



# CORRUPTION AND CRIME COMMISSION

## OPERATION AVIEMORE: COMMISSIONER OF POLICE RESPONSE TO COMMISSION RECOMMENDATIONS

2 DECEMBER 2016

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### Corruption and Crime Commission

<b>Postal Address</b>	PO Box 7667 Cloisters Square PERTH WA 6850
<b>Telephone</b>	(08) 9215 4888  1800 809 000 (Toll Free for callers outside the Perth metropolitan area.)
<b>Facsimile</b>	(08) 9215 4884
<b>Email</b>	<a href="mailto:info@ccc.wa.gov.au">info@ccc.wa.gov.au</a>
<b>Office Hours</b>	8.30 am to 5.00 pm, Monday to Friday.

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## CORRUPTION AND CRIME COMMISSION

Mr Nigel Pratt  
Clerk of the Legislative Council  
Parliament House  
Harvest Terrace  
PERTH WA 6000

Ms Kirsten Robinson  
Clerk of the Legislative Assembly  
Parliament House  
Harvest Terrace  
PERTH WA 6000

Dear Mr Pratt  
Dear Ms Robinson

As neither House of Parliament is presently sitting, in accordance with the *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 93, the Commission hereby transmits to you a copy of its report on *Operation Aviemore: Commissioner of Police Response to Commission Recommendations*.

The Commission notes that under the CCM Act s 93 a copy of a report transmitted to a Clerk of a House is to be regarded as having been laid before that House.

Yours sincerely

A handwritten signature in blue ink that reads "John McKechnie".

John McKechnie, QC  
**COMMISSIONER**

2 December 2016



## **Corruption and Crime Commission recommendations arising from Major Crime Squad investigation into the death of Joshua Warneke**

- [1] On 5 November 2015 the Commission reported to Parliament on Operation Aviemore, a Major Crime Squad investigation into the unlawful killing of Mr Joshua Warneke. In the course of that report the Commission made a series of recommendations. As one year has passed, the Commission sought a response from WA Police as to whether the recommendations had been implemented so that the Commission may further report to Parliament.
- [2] The WA Police responses are as follows:

### ***Recommendation One***

**The Commission recommends that WA Police and the Office of the Director of Public Prosecutions (ODPP) record a challenge to an Electronic Record of Interview (EROI) in any court and the result so that an accurate measure of compliance with the *Criminal Investigation Act 2006* (CIA) is obtained.**

WA Police are working with the ODPP on how to best implement this recommendation. Options are currently being explored to overcome some practical and cost associated barriers that this recommendation presents in being able to accurately record and report on all EROI challenges.

### ***Recommendation Two***

**The Commission recommends the Corporate Knowledge Database (CKD) be reviewed and its index and search capacity improved. Either online tutorials or regular training should be investigated to ensure all police officers have the necessary competency to access the CKD as needed.**

Work is currently underway to upgrade the CKD to improve officer access and search capacity. The agency's continued commitment to strengthen policy and knowledge frameworks in support of frontline policing is highlighted by the recent creation of a new Policy and Legislation Portfolio and dedicated Policy Development Division.

### ***Recommendation Three***

**The Commission recommends immediate attention be given to ascertain if the lack of knowledge disclosed is widespread. If so, the Commission recommends development of an ongoing training and refresher course in dealing with Aboriginal people with particular emphasis on language and culture.**

Evidence currently available to WA Police does not support a conclusion of a widespread lack of knowledge.

WA Police already deliver specific cultural diversity training which includes Aboriginal and Torres Strait Islander culture to police recruits.

Notwithstanding the above, in response to this recommendation, segments of training dealing with language barriers, including the use of Interpreter and Translator Services in an investigative environment, have been introduced into these packages. Work is also being done on enhancing induction packages and developing refresher courses that place an emphasis on cultural competencies in police investigations.

#### ***Recommendation Four***

**The Commission recommends that attention is given to the administration of a caution for a person unfamiliar with their right to silence when English is not that person's first language. It is for WA Police to identify the best approach to improving the administration of a caution.**

In direct response to recommendations of the CCC, State Crime have created the new Crime Investigation Standards and Family Violence Division (CISFVD). This division is comprised of four business units namely the Office of Investigative Practices, State Family Violence Unit, Victims of Serious Crime Unit and Specialist Interviewing Unit.

It will be the responsibility of this Division to undertake the complex task of identifying the best solution for the administration of a police caution to culturally and linguistically diverse community members.

#### ***Recommendation Five***

**The Commission recommends that refresher training is given to police officers in relation to the exercise of powers and responsibilities under the CIA.**

Please find attached Annexure One (reproduced as an appendix to this report) outlining the comprehensive program of CIA training provided to police officers throughout their careers. Frontline police are required to undertake annual training in relation to the powers and legislative responsibilities in applying the CIA. Additionally, there are a number of in-service training courses that reinforce aspects of this legislation.

In response to this recommendation, investigative training for recruits and in-service officers has been amended to provide greater emphasis on confessional evidence, the Anunga Rules and interpretation of the CIA focusing on fairness to vulnerable persons.

With respect to training, further work is being done in relation to vulnerable witnesses to further enhance the knowledge and skills required to identify and interview vulnerable persons (including suspects and witnesses).

#### ***Recommendation Six***

**The Commission recommends that WA Police re-evaluate the Person of Interest (POI) investigative strategy to emphasise the separate classification requirements under the CIA. These requirements are the relevant source of both police powers and the rights acquired by a person being interviewed.**

It is the responsibility of the newly formed CISFVD to ensure the alignment of policy with legislation specific to the classification requirements under the CIA.

***Recommendation Seven***

**The Commission recommends that the requirement for recording and reviewing the exercise of discretion not to charge an offence be reinforced immediately with all officers in case Operation Aviemore reflects widespread practice.**

WA Police record decisions not to charge for an offence in an internally auditable register, known as a 'Discretion Register'. Further, in November 2015 an agency-wide broadcast specific to the application of discretionary powers in criminal investigations was delivered to all employees.

- [3] Whether these responses are adequate is for others to judge; in particular whether the good intentions expressed have actually changed anything or are likely to.
- [4] The Commission also made confidential recommendations to the Commissioner of Police about certain officers in a separate report. Action on the recommendations and any disciplinary actions are the responsibility of the Commissioner of Police and the Commission therefore makes no comment.





[5] **ANNEXURE ONE**

**CRIMINAL INVESTIGATION ACT (CIA) TRAINING DELIVERED BY WA POLICE.**

**RECRUIT LEVEL**

Recruits training references the CIA in a number of areas, however there are two modules which rely heavily upon CIA legislation:

- Recruit Legal Training; and
- Recruit Investigation Training

**IN-SERVICE**

Ongoing development of WA Police Officers includes:

- First Class Constable Course: A Black Board based course for progression to the rank of First Class Constable. The course consists of 13 modules each with an exam, there is a final exam at the completion of the course. Two modules relate to the CIA;
- Senior Constable Course: A Black Board based course for progression to the rank of Senior Constable. The course consists of 13 modules each with an exam, there is a final exam at the completion of the course. One module relates to the CIA;
- General Investigators Course: A one week (trial) course has been developed targeting Senior Constable and Sergeants. The course includes additional CIA training; and
- Frontline Investigation Training: A Black Board based training package which has significant CIA and Criminal Procedures Act (CPA) content. There is a compulsory requirement that all WA Police complete this training every 12 months.

**DETECTIVE SPECIFIC**

WA Police officers which commence the Detective Development Programme will undertake the following:

- Introductory Detective Training (i4) Course: This is foundation training for all Detectives and has heavy CIA content; and
- Detective Development Programme: After completing the Introductory Detective Training Course, participants are required to complete two years of vocational training (probationary period). During these two years they need to demonstrate competency in a number of areas within an operational context. Many of these competencies relate to CIA compliance; and
- Detective i5 Course (to become permanent detectives): A one week exam undertaken by detectives at the completion of their Detective Training Programme. The course includes a legal exam which is fundamentally CIA based.

## DETECTIVE PROFESSIONAL DEVELOPMENT

Detectives addressing certain criteria and possessing a particular acumen will be invited to apply for additional training:

- Senior Detective (i6) Course (detective supervisors): A course with management focus which includes a CIA refresher session.
- Senior Investigating Officer (i7) Course: The highest level of detective training offered by WA Police, it includes a CIA refresher session.

Commissioned Officer	Detective	Senior Sergeant	Sergeant	Senior Constable	First Class Constable	Constable	Recruit	X = Yes P = POSSIBLE
X	X	X	X	X	X	X	X	Recruit Legal Training
X	X	X	X	X	X	X	X	Recruit Investigation Training
X	X	X	X	X	X			First Class Constable Course
X	P	X	X	X				Senior Constable Course
	P		X	X				General Investigators Course
X	X	X	X	X	X	X	X	Frontline Investigation Training
	X							Introductory Detective Course
	X							Detective Training Programme
	X							i5 Detective Course
P	P							Senior Investigators Course
P	P							Senior Investigating Officer Course