

TRANSCRIPT

CLOSED PROCEEDINGS

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION COMMITTEE

Inquiry into the external oversight of police corruption and misconduct in Victoria

Melbourne — 5 March 2018

Members

Mr Kim Wells — Chair

Mr Simon Ramsay

Ms Marsha Thomson — Deputy Chair

Mr Tim Richardson

Mr Sam Hibbins

Ms Jaclyn Symes

Mr Danny O'Brien

Witness

Mr Jordan Brown, journalist (*via telephone*).

The CHAIR — Welcome to the closed hearings for the Independent Broad-based Anti-Corruption Commission Committee’s inquiry into external oversight of police corruption and misconduct in Victoria. You have chosen to give evidence to this committee via videoconference and iPhone.

All evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action in Australia for what you say here today, but if you repeat the same things, including on social media, those comments may not be protected by this privilege. Further, you should note that while you are covered in Australia under parliamentary privilege for any comments you make today, Australian law cannot give you the same protection in respect of the publication of your evidence in the jurisdiction you are giving evidence from. Are you clear about what this means? Have you received and read the guide for witnesses presenting evidence to parliamentary committees?

Mr BROWN — Yes, I understand that, and that is okay.

The CHAIR — Thanks, Jordan. All evidence given today is being recorded by Hansard. You will be provided with a proof version of the transcript for you to check as soon as it is available. Verified transcripts, PowerPoint presentations and handouts will be placed on the committee’s website as soon as possible. I invite you to proceed with a verbal submission, if that suits, and following that we will ask you some questions. So, Jordan, we will hand over to you.

Mr BROWN — Okay. Perhaps there is nothing further to be said. I have got the written submission there, so perhaps it is easier and more suitable if the committee wants to ask me some questions in regards to that, and we can have a bit of a back and forth. That might be more productive perhaps.

But just by way of a background for myself: I am a professional freelance videographer with MEAA accreditation in Australia. I guess to contextualise matters for today, since 2014 I have covered a few protest actions in the CBD of Melbourne and a handful of times they have been the subject of complaints against police behaviour, so I guess that is why we are here today. But I feel like the framework has been set out in the written submission, so perhaps questions are more appropriate.

The CHAIR — Jordan, can you tell us from your experience, having, as you said, covered some of those protests in the Melbourne CBD, what is working in the Victorian system and what is clearly not working?

Mr BROWN — I think what is not working is — I mean, I have only made a handful of complaints, but each time there has been a problem writing to the professional standards command. This is an experience I see echoed in other complaints and just even in the wider community — that is, you write to the PSC and most often you will get a letter back saying that your complaint is not substantiated or there is no complaint to be found. Even if you are very detailed with evidence — I mean, there have been two occasions where I have made complaints where there was video footage that would clearly show police misconduct or behaviour that was problematic and even in those circumstances the PSC would return a finding of the complaint is not substantiated or there is no complaint to be found.

This in one way would show that that investigation mechanism is problematic, but then, turning to my submission, there is also one other instance where I cc’d in the IBAC to one of my complaints and then had an unsatisfactory response from the PSC such as one that I just mentioned. I made an FOI request to get access to the documents to see what had been happening behind the curtain so to speak, and the PSC in that instance used I think it was section 194 of the IBAC act to exempt all of their documents. So I think there are a few things going on that show that the current system is not working well and has some, I guess, fundamental conflicts of interest and maybe institutional flaws or cultural flaws as well that could be examined. So I think there are a few things that clearly are not working well.

The CHAIR — Jordan, with the complaints that you have put forward, have they been events where the police have abused their power in regard to you, or is it a situation that you have video of police power against a third person?

Mr BROWN — It has been a mixture of both. In the majority of cases it has been dealings directly with me in times where I have been harangued or handled as a journalist. I had one time involving a case of false arrest and false imprisonment and my camera was taken away from me and detained and illegally searched and things like that, so that was the basis of that complaint. That is happened something that has happened a few times and

it has been ongoing given the nature of the work. Those cases, I would have thought, would have been the most clear-cut — it has been really easy to show that there has been inappropriate police behaviour. But they are probably the most exemplary in terms of how the PSC would turn around and say — they almost have very creative ways to justify their behaviour after the fact. I guess that speaks to the conflict of interest in this on a fundamental level: the police are investigating themselves.

The CHAIR — So in the case where you have cc'd IBAC, have you actually put direct complaints to IBAC rather than to police?

Mr BROWN — Not in that instance, no. It has always been directly with the police, but in one of the cases involving the false arrest and the false imprisonment I thought the behaviour was substantial enough for IBAC to be notified that I had made a complaint and so I cc'd some of my correspondence to them. But by me having done that the police were able to turn around then and say that because I had involved IBAC in the complaint the documents were not available.

Mr RAMSAY — I was interested to know in respect to your submission regarding the section of the IBAC act — 194 — where you indicated you were keen to have that abolished, which would enable people like yourself to access documentation regarding complaints. I am just wondering in respect to IBAC's investigations and having that information available freely, would it not compromise some of those who have come forward to make complaints who want some privacy? When you remove a section of an act that provides some privacy to those making complaints it does open you up to public scrutiny, which well may compromise those people making the complaints.

Mr BROWN — I am not a lawyer, but as far as I understand there is a provision in the Freedom of Information Act — I think it is section 33 off the top of my head — that provides that identification that is personally sensitive is redacted already under the FOI act, so I would not think that would be a problem. But even in the circumstances relating to myself where I am the applicant in an FOI request, I have given my consent for that information to be publicly available. I can imagine what you are saying if the FOI is applicable to other people, but I think privacy would still be respected given there is an exemption in the FOI act itself to protect personally identifiable information.

Ms THOMSON — Jordan, I have a couple of questions. I assume that the unlawful arrest led to no charges being laid. Is that right?

Mr BROWN — That is correct.

Ms THOMSON — The issue is that given —

Mr BROWN — In all the cases, yes.

Ms THOMSON — Yes. Given that in all of the cases you have gone to police rather than to IBAC — although you cc'd IBAC, you have gone directly to police —

Mr BROWN — Yes.

Ms THOMSON — The answer that you got in relation to that was not detailed in any way, was it? It was just a simple, 'Your complaint has not been found substantiated'? Is that right? You did not get any detail as to —

Mr BROWN — Generally, yes. Generally speaking they are not very detailed at all. I think the most detailed one I would have was probably one or two paragraphs reiterating the substance of my complaint. But, yes, there would be a short answer to either of those paragraphs that would say 'not substantiated' or 'no complaint found'. It was not very thorough.

Ms THOMSON — So given that you did not go to IBAC, does the fault then lie with the way that the police themselves investigated the matter and, more importantly, responded to the matter? You were not informed along the way about the investigation — how it was tracking, the response, the opportunity for you to give real evidence yourself — like actually appear before and talk to someone about how you saw it. Did you get to present your video evidence?

Mr BROWN — No. With the dealings with IBAC in the first instance, this is a situation that I can see has happened to others and happens as a matter of process, and that is that IBAC will oftentimes not instigate an investigation independently themselves; they will just handball, so to speak, the investigation back to the PSC. That is something that I have had a small amount of experience with, but perhaps other people can speak to that more in more detail —

Ms THOMSON — Absolutely right.

Mr BROWN — But, yes, even with my intention to get IBAC involved in a certain case, they have not taken it upon themselves to have some kind of independent third-party investigation, they have just handballed it back to the PSC. Again, that is something I have seen happen many times.

Ms THOMSON — It certainly has happened, but not in this case because you did not take it directly to IBAC.

Mr BROWN — No, it did happen. I remember getting a letter saying, ‘You’re already dealing with PSC’ and, ‘We’ll just let them handle it’. That was, I think, the end of it. I did not even hear back, from memory anyway. There was very little correspondence from IBAC even after notifying them that a complaint was afoot and that their third-party scrutiny would be valuable and helpful in that instance. That was not something that the IBAC was seemingly willing to offer.

Mr RICHARDSON — Thank you, Jordan, for your time. We heard from a number of submitters at our last hearing last week about the interaction of media with IBAC and with police. Do you think that IBAC is the appropriate body to be investigating these types of police complaints, or is there a need for a new entity, a new jurisdiction, independent of police altogether?

Mr BROWN — That is a really good question. Again, I am not so experienced in the matter. My opinion is that perhaps the most ideal outcome would be that there would be an independent body that would be tasked with investigating police misconduct and bringing disciplinary actions and prosecutions and things like this that is separate from perhaps the IBAC and definitely from the police themselves. I am not particularly well versed in the history of IBAC, but my understanding is that there used to be the Office of Police Integrity prior to the forming of the IBAC, and I am not sure how much cultural and institutional baggage has been carried over from that process. But perhaps just as a general commentary, and speaking from a public citizen perspective, what would be most ideal to see would be a uniquely and completely independent body from the police to investigate these kinds of matters and to really have some teeth to bring cultural change and also appropriate disciplinary action and prosecutions against severe misconduct and illegal behaviour.

Mr RICHARDSON — Jordan, is Victoria the only jurisdiction that you have engaged with in terms of police complaints? Have you had any interaction with others in the work that you do that would give you a contrast with any other jurisdictions?

Mr BROWN — No, I have only had these sorts of dealings in Victoria, in Melbourne. I have not been working as a journalist for that long; it has only been since 2014.

The CHAIR — Jordan, just one quick question. So you have not done video work, journo work in other states?

Mr BROWN — Yes, but not of a similar nature that would bring me into interfacing with these sorts of institutions outside of Victoria, no.

The CHAIR — Thank you for that, Jordan. How cold is it in Berlin at the moment?

Mr BROWN — I think it is minus 10.

The CHAIR — That is inside the apartment?

Mr BROWN — No, inside the apartment it is actually quite nice. But outside it is evil cold I think they say.

The CHAIR — Jordan, we thank you very much for your time. Thanks for being available at some ungodly hour in Berlin.

Mr BROWN — Thank you very much for your time, and best of luck.

Witness withdrew.

Proceedings in camera follow.