

**MAGISTRATES COURT
OF QUEENSLAND**

CHAMBERS OF THE CHIEF MAGISTRATE

Our reference: TC:mm
Your reference:

**Criminal Law Amendment Bill 2014
Submission 006**

5 June 2014

Mr Ian Berry
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4001

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Dear Mr Berry,

Criminal Law Amendment Bill 2014

Thank you for your letter of 12 May 2014 informing me of the committee public hearing and reporting dates; and inviting submissions.

I welcome the proposed amendments to the *Youth Justice Act 1992* (YJA) clarifying the permitted use and disclosure of information in a pre-sentence report. However, I suggest that these amendments and the recent amendments to the *Child Protection Act 1999* (CPA) and the *Childrens Court Act 1992* concerning open/closed court and publication prohibition orders could benefit from further clarification insofar as their interaction and relationship with confidentiality provisions of the CPA.

So far as applications to close the court under s.21D of the *Childrens Court Act 1992* and to make publication prohibition orders under s.299A of the YJA are concerned, it has come to my attention that there are differing views as to:

- (1) the obligations on judicial officers so far as informing attendees about the publication prohibition provisions and penalties for breach – before dealing with each and every application under the YJA; and
- (2) whether the confidentiality provisions (especially s.189) are breached if a member of the legal profession or an officer of a government department discloses to the court that an application is about to be made to (a) close the court; and/or (b) for a publication prohibition order because the child/young person is a person to whom the CPA is relevant.

As to (1) I propose that a simple reminder by the judicial officer that penalties apply for publication of identifying information should suffice.

As to (2) some people seem to be of the view that CPA provides for confidentiality of the status of the child/young person in care and therefore as a matter of course the

Childrens Court should close the court and prohibit publication in any case involving such a child/young person.

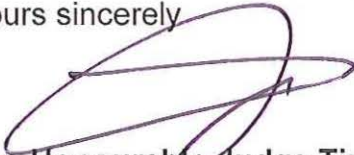
Others are of the view that making a publication prohibition order is unnecessary as s.189 CPA precludes publication anyway.

I have consulted with the President of the Childrens Court, Judge Michael Shanahan and with Childrens Court Magistrate Leanne O'Shea who support my view that these issues could benefit from clarification.

I have also brought these issues to the attention of the Attorney-General but neither of us have had an opportunity to discuss them any detail at this time.

As always, I am available to consult further on my proposals if you so require.

Yours sincerely

A handwritten signature in purple ink, consisting of several overlapping loops and a horizontal line, positioned above the typed name.

**The Honourable Judge Tim Carmody QC
CHIEF MAGISTRATE**

Cc Judge M Shanahan, President Childrens Court of Queensland; the Hon. Jarrod Bleijie MP, Attorney-General and Minister for Justice.