

**Submission  
No 2**

**REPUTATIONAL IMPACT ON AN INDIVIDUAL BEING ADVERSELY  
NAMED IN THE ICAC'S INVESTIGATIONS**

**Name:** Mr Joseph Scimone

**Date Received:** 4 June 2020

## Committee Submission

### Inquiry into the Reputational Impact on an individual being adversely named in the ICAC's investigations

1. In **2008**, the NSW ICAC conducted an inquiry into Wollongong City Council and in its published report, recommended that the NSW DPP prosecute some 11 individuals, including myself. After referral to the DPP, the *"DPP advised (the NSW ICAC) that there was insufficient evidence to prosecute..."* [anyone for the majority of its findings]
2. In my case, there were 2 adverse findings and **in 2010**, the DPP also responded to the ICAC stating that there was *"...insufficient evidence to prosecute..."*. Most people would conclude from that then a person would be seen as *'not guilty'*.
3. In my situation, application of the Cunneen case in the High Court indicated that 1 (of the 2) findings was illegal and outside of the ICAC's powers. The NSW government then retrospectively validated all of the ICAC's findings by legislative amendment. Surely, this action was unjust.
4. Whilst the ICAC creates a 'media event' during its hearings and when it publishes its findings, to this day, over 12 years since the inquiry, the **NSW ICAC has failed to advise me of the DPP advice/response.**
5. This reinforces the view that the ICAC is only interested in naming and shaming. Surely advising individuals of the DPP's response to the ICAC findings would be an element of a fair process.
6. The ICAC operates within its own rules which are in conflict with the state and national rules of evidence and criminal procedure.
7. Subsequent to the ICAC Inquiry, I undertook a law degree at the University of New South Wales, 2009-2012. Whilst 5 senior legal practitioners in Wollongong endorsed my application for admission as a lawyer, the NSW Legal Profession Board **refused** my application for admission as a lawyer due to the ICAC findings. I have degrees in Civil Engineering, Business Management and Law yet I have been unable to find full-time employment since the 2008 Inquiry due to the burden of the ICAC.
8. For all those individuals who have had adverse findings against them and where the DPP decides not to prosecute, all of these individuals are left with the

remnants of the ICAC conclusions. In the Court of Public Opinion they remain guilty and unable to take any action to correct the record.

9. The ICAC takes no action to correct or repair the damage it has caused to individual people.
10. I wonder why after receiving advice from the DPP that the ICAC, as a matter of course, fails to notify individuals or the media, that the matter is closed and that no further action is to be taken.
11. It operates outside of the rule of law and its procedures do not comply with the country's legal systems and denies any presumption of innocence in its systems and processes.
12. It is my view that:
  - a. The ICAC's legal framework needs to be altered to comply with state legal system, procedures, etc;
  - b. ICAC sessions must be held in camera and its reports/conclusions should only become public if and when criminal charges are laid; and
  - c. compensation should be paid to those that have suffered through its 'public hearings' especially if no court action ensues.
13. The ICAC draws conclusions, destroys lives and reputations yet takes no action to remedy the effects of its decision when the decisions are wrong.
14. The ICAC's findings, which were dismissed by the NSW DPP, have ruined my life and any potential for meaningful work in keeping with my qualifications.
15. No commensurate action has been taken by the ICAC to correct the record; there is no opportunity or avenue available to me to correct the record.
16. I am available to discuss this.

Joseph Scimone

[REDACTED]

[REDACTED]