

40TH PARLIAMENT



Joint Standing Committee on the
Corruption and Crime Commission

Report 11

Parliamentary Inspector's report on 'a saga of persistence'

Presented by
Ms M.M. Quirk, MLA and Hon J.E. Chown, MLC
June 2019

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**Joint Standing Committee on the Corruption
and Crime Commission**

**Parliamentary Inspector's report
on 'a saga of persistence'**

Report No. 11

Presented by

Ms M.M. Quirk, MLA and Hon. J.E. Chown, MLC

Laid on the Table of the Legislative Assembly and of the Legislative Council
on 27 June 2019

Chair's Foreword

The Committee received this report from the Parliamentary Inspector of the Corruption and Crime Commission on 29 May 2019. It sets out the respective roles of the Parliamentary Inspector and the Corruption and Crime Commission (the Commission) as legislated under the *Corruption, Crime and Misconduct Act 2003* (the Act).

The report presents two quite different cases which the Parliamentary Inspector uses to illustrate the way the Act works in practice.

He uses the first case to demonstrate an issue which can, and does, arise in the co-ordination of the roles of the Commission and the Parliamentary Inspector. It illustrates a situation where the exercise of the Commission's industrial powers under section 196(9) of the Act had the effect of frustrating the capacity of the Inspector to deal with a matter of minor misconduct on the part of a Commission officer. This is in spite of the fact that the Commission appears to have exercised their powers under section 196(9) properly.

The difficulty arises from what the Parliamentary Inspector sees as inadequacies in the definition of minor misconduct under section 4 of the Act. Accordingly, he makes recommendations for legislative amendment and draws attention to a previous report on the matter.

The second case outlined in this report is provided as an example of the statutory scheme working well. It concerns alleged excessive use of force by police officers against a person being arrested. In giving this example, the Parliamentary Inspector provides an insight into the way in which his Office oversees the operations of the Commission effectively within the current legislative framework.

The Committee makes no comment on the report, other than to say that the suggestions for legislative reform raised therein are being carefully considered by the Committee as part of a wider assessment of the Act.

The Committee thanks the Parliamentary Inspector for his ongoing dedication in continuing to bring to our attention these important matters.



MS M.M. QUIRK, MLA
CHAIR

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Parliamentary Inspector's Report

A SAGA OF PERSISTENCE

Sections 199 and 201 of the *Corruption, Crime and Misconduct Act 2003 (WA)*

29 May 2019

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1. EXECUTIVE SUMMARY

This report is made pursuant to my function set out in s 195(1) of the *Corruption, Crime and Misconduct Act 2003 (WA)* (the Act) to audit the operation of the Act and, to a limited extent, to audit the operations of the Corruption and Crime Commission (the Commission).

The report is also concerned with the misconduct of a Commission officer in so far as it demonstrates a particular difficulty which may arise in co-ordinating the roles of the Commission and my role as the Parliamentary Inspector of the Corruption and Crime Commission. The particular case to which I shall refer to illustrate the point was one where the exercise of the Commission's 'industrial' powers, although exercised entirely properly, had the effect of frustrating my capacity to deal with 'minor misconduct' on the part of a Commission officer.

Coincidentally, that case demonstrates why I regularly express the view that the term 'minor' to distinguish a particular form of misconduct from that categorised by the Act as 'serious misconduct' has the capacity to mislead the reader as to the importance which the Parliament places upon the purpose of the Act expressed in s 7A(b): 'to improve continuously the integrity of, and to reduce the incidence of misconduct in, the public sector.'

In this context, under s 7B of the Act, the Commission has the function to investigate cases of serious misconduct and the Public Sector Commissioner (PSC) has the function to investigate cases of minor misconduct. The exercise of its function, so described, by the Commission is subject to my oversight and, under s 195(1)(c) and (d), I am to assess the effectiveness and appropriateness of the Commission's procedures, both generally and in respect of a particular matter, and make recommendations, where necessary, to the Commission and agencies and authorities such as the Director of Public Prosecutions and the Office of the State Solicitor, among others.

I shall also refer to a case of alleged police misconduct which has had a protracted history, but which, putting to one side the delays which have occurred, illustrates, together with the other matter that I have mentioned, that the statutory scheme operates generally satisfactorily, but would be improved by some relatively minor amendments in respect of my role and that of the Commission to deal with misconduct. I shall conclude this report by making recommendations in that regard for the consideration of the Committee.

Finally, it is not, in my view, necessary, in the proper performance of my functions to which I have referred above that any of the officers the subject of the investigations concerned should be identified. The former Commission officer has been dismissed and the State Solicitor's Office is currently considering the case concerning the police officers involved in the second matter.

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The statutory restrictions upon disclosure generally apply to me as they do to the Commission. Sections 205 and 208 make clear the circumstances where disclosure by me of material is required or permitted, including in reports to the Committee or to Parliament. Guided by those provisions I only make disclosure of material and identify individuals where I consider that the proper performance of my functions or duties demands it. It is a discretionary judgment upon which, in a given case, views may differ.

2. THE STATUTORY SCHEME – MY ROLE AND THAT OF THE COMMISSION

I will start with a brief reminder of the concepts employed by the Act in relation to misconduct, following the amendments made to the Act in 2014, which were proclaimed to come in to effect as from 1 July 2015. I will confine my remarks to the misconduct function to which I have referred, and the conferral of powers of investigation of minor misconduct by officers in the public sector, including Commission officers, upon the PSC.

Further, there is no need in this report to discuss the protocols which are in place to facilitate advice to me, by the Commission of allegations of misconduct by its officers and by the PSC of allegations of minor misconduct before it concerning Commission officers, upon which the PSC may not exercise any function to deal with the matter.

By s 3(1) ‘misconduct’ is defined by s 4. ‘Serious misconduct’ is defined as misconduct by a public officer of a kind defined in s 4(a), (b) or (c), and includes ‘police misconduct’. Sub-sections 4(a) and (b) may be loosely described as involving corruption, as that term is understood by the law, in the performance of, or failure to perform, the functions of the officer’s employment in public office.

Section 4(c) need not be concerned with corruption, but requires the commission of a serious offence punishable by 2 or more years imprisonment while the public officer acts or purports to act in his or her official capacity – so, again, there is an immediate link to the person’s employment as a public officer.

Apart from action by the agency concerned, the Commission is to be notified of alleged serious misconduct and has the jurisdiction to deal with it in accordance with its statutory powers, including when the allegation concerns or may concern its own officers. But, as I have said, the Commission has no function to investigate and deal with alleged ‘minor misconduct’, even by its own officers, which is generally the role and duty imposed on the PSC, in respect of which I have no oversight role.

The remarks I have made in respect of ‘serious misconduct’, as defined, are subject to one important qualification of relevance for present purposes. I shall come to that now, but before doing so I note that this report is not concerned with the conduct of Parliamentarians or the Clerks of the Parliament, or members or councillors of local governments.

The qualification to which I refer is that 'minor misconduct' does not include 'police misconduct', by which is meant misconduct by a member of the Police Force or a person employed in or by the Police Department, together with 'reviewable police action', a term which also does not need to be separately discussed here. So police misconduct as defined is always treated as 'serious misconduct', even though its character may be such as would ordinarily fall within the definition of 'minor misconduct'.

This has the result that any alleged misconduct by police may be investigated and dealt with by the investigative units of the Police Force, but must be notified to and may be dealt with by the Commission, by its oversight of the Police processes, or by its own independent investigation, as a result of which, in an appropriate case, there may be a referral to an appropriate authority with a recommendation to take, or at least consider, prosecution action. That oversight function insures that there can be no perceived conflict for the Police.

To complete this review of the Act, before turning to my role, I should note that 'minor misconduct', excluding for present purposes, 'police misconduct', is defined as that described in s 4(d). There are a number of forms of misconduct referred to, but that which is most important for present purposes is set out in s 4(d)(i) and (vi).

The term refers to any conduct of a public officer, whether or not the officer was acting in the capacity of their public office, that: 'adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;' provided, in every case, that such conduct 'constitutes or could constitute', under para (vi): 'a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).'

The result of the 2014 amendments to the Act, therefore, was to restrict the misconduct function of the Commission to enable it to deal with serious misconduct (see s 18), including police misconduct, and including serious misconduct allegedly concerning its own officers. Minor misconduct is to be dealt with by the PSC (s 45B), but, by s 45G(b), the PSC has no power to deal with misconduct concerning a Commission officer. The purpose was obviously to enable the Commission to focus attention upon its serious misconduct and organised crime functions and no objection is taken to the thrust of the amending legislation.

The difficulty to which this report is mainly devoted is relatively peripheral and, I suggest, having perused the relevant Hansard debates, unforeseen. However, it has an adverse effect on the statutory process which, in my opinion, requires attention, in relation to the co-ordination of the performance of my misconduct function and that of the Commission.

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When the 2014 amendments were enacted no amendment was made to my misconduct function, which is, rightly in my view, under s 195(1)(b) and (c):

‘(b) to deal with matters of misconduct on the part of the Commission, officers of the Commission and officers of the Parliamentary Inspector;’ and

‘(c) to assess the effectiveness and appropriateness of the Commission’s procedures;’.

I need not discuss the powers provided to me under ss 196 and 197. It is sufficient to note that the Commission’s function to deal with serious misconduct continues unabated unless, in certain defined circumstances, I review a matter and remove it from the Commission, or I decide that I must hold an inquiry of my own.

Generally speaking, the most efficient way for both the Commission and me to proceed is for the Commission to undertake any required investigation under my oversight and subject to any recommendations I may think are necessary or desirable to make. The second case to which I wish to refer in this report demonstrates how that system may work effectively.

However, it is crucial that, as was the intention of Parliament, my misconduct function should encompass all forms of misconduct allegedly concerning Commission officers, and my capacity to assess the effectiveness and appropriateness of the Commission’s procedures should be equally all encompassing, as is the case when the Commission is dealing with police misconduct in the manner described above.

Again, as is the case with the Commission’s oversight of Police misconduct investigations, it is that function which allows misconduct allegations to be subjected to expert investigation without, having regard to the independent oversight role, there being any capacity to contend that police investigating police officers and the Commission investigating Commission officers involves any conflict of interest or loyalty that may derail the process of dealing effectively with the alleged misconduct.

This report is concerned with the hiatus identified above in relation to misconduct alleged against Commission officers. The Commission may deal with serious misconduct alleged against Commission officers subject to my oversight, the processes being the same as those available when the Police deal with police misconduct subject to oversight by the Commission. But neither the Commission nor the PSC may deal in that way with minor misconduct by Commission officers.

Presumably, having regard to the relevant provisions of s 195(1) of the Act, I may exercise a primary investigative function in relation to minor misconduct by Commission officers, outside of the scheme of the Act in relation to serious misconduct by such officers and without any agency having a statutory obligation to ensure that I am informed of the problem, although the alleged minor misconduct may be factually related to the serious misconduct being handled by the Commission. In doing so the Commission may make findings of fact which cut across factual areas relevant to an investigation of minor misconduct by me.

As I say, this seems to be no more than an accidental distortion of the statutory process which is generally available, and is subject to the checks to which I have referred, making the process entirely satisfactory if it is undertaken appropriately.

3. **THE SYSTEM AT WORK – TWO DIFFERENT CASES**

The first case – a failure of proper co-ordination of the Commission's role and my role

The first matter to which I shall refer shows the difficulty which may arise when the functions of the Commission and myself are split in the way I have been discussing.

A Commission officer, in her private capacity, was involved in conducting a tournament for a particular organising sporting federation. She received and banked sums of money paid for registration fees and expenses associated with the proposed tournament, but, instead of applying the funds for the purposes of the tournament, over the course of almost a year she made 25 withdrawals from the bank account and used the money for private purposes.

She explained that her husband was a very controlling person who failed to provide her with adequate funds for her living expenses, among other alleged conduct. The money was later repaid, with the aid of a loan she obtained and out of funds she acquired after the events in question.

Later, when asked about the matter by Commission investigators, she made a submission in the course of a process concerned with the maintenance of her security clearance in which she admitted that 'what I did was not honest and I was entrusted with other people's money, even if it was taken and paid back. I totally accept that.'

The matter was initially brought to my attention by a complaint about how the Commission was dealing with the case, which was made by the officer's husband, but, shortly thereafter, I was notified of the allegation, belatedly, by the Commission, pursuant to the Protocol made by the Commissioner and me to give effect to the Commission's obligation under s 196(4) to notify me 'whenever it receives an allegation that concerns, or may concern, an officer of the Commission...'

It was later explained that the delay was occasioned by Commission officers following up their concern for the well-being of the officer concerned, but, by the time the matter came to me the Commission was in the process of dealing with industrial matters and concerns about the officer's security clearance, essential if she was to keep her job.

The Commission advised that its immediate concern was a security vetting process, which might at least lead to her immediate suspension from duty. I told them that I had no concern about the investigation being continued by the Commission, provided any further interview of the officer was an 'arm's length' process which would not compromise the investigation of alleged misconduct, particularly an allegation of a number of offences of stealing about which, in the Commission, there was initially some uncertainty as to the law.

The question was whether, on a number of occasions, the officer had stolen the money given to her and credited to her bank account by fraudulently converting it to her own use; ie:- taking the money, intending to use it as hers, even though she intended ultimately to repay it to the owners: *Criminal Code s 371*.

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By s 373 of the Code, money received with a direction, whether express or to be implied, that it is to be applied to any purpose specified in the direction, remains the property of the person from whom the money was received until the direction has been complied with, unless (which was not the case here) the money was received upon the basis that it was to be treated as an item in a debtor and creditor account, in which case it becomes the property of the recipient.

If the officer was guilty of stealing in that way the offence committed on each occasion of conversion would be punishable by 10 years imprisonment: s 378(9)(b) of the Code. The initial view of the Commission was that the money was not stolen because there was no evidence of a direction, the money became her property and the most that could be said was that she may have been exposed to contractual problems.

I was of the view that this was a clear case of stealing, but, in any event the Commission's delegate, the Chief Executive, because she had not been candid in her responses in the security vetting process and because of her conduct generally, decided she should be dismissed. The Commission, in so doing, had regard to the fact that, whatever be the correct view of the law, the officer had not been guilty of serious misconduct by way of corruption in office or the commission of a serious offence while acting in her office, under s 4(c) of the Act.

The case was referred to the Police for investigation and possible prosecution, but, as I understand it, nothing followed that referral because there was no complaint by any person identified as an owner of the money, without which the Police would not undertake an investigation. It was simply the case that the Commission did not have the information as to their identities.

I was of the preliminary view that the case justified investigation of minor misconduct by me on the basis that multiple acts of stealing and the fact that the officer was less than frank during her security clearance interviews could adversely affect the honest and impartial performance of her duties as an officer of the Commission and were of sufficient seriousness to warrant her dismissal. However, she had been dismissed and there was no point in my pursuit of the matter.

Under s 198 of the Act I may not 'interfere with, obstruct, hinder or delay any lawful operation of the Commission.' In this case the officer was not subjected to prosecution or any disciplinary process directly connected to a finding of misconduct, the process of the investigation of which took a back seat to contractual or industrial processes.

That outcome is undesirable but would be unlikely if the Commission was empowered to investigate and deal with minor misconduct by its officers, subject to my supervision. The process of dealing with the totality of misconduct by its officers could not be said to be effective or appropriate if, as in this case, it was not dealt with as a priority before the Commission turned its attention to 'industrial' matters.

The second case – an example of the statutory process properly at work – the incident

This is a case of alleged excessive use of force by arresting police officers. Because the matter is now in the hands of the State Solicitor's Office (SSO) which is considering what, if anything, should be done to deal with the allegation against the two officers, following the exercise of the Commission's function and my function in respect of the alleged police misconduct, I will not identify them, or the person who was the alleged victim of the force used, by name. I will refer to the Senior Constable, who was the senior of the two police officers involved, as 'A'. I will refer to the other officer as 'B', and I will refer to the alleged victim as 'C'.

The matter has had a protracted history, hence the title to this report, but, although that has been an unsatisfactory feature of the process of dealing with the matter, I have no recommendation to make directed to reducing the chance of delay. It is more important that such matters should be dealt with thoroughly and with care than with expedition which may involve a more cursory consideration of the issues.

On 13 October 2012 C attended the Oktoberfest function in the Supreme Court Gardens in Perth. Later, he and other young people went to the Moon and Sixpence tavern in Murray Street. Alcohol was being consumed and the crowd in the beer garden of the place was boisterous.

A and B were in uniform patrolling on bicycles. They attended the Moon and Sixpence to remove buskers. As they endeavoured to do so they were abused by the crowd. C joined in. Someone threw a sauce pot which struck B. C made a rude gesticulation towards the officers as he left the beer garden and commenced to walk along the footpath. A told him to stop and, as C did so and was approached by A, C raised his elbow.

A thought he was about to be struck and he arrested C, tackling him to the pavement. Despite C's resistance A, assisted by B, handcuffed him and got him to his feet. There is incomplete, but useful, CCTV footage of the general fracas and what happened between the officers and C, despite the fact that a large crowd gathered. People, including C, were abusing the police and behaving aggressively. B called for back-up assistance. Other police officers attended in a police van.

Meanwhile, there was a further struggle of sorts between A and C as a result of which C was taken again to the ground by A and there is evidence that his head was forced onto the footpath. Photographs show the injuries C received. After A again got C to his feet and as A took him to the police van, C head-butted the officer in retaliation to the force used by A, particularly on the second occasion when C was taken to the ground.

Criminal proceedings

C was charged with two offences of aggravated assault upon a public officer (A):

- The first concerned the 'threat' to strike A with his elbow. C was legally represented and his defence was that there was no threatened application of force or it was not proved to be a willed act: the Code, s 23A.
- The second charge concerned the head-butting incident. The defence was that A was acting unlawfully and not in the performance of a function of his office when

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C was subjected to the force used by A. It was contended that C was not guilty of assaulting A on the ground of provocation within the meaning of ss 245 and 246 of the Code.

In the circumstances of this case, the offence the subject of the two charges is a crime punishable upon indictment by 7 years imprisonment, or summarily by imprisonment for 3 years and a fine of \$36,000: Code s 318 (1)(d).

There was a joint trial of the charges on 17-19 June 2013 before Malley M. On 2 July 2013 C was acquitted of count 1 and convicted of count 2. He appealed to the Supreme Court against his conviction. The appeal was heard on 27 November 2013. On 28 May 2014 the appeal was allowed by Allanson J and a new trial was ordered. The retrial was heard by Maughan M on 16 June 2015 and 26 and 27 October 2015.

Judgment was delivered on 19 November 2015 and C was acquitted. A was found to have acted unlawfully in the force used, C's evidence was accepted and it was held that the prosecution had not negated the defence of provocation to the required standard of proof.

A complaint to the Commission

By his lawyers, on 3 June 2016, C complained to the Commission that A was guilty of misconduct by acting unlawfully and assaulting him and that A and B were guilty of misconduct by exaggerating their evidence at the trials. The Commission sent the matter for investigation to the Police Internal Affairs Unit on 14 June 2016.

In February 2017 the officer in charge of the Unit, Det. Supt. Brandham APM, wrote to describe a thorough investigation, including a review of all the relevant transcripts and evidence, and advised that the allegation that A had assaulted C was not sustained and the allegation that A and B had exaggerated their evidence was 'unfounded'.

On 3 June 2017, by his solicitors, C requested an 'independent review' of that investigation. By letter dated 25 July 2017, the Commission's Manager Oversight wrote to the solicitors to say that, having done that, the Commission had formed the view that the Police had 'dealt with the allegations of serious misconduct appropriately', and would close its file.

C complained about this outcome to a number of authorities, including to the Joint Standing Committee, who, in October 2017, asked me to take the matter up. I did so and communicated my concern at the outcome to the Commission. By letter dated 27 October 2017 Commissioner McKechnie QC told me that he was taking a personal interest in the matter and was reviewing the actions of the Commission. By letter dated 7 November I responded, saying that my concern was that the conclusion of the Police was in direct contradiction to the findings of fact by the courts and I was disturbed that the Commission had endorsed the appropriateness of that outcome.

Nonetheless, by letter dated 13 February 2018, Commissioner McKechnie QC told me that, following the Commission's review, it had reached the view that 'the conclusions reached by Police, though borderline, were open' and, therefore, he was not persuaded

‘that the public interest is now best served by a Commission investigation in light of the comprehensive review already conducted.’

I replied by a letter dated 28 March 2018. I will not here discuss in detail the content of that letter. Suffice it to say that my main argument was that the conclusions of fact of the Magistrates, supported by the evidence before them, were such that the Police internal investigation could not hold that a contrary view was open, and the Commission could not accept that as a valid outcome. To hold otherwise was to rob the integrity process of its effectiveness.

I recommended an investigation by the Commission to consider whether there was evidence of criminality sufficient to justify forwarding the matter to the appropriate authority to consider criminal proceedings. On 9 April 2018 Commissioner McKechnie QC replied to tell me that he had given the matter further consideration and had directed that there should be an ‘independent review’ by a senior Commission officer.

On 14 May 2018 the Commission told me that it had concluded that, in relation to the allegation that A ‘assaulted or used unnecessary force’ against C, the Police Internal Affairs Unit ‘did not reach a conclusion that was reasonably open to them’, and consideration was being given to what action should be taken. I was told on 3 September 2018 that, on 22 August 2018 a brief of evidence had been provided to the appropriate authority, the State Solicitor’s Office, for consideration of prosecution.

I asked the Commission what were the documents included in the brief. The schedule with which I was provided seemed to me to contain appropriate documents setting out the available evidence in relation to the allegation of excessive and unlawful use of force by A.

Of course, I do not give my opinion as to whether a prosecution should be undertaken or what, if any, disciplinary action should be taken by the Police. That is for others to decide. Further, the Commission tells me that it has informed the solicitor who has the conduct of the matter in the SSO that it remains ready to assist as may be required, although it reminds me that its resources are to be used principally for its functions and it is neither a prosecuting agency nor a criminal investigative agency.

The same sort of observation may be made about my relevant functions under the Act, to which I have referred above. If it seems to me, after an appropriate and effective investigation of alleged misconduct by a Commission officer, that action may need to be taken by the Commission, an ‘independent agency’ and/or an ‘appropriate authority’ as those terms are defined in s 3(1) of the Act, I may make the necessary recommendations and use the powers of referral and recommendation of disciplinary action or criminal prosecution provided in s 196(3)(f) and (g).

However, although the Commission has (properly) closed its file in this matter, I have arranged with the solicitor in the State Solicitor’s Office who has the carriage of the matter, to keep me informed of developments.

4. MY ASSESSMENT AND RECOMMENDATIONS

I commence this section of my report by referring the Committee again to my report dated 11 December 2018 titled 'Misconduct Alleged by Public Officers who subsequently become Officers of the Corruption and Crime Commission'. That report was concerned with a different difficulty and hiatus in relation to my incapacity to deal with misconduct alleged against public officers who later become Commission officers, in respect of which, as the Act is currently framed, there is no capacity for me to deal with the misconduct, even though it may have escaped notice or been unsatisfactorily dealt with by the Commission or other agency.

I repeat the recommendations there made, which were not intended to be expressed in terms which Parliamentary Counsel might consider to be appropriate statutory drafting, but which might provide a remedy for an hiatus in the legislative scheme in relation to circumstances of alleged misconduct of a kind not unlike those the subject of the report.

The Committee will recall that they were concerned to enable me to perform my function to deal with misconduct in public office committed by a person who becomes a Commission officer, although before that occurs, by widening the function to include, not only misconduct by officers of the Commission, but misconduct by public officers who later become Commission officers.

As to the more general problem dealt with in this report, I recommend that the Commission's misconduct function in respect of its own officers should be widened and restored to the capacity and obligation to deal with any misconduct as defined by s 4 of the Act which is alleged against its officers. That would then become a function to deal with misconduct subject to my oversight and powers to deal with misconduct of Commission officers as they are now provided by the Act in relation to serious misconduct by such officers.

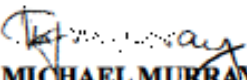
The manner in which police misconduct is dealt with in the Act would, I think, provide a useful precedent. Such a statutory structure, enabling and requiring the Commission to deal with any misconduct within the meaning of the Act alleged against its officers and those in public office who become Commission officers, would carry no capacity to allege that it was ineffective because the Commission would have the obligation to investigate its own officers.

The Commission would be obliged to bring the matter to my attention and it would, as once was the case, and as is now the case with respect to 'serious misconduct' as defined, render the handling of such matters subject to my independent oversight, made effective by the powers conferred by ss 196 and 197 of the Act.

In closing this report it only remains for me to note that I circulated a draft to both the Commissioner of the Corruption and Crime Commission (CCC) and the Public Sector Commissioner (PSC). Neither opposed the recommendations I have made.

The Commissioner of the CCC, the Hon John McKechnie QC, said that, rather than commenting at this time, he advised me that the Commission would itself be pressing for amendments to the Act and would include reference to my suggestions in that process.

The PSC, Ms Sharyn O'Neill, commented that my recommendation that the Act be amended to provide the CCC with statutory duties in relation to allegations of minor misconduct 'appears to have merit in addressing an unintended absence of any such specific duty' in the Act. She went on to observe that the protocol between us, under which the PSC notifies me of any such allegation of minor misconduct, at least ensures that I am made aware of any such matter so that I may act to deal with it so far as I am able to do so.


**HON MICHAEL MURRAY AM QC,
PARLIAMENTARY INSPECTOR**

Appendix Two

Committee's functions and powers

By concurrence between the Legislative Assembly and the Legislative Council, the Joint Standing Committee on the Corruption and Crime Commission was established on 15 June 2017.

The Joint Standing Committee's functions and powers are defined in the Legislative Assembly's Standing Orders 289-293 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, Crime and Misconduct Act 2003*.

The Committee consists of four members, two from the Legislative Assembly and two from the Legislative Council.



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