

Received 30/9/09
from
Legal Services

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F - Address CONFIDENTIAL

PRIVATE AND CONFIDENTIAL

The Chief Commissioner
Mr. Simon Overland
Victoria Police
Level 10, 437 Flinders Street
MELBOURNE VIC 3005

28 September 2009

This document has been redacted for Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

Dear Sir,

Re: Witness Protection Program and Response by Victoria Police

I refer to your open letter dated 14 September 2009 (14/09/09 Letter) together with your open letters dated 4 June 2009 and 26 August 2009 (Your Correspondence).

It is both unfortunate and disappointing that despite my detailed letter to you dated 7 September 2009 (My Correspondence), you have not availed yourself of the opportunity to meet with either myself and/or with my sister Catherine, to attempt to resolve the matters set out in My Correspondence.

It is similarly disappointing not to mention deeply concerning that the 14/09/09 Letter omitted to address (in any way) many substantive issues raised in My Correspondence. Notwithstanding your comment as to an apparent lack of time in which to reply to each of the matters I raised, no request was made (by you) for additional time in which to respond and in any event, to date, you have chosen not to reply.

For the record I note your apology. However, the tone and content of your letter was deeply upsetting and offensive, and particularly disappointing in the context of my very lengthy period of (and continuing) unprecedented assistance given voluntarily and without reward, to your organisation.

The purpose of this letter is not to engage in a further summation of the conduct of your members and organization (as My Correspondence makes this clear and remains unanswered and uncontroverted in this regard), but to:

- (a) identify and record the major unworkable, impractical and asinine suggestions contained in the 14/09/09 Letter regarding my proposed entry into the Witness Protection Program (Witsec);
- (b) again seek clarity from you and your organisation as to a key specific matter raised in My Correspondence which has not, to date, been addressed adequately or indeed at all; and
- (c) record, for the avoidance of any doubt, my position:
 - (i) in relation to entry into the Witsec Program; and

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- (ii) moving forward, in the absence of a resolution.

14/09/09 Letter

1. The 14/09/09 Letter states, amongst other matters, that "You continue to decline to [REDACTED]. That position is correct. However, the 14/09/09 Letter omits to address in any meaningful way my repeated queries of your senior members (namely O'Connell, Llyod Evans Smith, Allway and others) as to the necessity for such a [REDACTED]. Your oblique reference to "Operational aspects" appears to be the only reference to the matter. No member of your organisation has been able to explain in a reasoned, informed or cognizant manner why such a change is required. I refer you to paragraphs 18 - 20 and paragraphs 24 - 26 and 39 - 42 of My Correspondence. The 14/09/09 Letter similarly fails.

However, I also note for completeness that Your correspondence infers, if not states that it is not mandatory for a witness to [REDACTED] in order to enter the Program (see p.2, para 2). This is contradictory to previous statements made by Allway and others on numerous occasions.

2. The 14/09/09 Letter offers to PII [REDACTED] on certain terms including that:
- (a) [REDACTED] on a permanent basis for the duration of the relevant proceeding;
 - (b) [REDACTED] solely for attendances related to the proceeding; and
 - (c) my regular medical treatment be:
 - (i) relocated to a facility near [REDACTED] and/or
 - (ii) my "nominated specialist" (*singular term - my emphasis added*) attend the [REDACTED] to provide treatment; and
 - (d) I cease direct participation in aspects of [REDACTED] (Collectively the Terms).
3. Leaving aside the fact that the 14/09/09 Letter lacks any substantive details as to basic matters such as; where [REDACTED] what is meant by [REDACTED] of [REDACTED] (and no inclusion of [REDACTED]), issues of compensation arising from having to re-arrange [REDACTED] an (incorrect) assumption that I will [REDACTED] or even what is encompassed by the term "relevant proceeding" (i.e. trial, appeal, civil claims etc), I note that there is no legislative requirement for the imposition of The Terms.
4. These Terms are entirely unacceptable to me, not to mention impractical, unworkable and frankly offensive.
5. I have, since late 2008, been fully open with your members (namely O'Connell, [REDACTED] Evans and Smith, and Allway to a more limited extent) as to the precise nature of my existing chronic medical condition, my past medical history which

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directly affects my existing illness and my on-going treatment requirements. At significant cost to my privacy, I have communicated, in depth, the details of my illness and treatment regime and have in fact invited O'Connell to meet with one of my treating specialists to better understand my future needs so that Victoria Police could work with me in devising a future arrangement. This invitation remains open.

6. To suggest that the "nominated specialist" [REDACTED] or potentially [REDACTED] provide treatment is absurd not to mention totally impractical. It would appear unlikely that a cardiac surgeon, a neurologist and the Director of Pain Management (Services) at the [REDACTED] hospital would be able to treat me in the circumstances suggested, not to mention the fundamental inability to provide prescription medication that is not available without a Permit or even able to be [REDACTED].
7. The 14/09/09 Letter makes it apparent that none of my medical circumstances have been considered or accommodated. I will not embark on any regime which poses a significant risk or otherwise to my health and wellbeing, which have already been significantly compromised and adversely effected by the conduct of your organisation and members. Accordingly, until such time as my medical needs are properly considered and facilitated, I am not in a position to consider your offer, which must be rejected.
8. Again, your organisation's rigidity (which I must conclude has been endorsed by you as you no doubt took advice from your members as to my medical needs in addition to my personal circumstances prior to authorising the dispatch of the 14/09/09 Letter), precludes my entry into the Witsec Program.
9. Whilst it should be apparent to you that your offer for me to enter the program is hopelessly flawed, for the sake of completeness, I also draw your attention to the proposed "arrangement" in the 14.09.09 Letter in which you say [REDACTED] solely for attendances relating to the proceedings". I have been informed and assured that I will PII [REDACTED] under any circumstances to give evidence and moreover, I will be giving evidence (at least at the committal hearing) [REDACTED] I have been further informed by your members that any meetings or conferences necessary with the Crown prosecutor and/or investigators during either the pre-committal phase (such as subpoena argument) or prior to the committal hearing itself will PII [REDACTED].
10. In light of all your available resources, I am surprised that you would authorise such factually incorrect rubbish.

Clarification of Outstanding Matters

11. The 14/09/09 Letter also states that it is a precondition to entry into the Witsec Program that [REDACTED]. However the 14/09/09 Letter makes no mention of the existing [REDACTED] that I have reached with your organisation (as detailed in paragraphs 6 - 10, paragraphs 27 - 31 that specifically detail the [REDACTED] and paragraph 58 of My Correspondence.)

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12. The existing written agreement I have with your organisation is not, nor was it ever expressed to be, conditional upon my entry into the Witsec Program. This is made clear in My Correspondence.
13. For the avoidance of any doubt, please confirm whether your organisation will agree to honour and act in accordance with the representations made on its behalf (by O'Connell and Smith) and the terms of the agreement reached between myself and O'Connell (acting on your behalf). For my part, I confirm that I have always acted in accordance with the undertakings and promises made by me to your organisation (in the agreement) and remain ready, willing and able to continue to do so in the future.

Position Going Forward

14. Without derogating from the matters set out in the preceding paragraph, and in one final attempt to resolve the issues raised in My Correspondence, I would implore you to desist from further unhelpful correspondence and telephone my sister Catherine directly to discuss a possible resolution. I am requesting that you contact my sister as the stress which has been caused by your organisation's conduct has had and continues to have an adverse effect on my health which I am no longer in a position to tolerate.
15. In the absence of either myself (ph. [REDACTED]) or Catherine (ph. [REDACTED]), being contacted by either you directly or Superintendent Rod Wilson directly on or before 4pm on Monday 5 October 2009, my legal representatives will act upon my standing instructions to:
- (a) File & Serve a Supreme Court Writ (which will be a public document) to enforce my existing agreement with your organisation, and seek any other consequential relief as is deemed necessary; and
 - (b) hold Victoria Police liable (on a full indemnity basis) for any and all legal expenses that I incur in the course of any legal proceedings that will follow.

Yours Sincerely,



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