings to date, prohibiting dissemination of information discussed within that forum. This does not preclude the person being examined from access to legal representation<sup>45</sup>.

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<sup>42</sup> Mr Silverstone, Executive Director, CCC, Transcript of Evidence, 25 October 2004, p.10–11.

<sup>43</sup> Transcript of Evidence, 25 October 2004, p.9.

<sup>44</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, 25 October 2004, pp.9–10.

<sup>45</sup> *Ibid*, p.10.

## 1.8 Other Matters

### (i) *Organised Crime*

In the previous Committee hearing with the CCC in July 2004, the JSCCCC queried WAPS use of the Organised Crime powers available under Part 4 of the *CCC Act 2003*. The Commissioner had informed that the CCC had only received one application for fortification removal and none for exceptional powers. The Commissioner attributed this to a possible police perception that the threshold was too high and the definition of an organised crime or section 5 offence too intricate<sup>46</sup>. The Committee welcomes, on the occasion of this hearing, information pertaining to the collaborative development of proposals by WAPS and the Commission to use Part 4 powers<sup>47</sup>.

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<sup>46</sup> Mr Hammond, Commissioner, CCC, Transcript of Evidence, 25 October 2004, p.10.

<sup>47</sup> *Ibid*, p.3.

# APPENDIX ONE

## HEARINGS

Date	Name	Position	Organisation
25 October 2004	Mr Kevin Hammond	Commissioner	Corruption and Crime Commission
	Mr Mike Silverstone	Executive Director	
	Mr Nick Anticich	Director Operations	
	Dr Irene Froyland	Director Corruption Prevention, Education and Research	
	Ms Vanessa Grant	Director, Business Services	
	Mr Owen Cole	Media and Liaison Coordinator	



## APPENDIX TWO

### *LEGISLATION*

<b>Legislation</b>	<b>State (or Country)</b>
<i>Anti-Corruption Commission Act 1988 (repealed)</i>	Western Australia
<i>Corruption and Crime Commission Act 2003</i>	Western Australia