

Committee Secretary,
House of Representatives Standing Committee
on Legal and Constitutional Affairs,
PARLIAMENT HOUSE,
Canberra, A.C.T. 2600

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BY: *Gillian Gould*

Dear Sir/Madam,

This is a submission offered to the committee in reference to its current enquiry into Crime in the Community. My submission addresses the following two aspects of the Committee's enquiry:

- (a) the importance of the role played by police in preventing and controlling crime
- (b) the impact on victims of crime

On 7 April 1981 the Minister of Administrative Services wrote a letter to the Commissioner of the Australian Federal Police asking about the possible delays in the appointment of police officers who did not have Australian citizenship. I did not know, and did not suspect, that this letter would bring about the end of my employment in the Australian Public Service in exchange for compensation for the inappropriate behaviour of senior officials of the Department. This event occurred because in actioning the Minister's enquiry I discovered that a mistake had been made in a Parliamentary Question asked of a previous Minister on the same subject. When I included that information in the Ministerial brief that I was preparing, I was verbally instructed by the Chief Executive Officer of the Office of the Australian Federal Police to omit any reference to the inaccurate previous answer. I immediately made a written record of the intended action, and strongly recommended that the information be given to the Minister, and that recommendation was accepted and acted upon, even if reluctantly. Its consequence was that the CEO accused me of a lack of loyalty, and I became determined to seek competent recompense for an unjust and unfounded accusation. After initial scepticism, the Commonwealth agreed that not only had I made a competent claim for compensation but also that it was at fault for permitting the behaviour that I had brought to notice. In consequence, my compensation payments were increased by a component that admitted Commonwealth culpability.

For the record, the inaccurate Parliamentary Question was House of Representatives Question Number 6216 of 1980, asked by Dr Klugman.

While I had been fully prepared for, and intent upon pursuing litigation, this became unnecessary and unwarranted when the Commonwealth accepted my claim in full. However, between the making of that written agreement in May 1983, and May 1988,

the agreement that the Commonwealth had made was varied three times, each time in a way that was adverse to me, and a repudiation of the compensation that had been promised in that written agreement. The last variation, brought about by the passing of what is now the Safety, Rehabilitation and Compensation Act, contained a particularly harsh provision which reduced my pension by about \$7000 a year when I reached age 65 through a decision to reduce the compensation component at the normal retirement age.

On 31 May 1988, as Leader of the National Party, Ian Sinclair sent me a letter which expressed the concern of the Coalition Parties at aspects of the SRC Act. He had this to say:

Our concern relates to the fact that as an employer the Government intends to make fundamental changes to the legal basis of the compensatory rehabilitation of its invalided employees. In particular, we cannot support two key aspects of the proposals which would see the abolition of common law rights for all Commonwealth public servants and a substantial reduction in benefits for "former" Commonwealth employees who are now permanently invalided.

The retrospective nature of the Bill is also opposed by the Opposition. The proposed legislation alters quite drastically the rights of "former employees" discharged from Commonwealth employment because of injury or disease suffered as a result of that employment for which the Commonwealth has already accepted liability and has agreed by law (1971 Act) to compensate accordingly.

Basically, I found that I was dealing with a Parliament that maintained that in concluding a written agreement in 1983 I had consented to retirement conditions that were not specified until May 1988.

I remark that these events took place against a background that called for the administrative support of a police force. The accusation of a lack of loyalty to which I have referred was particularly unacceptable in the context of a police organisation that had more to lose than most from a perception that it had failed to act in an honest, competent and open way. It was even more unacceptable in the context of my personal history. As a policeman, my father had become the target of an intense recruiting campaign during the Second World War to obtain recruits for service in Bomber Command. When he was killed, I was sent to a police orphanage that followed the practice of the day in dressing me in a uniform that revealed me not just as an orphan but as the son of a dead policeman. It was an uncomfortable experience with few advantages. However, one advantage was a sound instinct for the kind of behaviour that was called for in the support of a police administration. I had not expected to find that it was not possible to work with competence and integrity in the Headquarters of a police force.

The approach taken by the people responsible for the legislation was in marked contrast to that of the coalition parties. In its "Commonwealth Employees' Compensation Reforms" paper 0095r of 16 July 1987, the Government put its position in the following terms:

The recently announced changes to the Commonwealth employees' compensation system will provide a significant number of improvements to the benefits available to employees, combining cost-containment with equity. They replace a confusing mixture of benefits from various sources with a simple no-fault system providing improved long and short term compensation benefits.

This approach was augmented by a joint press release issued by Minister for Social Security, Brian Howe and Minister for Finance, Peter Walsh on 2 April 1987, (BLH25/87). It made the following claim:

The result is a new system, which minimises the human and financial costs of work-related injury and disease.

The new system focuses in a positive way on all aspects of the short and long term needs of an employee incapacitated or disabled in compensable circumstances.

As a result of the initiatives referred to above, my pension was frozen at its 1988 level until May 2002, when it was reduced by about \$7000 a year, as mentioned earlier. It resulted in a steady decrease in my standard of living. The final reduction was applied a few weeks after I had returned from my mother's funeral in Britain, which I had attended while still partly convalescent from an operation to treat prostate cancer, which my surgeon had predicted for many months would prove to be fatal. In this context, I am not convinced that the arrangements made in 1988 can properly and convincingly be described as being an improvement on the agreement that was replaced.

I have mentioned these events because I am as convinced today as I was twenty years ago that the demands of competence and integrity required that I behave in the way that I have described. I mention them now to the Committee because the demand for integrity and competence is integral to the proper functioning of a police force. What I have experienced I believe can only inhibit and hinder the task of policing if members keep in mind the adverse consequences in my life which arose from doing what I was bound to do.

As to victims of crime, I have in mind particularly the present situation in the A.C.T. where most victims of crime face a victim support system which expressly forbids the consideration of pain and suffering as a factor in assessing compensation for criminal injury. When the A.C.T. Government was moving to the enactment of this legislation

on 9 December 1999, it asked for submissions on the intended legislation in a newspaper advertisement in the *Canberra Times* on 30 January 1999. Ironically, but perhaps appropriately, it appeared on the same page as an article headed "When violence suddenly punches us in the face" which reported an assault in a car park when a handbag was snatched and its owner punched in the face, resulting in a Christmas with a black eye and five facial stitches.

Since the advertisement advised that oral submissions would be accepted, I telephoned to say that I hoped significant notice would be taken of Criminal Injury Compensation Case Number 14/1984 which determined the compensation payable to Milica Rasovic. The claimant was the subject of three hearings on 18 July 1984, 18 September 1984, and 5 June 1986. Her injuries comprised the amputation of both her legs after being shot in a shotgun attack by her husband. Since legislation at the time limited compensation to \$20000, the judge ruled that there were two separate criminal acts in the two blasts of the shotgun, and awarded the limit total of \$40000. This proved to be a precedent which did not continue through amending legislation reaffirming a \$20000 maximum under all circumstances. Her 1986 appearance turned on psychological injury. Memory tells me that her by now convicted and imprisoned husband was issuing threats from jail that he would cut out her tongue and drink her blood. However, no further victim payment was made to her.

As a result of my telephone call, I was asked to make a written submission, and did so. I was and am surprised that I was the only person in the A.C.T. to make an individual submission. The Assembly sub-Committee that considered the Government's intentions made a number of recommendations that were not consistent with the Government's intentions. But the legislation came to be passed because for reasons that are not a matter of public record the Chairman of the sub-Committee decided to depart from the sub-Committee recommendations in favour of those required by the Government.

There are a number of inconsistencies and inequities that I could mention when I contemplate the imposition of a financial penalty on me that I doubt that any Australian court of law would wish to impose, particularly in the circumstances that I have described. However, for the moment I restrict my remarks to what I look on as the most unjust and inappropriate reward of compensation that I can think of.

As a result of the death on 27 April 2001 of 17661 Sergeant R.F. "Bob" Randall, formerly of the Army Medical Corps, his widow became entitled to the payment of a war widow's pension under the Veterans' Affairs Act. Her entitlement was unaffected by being brought about by her killing of her husband and her serving of a custodial sentence as a result of the death. A Government which wanted to save money is now taking money from me in part to reward that behaviour. Further comment is superfluous.

Yours faithfully,



(Mr.) (H.G. Collis)