

**Submission
No 35**

**FIRST REVIEW OF THE WORKERS COMPENSATION
SCHEME**

Name: Mr Andrew Collins

Date received: 29 September 2016

The Law and Justice committee

NSW Parliament.

Parliamentary Inquiry into Workers Compensation

I was diagnosed with Chronic Post Traumatic Stress Disorder and Major Depression following 15 years of policing and medically discharged from the NSW Police in 2000.

*As you are aware police are exempt from the changes to the NSW Workers Compensation act enacted by the Government. **THAT IS,** until that officer retrains or rehabilitates and gains employment with another employer. If that officer then suffers a recurrence or aggravation of the 'police' injury the insurance industry believes they are no longer exempt from the changes to the act.*

I have sought advice from the minister and have attached written advice from the minister and workcover re this issue and they advise that a police officer who is reinjured is still exempt. The insurance company will not accept this advice. This would appear to be an issue that needs to be addressed and a Police Injury should be exempt from the act regardless of whether the officer gains other employment and aggravates that injury.

I suffered a recurrence of my police injury whilst self employed and working approximately 15 hours per week. I am currently receiving workers compensation payments from CGU insurance.

I last worked in 2010 and all available medical evidence is that I will never be gainfully employed again with currently no capacity for employment in any form. Yet my Workers Compensation payments will cease next year due to the 5 year limitation on

payments. Due to my functioning I do not qualify for the 15% whole person impairment as I can still wash and feed myself etc.

1. The impairment scale is unfair and should be amended to reflect a person's capacity to work, not their level of functioning.

Since being covered by CGU workers compensation I have repeatedly been sent to so called 'independent medical examinations' and rehabilitation providers. This is despite all medical evidence from all specialists stating that I have no capacity for work or retraining. I find these referrals extremely stressful and disturbing and unnecessary.

Having worked as a surveillance operative for NRMA and CGU insurance etc. I am aware that some IME's are arranged to enable a surveillance operative to 'get a look, or identification photo' of the claimant, not for any medical reasons which clearly contravenes the act.

CGU Insurance have on every occasion, when referring me to a IME to 'clarify a medical issue or question', not complied with the Workers Compensation Act in that they have never made any attempt to 'clarify any issue with my treating doctor or specialist prior to making such referral as the act requires them to.. They simply refer you when your anniversary comes around.

I have repeatedly had my weekly payments ceased or not paid due to my case officer being on holidays or having left the company with no mechanism put in place to have emails referred etc. Therefore when you provide a current certificate of capacity but your case manager is away it is not entered into the system by anyone and your payments are stopped without any notification or request for the missing document, which I also believe is a breach of the act.

Payment dates are also repeatedly changed causing great stress with periodic bank and loan payments being declined. For instance CGU will pay fortnightly but then will pay you a four day

payment till the end of the month and they commence fortnightly payments again on the next week.

For somebody with my level of mental functioning this is very stressful and, causes great difficulty in managing my affairs.

Covert surveillance.

I have at times been subject to surveillance conducted on behalf of CGU Insurance. Having a psychiatric injury with symptoms of paranoia, hyper vigilance, increased startle response, agoraphobia etc my only bastion of security is my home and to have surveillance operatives creeping around my home and in nearby bush videoing myself and my children is just plain wrong.

I have also been on the receiving end of aggressive mobile surveillance which saw the surveillance operative commit the following offences. Drive in a manner dangerous to the public, drive at a speed dangerous to the public, disobey red light signal, stop signs etc.

This occurred in 14 November 2014 when I left my vehicle with my two young children aged 6 months and 20 months. I travelled along Lookout Road, New Lambton Heights (a major thoroughfare) and made a right hand turn from the dedicated right hand turning lane on an amber arrow. The vehicles following me stopped. As I proceeded down Russell Road I observed a white Toyota Landcruiser make the right hand turn from Lookout Road into Russell Street. To do so the vehicle had pulled out of the dedicated right hand turn lane, travelled south along Lookout Road and made a right hand turn in front of stationary traffic and through North bound traffic on Lookout Road. The vehicle did so against the red arrow and at speed.

I was then followed for the next 20 minutes and myself and my children filmed attending a doctor's appointment. Upon leaving the appointment I was again followed with the surveillance vehicle at times losing contact with me and having to travel well above the speed limit to catch up. Given my mental condition the

actions of the surveillance operative were highly stressful and threatening and resulted in a significant aggravation to my injury requiring an increase in frequency of specialist visits and a change to medication regime. Given my degree of panic and alarm these action put the lives of myself and my children in imminent danger.

I immediately made a level one complaint to CGU insurance and received the usual emails concerning what their actions would be and that I would receive feedback within a specific time periods. It is now almost two years since the event and I have not received any response from CGU Insurance. CGU Insurance would not reveal the identity of the operative nor what company he worked for stating ‘they owed a duty of care to the operative?’ denying me any legal recourse.

This was not discreet covert surveillance but aggressive pursuit. Any surveillance benefit was lost when the surveillance operative was ‘burnt’. Yet he continued in his pursuit of my vehicle committing numerous traffic offences and endangering the public. I have attached a copy of my police statement. The Police could take no action as the identity of the driver could not be established. I have attached a copy of my complaint.

2. So CGU Insurance caused a aggravation to my injury due to the actions of a person under their control, put my recovery back years and I have no recourse. My compensation payments and now increased medical expenses are not extended past the 5 year limitation despite CGU being the cause. I am aware of many claimants who have their injury aggravated by the actions of case managers who also have no recourse.

SURVEILLANCE OPERATIVES ACTING OUTSIDE THE ACT

After leaving the NSW Police I performed duties as Manager, Australian Investigative Group, a private enquiry company. I was certified, and worked, for Insurance Australia Group conducting

surveillance of workers compensation claimants etc as well as conducting factual investigations for various insurance companies including, NRMA, CGU, Allianz etc as well as enquiries for private individuals and companies.

I am aware that IAG collects large amounts of data from claimants and surveillance operatives and have the capacity to identify patterns of behaviour of their surveillance operatives. I am aware that IAG has on occasion withdrawn an operative's certification to act on their behalf due to concerning patterns of behaviour indentified in their 'running sheets'.

This included, taxis being called to different claimants addresses, pulling into the driveway and beeping the horn. The Claimant then exits the house and informs the taxi driver that he didn't call a taxi. This tactic allows the surveillance operative to obtain footage of the claimant and positively identify the claimant.

On other occasions different claimants repeatedly walked to the front of their properties and began looking under bushes or next to the letter box after having received a phone call from a 'courier' stating they have left a parcel out the front. Once again this allows the operative to gain an identification shot of the claimant.

If a surveillance operative is identified as engaging in such tactics there is no requirement for the insurance groups to report the matter to anyone and they simply suspend an operative for a period of time.

3. There needs to be a mechanism and a requirement for companies who identify breaches of the act by employees or contractors to report those breaches.

Andrew M. Collins J.P