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14 JUL 2011

Mr Paul Hoolihan MP
Chair
Parliamentary Crime and Misconduct Committee
Parliament House
George Street
BRISBANE QLD 4000

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15 JUL 2011

PARLIAMENTARY CRIME AND
MISCONDUCT COMMITTEE

Dear Mr Hoolihan

Thank you for your correspondence dated 20 May 2011 in relation to the Parliamentary Crime and Misconduct Committee's three yearly review of the Crime and Misconduct Commission (CMC).

Firstly, I would like to advise that I am a member of the Crime Reference Committee as reported in the Crime and Misconduct Commission's Annual Report 2009-10.

As you may be aware, the Commission for Children and Young People and Child Guardian is an independent statutory body with a broad mandate to promote and protect the rights, interests and wellbeing of all Queenslanders under 18, particularly those most vulnerable. My mandate includes:

- promoting laws, policies and practices that uphold the rights, interests and wellbeing of children and young people, particularly those at risk
- administering an employment screening system (the blue card system) of certain types of child-related employment including educating the community about their obligation to comply with the Commission's Act
- conducting research into matters affecting the safety and wellbeing of children and young people
- monitoring, auditing and reviewing systems, policies and practices relating to services provided to children and young people receiving child protection or youth offending services
- administering a state-wide Community Visitor Program for children and young people in foster care, residential services or detention and at an authorised mental health service under the *Mental Health Act 2000*
- resolving and investigating complaints about services to children and young people known to the Department of Communities, and
- maintaining Queensland's Child Death Register, and supporting the Child Death Case Review Committee process.

As such, my Commission has a particular interest in efforts undertaken to combat crime, including organised crime, and particularly where there are impacts on children and young people, such as pedophilia. In particular, these efforts strengthen the capacity of the blue card system to maintain safeguards to children in regulated service environments.

Under section 25 of the *Commission for Children and Young People and Child Guardian Act 2000* I have an obligation to report relevant criminal activity to the CMC. From 1 July 2009 to 30 June 2011 I have referred 331 instances of relevant criminal activity to the CMC for assessment. I am satisfied with the performance of this interface and have no concerns about the CMC's management of these matters.

In relation to my oversight of government service delivery to children and young people in the child protection and youth justice systems, a formal liaison agreement has been implemented between my Commission and the CMC for some time. A quarterly liaison meeting is held between senior officers of both agencies, which provides an opportunity for sharing of relevant information and collaboration on areas of shared interest. This interface works very well.

Overall, from the perspective of my Commission, I have no concerns and am satisfied with the CMC's performance of its functions.

However, there are two areas that I would like to highlight for your consideration, both relating to youth detention, in particular the extent of devolution of responsibility for misconduct matters and the mechanisms established to provide feedback to young people who are complainants.

In relation to the devolution of responsibility, I acknowledge the value and sustainability associated with agencies developing capacity to manage their own misconduct, but I also believe that youth detention is a special context in which misconduct may arise that requires closer consideration and, potentially, more detailed involvement by the CMC. This is due to a number of factors, including the obvious vulnerability of the individuals concerned (due to their ages and the social circumstances leading to their offending behaviour), the power imbalances inherent in such settings and the fact that detention centres would likely present to young people as closed systems, i.e. shut off from the outside world.

Young people in detention are also likely to have lower levels of educational attainment than the general population and are unlikely to have a full appreciation of their rights, including their right to complain or the circumstances in which it is appropriate to do so. My 2009 survey of young people in detention supports this view as only half the survey respondents feel confident that they would be taken seriously if they told detention staff they felt unsafe or worried about something. This may be a barrier to young people reporting that their safety or wellbeing is at risk.

In summary, I respectfully submit that suspected official misconduct arising in youth detention centres represents a special circumstance for the CMC, such that it should not encourage or endorse the devolution of responsibility for these matters to staff based in detention centres.

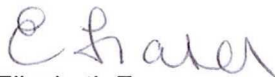
In relation to the provision of feedback to young people in detention who are complainants, I respectfully submit that in performing its role of monitoring the management of allegations of suspected official misconduct by agencies, the CMC

should specifically assess and record in each case whether the outcome has been adequately communicated to the complainant and any other young people who may have witnessed or been impacted by the conduct. Such feedback is critical to the credibility and usefulness of the systems established for managing suspected official misconduct.

In relation to the management of misconduct within agencies, I would welcome any efforts by the CMC to build upon existing support for this function (through liaison meetings and reference materials such as "Facing the Facts" guidelines), by delivering or coordinating training of agency staff involved in the assessment and detailed investigation of suspected official misconduct. I believe such an initiative would align with the CMC's strategy of building agency capacity to respond to official misconduct and assist in creating and maintaining an important network within government.

I trust this information is of assistance. If you have any queries in relation to this submission please contact Mr Max Wise, A/Director, Executive Services on 3211 6729.

Yours sincerely



Elizabeth Fraser
**Commissioner for Children and Young People
and Child Guardian**