

Chair & Members,
The Parliamentary Crime and Corruption Committee,
Queensland Parliament

10 August 2020

Dear Chair & Members,

I thank you for the invitation to make a submission to the Parliamentary Crime and Corruption Committee's (PCCC) five-year review of the Crime and Corruption Commission (CCC).

By way of background, I have been researching and writing on independent, civilian oversight bodies, also referred to as anti-corruption bodies, for some thirty years. My interest includes the structure, powers and resources of these external, independent, civilian oversight bodies. I am particularly interested, however, in the politics that often swirls around them as it can influence, and in some cases determine, the capacity or otherwise of such bodies to fulfil their *raison d'être*.

As the Committee knows, the genesis for the current CCC model is the internationally acclaimed Fitzgerald Inquiry and its highly commended report. Mr Tony Fitzgerald QC laid down an innovative and insightful model that 30 years on continues to have much to recommend it. Despite attempts by several governments over the years to curtail the powers and functions of the CCC (originally the Criminal Justice Commission and then the Crime and Misconduct Commission), which has included attempts to undermine the credibility of the Commission, the model has largely stood the test of time. Part of the reason for this is the inherent strength of the "one stop shop" approach it adopts and the support the CCC (and its predecessors) receive from the majority of the Queensland community.

Strengths in the model include the appointment of four part-time commissioners who are able to bring an outsider perspective to high-level CCC decisions. Other strengths are found in the diversity of functions that are the responsibility of the one independent accountability institution, the Crime and Corruption Commission, which is, in effect, a citizens' watchdog body.

The CCC has the ability to:

- receive allegations of corrupt conduct, assess the validity of those allegations and when it deems necessary conduct an investigation;

- investigate allegations of major and organised crime, paedophilia, terrorism-related incidents and other forms of serious crime;
- adopt proactive, preventive crime and serious misconduct strategies to identify systemic shortcomings before those shortcomings facilitate corrupt practices;
- carry out research into crime, corruption, policing and other public sector policies and the behaviour of individuals, groups and institutions that have or have the potential to facilitate corruption;
- conduct intelligence-related investigations;
- assume responsibility for witness protection;
- gather evidence by conducting searches and undertaking surveillance; and
- conduct public hearings

Its range of functions allows the CCC to adopt a holistic approach to its work, without the bureaucratic walls that are inevitably erected when these functions are the responsibility of multiple government departments/agencies. Sometimes walls can be for legitimate reasons but on other occasions they are power-related or created to protect the reputation of a particular public sector body.

I strongly support the "one stop shop" approach to anti-corruption matters that the CCC model provides. Its reach is broad and includes the politically powerful Queensland Police Service, the sometimes challenging, Department of Corrective Services, members of local councils, state governments and the broader public sector. The Commission's wide-ranging reach allows the CCC to conduct comparative studies across the public sector, to identify common problems and importantly to introduce prevention strategies in one department that have proven successful in another.

Having jurisdiction over police as well as other public sector departments is an important aspect of the "one stop shop" approach. This model recognises that police are part of the public sector. It also means that police conduct is not portrayed as being so bad that police services require an oversight body of their own.

As previously stated, police are a politically powerful organisation and the history of independent, civilian

oversight of police conduct is replete with examples of police departments and police unions resenting the oversight role of an independent, civilian body. Such bodies are usually viewed by police as the enemy and as a result relationships between police departments, police unions and oversight bodies have often been fraught with high levels of distrust.

It is for this reason that the current chair of the CCC, Mr Alan MacSporran QC, is to be congratulated for initiating and then brokering a new police complaints system that maintains the right of the CCC to conduct or take over an investigation, while at the same time streamlining the processes used by police in the regions and within Ethical Standards Command.

Not long after taking on the role of Commissioner, MacSporran identified and acknowledged serious shortcomings in the internal police complaints system, including the amount of time it was taking officers to finalise complaints referred to them for investigation. Sometimes it stretched beyond a year.

After identifying these and other shortcomings, the Commissioner reached out to the police service and police unions (Queensland Police Union and Queensland Police Commissioned Officers' Union), in an effort to introduce much needed reform. After two years of consultation, these key stakeholders came to an agreed position.

To arrive at such a point requires, first and foremost trust; trust in the person initiating and leading the reform process and the procedures used to achieve agreement. It also requires patience and demonstrated respect for the perspective of the "other".

Identifying a problem is much easier than acknowledging one exists and then seeking ways to remedy it in a cooperative, non-combative and courteous manner. It appears that the cooperative, as opposed to combative approach, is a hallmark of Commissioner MacSporran's approach to his role as he has also worked with the Queensland Department of Corrective Service and its union to introduce wide-ranging reform, including to its complaints system.

Like police, the relationship between oversight body and Corrective Services is not always amicable. At the moment, there appears to be a high level of mutual trust and respect between the head of both these organisations. This type of relationship enhances accountability, which is the major reason citizens' watchdog bodies exist.

It is worth noting that over the years some independent, civilian oversight bodies have adopted a big stick approach to

their role. This does little more than create animosity between the oversight body and those they oversight. It will be interesting to observe how relationships between key stakeholders in the Queensland independent, civilian oversight process develop in the longer term, but for now credit is due to the current chair of the CCC for taking the initiative to reform existing systems and for creating the trust needed to achieve required reform.

Referring to the previously mentioned politics that often surrounds independent, civilian oversight bodies, it is not uncommon for such entities to be underfunded. The CCC is currently not one of them. Its budget is adequate for the breadth of its functions and to its credit, the Queensland Government responded positively to the CCC's 2018 request for additional funding. It is important that it did as inadequate resources would mean that the CCC would be unable to operationalise the powers bestowed on it by the Queensland Parliament. I say this because powers without resources translates into no powers.

There is, however, a matter in relation to the CCC's funding that needs urgent attention. No independent, civilian oversight body should be attached to any government department in terms of its funding, and I say this for obvious reasons. Anti-corruption bodies such as the CCC are charged with investigating alleged misconduct and corruption across all government departments.

Currently the CCC's funding is attached to the Department of Justice and Attorney-General. Clearly a conflict of interest could arise if the Commission was investigating the very department that had responsibility for its budget. Similar inappropriate arrangements have been rectified in other states and should be in Queensland. I respectfully urge the Committee to recommend such a change to the government and parliament, and to do so as soon as possible.

Usually submissions to parliamentary committees focus on serious shortcomings. This one does not as the author believes it is just as important to acknowledge positive achievements as it is to highlight problems. The approach adopted by Commissioner MacSporran to the CCC's oversight role deserves to be acknowledged as a positive.

Having said that, I am not suggesting that the CCC is perfect and this submission is not made as a cheer-leader for the organisation or its Commissioner. If future evidence-based research identifies shortcomings, I will not hesitate to criticise the organisation or any of its members. On this occasion, I point to the CCC's successes.

I am happy to answer any questions that the Committee may have about this submission and to appear before it should the Committee so desire.

Sincerely

Dr Colleen Lewis
Honorary Professor, The Australian Studies Institute,
Australian National University.