

CRIME AND MISCONDUCT COMMISSION

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**IN-CONFIDENCE**

4 November 2013

Mrs Liz Cunningham MP  
Chair  
Parliamentary Crime and Misconduct Committee  
Parliament House  
George Street  
**BRISBANE QLD 4000**

Dear Mrs Cunningham

**RE: CMC/PCMC PUBLIC HEARING**

I refer to my telephone call to you at about 2.30pm last Friday, 2 November 2013. I confirm that the Part time Commissioners brought to my attention just prior to that time that they had been advised one of my answers to the PCMC public hearing last Friday morning had been inaccurate. The answer in issue relates to the question by the Leader of the Opposition about whether I had had any contact from the Government prior to my writing the opinion piece which was published in the Courier Mail on 31 October 2013.

The information provided to the Commissioners was that the CMC Media Unit had received a phone call from Mr Lee Anderson from the Government Media Unit on the afternoon of Tuesday 22 October 2013 to ask if the CMC was going to do any media interviews on the crime work of the CMC or the 'bikie' legislation.

I asked the Commissioners what information they referred to as I did not recall it. I was then told by Commissioner Philip Nase that the CMC's senior media adviser had come to my office and told me of the phone call. I suddenly remembered him coming to me about such a call but, despite then recalling the brief conversation, I thought I had been a little dismissive of the suggestion. They seemed to confirm my response was of that nature.

As I said to you when I called on Friday afternoon, I did not honestly have any recollection of the conversation at the time of answering the question. The question was "whether anyone from Government" had contacted me before I wrote the article. The question from the Leader of the Opposition, in the words and tone used, conjured up in my mind any direct political contact with me personally, and I took that as a direct reference to the Premier or the Attorney General. I certainly have never had any pressure from the Premier or the Attorney General, or anyone else from Government for that matter, trying to pressure me about any issue. Consequently, at the time of answering the question, my recollection was that I had not had any contact with

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anyone which could have influenced my decision to write the article I did, either the content of it or in the timing of the article.

I have now had an opportunity to ask the CMC's senior media adviser, about the detail of the contact from the Government Media Unit. His account is informative and he clearly keeps an effective system as the information outlined below reveals.

The Senior Media Adviser has given me a verbal account and also provided me with some dot points of his recollection and understanding of the matter. He says that at 4.37pm on Tuesday 22 October last, Mr Lee Anderson of the Government Media Unit rang the CMC media unit. He spoke with the junior media officer and said he had a thought to pass on to me about whether the CMC was considering doing any media on the bikie issue. The media officer advised Mr Anderson she would have the Senior Media Adviser call back. The following sequence then followed:

- ◆ Sometime after 4.37pm, both CMC media staff attempted to meet with me but I was unavailable as I was in another meeting.
- ◆ The CMC media staff then briefed other key CMC management on the call from Mr Anderson.
- ◆ Sometime after this briefing on the Tuesday afternoon, the media officers came to meet with me in my office. The Acting Assistant Commissioner Crime, Mr Michael Scott, joined us later in the meeting.
- ◆ They advised me of the call from Mr Anderson.
- ◆ The senior media adviser advised me during this meeting that the CMC had already received several requests for interviews and as such the CMC was already considering if it was appropriate to conduct any interviews. In this meeting, it was common ground that the CMC could only do media on the broader crime portfolio, the hearings process and any new powers such as the closed coercive hearings for intelligence in a general sense as the CMC could not mention specifics as it may prejudice future hearings or court proceedings.
- ◆ I was reminded that I had said words to the effect that "we would not be spooked" by the phone call from Mr Anderson as we were already discussing internally the prospect of doing broader media on this issue.
- ◆ A decision was made by me and the media staff that the senior media adviser would call Mr Anderson the following morning (Wed 23/10/13) to inform him that the CMC was already considering what media might be possible without impacting on CMC operations. The senior media adviser was to make this call before he flew to Newcastle on Wednesday morning on private business.
- ◆ The senior media adviser did call Mr Anderson from the Government Media Unit on Wednesday morning and outlined the restrictions on the CMC due to operational matters and explained how the CMC had already considered its position on this issue because it had previously received several media interview requests and how it might undertake media in the future, but only in a generic sense so the CMC does not prejudice any operational matters.
- ◆ I am advised by the senior media adviser Mr Anderson understood the CMC's position and the CMC Media Unit had no further contact with him.

My discussions with the media adviser at that time and subsequently, shows the CMC was already actively considering doing some general media on the broader issue of crime and the new hearing powers before the call from Mr Anderson.

What followed was then mostly of my own actions as, unfortunately, the media adviser was then out of town until the afternoon (31 October 2013) before the PCMC Hearings as [REDACTED]

[REDACTED]. Due to his absence, I had discussed with the media officer and Acting Assistant Commissioner Crime Mr Michael Scott to determine which one of us should do the media on the broader impacts of the legislation on the CMC and how the CMC contributes to the broader law enforcement response.

Mr Scott was willing to do the media but as the press seemed unbalanced on the new laws relating to the Criminal Motor Cycle Gangs (CMGs), I said I wished to do the first tranche. This was because I was concerned with the media portrayal of the new laws as being a contest between lawyers and judges versus politicians, and that this excluded the other part of the criminal justice system relevant to CMGs, that is, the "rest of society" or the community. I regarded this as being an idiosyncratic perspective only and ignored the community. As a law professor, I regularly taught on this area of the criminal law and the content of my article was based heavily on my content knowledge of the criminal justice system.

In the subsequent 2 or 3 days, the media became more intense. There were a couple of other discussions in that couple of days between the junior media officer and/or Mr Scott and myself and there was a suggestion that Mr Scott might perhaps best deal with that. I then decided to start preparing notes for a media interview on about Friday 26 October 2013 about which I thought it was important to include in a media release. It ultimately became a list of issues and paragraphs to describe the story I wished to be printed. That was completed over the weekend 26-27 October, as the days were always busy. That I did, and then contacted a journalist on Monday 28 October to suggest I had something to add to the debate. I was invited to have an interview with the journalist that afternoon. I was surprised that I was quoted the next day in the Courier Mail, but mainly about whether police were linked to CMGs on the Gold Coast. The main story which I thought was important was not printed. As the journalist did not seem to take many notes, I emailed him the written notes I had made, to the email address I found by google search. I called him the next day to check that he had received it, which he confirmed. The following day, the written work which I had emailed appeared as an exclusive on the front page under my name.

I sincerely regret that this error in my answer has occurred. It is of significant embarrassment to me that I did not recollect the matter. It was a short conversation and as I had dismissed the suggestion, I had obviously dismissed it from my consciousness and the fact that my concept of the Leader of the Opposition's question was contact from the Premier or Attorney General, it certainly did not enliven my mind to the brief matter which was raised with me late one afternoon by the Commission's media unit staff and which was no longer in my consciousness. I did not recall it again until the detail of it was raised with me last Friday afternoon. Until that time, I did not associate my article until mention to me of an approach which had been made to the media adviser of the Commission.

In the embarrassment on Friday afternoon, I indicated to you that perhaps I should consider standing down (particularly in light of the call by the Leader of the Opposition that morning for me to do so because of the media article). However, on reviewing the facts provided by the media adviser, I note that the call from the Government Media Unit referred to the broad area of crime in the CMC and its hearings powers to deal with CMGs. My article was not about that topic – my opinion piece was motivated by and dealt with, the imbalance in the media reports about the criminal justice system and the implication that citizens should in some way be compelled to believe that only the lawyers can have the correct solution on this matter. Distracting the public from that by politically motivated and emotive issues treats the public unfairly.

My article was not politically motivated. It was a statement of fact about CMGs and about the role of the Criminal Justice System. I strongly support the Courts independent discretion as to conduct of trials and sentencing. But it is the Government's role to legislate. As I said in my opinion piece in the Courier Mail, one of the main issues is to keep in mind that CMGs are a serious threat. As I said to the Committee last Friday, CMGs are really criminal cartels. The Government was being responsible in

legislating. The CMC has a direct interest in that. I, as Acting Chairperson, regarded that I had relevant and important information about that issue which was obviously a strongly divided one.

While I regret the omission I made and apologise for it, I think the above explanation shows sequentially what occurred and that the CMC was already planning its own media to do with CMC hearing powers for dealing with criminal motor cycle gangs. In any event, I was not captured by the phone call from the Government media Unit and nor did I deal with the topic of interest suggested by the Government Media Unit. I look forward to hearing of your consideration of this report and explanation.

Yours sincerely



Dr Ken Levy RFD  
Acting Chairperson