

Transcript

Podcast episode two: WA Police Force and the CCC - are they friends or foes?

Host: Marie Mills, Mills Wilson

Welcome to the Corruption and Crime Commission's podcast series, where we demystify the inner workings of an organisation perceived to be secretive.

Today's podcast is a rare fly on the wall opportunity with two of the most powerful men when it comes to law and order in WA. Stay tuned and hear Corruption and Crime Commissioner John McKechnie QC and WA Police Force Deputy Commissioner Col Blanch, as they shed some light on the complex relationship they have. Are they friends or foes? So gentlemen, friends or foes?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Well, we're certainly not foes. I've been around a long time. And I've seen the police force in a time when it was or had significant pockets of corruption, and things that needed to be changed. There's been huge improvements since then. Having said that, of course, we are the oversight body and we do fearlessly oversight police and the other public sector agencies.

Guest: Col Blanch, Deputy Commissioner WA Police Force

So someone who has spent a career in a police force, you probably don't understand the value of a CCC, when you're a young constable. You look at that as someone who is always watching you. But as someone who is a senior executive in a police force, you realise the value of an independent body is in fact what gains public confidence. So in that context, certainly not a foe, should never be a friend, but somewhere helpfully in the middle is probably the most appropriate place to be.

Host: Marie Mills, Mills Wilson

So a good dose of tension?

Guest: Col Blanch, Deputy Commissioner WA Police Force

Absolutely. I mean, again, to get that public trust, you actually need to have the confidence to say there is an independent body looking at what we're doing.

Host: Marie Mills, Mills Wilson

So you raise that issue of public trust. The police of course, are also responsible for assessing misconduct of their own officers. So how can the public trust that kind of a system?

Guest: Col Blanch, Deputy Commissioner WA Police Force

Well, I think that's the value of having that independent body is that they also look at our work, where we investigate ourselves, so everything is still looked at. But there has to be an always an element of trust within a police force to ensure firstly, the volume, the volume is great. So if there's complaints coming in, someone has to investigate it. Unless you grow the CCC to 10 times its size, the volume is too great. But on top of that, we run a professional organisation, and as the Commissioner has already said, policing culture has changed over the decades to the point where those problems don't really exist anymore. There's more cameras, there's far better behaviour. The culture is one of integrity first. And so the those charged with investigating others in the police force,

can demonstrate their own integrity through things like court processes, and lots of police officers who have done the wrong thing are charged. That by its very fact alone, means that we are policing ourselves appropriately.

Host: Marie Mills, Mills Wilson

So what do you say to those people who would say that police investigating police can lead to cover ups?

Guest: Col Blanch, Deputy Commissioner WA Police Force

Well, no one should ever trust the police when they say 'trust us, we're doing a good job'. And that that, again, that is the value of an independent body that then looks at the work we're doing so that they they're checking the checkers.

Host: Marie Mills, Mills Wilson

But why shouldn't they trust you?

Guest: Col Blanch, Deputy Commissioner WA Police Force

Well, I think inherently communities should always have an oversight body, they always should. It's not that we're doing the wrong thing, or they shouldn't trust us. But the public confidence of police, you need to have that as an inherent first instinct that I do trust the police, because I know there are appropriate processes in place. It's not that we're doing the wrong thing. It's just the fact that system works to protect it. So it can't be up to individuals. The system is there to protect the community.

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

This is an issue which comes up from time to time. The CCC should investigate all complaints against police. I'm against it for a number of reasons. First, there is no cost advantage. The police have a lot of officers in internal affairs, that work has to be done by someone. Secondly, the principle responsibility for corruption prevention and misconduct prevention, is the Commissioner of Police. It is his task to effectively mitigate risk and deal with misconduct, and you would be devaluing the commissioner if you just transferred it to someone else. So I don't believe that is a good idea. Secondly, we look very carefully at lots and lots of the work of the IAU (Internal Affairs Unit). In comparatively few instances leading to reports, if we come to a different conclusion we work cooperatively with them will often engage, talk to them, and on occasions they will change their approach or their view after discussion. It's part of that healthy oversight that Col has just mentioned. It's always going to be an issue, who guards the guards. And there will always be criticism if police do it. But that is why you have an independent body that looks at how well the police do it.

Host: Marie Mills, Mills Wilson

In your various roles Commissioner McKechnie, you've listened to police and indeed sat in judgment if you like on their behaviour, in all your different roles, you must have seen that cultural shift over many decades?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

It's been dramatic. I put down the star of it, quite frankly, to a Victorian Police Commissioner, Bob Falconer. I think then it had to be an outside police commissioner. You know, I prosecuted and had

police witnesses therefore for many years, and I was on occasion dubious. And sometimes I would refuse to run cases. As a judge, I listened to many, many police officers give evidence. There has been a complete shift. In a large organisation, the police have what something like over 8000 sworn officers?

Guest: Col Blanch, Deputy Commissioner WA Police Force

Yes.

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Obviously, you're going to get occasional pockets of misconduct, perhaps corruption. You're going to have a few people who break the law as you will, in anywhere. But the institutional corruption, which I think was there in pockets in the in the early time, I have not seen any evidence of that in the last six years.

Host: Marie Mills, Mills Wilson

So these days when a police officer's behaviour is out of line and it is time for the CCC to step in, What's the value that you add, over and above what the WA Police Force may already have done?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Well, we have the same sort of investigative tools and powers as the as the police, with at least one important addition. And that is the ability to bring people into private examination on oath. We can add that to value, and occasionally we will report on a matter where we have had a fundamental disagreement with the outcome. But those we do, and we have, and will do in the future, but they are pretty rare. Because our experience is everybody we're dealing with is actually trying to do the right thing. There is no tolerance that I see for misconduct in the police the way once upon a time there might have been. There is no tolerance from the top right through as I've seen.

Host: Marie Mills, Mills Wilson

Does the CCC have the knowledge and the skills? You know, police will tell you Their job is like no other. Does your team have the knowledge and the skills to make determinations about police actions when they're on the job?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Absolutely. They're highly trained investigators. They're highly trained assessors. I'm sure that's a criticism from time to time, or what would they know? And the answer is pretty much everything.

Host: Marie Mills, Mills Wilson

Now you both talk about the shift in culture. But nonetheless, the WA Police Force accounts for more than half of all the allegations the CCC receives. That's over 3800 last year, which seems like rather a lot. So what is the misconduct going on in the police force?

Guest: Col Blanch, Deputy Commissioner WA Police Force

Well, I'll start with 7000-8000 police officers, over a million interact actions with the public on per year. It's relatively a very small amount of people who make complaints. It's also the nature of the work. We arrest people, we get physical, we have to fine people on occasions. Sometimes police interaction with the public isn't a pleasant experience, and people aren't happy with the way we've conducted ourselves. So many of those complaints are about our professionalism, the way we've

handled ourselves the way we've spoken to people, the use of force and the level that we've used all appropriate complaints that deserve investigation by ourselves and by the CCC if necessary. And I think the important message there is we do investigate complaints, the CCC can investigate complaints should they wish to. And you know, that's part of the transparency and again, their reputation and credibility of a police force is so integral to our success in WA that we must have those processes in place. So that's why we do welcome them.

Host: Marie Mills, Mills Wilson

So how is the introduction of body cameras gone down? Has that been a good thing or a challenging thing for your officers?

Guest: Col Blanch, Deputy Commissioner WA Police Force

If we had have introduced body worn videos in 1960, I think that would have been a dismal failure. Because of the culture of policing at the time, the introduction to young police officers in 2019 I think it was, in fact has been a resounding success to the point where in good humour we need signs on restrooms to say please turn the camera off. Because police like leaving them on, because they truly believe it protects themselves and protects their actions. Whilst it may at times pick up poor behaviour, poor judgment, poor decisions on the whole and the majority of camera interactions of interaction between the public and police it has saved an officer from a lengthy investigation where they may have been stood aside or stood down in the past, up to one or two years whilst investigation was undertaken. It can often resolve that in days.

Host: Marie Mills, Mills Wilson

Commissioner McKechnie is that your experience?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Yes. I remember the introduction of video recorded records of interview, and the stubborn resistance put up by many in the police for it. Of course within three years, it was all their idea and the greatest thing since sliced bread. So I was pleasantly surprised that body worn cameras came in in a much quicker timeframe. They are of tremendous use to us, we have access to police databases, so we will look at the body worn footage. And it can clear an officer as much as anything else. There was one that I reviewed a few weeks ago, a person had written in complaining about the attitude of a police officer who had stopped him and abused him for a traffic offense. When we looked at the body worn camera, it was quite the reverse. The officer was actually polite, calm, didn't rise to the occasion, it was the driver who was being aggressive and difficult, and that's not the only occasion. I think they're a great thing. Of course, as a downside. One incident might have seven or eight cameras 10 minutes each. That means somebody has to review 80 minutes of footage. There is a cost to accountability, and that's a significant cost. Could I also comment on the number of allegations. It is about half, but people have to remember that in respect of public sector employees, our jurisdiction is limited to what it's called serious misconduct - effectively corruption. Whereas with police, it covers that, but it also covers something called reviewable police action, which may be as simple as an officer swearing at someone. I'm not saying that they should, but in the scheme of things that is pretty minor.

Host: Marie Mills, Mills Wilson

What about excessive use of force? Because I know in relation to body cameras in relation to your reports, that's been an interesting focus for you.

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Well, they will always, as Col was saying earlier, there are interactions every day, and excessive or not excessive use of force will be every day. And sometimes it's very subjective, whether the use of force goes beyond limits. It's not an easy thing, and the body cameras help. But it is a focus of ours because it is a significant interaction with people. There are safeguards that the police have, but inevitably there will be some force which on any view, can be judged as excessive. And sometimes we've disagreed with police but we're effectively disagreeing over something that can be quite subjective.

Host: Marie Mills, Mills Wilson

Of your 1000s of officers, there are some very young officers. People can be very young when they enter the police force. Does that make them more susceptible to being influenced by senior officers perhaps misusing sensitive information, perhaps been groomed?

Guest: Col Blanch, Deputy Commissioner WA Police Force

I would have agreed with that statement when I first joined the police force. The power and control of senior constables and sergeants over young officers was I believe far greater than it is today. Now I watch as Commissioner McKechnie does, I watch many of these body worn videos and actually see young people who make far better decisions today and more rational decisions, have a greater level of patience than I probably ever did as a young constable and ask questions and did challenge things when they're asked respectfully from supervisors. The prevalence of reporting poor behaviour amongst peers is the highest it's ever been. That means our young officers ask questions when they're not sure they've been asked to do the right thing, and I think that's healthy in an organisation. It's always got to be done respectfully. We are still a hierarchical organisation, so if you're given a lawful direction, you should undertake it. But if you're concerned that it is done in the incorrect manner or unlawfully, I believe young police officers of today will actually challenge those directions.

Host: Marie Mills, Mills Wilson

So the cameras are on when police are talking to police? That's what you're saying?

Guest: Col Blanch, Deputy Commissioner WA Police Force

At a critical incident, there will be absolutely.

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

They will be on at a critical incident more or less from the beginning. But with young officers, I noticed as a judge, I dealt with quite a lot of appeals from magistrates, courts, convictions and sentence. Inevitably, some of those were from police officers who've been convicted of usually excessive force or something of that nature. Both in that and increasingly in this job. I've noted more and more young officers who have reported senior officers poor behaviour and I think that's quite a brave step for anyone to do even today and I suppose they run the risk of being ostracized as well. I won't say it happens in every case, but more and more, we see that the younger officer isn't going along with the story, and on occasions as initiating the complaint.

Host: Marie Mills, Mills Wilson

What about external influences? What about being groomed by criminal gangs? Are they susceptible to that?

Guest: Col Blanch, Deputy Commissioner WA Police Force

Well, let me say this, firstly I think body worn videos, CCTV, mobile phone, cameras, data and data analytics makes those things far more easily to be uncovered than before. Can it happen? Absolutely. Organised crime in particular, that is their job. Their job is to find someone to corrupt through payment or otherwise. There is no doubt about it. I would infect guests that that is part of their business plan on a daily basis. However, the risk of getting caught is very high today than it was previously. That's why I'm a big believer and a supporter of being very transparent in information sharing and information access. Whilst that has its own risks, it certainly draws out people accessing information when they shouldn't be.

Host: Marie Mills, Mills Wilson

Let me turn now to the two of you, and I know you've talked about this healthy tension between the CCC and police. But what about you two personally? Do you get on? Do you butt heads? What happens? When does it get uncomfortable?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

I don't butt heads, he is much bigger than me.

Guest: Col Blanch, Deputy Commissioner WA Police Force

I can easily answer this one, as the much younger one. I was always taught to respect older and wiser people than me. So if you've been the DPP, if you've been a judge, and you know, I'm sorry to say this Commissioner, but the person who leads an oversight body has to be the right person to have the trust of the police. Commissioner McKechnie is that person. For the reasons, I've worked in many jurisdictions, other state jurisdictions, as well as the Commonwealth. If you have a wrong leader in an oversight body that doesn't understand policing, and by that, I mean, understand that judgment calls, particularly in use of force incidents, are sometimes split second decisions, and needs a practical or pragmatic mind to look at that and go, well this person needs correction in their behaviour, but not sacked. I think that measure is well received by the police as a whole. To go we're all human, we make mistakes, and we need to fix those mistakes. If you don't have the right leader in oversight bodies, that's where that tension can increase to a point where it's very much a divisive organisation relationship. We don't have that here, and I'm thankful for that relationship that Commissioner McKechnie and the leadership he has here at the CCC.

Host: Marie Mills, Mills Wilson

Well, apart from a nice ego boost Commissioner McKechnie. How important is everything that Deputy Commissioner Blanch has just said that mutual respect and having the right person?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Look, I think mutual respect is vital. It's leadership from the top, and in this job, I've had Commissioner O'Callaghan, Commissioner Dawson, Deputy Commissioner Blanch, Deputy Commissioner Dreibergs, and I trust all of them. I've developed relationships where I trust them. And that's not easy coming from me who my first Principal in articles once said to me, only ever believe 10% of what your opponent tells you, and 5% of what your client tells you. So I'm naturally sceptical,

but as I say, I have seen the bad parts of WA Police. I don't see them now. Either I'm losing my touch or more to the point, it's not there anymore.

Host: Marie Mills, Mills Wilson

You must have had some pretty tough conversations nonetheless, over the years. What are the what are the tips, what are the tricks to keeping that that relationship going?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Keep it professional.

Guest: Col Blanch, Deputy Commissioner WA Police Force

I think it's healthy to have a disagreement. There's nothing wrong with the CCC's saying look I don't think you should have done this on this occasion, or you could have taken that a different approach. It always causes us to reflect on our processes. We may not agree, but at least we're going to have to justify where we've made a decision, and I think that's the important part for police. When a decision is made, record it, justify it, and put it on the record. Ultimately, we are public servants, and we are accountable to the community of Western Australia. If they don't like the way we're doing business, in a modern day society with social media, you know, instantly will know how good we're going. It's not that we will change our direction immediately on a couple of Twitter or Facebook comments. But you know, when there's an overwhelming approach to our policing model, and the way we police, the community, police with the community, I think we can get that message very quickly that we're either doing it right or wrong.

Host: Marie Mills, Mills Wilson

So at the end of the day, you both have a common enemy and corruption and crime. So let me ask you a two part question. What's the biggest barrier to your success in that battle? And if you had the choice of making one change, one magic wish, what would it be?

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

Well, I'll go first. The Commission, of course, has a multi-function role where a corruption commission, we're also a crime commission, and we're developing the crime in unexplained wealth. And because I think Col agrees, unexplained wealth, it's not the raising of money for the state. It's the disruptive effect, if you take away people's toys and goodies, it has a seriously disruptive effect. So we are developing that. So the biggest barrier is probably public reporting. I quote, endlessly, people have heard me quote, Edmund Burke. "The only thing necessary for the triumph of evil is for good people to do nothing", and too often people see things, they don't report it to police. They do, obviously, on occasions, but people see things and corruption is often there to be seen. But they don't see it. They don't report it to police, they don't report crime, and they don't report to us. So the biggest barriers, probably public apathy. My wish, is actually more resources.

Guest: Col Blanch, Deputy Commissioner WA Police Force

So Commissioner McKechnie and I share a common love of going after unexplained wealth. I think that really does destabilise crime in a state where wealth is accumulated by those in conducting criminal acts. That's how you maintain I think a good society, is not letting people who commit serious crime acquire significant wealth. I think that needs to be our focus going forward. But the biggest barrier for me and probably the change, I would like to see happen sooner rather than later. I'll go back to my technology passion, the sharing of information and the use of big data. It's a

controversial subject, because police and or government can frighten the community if they use too much data and have access to too much information. And we've seen that here already with SafeWA. Certainly, I would like some strong ethical, lawful access to big data to have the right analytics to identify crimes that have been committed - serious crimes. I'm a big believer that all serious crimes can be solved through understanding data better. But it's just about using it right and sharing it with the right people at the right time. That's a lot of work to be done. And I think a healthy public debate about that is something that we need to keep having.

Guest: John McKechnie QC, Corruption and Crime Commissioner of Western Australia

It's strange because people object, quite rightly, to police having too much data, but are freely handing it over to Facebook and Google who hold 10 times more data about you than the police ever do. And yet it's an infringement on liberties. Well, it might be better if we have the proper debate as Col has suggested, it needn't be. I would prefer to be safe rather than live in a society where Facebook knows all about me and the police know nothing.

Host: Marie Mills, Mills Wilson

What a great topic of conversation for another time. Deputy Commissioner Col Blanch, thank you so much for being our guest today. Thank you again Commissioner McKechnie, and thank you for listening to the corruption and crime Commission's podcast today. To listen to more podcasts visit www.ccc.wa.gov.au or follow us on Twitter LinkedIn or YouTube