

**REPORT ON THE WEST AUSTRALIAN
NEWSPAPER ARTICLE TITLED *CCC IN THE
LINE OF FIRE***

S 199(1)(a) of the *Corruption and Crime Commission Act 2003 (WA)*

10 December 2014

INDEX

1.	PURPOSE	1
2.	ENQUIRIES MADE FOLLOWING THE ARTICLE	2
3.	CONCLUSION	5

1. PURPOSE

The purpose of this Report is to inform the Parliament of Western Australia of the actions taken by the Office of the Parliamentary Inspector of the Corruption and Crime Commission and by the Corruption and Crime Commission in response to an article published by the West Australian Newspaper on 18 October 2014 titled *CCC in the line of fire: Allegations staff misled a parliamentary committee*.

This Report relates to the allegation in the article that “two senior CCC staff members...conspired to deliberately mislead a parliamentary committee”. The committee of the Parliament of Western Australia was not identified, but this report is made upon the basis that the Committee to which the allegation of the Newspaper’s informant was referring was the Joint Standing Committee on the Corruption and Crime Commission.

2. ENQUIRIES MADE FOLLOWING THE ARTICLE

On 21 October 2014 I wrote to Acting Commissioners Shanahan SC and Douglas and asked if the Commission was seeking to establish the source of the allegation made in the West Australian Newspaper's article and, if it was, what steps it had taken.

I also asked the Acting Commissioners if the Commission had asked, or intended to ask, the journalist who wrote the article, Mr Grant Taylor, whether his source was a Commission or non-Commission officer.

On 30 October 2014 Acting Commissioner Douglas wrote to me and said:

1. the allegation was not made to the Commission;
2. the Commission was not aware of any basis, or even any possible basis, to support the allegation;
3. the Commission had earlier considered the options available to it in seeking to establish the source of the allegation, but decided not to seek to establish the source of the allegation, and
4. the Commission had not asked, and did not intend to ask, the journalist whether the source of his article was a Commission or non-Commission officer.

That being the case, I considered that I should make such inquiries as appeared to be open so that I might ascertain if there was any evidence of such serious misconduct by two officers of the Commission which would, of course, then require to be dealt with.

I wrote to the Chief of Staff of the West Australian Newspaper on 31 October 2014. I asked him if Mr Taylor would be prepared to tell me the source of his article, and if he felt he could not, whether he would at least tell me if the source was an officer of the Commission, someone connected in some way to a Commission officer, a source within my own office, or a third party who does not fall within any of those categories.

On 5 November 2014 Mr Taylor replied to me and said that the source of his article was an email, bearing the date 10 September 2014, sent anonymously to the Chief of Staff of the West Australian Newspaper, and that he (Mr Taylor) was not aware of the identity of the person who sent it. Mr Taylor provided me with a copy of the anonymous email, which contained the email address of the individual who had sent it, but which also made it clear that the person was not prepared to be identified and was not 'willing-to-appear'.

The passage in the email relevant to this Report reads:

Ask about the bodgy review that [officer A] did at [officer B's] request. Apparently [officer B] needed to have 'something in his back pocket' (officer A's words) when he appeared before a parliamentary committee (I think

estimates committee) in case they asked what he had done about all the problems. The review was falsified to mislead parliament.

On 7 November 2014 I wrote to Acting Commissioners Shanahan SC and Douglas informing them of my letter to the West Australian Newspaper, and of Mr Taylor's response. I attached a copy of the anonymous email received from Mr Taylor.

In my letter to the Acting Commissioners I also referred to a complaint made anonymously by an email dated 5 August 2014, sent to the Committee, about the alleged conduct of a senior Commission officer, which the Committee had referred to me for investigation (and about which I advised the Commission in a letter dated 19 August 2014).

In my letter dated 7 November 2014 I made the observation that, having regard to the content of the anonymous email sent to the Committee, and the similar content of the anonymous email sent to the Chief of Staff of the West Australian Newspaper, they may have been linked. Further, both emails used the same email service provider and the correspondent to the Committee said she was the partner of a Commission officer.

Due to my undertaking to maintain the confidentiality of the anonymous author of the email sent to the Committee, I did not provide the Commission with a copy of it, but, without breaking that undertaking, I provided the email address from which it was sent, which I had not encountered before.

I asked if the Commission was now prepared to investigate whether the author of the email sent to the Newspaper could be identified as a Commission officer, having regard to the nature of the emails and their use of the same service provider.

On 13 November 2014 Acting Commissioner Shanahan SC replied and told me that the Commission had now completed an investigation of the allegation. By that letter and a later conversation with Mr Shanahan SC it was made clear that the Commission had not been able to identify the correspondent to the Newspaper, or any link between the two emails, by a search of the Commission's records of its email network.

However, Acting Commissioner Shanahan SC explained that the Commission's investigation had identified each occasion upon which either or both of the officers, to which I have referred above as officer A and officer B, had appeared before a parliamentary committee during the relevant period, to date, since the appointment of officer A, the most recently appointed of the two officers.

He enclosed a schedule of those appearances, along with a transcript of one appearance. All the appearances were before the Committee, except for one occasion which involved a hearing of another Parliamentary committee.

The transcript provided was of the one occasion when a review of the operations of the Commission which might have been that to which the correspondent to the Newspaper was referring, was mentioned. It was of part of a hearing of the Committee concerned with the retirement of the then Commissioner and the handover to the present incumbents, the Acting Commissioners.

On that occasion officer B appeared with then Commissioner, the Hon Roger Macknay QC. Without quoting what was said by the Commissioner (not by officer B), the sense of it was that the recently appointed officer A was to participate with outside consultants in reviews of various operations of the Commission. The Commissioner expressed some regret that, given his retirement from office, he would not be able to participate in that process.

Had there been a conspiracy of the kind alleged and if there was in existence, or in the course of preparation, such a “bodgy review”, it might have been expected that, given the topic of the hearing, the then Commissioner might have been provided with it, or information about its preparation, as if it was a genuine exercise, so that it might have been referred to by the Commissioner in all innocence, or by officer B.

Acting Commissioner Shanahan SC concluded that the investigation conducted by the Commission established that the allegation that two senior Commission officers had conspired to deliberately mislead a Parliamentary Committee was without substance.

3. CONCLUSION

I have considered the materials provided by Acting Commissioner Shanahan SC, and the basis upon which he concluded that they establish that the allegation published by Mr Taylor is without substance. I can think of no other avenue of inquiry which might be fruitfully pursued, but it does seem to me also to be the case that in all probability there is no truth in the allegation made by the anonymous correspondent to the Newspaper.

That allegation was, of course, that two senior Commission officers conspired to deliberately mislead a parliamentary committee. The allegation was not that a parliamentary committee was, in fact, deliberately misled. However, if there was such a conspiracy, Commissioner Macknay QC was not duped by it, nor did he unwittingly refer to an alleged review on an occasion when he gave evidence to the Committee about the future operations of the Commission.

These facts lead me to conclude that Acting Commissioner Shanahan SC's assessment of the information available to him was, in all the circumstances, appropriately made. There does not seem to be any evidence to support the view that the alleged conspiracy existed. On the contrary, all the evidence leads to the conclusion that it did not.


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