



Office of the Parliamentary Crime and Corruption Commissioner

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26 June 2015

Mr Peter Russo MP
Acting Chair
Parliamentary Crime and
Corruption Committee
Parliament House
BRISBANE QLD 4000

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26 JUN 2015

PARLIAMENTARY CRIME AND
CORRUPTION COMMITTEE

Dear Mr Russo,

Re: Review of the Crime and Corruption Commission

Thank you for your letter of 9 June 2015 inviting me to make a submission to the Committee's review of the Crime and Corruption Commission conducted pursuant to section 292(f) of the *Crime and Corruption Act 2001*.

Since the last statutory review conducted by the Parliamentary Crime and Misconduct Committee in 2011, I have made a number of submissions concerning provisions of the *Crime and Misconduct Act 2001* (as it was then).

Following the Review of the Queensland Parliamentary Committee System, the Department of Justice and Attorney-General undertook a consequential review of certain provisions of the *Crime and Misconduct Act*. In December 2011, I provided a submission to the Attorney-General on specific issues relating to the Parliamentary Crime and Misconduct Committee.

In July 2013 I provided a submission to the Attorney-General concerning recommendations made in the report by the Honourable Ian Callinan AC and Professor Nicholas Aroney on their review of the *Crime and Misconduct Act* and related matters, and recommendations made in Report No: 90 of the Parliamentary Crime and Misconduct Committee.

In February 2014 I provided comments to the Attorney-General in relation to proposed amendments to the *Crime and Misconduct Act* relevant to the office of the Parliamentary Crime and Misconduct Commissioner. The proposed amendments have since been enacted in the *Crime and Corruption Act*.

In December 2014 I was invited to make a submission to the Legal Affairs and Community Safety Committee in relation to the *Justice and Other Legislation Amendment Bill 2014*. I subsequently provided a written response concerning proposed amendments to section 14 of the *Telecommunications Interception Act 2009* set out in clause 134 of the Bill. The proposed amendments reflected recommendations I had previously made in a report to the Attorney-General pursuant to section 24 of the *Telecommunications Interception Act*. (The *Justice and Other Legislation Amendment Bill 2014* has since lapsed.)

Furthermore, I have had the opportunity to raise issues concerning the Commission's activities under the *Crime and Corruption Act* in the regular reports I provide to the Committee and in the course of our joint meetings.

In light of all the above, it might be considered unnecessary for me to make a lengthy submission to the Committee's current review. However, I do wish to take this opportunity to reiterate the submission I have previously made concerning suggested amendments to the *Telecommunications Interception Act*.

Proposed amendment to section 14 of the *Telecommunications Interception Act 2009*

Section 66(2) of the Commonwealth's *Telecommunications (Interception and Access) Act 1979* provides the mechanism whereby certain persons (or class of person) may be authorised to receive information obtained by interceptions under telecommunications interception warrants issued to an interception agency.¹

Pursuant to section 23(2) of the *Telecommunications Interception Act* (TIA), the Parliamentary Commissioner, as the inspecting entity for the Crime and Corruption Commission (CCC), must inspect the CCC's records at least twice during each financial year to find out the extent to which CCC officers have complied with sections 14 to 16 and 18 to 20 of the TIA.

¹ **66 Interceptor may communicate to officer who applied for warrant or authorised person**

- (1) A person who has intercepted a communication under a warrant issued to an agency may communicate information obtained by the interception to:
 - (a) the officer of the agency who applied for the warrant on the agency's behalf; or
 - (b) a person in relation to whom an authorisation under subsection (2) is in force in relation to the warrant.
- (2) The chief officer of an agency, or an authorising officer of an agency for whom an appointment under subsection (4) is in force, may authorise in writing a person (or class of person) referred to in any of paragraphs 55(3)(a) to (c) to receive information obtained by interceptions under warrants (or classes of warrants) issued to the agency.
- (3) The chief officer, or an authorising officer, of an agency may make an authorisation under subsection (2) in relation to a person (or class of person) who is not an officer or staff member of that agency only for a purpose or purposes connected with an investigation to which a warrant issued to that agency relates.
- (4) The chief officer of an agency may appoint in writing an officer of the agency to be an authorising officer for the purposes of this section.

Section 14(h) of the TIA presently requires that the chief officer of an eligible authority must cause to be kept in the authority's records, each authorisation by the chief officer of the agency under section 66(2) of the Commonwealth Act. There is no mention in the TIA of the other category of authorisations referred to in section 66(2) of the Commonwealth Act, namely authorisations made by "*an authorising officer of an agency for whom an appointment under subsection (4) is in force*".

Such authorisations are permitted pursuant to amendments made to section 66 of the Commonwealth *Telecommunications (Interception and Access) Act* in 2011² - subsequent to the enactment of Queensland's TIA. Pursuant to section 66(4), inserted by the amendments, the CCC Chairman may appoint in writing an officer of the CCC to be an authorising officer for the purposes of the section. Section 66(2) was concurrently amended to allow the CCC Chairman "*or an authorising officer of an agency for whom an appointment under subsection (4) is in force*" to authorise a person or class of persons to receive information obtained by interceptions under warrants issued to the CCC.

In light of these amendments to the Commonwealth Act, I recommend that section 14(h) of the TIA be amended to require that "*each authorisation by the chief officer or an authorising officer under section 66(2) of the Commonwealth Act*" must be kept in the authority's records. I also recommend that, where an authorisation under section 66(2) has been made by an authorising officer, the chief officer of an eligible authority must cause to be kept in the authority's records, the written appointment of the authorising officer under section 66(4) of the Commonwealth Act.

Once again, I thank you for the opportunity to make a submission to the Committee's review of the Crime and Corruption Commission and I would be pleased to assist the Committee further in providing advice on any particular matter arising from the review.

Yours faithfully



Paul Favell
**Parliamentary Crime and
Corruption Commissioner**

² *Telecommunications Interception and Intelligence Services Legislation Amendment Act 2011*, Schedule 1 item 21.