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Sent: Tuesday, 2 June 2020 3:57 PM
To: Parliamentary Crime and Corruption Committee <pccc@parliament.qld.gov.au>
Subject: Submission - Review of the Crime and Corruption Commission's activities

Dear Secretary,

I have appeared in a representative capacity for 3 witnesses compelled to give evidence in private hearings of the Crime and Corruption Commission.

When the witness is called, it is customary for the presiding officer to outline the nature of the proceedings. Part of the standard text used provides an assurance to the witness that the proceedings are held in private and the evidence will not be disclosed to third parties. The tone is designed to reassure the witness that their evidence is not going to be available to the people, very often violent criminals, who the witness is being asked to incriminate.

In practice however, the transcripts of evidence given by at least two out of my three clients have been disclosed to the people they incriminated. No warning or notice of the disclosure was given to my clients. In another case, I act for a defendant to whom the transcripts of approximately 20 witnesses at closed hearings have been disclosed. Many of those witnesses had refused to provide written statements to investigators, and were being summoned to give evidence in the criminal proceedings against their wishes.

The "reassurance" provided to witnesses at the hearings is misleading. It is calculated to mislead, particularly, those witnesses who do not engage a legal representative. The conduct of the officers of the Commission in this regard raises an ethical issue, both as a matter of ordinary morals, and as to the professional ethical obligations of the lawyers acting as presiding officer and counsel assisting the Commission. Rules 4.1.2 and 34.1.1 of the Australian Solicitors Conduct Rules, and rule 12(a) of the Barristers Rules may have some application.

I do not submit that there should be any further restriction on the disclosure of evidence. It is patently in the interests of justice that a witness's evidence at the Commission should be disclosed to an accused person if the witness will be called to give evidence against the accused. My submissions are simply:

1. witnesses at closed hearings of the Commission ought to be told fully and frankly the ways in which their evidence might be disclosed to third parties; and,
2. before a witness's evidence is disclosed to a third party, the witness ought to be given sufficient notice in order to take steps to protect their life and the lives of their family.

Yours,

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