

M.R.

20th November 2008

Neil Winzer

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BY: LACA

Committee Secretary
House of Representatives Standing Committee on Legal and Constitutional Affairs
CANBERRA ACT 2600

- **Inquiry into whistleblowing protections within the Australian Government public sector**
- **Appearance of Commissioner Len Roberts-Smith before the Parliamentary Joint Committee on the Commission for Law Enforcement Integrity on 17.11.08**

By way of my submissions of 29.10.08 and 12.11.08 to you I put the contention that the WA Corruption and Crime Commission works to an agenda without the public interest as the priority and furthermore, it is a corrupt agency. By way of my submissions I argued that Malcolm McCusker QC, the Parliamentary Inspector of the CCC, does not have enough power to make the CCC accountable. Consequently, I am greatly alarmed by what Commissioner Len Roberts-Smith QC has stated publicly in regard to his submission to the Parliamentary Joint Committee. A copy of the ABC report posted 17.11.08 is attached.

I've also submitted to you that as a result of the combination of the above factors, as a 'whistleblower' I have been denied protection, a whole range of disadvantages have been imposed on the Western Australian public and an issue of national security has been created in that the Board of the Australian Crime Commission has a member who has, or may have had, engaged in corrupt conduct.

You are no doubt aware of the public bickering over the last year or so between Len Roberts-Smith QC and Malcolm McCusker QC about who has what power.

It is my opinion that it is evident from the content and process of that bickering that neither Roberts-Smith nor McCusker have the public interest in mind. If they had the public interest in mind they would have agreed on a way forward well before now.

My first appeal as to the CCC's performance was lodged with the Parliamentary Inspector on 7.11.04.

Because the key recommendation of Parliamentary Inspector's report of 29.12.06 was flatly rejected by the CCC I was obliged to return to him, aware of his public bickering with the Commissioner and therefore, with the view that I was 'meat in the sandwich'. Ultimately, as per his letter of 5.11.08, a copy of which I provided to you on 12.11.08, the Parliamentary Inspector advised that he has no power to "direct" the CCC to do anything.

My formal complaint against the CCC lodged on 26.7.07 with the Joint Standing Committee on the WA Corruption and Crime Commission was deemed as an "individual complaint", not related to a "systemic failure" and therefore was not addressed.

Prior to 17.11.08 I was not aware of the inquiry being conducted by the Joint Committee. Obviously, I would have liked the members of that committee, when Commissioner Len Roberts-Smith appeared, to have had the opportunity to consider:

- ❑ the information that I strongly contend shows that the CCC failed extraordinarily to conduct a full and objective investigation of the public interest claim I initiated; and
- ❑ the Parliamentary Inspector's advice of 5.11.08 as to the limitations of his powers. I suggest that it can be construed from his advice that he also is unable to offer protection.

A one-page summary of my view as to the problems with the CCC's report of 14.8.08 on the public interest claim I initiated is provided at Attachment A. So convinced am I that an understanding can be gained from this one-page summary as to there being significant problems in regard to the CCC's agenda, I offer it for your consideration as a stand alone document. That is, putting aside the long list of difficulties I've experienced with the CCC since 2004.

It would possibly be a more concise exercise to place the CCC's report of 14.8.08 beside Q&A's 880 and 1980 of 14.3.00 and 20.6.00 respectively, recorded in the Hansard of the Western Australian Parliament. This comparison, I contend, promotes the public interest requirement for an explanation as to whether the answers were misleading or is it that the report is misleading.

I believe I was being reasonable in the expectation that the Parliamentary Inspector should have been prepared to offer an explanation in regard to my concerns about the CCC report of 14.8.08. As you may have noted from his letter of 5.11.08 he rejected my request for a meeting. Furthermore, he failed to respond to the request for a meeting made on by the Hon Kim Chance MLC, the former Minister for Agriculture, who has provided support for the public interest claim and my circumstances since 2000. See the attached copy.

Returning more specifically to my claim as to the lack of accountability in WA having resulted in there being a member of the Board of the ACCC who has, or may have had, engaged in corrupt conduct, I emphasise the CCC's rejection of my request for a 'put up or shut up' opportunity in regard to the documentation I have.

You may note, the Hon K Chance MLC also asked the Parliamentary Inspector to address the CCC's rejection of a 'put up or shut up' opportunity.

Surely, when they have not seen the documentation I'm offering as evidence in regard to a matter that has national security implications, it not good enough in public interest terms for the CCC to advise "The Commission does not accept [your] interpretation of the evidence." and "...the Commission has formed the view that there is insufficient evidence to support [your] claim...." Why is that the CCC is not accountable?

Again I submit that in the public interest all 'authorities' should be accountable, particularly in regard to what disadvantages individuals sustain as a result of making a disclosure.

Yours sincerely

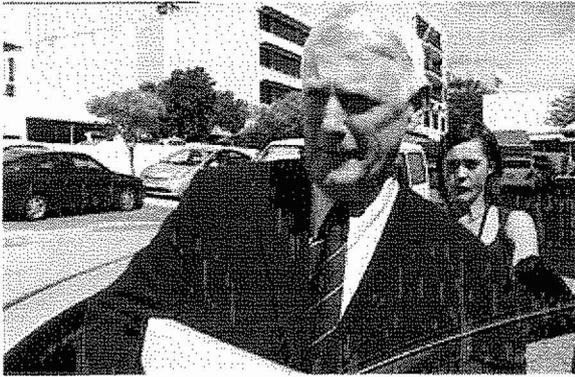
Neil Winzer

PROBLEMS WITH THE CCC'S REPORT OF 14.8.08

1. The CCC's **correct** determination that "there is no evidence of a detailed written response to [my] concerns" conflicts with the evidence of:
 - (a) the DPI advice to Parliament as to "detailed written responses" having been provided to me (see Q&A's Nos. 880 and 1980 of 14.3.00 and 20.6.00 respectively); and
 - (b) a former Director General repeatedly endorsing that DPI advice to Parliament (Q&A No. 880 of 14.3.00) when giving testimony;
2. The CCC's determination, in light of the fact that there was no written response, that officers for DPI had "discussed" my claim with me, conflicts with the testimony of all the officers who had the opportunity to discuss my claim with me;
3. The CCC's determination that Road Trauma Trust Fund allegations had been the subject of a critical meeting held on 29.1.99. This determination, based on the testimony of a former Director General and notes that cannot be date-verified, conflicts with:
 - (a) Parliament having been advised by DPI that the purpose of the 29.1.99 meeting had been to discuss the public interest claim I initiated (see Q&A No. 1980 of 20.6.00);
 - (b) no less than five date-verified documents regarding the subject of the 29.1.99 meeting, while providing considerable information as to the content and process of the 29.1.99 meeting, include no mention of RTTF allegations;
 - (c) the testimony given by the DPI lawyer who attended the 29.1.99 meeting, as to the claim I initiated having been the subject of the 29.1.99 meeting; and
 - (d) the record of the outcome of the 29.1.99 meeting in the form of advice provided to Parliament, other government authorities and psychiatrists specifically about the claim I initiated;
4. The CCC's determination that the 1.2.99 letter of a former Director General relating specifically to the subject of discussion at the critical meeting held on 29.1.99 constitutes evidence of me being asked to substantiate my claim, conflicts with that former Director General having testified that my claim was not discussed at the 29.1.99 meeting;
5. The CCC's determination that Parliament was not misled because "The Minister's answer [to question with notice No 1800 of 2004] and the documents tabled in Parliament on 4 May 2004 do not deal with Mr Winzer's EBA claims" conflicts with the parliamentary record of questions from 2000 specifically about the claim I initiated and question with notice No 1800 of 2004 specifying the subject as "records relating to Mr Winzer's public interest claim".

Further conflict between anti-corruption agencies

Posted November 17, 2008 21:00:00



CCC head Len Roberts-Smith at odds with Parliamentary Inspector Malcolm McCusker (ABC)

- [Map: Perth 6000](#)

A Federal parliamentary inquiry has heard evidence of further disagreement between Malcolm McCusker QC and the Corruption and Crime Commission (CCC) over his role of Parliamentary Inspector.

The head of CCC, Len Roberts-Smith QC, told the inquiry while the Inspector should have freedom to investigate, he shouldn't be able to table his reports directly to Parliament.

He says it should instead be up to the parliamentary committee overseeing the CCC to decide if his reports are made public.

"It's one thing if a committee decides a report from the CCC should be tabled into the Parliament and become a public document, that's one thing," he said.

"But there are potential difficulties with the Parliamentary Inspector being able to decide what he or she wants to do themselves and then table a report."

But Mr McCusker says the current model works.

"I do have the option of tabling it to the committee, and then the committee can decide whether or not to table it in the parliament, and that's been the course that I've taken in most, not all cases," he said.

McCusker to step down as Parliamentary Inspector

Posted November 21, 2008 09:10:00



Malcolm McCusker, QC, will step down as Parliamentary Inspector next month. (ABC TV)

- **Map:** [Perth 6000](#)

Malcolm McCusker, QC, will leave his role as the Parliamentary Inspector of the Corruption and Crime Commission (CCC) when his five year contract ends in December.

Mr McCusker's time in the job has been marked by a number of disagreements with the head of the CCC, Len Roberts-Smith, over the role of the inspector.

He says despite the differences of opinion, their relationship has been cordial and co-operative.

Mr McCusker says the powers of the inspector should be set out more clearly in legislation.

"I've carried out the role of Parliamentary Inspector to the best of my ability and conscientiously," he said.

"I think that the role is an important one and indeed the Commissioner of Corruption and Crime has publicly stated on a number of occasions he agrees with that. The oversight role of the Parliamentary Inspector is important so it needs a strong degree of independence.

"I think a clarification of the role might be helpful because there has, as you know, been some publicly aired difference of views on this, but I don't think the role itself needs clarification, just the duties of it and the powers."

Kim Chance MLC
Member for the Agricultural Region
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GERALDTON WA 6351

Mr Malcolm McCusker
Parliamentary Inspector
Corruption and Crime Commission
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Perth Business Centre 6839

Dear Mr McCusker

Re: Mr Neil Winzer

Mr Winzer has, with reference to his response to the Corruption and Crime Commission's report of 14th August 2008, asked me to seek an opportunity for us to meet with you at your earliest possible convenience.

In light of the extensive history associated with this matter, I believe a meeting would be appropriate.

Mr Winzer has advised me that it was on your suggestion that he make his request of the Corruption and Crime Commission for the opportunity at a formal interview to present the evidence that he contends supports his claim in regard to the WA Police Service investigation.

It seems clear from the Corruption and Crime Commission's report of 14th August 2008 that they have rejected this request.

I am anxious to bring this matter to a reasonable conclusion, as I feel certain you would also be.

With my best wishes,

Yours sincerely,

Kim Chance