

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION HEARINGS

8 May 2024

OPENING STATEMENT OF COMMISSIONER JOHN MCKECHNIE

I am pleased to discuss the annual report. Due to a combination of circumstances for which no one is to blame, it is nearly time for the next one. It is the twentieth anniversary of the Commission this year. When the Commission commenced operations, Western Australia's population was 1.95 million people. Today, it has grown by one million to 2.9 million people.

Technology has transformed our work and lead to opportunities and challenges. The Commission's police misconduct function was a result of the Kennedy Royal Commission into the WA police. Police misconduct allegations make up about half of all allegations received by the Commission, mainly involving direct interactions between the public and police. Body worn cameras are now commonplace and greatly assist investigations and our review of them.

The scandals exposed by the Commission at North Metropolitan Health Service and the Department of Communities have led to better governance and strengthening institutions such as the Auditor General.

It is very important for integrity bodies to have a level of oversight by Parliament. Some, for example this Commission and the Auditor General, have committees of Parliament to hold them to account. The Commission is completely independent in what and how it chooses to investigate suspected misconduct. However, it is proper that the Commission should account to this committee for the exercise of its considerable powers. It is also proper for the Commission to account for its use of government resources under the *Financial Management Act*.

I wish to highlight three matters in these brief opening remarks. One—Deputy Commissioner. I am informed that the appointment of a Deputy Commissioner is in train and the position has been advertised. The Acting Commissioner, Scott Ellis, who continues to be a great support, manages to balance his Commission functions with his own legal practice.

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A full-time deputy will enable the Commission to further develop its unexplained wealth function and in due course, for the first time, lead to a smooth transition of leadership. In 20 years, there has never been an occasion where a Commissioner has been immediately succeeded. Acting Commissioners have had to take up the burden, sometimes for an extensive period.

Two—delays in a notice to produce records, or NPRs. In the course of its investigations the Commission routinely seeks datasets from government departments. The datasets may be gigabytes in volume. It is necessary for documents that may be subject to parliamentary privilege to be identified and separated. Whether a document attracts parliamentary privilege is a matter for Parliament. A similar search may be necessary for documents that may be identified for a claim of Public Interest Immunity.

As a temporary measure, the Commission allowed its officers to assist in the process, as the Commission is well-equipped to handle the technical requirements for dealing with large volumes of data. This was only ever a short-term solution and is no longer possible due to other Commission requirements for its digital forensic experts.

Although the need for such searches has been apparent since at least the judgement in 2020, the State Solicitor's Office and many departments seem ill-equipped to deal with the task of examining documents for possible claims of privilege or immunity. As an example, the Commission has waited for seven months for the return of one notice to produce records.


Naturally, this adversely affects a Commission investigation, particularly in relation to timeliness. It is hoped that departments and the State Solicitor's Office will adjust to this new reality and invest in tools to enable a much more rapid response to lawful notices to produce records.

Three—procurement. Procurement remains a constant source of notifications. The *Procurement Act 2020* and compulsory procurement training under the auspices of the Department of Finance has undoubtedly had a beneficial effect. There still appears to be confusion about what constitutes a conflict of interest. Procurement corruption often begins with a conflict of interest. A conflict of interest is not of itself corruption; it should be managed. However, a conflict may also be evidence of procurement fraud.

Nevertheless, human nature and simple greed means that whatever controls are put in place, there will be some miscreants. A recent report on misconduct at Sir Charles Gairdner Hospital, Murdoch University and the Department of Communities demonstrates that the misconduct risk can be reduced but never eliminated.

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In conclusion, on the twentieth anniversary of the Commission, I pay tribute to the hundreds of public officers who have spent part of their career in the Commission. Working for the Commission gives a person a new perspective on integrity and misconduct, which they carry into their next employment for the benefit of all. I would especially thank my present hardworking and dedicated colleagues for their continued service.

I also acknowledge and respect the many members of Parliament who have served on the Joint Standing Committee over the years, together with the staff. Successive Parliamentary Inspectors and their staff should also be recognised. I think that together we have all contributed to better governance in Western Australia.

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