

Submission 39 - Cynthia Kardell

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Cynthia Kardell LLB



Mr Alan MacSporran QC
Mr Sydney Williams QC
Mr Marshall Irwin
Crime and Corruption Commission
Policy and Research
GPO Box 3123 Brisbane Qld 4001
By email to publicisingallegations@ccc.qld.gov.au

Dear Sirs,

Re: Publicising allegations

In my submission the Crime and Corruption Commission (the 'CCC') should make allegations of corrupt conduct that are to be investigated public for the following reasons.

I shall refer to the allegations of corrupt conduct that are to be investigated as the 'Allegations'.

The CCC must be open and accountable to the public in its operation if it is to be effective in building that same openness, transparency and accountability into society: that is, it must model the very behaviours it seeks to inculcate in society.

'Allegations' should be made public contemporaneously and in the ordinary course: lest it be said and later established that the CCC was partial in holding the information back to favour another, because someone always knows. By the time a whistleblower comes knocking on the CCC's door, there are many who know much more about the alleged wrongdoing than the whistleblower will ever know. There's the wrongdoer; those who covered it up, those who weren't looked after and every one else in between.

Inevitably, the issue will be ventilated in public whether or not an election makes it more likely if it concerns a well known figure or entity. The public debate is more likely to be high-jacked for personal and political advantage if unnecessary speculation is allowed to flourish. It is better that the Allegations are made public as a known practice, so that the debate can move on with the CCC remaining just a bystander.

It would be a mistake to allow the potential for reputational damage to the subject of the Allegations to constrain how the CCC operates because it would open it up to being manipulated by equally powerful players in private. It must maintain an open practice, without fear or favour.

And while social media has opened up discourse in ways that we're only just beginning to appreciate, it must never be the role of the CCC to condition that

process. The law provides protections for those claiming to have suffered injury at the hands of the ignorant, deceiving and malicious and over time society will find ways to rectify an incorrect record, like (eg) requiring an official finding / correction to be posted as a permanent header to the offending article.

The operational effectiveness of the CCC need not be compromised by making allegations of corrupt conduct public, for example it can coincide with the execution of a warrant to attend and or produce documents so as to minimise the potential for documents to be destroyed. If the subsequent public debate wrongly tends to elevate the credibility of the complaint or the complainant, then that should not influence what the CCC does either. It should remain a bystander and get on with the job.

It would be useful if the public notice of an Allegation included a reference or link to a general information on the CCC website that (eg) discussed what the publication of an Allegation did not mean by reference to what distinguishes a fact from an alleged fact, so that the reader is stimulated to think more objectively about any subsequent media commentary, but otherwise it is not a matter for the CCC.

The public debate around an Allegation, whether good, bad or indifferent can teach you how to differentiate between fact and alleged fact and to develop better reasoning skills, so that you can understand and know why it is so very important to be able to suspend judgment until all of the facts are known. Over time, public discourse does become better informed and more rigorous and that is a good thing. It is essential to the exercise of free speech and political choice in a civil and democratic society. It's like a muscle. It has to be exercised to get the best from it.

Yours faithfully,

Cynthia Kardell.