

**REPORT ON AN ADMINISTRATIVE MATTER:
JOINT CONFERENCE OF PARLIAMENTARY
INSPECTORS 8 JUNE 2016**

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

30 June 2016

This is a short report to inform the Joint Standing Committee for the Corruption and Crime Commission of Western Australia of the annual conference held in Sydney on 8 June 2016 with my counterparts, and their key staff, from New South Wales, Victoria and Queensland.

My counterparts were the Hon David Levine AO RFD QC, Inspector of the Independent Commission Against Corruption and the Inspector of the Police Integrity Commission in New South Wales,¹ Mr John Nicholson SC, Assistant Inspector of the Independent Commission Against Corruption, Mr Neil Jedwab, Chief Operating Officer of the Victorian Inspectorate (in the absence of Mr Robyn Brett QC, Inspector of the Independent Broad-based Anti-Corruption Commission, Victorian Inspectorate) who was unable to attend) and Mr Paul Favell, Parliamentary Inspector of the Crime and Corruption Commission in Queensland.²

Mr John Nicholson has recently been appointed to support Mr Levine in the exercise of his functions and powers because of the increased workload of their office. Mr Nicholson's position is different to that of the Acting Parliamentary Inspectors in Western Australia in that he works permanently on a part-time basis alongside Mr Levine on the same or different investigations, whereas an Acting Parliamentary Inspector in our State acts only in instances described in s 193(1)(a), (b) or (c) of the *Corruption, Crime and Misconduct Act 2003 (WA)*.

This year's conference was largely committed to discussions about the comparative levels of cooperation which exist between our offices and our respective corruption agencies; the adequacy of our respective statutory functions and powers to address a legal or factual impasse which might arise between our offices and those agencies; and the balancing of considerations by those corruption agencies when deciding whether to hold public examinations as part of their investigation.

In addition we discussed the adequacy of the advice given by the corruption agencies to interested parties in respect of the outcome of their investigations; what may be an emerging difficulty for the agencies in controlling the "leakage" of confidential official information by the use or, rather, misuse of restricted access computer systems, and the difference in resources devoted by the three State governments to each of our offices compared to the resources given to those agencies.

I am pleased to say that the level of cooperation between my office and the Commission in this State is high, and I attribute this to two principal factors: the respect shown by the Commissioner and me for our respective functions and powers and their place in the State's statutory misconduct framework, and our consultative and cooperative approach to our day-to-day operations and to the resolution of disputes. Both factors are supported by professional and considerate relations at a staff level.

It is common to all four jurisdictions that the Parliamentary Inspector's functions and powers extend only to making recommendations to our respective corruption agencies and Parliaments, and to reporting to our respective Parliaments and Parliamentary Committees. I hold the view that my functions and powers are adequate in this respect,

¹ Mr Levine's term expires in January 2017.

² Mr Favell's term expires in August 2016.

despite concerns expressed by some of my counterparts that, in the case of an impasse with their respective corruption agency, there does not exist a clear statutory solution under their various statutes.

From the various reports and submissions made during the past year to the New South Wales Parliament and its Parliamentary Committee on the Independent Commission Against Corruption by the Commission and Mr Levine, copies of which my Office has provided to you, the issue of the Commission's desirability in that State of holding public or private examinations as part of its investigations remains a contested one. I am of the view that ss 139 and 140 of our Act, and their application by Commissioner McKechnie QC, provide a sound basis for balancing the competing interests which underpin this issue.

Observations were made of the low level of staffing and budgetary resources common to the oversight offices in all four jurisdictions in comparison to the resources provided by State governments to their corruption agencies. In Queensland there is one full-time employee (a principal legal officer) and Mr Favell's appointment is part-time (as is the case with my Office). In New South Wales, in addition to the Parliamentary Inspector and Acting Parliamentary Inspector, both of whom are part-time appointments, there is a full-time principal legal adviser and an executive support officer; and in Victoria there are 10 full-time staff (soon to become 11). However, the inspectorate performs oversight functions in respect of IBAC, the Public Interest Monitor, the Auditor-General's Office and the Ombudsman.

My unsuccessful request in 2015 for a 0.5 FTE employee stands in contrast to the Commission's recently-granted authority to recruit 18 more full-time employees. It has to be said that, were it not for the high level of cooperation between the Commission and myself, my capacity to perform my oversight function to an adequate degree by self-generated audit processes in respect of nominated areas of Commission activities would be adversely to a substantial degree.

Finally, reference was also made to our inability to audit the activities of the agencies we oversee when those activities involve the use of their powers under the *Telecommunications (Interception and Access) Act 1997 (Com)*, and the continuing absence of an amendment by the government to rectify this legislative lacuna, despite past representations and recommendations made to the Commonwealth Attorney-General by our State and New South Wales. Frustration and a sense of hopelessness weighed upon our discussions on this issue.

Since my return to WA I have received advice from the Hon Attorney-General, Michael Mischin MLC, that he has been informed that a Commonwealth review has been started, but not concluded. A discussion paper has been circulated for comment to various state corruption and law enforcement agencies, but, it would appear, not to me or my counterparts. If I may be forgiven a personal observation, it escapes me why such an apparently simple matter as this has not been resolved long ago.

I have extended an invitation to my counterparts, and their key staff, to come to Perth in 2017 for our annual conference.

I table this Report for the benefit of the Committee, and respectfully suggest there is no purpose served by its tabling in Parliament.

A handwritten signature in black ink, appearing to read "Michael Murray".

**HON MICHAEL MURRAY AM QC
PARLIAMENTARY INSPECTOR**