

CRIME AND MISCONDUCT COMMISSION



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Our Reference: AD-11-0000 / DD
Contact Officer: Rob Hutchings

10 November 2011

Dr Alex Douglas MP
Chairman
Parliamentary Crime and Misconduct Committee
Parliament House
George Street
Brisbane Qld 4000

Dear Dr Douglas

RE: CRIMINAL ORGANISATION AMENDMENT BILL 2011

Thank you for your letter of 28 October 2011 inviting submissions to assist the committee's consideration of the *Criminal Organisation Amendment Bill 2011* (the Bill).

The Crime and Misconduct Commission (CMC) welcomes and fully supports the Bill. In the course of discussions earlier this year between the CMC and the Queensland Police Service (QPS) relating to possible applications by the QPS under the *Criminal Organisation Act 2009* (CO Act), it became apparent to both agencies that the CO Act in its present form precluded agencies other than the QPS from providing criminal intelligence in support of such applications. The Bill's proposed provisions provide an opportunity for the CMC, as a relevant agency, to assist the Queensland Police Service with the provision of criminal intelligence.

A further concern held by the CMC was that section 64(4) of the CO Act requires the provision to the court of an informant's full criminal history, including pending charges. The CMC was greatly concerned that the provision of this information in the format in which criminal histories are commonly presented in the courts would give rise to an unacceptable risk that CMC informants would be identified, thereby jeopardising their physical safety and irreparably damaging ongoing associations.

In our respectful submission the Bill usefully amends section 64(4) to enable relevant agencies to inform the court of the antecedents of an informant, including any criminal history, in such a way as to reduce substantially any risk of identification. Many other provisions in the Bill are also directed to reinforcing the need for informants not to be able to be identified in the course of applications under the CO Act, and are equally welcomed by the CMC.

Having stated the foregoing, even under the less rigid regime provided for by the Bill, we apprehend that there may yet be some instances in which the CMC may decline to provide informant information in support of QPS applications on the basis of an unacceptable risk of identification of an informant. The risk of compromise to an informant must necessarily be assessed on a case by case basis and the possibility remains in individual cases that the totality of information as to an informant's antecedents mandated by the Bill will give rise to such a risk.

Thank you for the opportunity to comment.

Yours sincerely

A handwritten signature in black ink, appearing to read "Rob Hutchings". The signature is fluid and cursive, with a large, sweeping flourish at the end.

ROB HUTCHINGS
General Counsel