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From: [redacted]
Sent: Tuesday, 25 October 2016 6:30 PM
To: Crime and Corruption Commission
Subject: [redacted]

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Making allegations of corrupt conduct public

Is it in the public interest?

To: **Queensland Crime and Corruption Commission**

[redacted] from other State legislation should provide red flags and demonstrate the importance of Queensland not going down the slippery slide of secrecy. Special cases may apply for limited use privacy justification where each situation is ruled on merit balanced against denial of public awareness. Those special case matters should not involve Government related corruption or complicity; in all these types of cases where cogent evidence exists the Public should not be denied access to the truth.

The associated consequences/risk increases secrecy brings can be misused to allow non-investigations/unsubstantiated findings or the burying of problematic matters; particularly when dealing with matters involving Government Offices or when likely conflicts of interest exist or can be perceived.

[redacted]

SA Legislation has power across borders yet State and Federal Governments have no power to protect Queensland/Australian citizens from bad SA Legislation.

- [redacted] it is an offence occurring a maximum penalty fine of $30,000 for me or anyone to;

  Under SA ICCAC legislation Part **56—Publication of information and evidence**
  A person must not, except as authorised by the Commissioner or a court hearing proceedings for an offence against this Act, publish, or cause to be published— …
  (e) the fact that a person has given or may be about to give information or other evidence under this Act; or
  (f) any other information or evidence publication of which is prohibited by the Commissioner.
  Maximum penalty:
  in the case of a body corporate—$150 000;
  in the case of a natural person—$30 000.

Do we in Queensland want similar legislation or accept such legislated 'Secrecy' clauses which impose abuse of our right to freedom of opinion of/by another State's legislation?

[redacted]

I don't understand how this can be acceptable in Australia, I'm not a Constitutional Lawyer but I assume our own Queensland Government is at legal risk of a large SA fine if they were to receive 'secret' information and use that to externally investigate matters impacting on Queensland legislation).
SA ICAC Legislation has other unbelievable clauses regarding the imposed secrecy of information presented to ICAC, legislation this Inquiry can attempt to interpret the impacts of if imposed in Queensland: https://www.legislation.sa.gov.au/LZ/C/A/INDEPENDENT%20COMMISSIONER%20AGAINST%20CORRUPTION%20ACT%202012/CURRENT/2012.52.UN.PDF

As French Statesman Frederic Bastiat said of pre-revolutionary France 170 years ago: *"The law is guilty of the things it is supposed to punish"* and: *"When plunder becomes a way of life for a group of men living together in society, they create for themselves, in the course of time, a legal system that authorizes it and a moral code that glorifies it."*

The CCC Discussion paper asks: *'We are particularly keen to hear from people who have been affected by the publicising of allegations of corrupt conduct.'*

[redacted] however significant evidence can't be presented publically to demonstrate how secrecy legislation can be misused to hide corrupt conduct and complicity which allegedly if prosecuted should result in charges of criminal offences.

[redacted]

[redacted] access to justice and public scrutiny is corrupted and restricted by SA's laws [redacted]

Apparently our Constitution expects the right for equality of protection, no matter where you live in Australia; this does not apply to SA Crown abuses as our State Queensland Government and the Federal Government advised [redacted] they have no power to intervene [redacted] in SA, particularly another State's legislation. We all should consider ourselves fortunate to live in Queensland; yes our State Government has its problems but nothing like [redacted] SA. Non-transparency and 'secrecy' are key reasons why [redacted] – hence I strongly oppose non-transparency and secrecy legislation/practices which can be misused to hide Government corruption and complicity.

[redacted] referred to SA ICAC's vague/prohibitive legislation as an example of the means that prevents anyone even publically mentioning SA ICAC

involvement. Also as an example of how legislation prevents exposure of examples in the Public's Interest demonstrating the adverse impacts misused secrecy has on justice.

When a Government denies freedom of speech and public exposure of the truth it could be expected public opinion might ask; 'What valid reasons exist for evidence being buried under secrecy legislation/policy clauses?' In SA all answers can be withheld and any reference to matters raised kept secret – secrecy allows no transparency and avoidance of accountability.

The public, if given the truth and cogent evidence, could expect from its Government action to prosecute alleged corruption and complicity within its Government (Rule of Law). [redacted]

*"Without information there can be no accountability. In an atmosphere of secrecy or inadequate information, corruption flourishes. Wherever secrecy exists there will be people prepared to manipulate it. It is essential that Government is not able to claim that secrecy is necessary when the only thing at risk is the exposure of a blunder or a crime."(*Fitzgerald, 2001).

I argue the definition of organised crime must also include corrupt Government with systemic problems and demonstrated maladministration, corruption and complicity; 'Do we want to open the doors to this in Queensland, as already secrecy has infiltrated/corrupted some areas of 'Justice'?'

Recent submissions to the Federal Australian Law Reform Commission's Inquiry into Elder Abuse can put a light on how unchecked corruption facilitates Government Offices, Business Units more interested in extracting the money from the vulnerable, to prop up falling State revenue rather than abiding by its own laws requiring citizens' rights protection.

[redacted]

I, and others like me who care, don't want the risk of Queensland sliding to the same low levels as some other State Governance where accountability [redacted] are turned a blind eye to. Queensland must demonstrate it has learnt to be better than that; transparency and accountability is the only way to demonstrate that the Public's expected trust can be relied on whoever is in Government. This is Queensland, not some other State where people accept no protection from corruption.

If we risk an individual's right to freedom of speech we risk everyone's right to protection – openness inspires trust. Secrecy in practice is different to Privacy and in our CCC's case I assume/hope it seeks limited privacy to primarily prevent corruption of investigations.

For survival, bad Governance needs to operate behind closed doors out of the public eye.

Queensland needs to demonstrate it is above self-review abuses, selective non-accountability particularly when serious offences within its own Government Offices occurs; demonstrated results of secrecy can be seen from SA's non-transparency and 'secrecy' legislation empowering its Independent Commissioner Against Corruption/OPI with indefinite secrecy.

- I strongly oppose Queensland's backward step of imposing secrecy as legislated in SA or in some lesser variant; legislation which can be easily misused to keep problematic Government matters hidden from the Public.

The United Nations UNESCAP explains: *'Good governance has 8 major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.*

I believe Queensland CCC by canvassing the Qld Public's opinion through open submissions demonstrates integrity and transparency; how our Government responds to public opinion will demonstrate how open this Government intends to be. I believe no such respect was afforded to the SA Public, and that if canvassed in an open way the SA Public opinion would be expected overwhelmingly to remove SA's ICAC secrecy; with an explosion of public support if offered for a system more like what our Government is currently considering watering down (notably however in SA, public exposure of examples showing why secrecy can be abused would under SA law remain 'secret' for fear of prosecution). Without media awareness/exposure/pressure being legal, the practice of Rule of Law can't be forced nor freedom of speech practiced in the Public's Interest.

This abuse of power and secrecy has been honed in South Australia; while secrecy prevents its ICAC's non-investigation decisions from being exposed to the public through any form of public media (legislated blocking of the only remaining scrutiny forums to seek justice/transparency not under Government influence and control). [redacted] Secrecy and non-transparency promotes/allows corruption and complicity and enables self-review to replace proper investigation by encouraging opportunity for burying, rather than the prosecution of problematic serious matters.

A question Queensland needs to ask is; 'Can we afford or want to return to self-review 'blotters' or do we instead demonstrate that integrity and trust over time comes only through openness and demonstrated integrity?' It is obvious from some submissions that, for whatever reason/experience, some trust has been lost already – [redacted] However, I argue, [redacted] corruption and complicity, denial of means to present cogent evidence through transparency can be blocked when secrecy can be misused to facilitate the protection of public Offices/Government although evidence demonstrates accountability for Offences under the Acts they operate.

The Federal Government Attorney's General's Department suggests: *'The rule of law underpins the way Australian society is governed. Everyone—including citizens and the government—is bound by and entitled to the benefit of laws. ... laws are publicly adjudicated in courts that are independent from the executive arm of government!'* I was informed today by the Federal Attorney General's Office they can't intervene in State Legislation or the adverse impact a State's legislation has on the rights of Australian citizens living in another State.

If our Constitution limits the Federal Government's intervention within State jurisdictions then the States' ICACs or CCCs bodies may be the only/last viable avenue left to citizen's seeking justice/protection. I have to date found it to be impossible to make corrupt Government accountable under its own Laws; hence when secrecy becomes a cloak to hide bad State Governance, what other viable avenue can a concerned or impacted person expect protection through. I believe if self review within the States demonstrates failure to abide by the principles of Rule of Law then Federal legislative intervention is urgently required.

The discussion paper raises: *'A fair trial is a fundamental legal principle and any law or practice that limits or encroaches on the right to a fair trial must be justified.'* Without transparency and when access to evidence is denied/hindered, the only likely result is injustice or at best inadequate decisions from less than adequate decision makers.

The Discussion Paper also raises: *'The publicising of allegations of corrupt conduct may adversely affect the CCC's ability to perform this function. Making the allegation public gives individuals involved in the matter the opportunity to destroy information that might support the allegation, fabricate a false explanation or justification, or interfere with witnesses. In some instances, it can be argued that the*

publicising of allegations of corrupt conduct seeks to leverage the involvement of the CCC to artificially raise the credibility of the complaint or the person making the allegation and, in doing so, undermines the efficacy of the complaints process.'

It should be recognised within States' legislations the above mentioned, including false complaints, can come with claimed serious penalties; hence in the Public's Interest offenders knowingly making false claims should be prosecuted no matter who they are and/or what position they hold and then those examples made public to deter others of like-mindedness. The principles of Rule of Law must be demonstrated and prosecutions must include all Public Offices/Officers and the overly protected Tribunals and Courts as well – a sceptical public expects good Governance which requires transparency; only after trust is returned, will those seeking secrecy and denial of the public's legal right to responsible media exposure be likely to be listened to.

The discussion paper fairly raises *'Identifying a solution that ensures allegations of corrupt conduct are kept confidential must be balanced against the right to freedom of speech within current legal constraints and the need for open and accountable government.'* I recognise, and history has demonstrated, that transparency also offers the means through public awareness for further new whistle-blower's/public exposure of key or related case evidence.

- Instead of just increasing blanket secrecy legislation provisions, time line/factor considerations may be worth considering. I believe the public may then support reasonable privacy/delay to publicising, as a compromise in certain investigations, providing full public exposure/freedom of speech is returned within reasonable/justified time frames.

Public awareness of current investigations comes with risks which include:

- Safety risks for CCC investigators of serious crimes and the risk of investigation corruption through alleged offenders destroying key evidence.
    - I raise; 'Could these risks be reduced by having an appropriate time moratorium on public exposure of certain type of gang related or security issues while investigations are in critical stages?' Again public acceptance may however demand assurances to openness following these critical stages and following conclusions to investigations.
- Re the argument of election contamination; surely a no greater than 2 month public exposure ban on reporting political related allegations to CCC may address that issue, as would enforcement of appropriate accountability for false accusations.

I read in the Courier Mail 15 October; 'Watchdog's threat to gag informants' and while not in agreeance with all that was written I do obviously support an argument not to abandon our long held justice safeguards which include media awareness without reporting restrictions. I do not accept, [redacted], the allegation that the most contentious of all public sector organisations is the Police. The 1980's ex-police whistle-blower's risk argument in the Courier Mail to my understanding included that while Police Officers staff our CCC conflicts of interest/association result as CCC also actively work with QPS on a regular basis – I argue this is an expected part of the process of investigating crimes, and ask who are more experienced in the investigation of all forms of crime than experienced Police Officers; I certainly don't want the alternative being the inexperienced or the possibility of only Crown lawyers, or career bureaucrats well up the protection ladder self-investigating their mates in Government Offices.

- The same argument being used against Police I argue can be used against Crown Solicitors, recommended by Government, and then appointed as Judges to the Courts where conflicts of past relationships/employment/association are regularly encountered.
    - If people are appointed to positions of trust but demonstrate they are 'ethically challenged', then transparency and public awareness may be the only avenue to have those people exposed/removed from those positions. Again a message would be sent to others through prosecuting such offenders and by publically exposing them.

The Discussion paper raises: *'Laws, such as defamation, privacy and anti-discrimination law, seek to strike a balance between preserving these freedoms and protecting people from harm.'* The harm argument goes

two ways: SA ICAC Legislation denies the right of freedom of speech which could alert/protect vulnerable citizens hence reduce future harm; this may likely necessitate exposing compromising evidence against Government Offices in the Public's Interest. Truth should not be allowed to be buried by secrecy.

[redacted] how lucky we are in Queensland since we have legal options SA citizens don't enjoy.
SA's ICAC Commissioner *'Mr Lander said while South Australia's ICAC was the most secret in Australia, he believed the only way to catch those acting corruptly was to carry out investigations "out of the public eye".'… 'It is illegal in South Australia to reveal that an ICAC investigation is underway, or that a matter had been referred to the commissioner.'*
SA's ICAC Legislation forces complainant secrecy and provides means for its ICAC not to identify any complaints raised, nor any findings or decisions OPI/ICAC makes – hence everything is done behind closed doors "out of the public eye" in secrecy without transparency nor accountability.

I will repeat: As French Statesman Frederic Bastiat said of pre-revolutionary France 170 years ago: *"The law is guilty of the things it is supposed to punish"* and: *"When plunder becomes a way of life for a group of men living together in society, they create for themselves, in the course of time, a legal system that authorizes it and a moral code that glorifies it."*

And *"Without information there can be no accountability. In an atmosphere of secrecy or inadequate information, corruption flourishes. Wherever secrecy exists there will be people prepared to manipulate it. It is essential that Government is not able to claim that secrecy is necessary when the only thing at risk is the exposure of a blunder or a crime."(*Fitzgerald, 2001).

There is no equality in access to Justice throughout Australia, nor in this world, and the disproportionate powers of Government are not always used for the good of its citizens – again when corruption and complicity exists then our CCC may be our last viable option to seek justice/protection – privacy for a limited period for specific justified non-government reasons could be acceptable to me if properly monitored and when incorporating appropriate safeguards. No matter what is decided for the CCC, unlike its SA's ICAC, the media/public should be able to know what investigations were made, what each discovered and what was acted on/prosecuted. I believe [redacted], secrecy, for whatever argument, has no place within good Governance as it can be abused to avoid application of the principles of Rule of Law.

***"It is unacceptable, in our democratic society that there should be a restraint on the publication of information relating to government when the only vice of that information is that it enables the public to discuss, review and criticise government action."* (Fitzgerald, 2001).** In 15 years how has this changed? Also as can be demonstrated one State's secrecy legislation can impact on the ability of another State protecting its own citizens and from enforcing its own Laws.

I wish to make it clear my objections are related to unjustified/truly unnecessary use of secrecy, primarily re investigation of Government Offices/Officers (Public Servants) where conflicts of interest can and do exist and complicity provides hidden means for corruption to flourish 'out of the public eye'.

[redacted]

Yours sincerely

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[redacted]