

INQUIRY INTO PROPOSED AMENDMENTS TO THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 1988

Organisation: NSW Crime Commission
Name: Mr Phillip Bradley
Position: Commissioner
Telephone:
Date received: 15/04/2009



NEW SOUTH WALES
Crime Commission

9 April 2009



Mr F Terenzini MP
Chair
Parliament of New South Wales
Committee on the Independent
Commission Against Corruption
Macquarie Street
SYDNEY NSW 2000

Dear Mr Terenzini

**RE: Proposed Amendments to the
Independent Commission Against Corruption Act 1988**

I refer to your letter of 6 March 2009 and apologise for the delay in replying.

In talking to your Mr Burgess, I understand that you are particularly interested in the use of evidence from ICAC hearings in proceedings under the *Criminal Assets Recovery Act 1991* which is administered by this Commission.

While there are not a large number of matters from ICAC dealt with under the *CAR Act*, the incidence and value of those cases appears to be increasing. Corrupt conduct is usually entered into for profit and the *CAR Act* is a useful mechanism for recovering the illicit proceeds of such conduct.

Of necessity, ICAC examines sworn witnesses closely as to the source of corrupt receipts, such as bribes. This process is an effective way of gathering the evidence to support the case for recovering ill-gotten gains. The *CAR Act* itself recognises that persons should be compellable to answer such questions, though in a different forum. Defendants do not incur a criminal liability as a consequence.

Civil suits under the *CAR Act* are concerned with recovery, on behalf of the public, of assets which people received illegally. They are not concerned with punishment or deprivation of liberty. For the Crime Commission, as plaintiff in a *CAR Act* prosecution to have to re-examine people in the Supreme Court as to the same matters, would be inefficient.

I also agree that the ICAC should have a specific function of gathering admissible evidence, as is the case with this Commission.

I hope this assists.

Yours sincerely



P Bradley
Commissioner