

From: [Timothy Prenzler](#)
To: [Legal Affairs and Community Safety Committee](#)
Subject: Submission to the Legal Affairs and Community Safety Committee: Crime and Misconduct and Other Legislation Amendment Bill 2014.
Date: Monday, 31 March 2014 3:29:09 PM
Attachments: [Reconciling Stakeholder Interests.pdf](#)
[Model Integrity Commission AJPA.pdf](#)
[Assessment of Reform in Post-Fitzgerald Queensland GLR 2009.pdf](#)
[Tim Prenzler Full CV.pdf](#)

31 March 2014

The Research Director
Legal Affairs and Community Safety Committee
Queensland Parliamentary Service
Parliament House
Cnr George and Alice Streets, Brisbane, 4000

Dear Sir/Madam

I would like to express my thanks for the invitation to make a submission to the Legal Affairs and Community Safety Committee on the *Crime and Misconduct and Other Legislation Amendment Bill 2014*.

In my view, the Bill represents a serious backward step for public sector accountability, integrity management and corruption prevention in Queensland. The Crime and Misconduct Commission has been far from optimal. However, the proposed restructured Commission will be even more deficient. As it stands, the Bill is anti-democratic and unscientific. The best one can say about it is that it is naïve about the misconduct risks in public sector organisations (especially the police) and the natural tendency of organisations to cover up misconduct, and also extremely ill-informed about public opinion and international experience.

One point of major concern is the denial of independence entailed in the proposal for ministerial control of the research agenda.

More generally, my view is developed below in a copy of the submission I made to the 'Callinan/Aroney Review' in 2012. The Review report included a summary of my submission but appeared to ignore the scientific evidence on which it was based. In fact, the review ignored the large body of empirical work on this topic in the international literature.

For your convenience, I have attached copies of the three publications listed in my original submission. I have also attached an updated CV. I am happy to supply copies of relevant publications listed in the CV.

To enlarge slightly, I would like to encourage the Committee to consider the models provided by the most successful police oversight agency in the world – the Police Ombudsman for Northern Ireland – and the most successful anti-corruption agency – the Hong Kong Independent Commission Against Corruption. An agency that combines both the anti-misconduct and anti-corruption functions of these two agencies would be best for Queensland. This means that both misconduct (for example, neglect of duty and excessive force) and classic corruption would be covered.

Thank you once again for the opportunity to make a submission.

Yours sincerely,

Professor Tim Prenzler

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12 November 2012

CMA Advisory Panel

GPO Box 149, Brisbane QLD 4001

Submission to the Review of the *Crime and Misconduct Act 2001*

Dear Sir/Madam

I wish to make the following submission to the Review.

In my view, the Act is seriously deficient. It is out of step with democratic principles and with the science of government accountability and public sector integrity management. The current approach is elitist. Ordinary complainants and whistleblowers are treated dismissively. The Act has let down the people of Queensland and requires major amendment. In support of this view, I have attached three papers I have authored or co-authored. These are:

1. Prenzler, T., Mihinjic, M. & Porter, L. (2013, in press). Reconciling Stakeholder Interests in Police Complaints and Discipline Systems. *Police Practice and Research An International Journal*.
2. Prenzler, T., & Faulkner, N. (2010). Towards a Model Public Sector Integrity Commission. *Australian Journal of Public Administration*, 69(3): 251-262.
3. Prenzler, T. (2009). An Assessment of Reform in Politics, Criminal Justice and the Police in Post-Fitzgerald Queensland. *Griffith Law Review*, 18(3): 576-595.

In relation to the current review, the main points to be derived from these studies, which would suitably be embodied in an amended Act, are as follows.

1. In order to engender adequate confidence in the legitimacy of the public sector integrity system, the Crime and Misconduct Commission (CMC) needs to directly and independently investigate a much larger proportion of complaints. This would entail training and employing specialist 'civilian' CMC investigators in place of seconded police. It would also entail creating a clearer hierarchy of matters, with more serious matters designated for automatic independent processing; and remaining, lower level matters, subject to negotiation with complainants about which agency investigates the matter.
2. There also needs to be a more efficient approach to investigations and adjudication. The CMC should prioritise an administrative and inquisitorial approach to matters, with criminal prosecutions only taken after administrative processes are complete. The CMC also needs to be able to direct or over-ride disciplinary decisions by government departments. This is essential to counter the tendency towards weak disciplinary responses when matters are dealt with in-house. There also needs to be a disciplinary matrix, on the public record, so citizens can see how offences align with sanctions.
3. At the same time, there needs to be a decisive shift towards the availability of an independent mediation option for complaints.

4. In order to take a much more substantive role in complaints management and engage in more effective public outreach, the CMC needs to regionalise its operations by setting up accessible offices in regional centres.

5. The task of combating 'major crime' needs to be taken away from the CMC. This function distracts from the core task of public sector misconduct management, and it generates a substantial corruption risk.

Thank you for the opportunity to provide this submission. I have attached a copy of my CV, which sets out my work in this field and other publications that may be of interest to the panel.

Yours sincerely,

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