

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

**Name:** Name suppressed

**Date Received:** 28 July 2020

Partially  
Confidential

28/07/20

Ms Tanya Davies MP  
Chair - ICAC Committee

cc: Ms Jessica Falvey

Re: **Inquiry into Reputational impact on an individual being adversely named in the ICAC's investigations:**

With regard to your:

***Terms of Reference – with particular reference to:***

- a. whether the existing safeguards and remedies, and how they are being used, are adequate, and***
- b. whether additional safeguards and remedies are needed, and***
- c. whether an exoneration protocol should be developed to deal with reputational impact, and***
- d. relevant practices in other jurisdictions, and***
- e. any other related matters.***

I table the following:

As far as I am aware - I believe I am the only person who has successfully had a complaint under S.57B of the *ICAC Act* upheld by the Inspector of ICAC. My complaint focused on an unreasonable invasion of my privacy and the Acting Inspector concluded <sup>1</sup>

*"If one reduces (my) [REDACTED] complaints to the Inspector to their simplest terms the intrusion into (my) [REDACTED] privacy becomes bleedingly obvious, and bleedingly unnecessary."*

I would like to assist the Inquiry so that no-one else goes through the same pain, loss and suffering I have experienced at the hands of ICAC.

I note I am still awaiting redress for the maladministration caused by ICAC some 6.5 years ago – but more specifics about that later.

### **Background re: Operation Dewar (Public Inquiry)**

As a 'whistle-blower', I voluntarily disclosed information to ICAC in May 2013 <sup>2</sup> in relation to information / activities I came across in my time as CFO at the NSW State Emergency Service (SES). Also in May, then Deputy Commissioner Ms Tara McCarthy was sacked from her employment and she made complaints to ICAC about information / activities she came across in her time at the NSW SES.

On 06/09/13 ICAC raided the NSW SES headquarters in Wollongong. Allegations of serious misconduct and corruption involving Mr Kear (Commissioner) and Mr Pearce (Deputy Commissioner) were detailed to staff. I was asked to assist in providing evidence to ICAC and subpoenaed to attend a compulsory hearing with Mr David Ipp AO QC (then ICAC Commissioner) on 01/11/13.

On 07/11/13 ICAC released a media statement of a public inquiry (Operation Dewar) into NSW SES. I was not listed as a witness and/or person of interest. I attended the first day of the public inquiry on 03/12/13 in Sydney and was very surprised to see in numerous documents and evidence in ICAC Exhibits my name and other material clearly invading my privacy.

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<sup>1</sup> Office of Inspector of ICAC - Operation Dewar Report: [REDACTED] Complaint [REDACTED] Conclusions & Recommendation P298 (Pg. 74)

<sup>2</sup> [REDACTED] PID to ICAC (17/05/13)

I read through the ICAC public Exhibits the first night and there were 41 documents containing over 181 mentions of my name and personal details involving me. I note that those same documents are still on ICAC's website over 6.5 years later even though the Inspector of ICAC – Mr John Nicholson SC requested that they be removed.<sup>3</sup>

I wrote to ICAC on the first evening of the hearing<sup>4</sup> complaining of the invasion to my privacy. I said

*"I sat and listened to statements being made at the public hearing about me today - I was wondering - what right of reply do I have to them?"*

I added

*"I believe that [REDACTED] made some significant comments that were not factual and were misrepresenting the truth. I ask that the Commissioner / ICAC take same into consideration and could you advise me whether or not the following can be tabled? I believe that they are all a slight on my character and integrity"*

I was appalled particularly so when my name in evidence kept coming up time and time again and I had no legal representation to protect my rights.

I did not receive an immediate reply from ICAC.

I attended all four days of the public inquiry. Throughout virtually every session I felt my name and reputation were being ruined and I could do nothing except listen to same.

To give an example, on the very first day in the public inquiry - the witness [REDACTED] had this to say about me in her evidence<sup>5</sup>

*"[REDACTED] had a significant (FBT) debt relating in his under-identification of private use (km)"*

I said to ICAC in my complaint [<sup>4</sup> above]

*"That is an incorrect statement. The facts are - I had a debt because I correctly recorded my actual private Km's being greater than my work Km's throughout the FBT year. My honesty in recording my Km's is the only reason why that debt is what it is. This has continually been misconstrued by [REDACTED] and others and the aspersions on my character are not fair."*

ICAC never addressed this issue.

[REDACTED] also said<sup>6</sup>

*"He [REDACTED] had made a comment to me that served as a flag I guess in relation to how he viewed overtime ... He said words to the effect of, "When I took this job it was a lot less than I used to earn, at least the SES has overtime."*

I was livid – I said to ICAC in my complaint [<sup>4</sup> above]

*"I said nothing of the sort. [REDACTED] has made a statement directly against my integrity and character with no evidence to back up her claims. I deny ever saying this or anything of the sort to her."*

ICAC never addressed this issue.

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<sup>3</sup> Office of Inspector of ICAC - Operation Dewar Report: [REDACTED] Complaint [REDACTED] Executive Summary – Recommendation 3 (Pg. ii)

<sup>4</sup> [REDACTED] right of reply request to ICAC (03/12/13)

<sup>5</sup> [REDACTED]  
<sup>6</sup> [REDACTED]

added in a discussion to the Commission centred on my work travel <sup>7</sup>

*“(was) taking his wife and children and he’d failed to declare that up front and there was potential for costs to be incurred on the agency in association with taking his family.”*

I complained again [<sup>4</sup> above]

*statement is not correct. I told at least 3 NSW SES staff that I intended to take my wife and family on a work trip with me – my first mind that I recall with them all together with me. I clearly indicated to at least 3 people that I would be paying for my wife/ kids and personal components of the trip. These 3 people were:*

*= my Personal Assistant / Admin. Officer who planned the specific work related portions of my trip. I planned all my personal components (I have clear evidence of this re: same)*

*= my Finance Manager*

*= Human Services Director”*

ICAC never addressed this issue.

That was not even the worst of the misrepresentations about me but my point remains. A witness at ICAC public hearings is automatically supplied Legal Counsel to protect their interests. As I was not a witness at the public hearing I had no Legal Counsel and no-one to protect my interests.

**recommendation = obviously in not all circumstances can someone’s rights and interests be protected at ICAC public inquiries - as one cannot predict what will come out of people’s mouths in evidence. However, when ICAC prepares Exhibits in advance of the public hearings - when there is clear evidence that such material could invade an individual’s privacy - ICAC should redact it and/or allow that person to be legally represented at an ICAC public inquiry to protect their interests. S.33 of the ICAC Act already allows for this.**

I am not legally qualified but I had a suspicion my rights were being violated at Operation Dewar. When I complained to ICAC on the first day of evidence – I was ignored. Two days later on the 05/12/13 I finally received a response to my complaint. Mr Paul Grainger - Acting ICAC Chief Inspector said <sup>8</sup>

*“As to your right of reply, no firm decision has been made yet, nor am I the decision maker in relation to that, but on face, there has been no direct allegation that you have engaged in corrupt conduct ventilated during the hearing. has provided her evidence.*

*I will again ask that consideration be given to your request”*

I never heard again from ICAC re: this issue

According to Mr Grainger, ‘ICAC’s Counsel Assisting ICAC’ was the person responsible as to whether my right of reply request should be considered – a clear breach of conflicts of interest in my opinion. [It remains very ironic to me that a key focus of Operation Dewar was about Conflicts of Interest]

Why should Counsel Assisting be the determining decision maker in that instance? Surely the Commissioner (or someone ‘independent’) should make that decision. It’s clearly not in Counsel Assisting’s interests to have someone questioning their key witness and/or their evidence.

**recommendation = I believe Counsel Assisting ICAC should be held to the same standards as any ICAC officer. I believe that there should be provisions under the ICAC Act where one can complain to the Office of the Inspector of ICAC with regard to maladministration by Counsel Assisting under S.57B of the ICAC Act.**

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<sup>7</sup> [REDACTED]

<sup>8</sup> ICAC response to [REDACTED] right of reply request to ICAC’ (05/12/13)



It has become more evident to me over time I am of the opinion there was no way that ICAC or Counsel Assisting were ever intending to allow me or my interests to be represented at the public inquiry. I believe that it was always their intention to "use me" and allow witnesses to slander my name, reputation and integrity so as to fit their case.

To support my claims, transcripts of evidence at the public inquiry show the following:

- There were seven sessions over four days. My name is mentioned in every session but one.
- My name is mentioned 330 times in the transcripts. It remains on public record today some 6.5 years later!

Mr Grainger also had this to say when I complained to ICAC [<sup>8</sup> above]

*"It was decided by the Commission that the focus of the Public Inquiry would be the circumstances surrounding the dismissal of Tara McCarthy and to that extent, the evidence in the majority, relates to the issues which were happening at the SES leading up to Ms McCarthy's dismissal.*

*The evidence contained in the brief and which has orally been led so far is focusing on Commissioner Kear's decision making around the dismissal of Ms McCarthy, and to a lesser extend how he dealt with similar matters (involving Mr Pearce). The material you provided to us was considered by Counsel Assisting but it was decided it is not required in the brief of evidence.*

*I suggest you read the transcript of the opening address by Counsel Assisting."*

**If ICAC were concerned only with Ms McCarthy, Mr Kear and Mr Pearce – why was my name and documents involving me used in ICAC evidence and Exhibits?**

I have gone through all the transcripts of Operation Dewar and they are summarised in the table below. Listed are the amount of times Mr Pearce and Ms McCarthy's names are mentioned versus the amount of times my name is mentioned. I have also added another witness for reference who was called and legally represented at the public hearing, Ms Lorna Grange-Calder.

Date	Time	Witness	# times transcript contains "Steve" "Pearce"	# times transcript contains "Tara" "McCarthy"	# times transcript contains [REDACTED]	# times transcript contains "Lorna" "Grange-Calder"
03/12/13	AM	Ms McCarthy	223	103	89	9
03/12/13	PM	Ms McCarthy / Mr Morrow / Ms Brus	90	45	48	60
04/12/13	AM	Ms McCarthy / Ms Grange-Calder etc.	52	39	47	18
04/12/13	PM	Mr Tree / Mr Head	1	-	-	-
05/12/13	AM	Mr Pearce	46	60	70	2
05/12/13	PM	Mr Kear	179	109	32	41
06/12/13	AM	Mr Kear	79	70	44	4
		<b>Total</b>	<b>670</b>	<b>426</b>	<b>330</b>	<b>134</b>

NB: I have highlighted in yellow the day that particular witness gave evidence – so it goes without saying their name would be mentioned numerous times during those sessions.

The following details emerge:

- In three of six sessions where our names are mentioned (ie: virtually half of the public inquiry) – I am mentioned more times than Ms McCarthy - yet I was not entitled to any legal representation?
- When Mr Pearce gave evidence (on 05/12/13) I am mentioned more times than Ms McCarthy - yet I was not entitled to any legal representation?
- Ms Grange-Calder was called to give evidence – her name was mentioned nearly 3x less than me - yet I was not entitled to any legal representation?

I am staggered by the above results – if the public inquiry was supposedly only about Messrs Kear, Pearce and McCarthy why am I mentioned so much?

**■ recommendation = if Counsel Assisting ICAC is going to discuss topics and present evidence / Exhibits involving a particular individual then that individual should be entitled to legal representation at the public inquiry to protect their interests.**

Counsel Assisting ICAC presented in Exhibits 1&2, 10 and 11; over 108 documents / pages of evidence involving me – yet didn't allow and/or tell me I could be represented at the hearing. Counsel Assisting knew in advance the evidence they were going to present yet still did nothing to protect my privacy.

The public slandering of me and my reputation got so bad that Commissioner Ipp on the last day of the inquiry finally made a comment as to the extent my name was being misrepresented.

In response to accusations made by ■ about me Commissioner Ipp intervened <sup>9</sup>

**■ ■ is making all kinds of allegations against ■ who's not here, who has not been called as a witness ... I do not regard it as fair that these allegations go into, or gone into any depth because ■ not here to, to answer them"**

Commissioner Ipp who presided over four days of the public inquiry finally acknowledged that it was unfair that someone commented about me not being there (or represented) to respond to allegations against my privacy. In my opinion, it was a case of too little too late, the damage had already been done but it was about to get much worse for me.

### **Operation Dewar (Submissions)**

I am aware that following any public inquiry, submissions are allowed to be made by vested interests before the Commissioner makes a decision and publishes a report on same.

Following the public inquiry, I wrote to Mr Grainger in January of 2014 to complain about how I was treated and asked for ICAC to accept my written submissions. <sup>10</sup> I specifically said

*"As you and Counsel are well aware my name was peppered throughout the transcripts / Exhibits in a derogatory sense - particularly from ■ and to date I have had no right of reply?"*

*With Exhibit 10 being submitted ■ and ■ Exhibit 11 on the 06/12/13 ie: the last day of the hearing - again I have had no right of reply to defend myself or evidence to that which was tabled. I have not seen the interim report but would the Commission allow me to see same? This would allow me a right of reply to it as other parties I believe have a right to respond to same by the end of this month?"*

Mr Grainger replied on the same day saying <sup>11</sup>

*"Counsel Assisting the Commission has completed his submissions. These submissions are the subject of a non publication order and have been distributed to those whom Counsel Assisting is submitting could have an adverse finding made against them. The submission are not distributed wider than that so you are not permitted to see or comment on the submission as you are not a person against whom and adverse finding is being contemplated."*

**■ recommendation = I am not legally qualified but I believe the ICAC Act should be amended to allow a person who has had their name, reputation and privacy vilified at a public inquiry a 'right of reply' with support from an Australian legal practitioner and to have that published in the report.**

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<sup>9</sup> ■

<sup>10</sup> ■ Operation Dewar - Submissions request to ICAC (13/01/14)

<sup>11</sup> ICAC response to ■ Operation Dewar - Submissions request to ICAC (13/01/14)



## Complaints to Office of the Inspector of ICAC upheld re: privacy breaches

In mid 2015 I lodged the first of several complaints to the Inspector of ICAC. In each complaint provided significant evidence and material to support my claims.

I was asked to attend three interviews to give oral evidence to the Inspector – they being:

- 12/01/16 with Mr Levine AO RFD QC
- 01/06/16 with Mr Nicholson SC
- 09/12/16 with Mr Nicholson SC

On [REDACTED] Mr Nicholson published a report pursuant to Sections 57B and 77A of the ICAC Act regarding *Operation Dewar*. While some of my complaints were dismissed, Mr Nicholson did find that the ICAC had committed maladministration in relation to an “unreasonable invasion”<sup>12</sup> of my privacy.

**As stated earlier, as far as I am aware, I am the only person who has had a complaint under S57B for maladministration against ICAC upheld.**

In the following Inspector of ICAC reports – no finding of maladministration against ICAC were sustained:

- *Operation Vesta - Kelly, Kazal & Brown complaints (June 2017)*
- *Operation Jasper - Atkinson complaint (April 2018)*
- *Operation Spicer - McCloy complaint (April 2018)*
- *Operation Acacia - NuCoal complaint (June 2018)*
- *Operation Dewar - Kear complaint (June 2018)*
- *Operation Jasper - McGuigan, Poole, Cascade, Mount Penny, Glendon complaints (June 2018)*
- *Operation Jasper & Credo - Brook complaint (November 2018)*
- *Australian Labor Party (NSW) - complaint (July 2019)*

The thrust of my complaint was a “David vs Goliath” scenario - me vs ICAC - regarding the personal and reputational impact of being named in an ICAC public inquiry even though I was not a person of interest. **The personal loss, suffering and reputational impact of same in my estimates, is well over \$1 million but to date I have received nothing, let alone an apology.**

The author of my report - Mr Nicholson stated<sup>13</sup>

***“While [REDACTED] was not called as a witness, his name and identity feature in the evidence in untested detail reflecting adversely upon matters personal to him including his reputation, his dignity, [REDACTED] and his privacy. This privacy intrusion continues into the Commission Report. The Operation Dewar Report mentions [REDACTED] about 33 times. Included in the Report is a paragraph, [REDACTED] detailing several untested hearsay statements by Ms McCarthy” (Emphasis added)***

As I said earlier on page 2 of this submission, I complained directly to ICAC about [REDACTED] false statements and claims. Rather than deal with same - ICAC and Counsel Assisting, completely ignored me – I believe because they did not want me to challenge their key witness. As a result, further claims and false allegations detrimental to my personal privacy, integrity and reputation were put on public record to which I had no right of reply.

Mr Nicholson added

***“[REDACTED] sense of the passages dedicated to him in the Report, unfairly and inaccurately intrude into his privacy, character and [REDACTED].”***

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<sup>12</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [REDACTED] Complaint Executive Summary – Recommendation 1 (Pg. ii)

<sup>13</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [REDACTED] Complaint Executive Summary (Pg. i)

Mr Nicholson concluded <sup>14</sup>

*“the Inspector does find that the Commission's flawed procedures, in which public interest criteria were considered, constituted maladministration resulting in an unreasonable invasions of [REDACTED] privacy, dignity and reputation.”*

He went on to say

***“it is difficult to understand why material adverse to [REDACTED] in the quantities supplied were necessary to the extent that occurred in and through a public inquiry; why it was necessary in the public interest for the imputations and material to remain continuously on the Commission's website, and why it was and still is necessary - in the public interest - for [REDACTED] identification to have been and to remain associated with that material, when his right to privacy screams for some saner solution.”*** (Emphasis added)

I want to emphasise that this was stated by the Inspector of ICAC back in 2016 nearly 3.5 years ago! Despite numerous attempts by me through various means over the years to have that material invading my privacy removed by ICAC – all my efforts have come to naught – despite deep mental, financial and associated scars. **No one knows the impact of the above on me – as put simply – no-one has bothered to ask!**

- Is it the arrogance of ICAC (ie: virtually no-one can make them do anything)?
- ‘Sore loser’ mentality perhaps?
- The possibility that they don't care or have any empathy as they are an organisation as opposed to an individual?
- What is it?

Only ICAC can answer those questions and in my opinion they should be asked to address them.

**[REDACTED] recommendation = it is my firm belief that ICAC should be forced to be held accountable for their “maladministration” and provide proper redress to me re: same. What's the use of the Inspector of ICAC finding “maladministration” against ICAC and having no consequences and/or redress? It is similar in my opinion for ICAC to make a finding of “corruption” and having no consequences and/or recommendations.**

**The NSW Ombudsman have published a document “Options for Redress” (2004) <sup>15</sup> regarding maladministration. I recommend there should be provisions in the ICAC Act under S.57C ‘Powers of Inspector’ if there is a finding of “maladministration” against ICAC – they should be forced to provide redress.**

Mr Nicholson made the following seven recommendations in his report <sup>16</sup>

- “1. It is recommended that the Commission issue an apology or statement of regret to [REDACTED] for unreasonable invasion of his privacy.***
- 2. An endorsement by the Parliamentary Joint Committee of a recommendation that the Commission issue an apology or statement of regret to [REDACTED] for the unreasonable invasion of his privacy.***
- 3. It is recommended that the Commission remove from the Operation Dewar material appearing on its internet website any material identifying [REDACTED] or that may lead to his identification.***
- 4. It is recommended the Parliamentary Joint Committee endorse a recommendation that the Commission remove from the Operation Dewar material appearing on its internet website any material that identifying [REDACTED], or that may lead to his identification.***

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<sup>14</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [REDACTED] Complaint  
[REDACTED] Executive Summary (Pg. ii)

<sup>15</sup> NSW Ombudsman: Options for Redress (2004)

<sup>16</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [REDACTED] Complaint  
[REDACTED] Executive Summary (Pg. ii & iii.)



5. It is recommended that the Commission place a notification on the Commission's website forthwith containing an explanatory note referring to the Inspector's report and recommendations herein and indicating whether or not the Commission has accepted and acted upon the recommendations.

6. It is recommended that the Parliamentary Joint Committee endorse a recommendation that the Commission place a notification on the Commission's website forthwith containing an explanatory note referring to the Inspectors report and recommendations herein and indicating whether or not the Commission has accepted and acted upon the recommendations.

7. That the Parliamentary Joint Committee recommend to the Parliament an amendment to s.31 (2) by the inclusion of a sub-clause (e) in the following terms:

*'Whether any adverse impact a person may experience arising from an internet site publishing information generated from the proposed public inquiry is outweighed by the public interest in such information being readily accessible to public through the internet site.'*

***I note, as far as I am aware none of the above recommendations have been enacted. This is despite the fact that they were made 3.5 years ago!***

Recommendations 1, 3 and 5 relate to ICAC itself. Recommendations 2, 4, 6 and 7 relate respectfully to your Parliamentary Joint Committee.

***My recommendation = I ask that you respond to the above recommendations as part of your Inquiry because as far as I am aware, they have not been endorsed and/or enacted.***

At least Mr Nicholson went some way to acknowledge the impact that ICAC's "unreasonable invasion" of my privacy had on me. He stated <sup>17</sup>

*"There is little doubt [redacted] sees himself as "collateral damage" of the public inquiry arising out of Operation Dewar. To the extent that he is a collateral damage victim - the damage was an unintended consequence of a decision to hold a public inquiry and decisions made and evidence tendered in the course of the public inquiry. That, of course, does not make the damage less real, the suffering more bearable, or the consequences less calamitous for him."*

*It is not beyond the realms of possibility that ... his sense of being a victim of injustice manifested time and time again in the past four years - particularly in terms of the intrusion into his privacy; a damaged personal character reputation, and his experience of real economic hardship as a consequence of lost employment opportunity."*

So what has anyone done to address the above? Absolutely nothing. Therein lies the problem.

I have suffered immeasurably through ICAC's abuse of me and my privacy.

I would like to note for the record the following pain, loss and suffering I have endured:

- Anxiety and depression that continues to this day [redacted] nearly eight years later. This condition was first diagnosed by a GP and later treated by clinical psychologist back in 2012 / 2013. This condition arose [redacted] based on clearly false & fabricated diary / file notes prepared by [redacted] [redacted] also illegally taped me without my knowledge linked to the above processes.

I presented clear evidence of the above alleged criminal activity by [redacted] to ICAC and the NSW Police - no consequences came of it as far as I am aware. This is despite the fact that Mr Nicholson stated <sup>18</sup> *"It should also be assumed, for the purposes of argument only, that the recording, if it occurred was illegal."*

<sup>17</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [redacted] Complaint  
[redacted] P3 (Pg. 1)

<sup>18</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [redacted] Complaint  
[redacted] P188 (Pg. 46)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I presented evidence to ICAC – nothing came of it. ICAC’s inaction affected my mental health.

- I attended all four days of ICAC’s public hearing in Operation Dewar. I had to sit and listen as one witness after another made allegations against me, denigrated my name, reputation and privacy and I could do nothing to stop it.

As previously disclosed, I complained to ICAC – nothing came of it. ICAC’s inaction further affected my mental health.

Mr Nicholson sensed the issue – he stated <sup>22</sup> “Given the ... allegations, namely those against [REDACTED] were being made in a public forum, and that he disputed the reasonableness of the allegations being made against him, it is little wonder [REDACTED] felt impotent, frustrated and angry at being unable to give denials to them and advance explanations why they were unreasonable in the same public forum contemporaneously with their being made.”

Mr Nicholson added <sup>23</sup> “It is worth noting evidence relied upon at the public inquiry to establish McCarthy’s beliefs [REDACTED] [REDACTED] ... never rose above hearsay or second hand hearsay. Indeed, there was no evidence that McCarthy ever spoke directly to [REDACTED] in respect of claimed adverse

<sup>19</sup> [REDACTED]

<sup>20</sup> Letter from ICAC (08/09/14)

<sup>21</sup> PSC NSW SES Inquiry – Briggs Report (May 2014)

<sup>22</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [REDACTED] Complaint  
[REDACTED] P15 (Pg. 4)

<sup>23</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [REDACTED] Complaint  
[REDACTED] P33 (Pg. 10)



information she had received about him. Any [REDACTED] she or other witnesses alleged against [REDACTED] never rose above a hearsay allegation that had never been conceded by him or proved before any tribunal, judicial or otherwise. [REDACTED]

- [REDACTED] You will recall earlier I approached ICAC to have a submission included in the Operation Dewar Report – I was ignored. Mr Nicholson conceded <sup>24</sup> “The argument advanced in this (Operation Dewar) report is he (I) was entitled to have the existence of his right to privacy considered, and if possible, protected. The further argument is that neither of these things happened”

I complained to ICAC – nothing came of it. ICAC’s continued inaction severely impacted my mental health.

I also knew that I faced an uncertain future because not only was my name mentioned throughout the public ICAC exhibits and transcripts but because I was now named in a public ICAC report even though I was not a ‘person of interest’. My name was also spread across the internet at the time being linked to ICAC and still exists there now some 6.5 years later.

One only has to do a Google search [REDACTED] and the following comes up:

[REDACTED] [Parliament of NSW - NSW Governmentwww.parliament.nsw.gov.au > files](http://www.parliament.nsw.gov.au/files)  
Dec 3, 2016 - Para 9. An Insight into [REDACTED] Dilemma. 3. 16. [REDACTED] Investigation into the SES- Operation Dewar. 4. 18. Complaints Made by [REDACTED]

[REDACTED] [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) > ... > Past investigations  
> 2014

[REDACTED] is mentioned in the [REDACTED] investigation report. [REDACTED]

[REDACTED] [ICACau.news.yahoo.com](http://ICACau.news.yahoo.com) > [REDACTED]  
Dec 2, 2013 - The NSW Independent Commission Against Corruption [REDACTED]  
[REDACTED] ...

[REDACTED] [Illawarra Mercury ...www.illawarramercury.com.au](http://www.illawarramercury.com.au) > News  
> Latest News  
Dec 3, 2013 - The [REDACTED] hearing heard that Ms McCarthy was dismissed from the ... [REDACTED]

[REDACTED] [Illawarra Mercury ...www.illawarramercury.com.au](http://www.illawarramercury.com.au) > News  
> Latest News  
Dec 4, 2013 - The [REDACTED] public inquiry is examining whether Mr Kear dismissed Ms ... [REDACTED]

[REDACTED] [ICAC - 9Newswww.9news.com.au](http://www.9news.com.au) > National  
Dec 3, 2013 - The NSW Independent Commission Against Corruption [REDACTED]  
[REDACTED]

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<sup>24</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [REDACTED] Complaint  
[REDACTED] P221 (Pg. 53)

The Operation Dewar ICAC report continues to follow me every day and exacerbates my mental anguish.

Remember all those examples above are as of today, imagine trying to search for a job when the following links are up on the internet about you <sup>25</sup>

[REDACTED] - Financial Review - News Store

[newsstore.fairfax.com.au/.../viewDocument.ac;...](http://newsstore.fairfax.com.au/.../viewDocument.ac;...)

Dec 4, 2013 - [REDACTED]

[PDF] 03-12-2013 Operation Dewar transcript pp. 00001-00060 ...

[www.icac.nsw.gov.au/.../](http://www.icac.nsw.gov.au/.../)

Dec 3, 2013 - [REDACTED]

[PDF] 03-12-2013 Operation Dewar transcript pp. 00061-00104 ...

[www.icac.nsw.gov.au/.../](http://www.icac.nsw.gov.au/.../)

Dec 3, 2013 - [REDACTED]

[PDF] 04-12-2013 Operation Dewar transcript pp. 00105-00153 ...

[www.icac.nsw.gov.au/.../](http://www.icac.nsw.gov.au/.../)

Dec 4, 2013 - [REDACTED]

Also, one should not forget TV coverage. Both CH7 and CH9 had this to say about me:

CH7: <sup>26</sup>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CH9 went onto add: <sup>27</sup>

[REDACTED]

I note that the above are still on CH7 and CH9 websites today.

- I had no alternative but to [REDACTED]  
[REDACTED] support my wife (who was studying) and two young children.

<sup>25</sup> [REDACTED] request to ICAC Inspector (16/07/15)

<sup>26</sup> [REDACTED]

<sup>27</sup> [REDACTED]



I had to dip into what little savings I had by withdrawing against my mortgage and even Inspector Nicholson acknowledged the issues I faced <sup>28</sup> *"A well-known consequence arising from adverse publicity coming out of the ICAC is loss of employment opportunity. The constant companion of lost employment opportunity is serious financial loss."*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- That being said, the abuse of my name and reputation did not stop. I attended the first day in the trial of *NSW DPP v Murray Kear (2016)*. The DPP in my opinion abused my 'privacy, dignity and reputation' in their evidence. Mr Goold acting for the defence also in my opinion abused my 'privacy, dignity and reputation'. But what could I do to object to it or stop it? Nothing – as I was not called by either party to give evidence.
- Magistrate Grogan in his decision<sup>29</sup>, also in my opinion abused my 'privacy, dignity and reputation'.

[REDACTED]

**My recommendation = it is my firm belief believe in any circumstance in which one has had their privacy breached by ICAC – the DPP should ensure that person's privacy should also be protected in a Court of Law. I ask that your Committee recommend that any public court documents and Magistrate Grogan's decision be redacted to protect my privacy.**

- [REDACTED]

[REDACTED]

**I ask that the Committee reflect on those facts for a moment.**

[REDACTED] ... Imagine the impact of the above on my family; my wife, [REDACTED] and two young children [REDACTED] ... Imagine saying to your kids time and time again – "sorry we can't take you on holidays because we can't afford it"

<sup>28</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – [REDACTED] Complaint  
[REDACTED] P274 (Pg. 69)

<sup>29</sup> NSW DPP v Murray Kear – Magistrate Grogan decision (16/03/16)

<sup>30</sup> [REDACTED]

I have to relay a story to you which goes to the heart of the issues I faced. One Christmas I was talking to my children – my eldest was 10 at the time:

*“Sorry dad can’t afford to buy you much this Christmas. I wish I could but I can’t – I’m so sorry”*

Without a word my son turned around and went upstairs to his bedroom. He returned to me a couple of minutes later when I was in the lounge room and handed me his piggy bank.

My son said words that still make me cry today, *“Dad – will this help you?”*

.....

Seeing my emotions my eight year old daughter went and got her piggy bank too and handed it to me.

.....

That’s the reality of what one faces and I firmly believe [REDACTED] [REDACTED] was directly attributable to being “abused” by ICAC and that appropriate financial redress should be given to me. As I stated earlier, ICAC was found by the Inspector of ICAC to have committed “maladministration” under the ICAC Act – by “unreasonably” invading my “*privacy, dignity and reputation*” – yet nothing has been done to address same.

The Committee should be very clear that I have not sat back and done nothing in an attempt to have the above [REDACTED] Nicholson recommendations enacted.

Below is a summary of my actions:

- [REDACTED] I attended an ICAC Committee Parliamentary meeting in which Mr Nicholson’s report concerning me was discussed. I note I was excluded from hearing the main contents of the discussions between Mr Nicholson and the Committee as it was held in a closed session.
- 13/04/17 <sup>31</sup> I wrote to then ICAC Committee Chair – Mr Tudehope asking for the Committee to enact Mr Nicholson’s recommendations. I specifically noted that I continued “*to suffer reputational, financial, emotional and psychological damage*”. Mr Tudehope did not address Mr Nicholson’s recommendations in his response (First time)
- 29/05/17 I wrote to Mr David Shoebridge MLC re: Mr Nicholson’s report. He referred me to Mr Jamie Parker (of your current Committee – see below)
- 29/06/17 I wrote to Mr Stephen Blanks – President NSW Council for Civil liberties re: Mr Nicholson’s report. We conversed over a period of time re: same.
- 27/09/17 <sup>32</sup> I wrote to ICAC Committee Chair – Mr Tudehope again asking for the Committee to enact Mr Nicholson’s recommendations. I specifically noted that I continued “*to suffer reputational, financial, emotional and psychological damage*”.
- 27/10/17 <sup>33</sup> I wrote to ICAC Committee Chair - Mr Tudehope noting that ICAC released it’s 2016/17 Annual Report some days earlier. I quoted the following:

*“On 20 December 2016, (then) Commissioner Blanch wrote to the Acting Inspector advising that he did not believe the Commission had acted in any way inappropriately in dealing with [REDACTED]”*  
*“A copy of the Commissioner’s letter was sent to the chair of the Parliamentary Committee”*

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<sup>31</sup> [REDACTED] letter to ICAC Parliamentary Committee (13/04/17)

<sup>32</sup> [REDACTED] letter to ICAC Parliamentary Committee (27/09/17)

<sup>33</sup> [REDACTED] letter to ICAC Parliamentary Committee (27/10/17)



I made it clear that ICAC had continued to refuse to enact the Inspector's recommendations (ten months after they were made). I asked again for the ICAC Committee to enact the ICAC Inspector's recommendations.

I received a response from Mr Tudehope on 14/11/17 <sup>34</sup> referring to my September and October letters to him. Mr Tudehope again did not address Mr Nicholson's recommendations in his response (Second time)

- 15/12/17 <sup>35</sup> I wrote to Mr Jamie Parker (following advice from Mr Shoebridge's office above) asking for him to write to the ICAC Committee to try and get them to enact Mr Nicholson's recommendations. To Mr Parker's credit, he did so.

On 08/06/18 I received a response via Mr Parker from Mr Tudehope who again did not address Mr Nicholson's recommendations in his response (Third time).

**■ recommendation = With respect to Mr Tudehope and the precious ICAC Committee – in my opinion I have been ignored. I believe I have been treated in much the same way ICAC has treated me. Ignore me and/or my issues and I will go away. Mr Nicholson is the only person to date in a position of influence that has somewhat acknowledged the reputational, financial, emotional and psychological damage that has occurred to me as a result of ICAC. Although clearly overdue, I ask that the current ICAC Committee give me the respect that I deserve and meet with me to discuss my matter. After-all the premise of this inquiry is the "reputational impact on an individual being adversely named in ICAC's investigations" the very issue I am dealing with.**

Mr Nicholson determined

*"There can be little doubt there has been an invasion of his (my) privacy" <sup>36</sup>*

*"this is a case where there has been interference with ■ privacy and attacks upon his honour and reputation in circumstances where the Commission has not even turned its mind to the issue. **The acts undertaken by the ICAC whereby that was achieved, were willed and deliberate acts.**"(Emphasis added) <sup>37</sup>*

Mr Nicholson deduced

*"ICAC failed to consider his (my) situation and the unintended consequence of its cavalier, if not arbitrary use of the power granted to it by the Parliament." <sup>38</sup>*

Mr Nicholson concluded

*"All in all, it is argued the case of an unreasonable invasion of ■ privacy is overwhelming." <sup>39</sup>*

I hope that your Committee will consider the above and that in doing so you give me the opportunity of expressing my claims in person. I look forward to hearing from you.

Yours sincerely,

■

<sup>34</sup> ICAC Parliamentary Committee letter to ■ (14/11/17)

<sup>35</sup> ■ letter to Jamie Parker (15/12/17)

<sup>36</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – ■ Complaint  
■ P221 (Pg. 53)

<sup>37</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – ■ Complaint  
■ P237 (Pg. 57)

<sup>38</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – ■ Complaint  
■ P273 (Pg. 68)

<sup>39</sup> Office of Inspector of ICAC - Operation Dewar Report - Pursuant to Sections 57B & 77A – ■ Complaint  
■ P281 (Pg. 70)