

FACSIMILE TRANSMISSION

TO: MS HELEN DONALDSON
ORGANISATION: FINANCE AND ADMINISTRATION LEGISLATION COMMITTEE
FROM: CRIMINAL JUSTICE COMMISSION
FAX NO: 02 6277 5809
SUBJECT: PUBLIC INTEREST DISCLOSURE BILL 2001
DATE: 12 October 2001
NO. OF PAGES (INC. THIS PAGE): 3



Level 3 Terrica Place
 140 Creek Street
 (Cnr Adelaide & Creek)
 Brisbane Qld 4000

PO Box 137
 Brisbane Albert Street
 Qld 4002

Telephone
 (07) 3360 6060


Facsimile
 (07) 3360 6333

Toll Free
 1800 061 611

Email
 mailbox@cjc.qld.gov.au

MESSAGE:

Please find following the Queensland Criminal Justice Commission's Submission relating to the Public Interest Disclosure Bill 2001.


 Anita Herzig
 Legal Officer
 Office of General Counsel



IF YOU DO NOT RECEIVE ALL THE PAGES OR IF THE TEXT IS NOT LEGIBLE PLEASE CONTACT (07) 3360 6060 IMMEDIATELY.

The information the subject of this transmission is confidential and is privileged against disclosure except to and for the use of the addressee for the purposes of the Commission and the *Criminal Justice Act 1989*.

If the information contained in this transmission becomes the subject of any request under Freedom of Information Legislation, consultation should be undertaken with this Commission.

If you are not the addressee, please ensure that this confidentiality and privilege is maintained by not disclosing or using the information in any manner and immediately notify the Commission on the above number or 1800 061611 to arrange the return of the information.

Your Reference: Public Interest Disclosure Bill 2001
Our Reference: AH
Contact Officer: A M Herzig



12 October 2001

Ms Helen Donaldson
Secretary
Finance and Public Administration Legislation Committee
Parliament House
CANBERRA ACT 2600

Dear Ms Donaldson

RE: PUBLIC INTEREST DISCLOSURE BILL 2001

I refer to your letter of 21 September 2001 inviting the Criminal Justice Commission to make a submission with respect to the *Public Interest Disclosure Bill 2001*, a private member's bill referred to the Senate on 8 August 2001.

The Commission is supportive of whistleblowers protection legislation in Queensland, and is an appropriate entity to which public interest disclosures may be made, or in certain circumstances must be made, for example, where conduct complained of may amount to misconduct or official misconduct. Under the Queensland legislation, the Commission has power to act in proceedings before the Industrial Commission or the Supreme Court on behalf of a person who has made a disclosure and has suffered a reprisal. In addition, the Commission seeks to promote a positive organisational response towards whistleblowers from all levels of management in the public sector.

As such, the Commission supports moves by the Commonwealth to introduce legislation that aims to establish procedures to facilitate the making of a public interest disclosure, protect those who make such disclosures from reprisal and provide remedies for those who have suffered detriment as a result of making a disclosure.

The Bill sets out a clear procedure by which proper authorities, upon receiving a public interest disclosure, must investigate matters, or refer them to other agencies if appropriate. The requirement that an agency must report on the status of investigations to those making disclosures or to referring agencies, and must also include information about public interest disclosures in the agency's annual reports, are important methods by which agencies can establish openness and accountability.

While procedures discussed above help to show the public that action is taken in relation to public interest disclosures, it is satisfying to note that the Bill also makes it a statutory requirement that an agency, once satisfied that disclosable conduct is established, take action to prevent a reprisal or the continuation of the conduct complained of, and to discipline any

Level 3 Terrica Place
140 Creek Street
(Cnr Adelaide & Creek)
Brisbane Qld 4000

PO Box 137
Brisbane Albert Street
Qld Australia 4002

Telephone
(07) 3360 6060

Facsimile
(07) 3360 6333

Toll Free
1800 061 611

Email
mailbox@cjcc.qld.gov.au

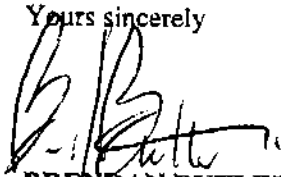
person responsible for the conduct or reprisal. This positive duty on agencies will help to ensure that those who become aware of disclosable conduct can be confident that if disclosed, the matter will not only be investigated, but must be actioned if proven.

The Commission is pleased to note the important protections proposed in the Bill for those making public interest disclosures, namely assistance to those making such disclosures in s23, ability to apply for relocation in s24 and limitation of liability in s32, and is of the view that these would help to engender confidence in those needing the remedies the Act will provide. The offence provisions relating to those who engage in unlawful reprisals, and the specific provisions relating to damages in tort and injunctions should serve as useful deterrents to those who seek to punish persons for disclosures made. The wider public interest is also served via the provisions relating to frivolous and vexatious complaints, false and misleading information provided as a public interest disclosure and confidentiality of information.

Public interest disclosures are an important means by which maladministration, unlawful conduct and wastage of public funds, among other things, can be exposed and remedied throughout the public sector, and the establishment of legislation to facilitate this in the Commonwealth public sector is a positive step.

Thank you for the opportunity to make a submission in relation to the Bill.

Yours sincerely



BRENDAN BUTLER SC
Chairperson