

## **ADDITIONAL SUBMISSION TO THE SENATE SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS**

Members of the Committee, I can now put forward some additional matters for your consideration.

### **BACKGROUND**

I was a former investigator with The Investigation and Compliance Branch (ICB) of the former ATSI and now the Office of Indigenous Policy Coordination (OIPC). The original name of The ICB was the Fraud Awareness Unit (FAU). It is now simply called OIPC Investigations. The original unit was established in 1993 to assist ATSI to comply with the Fraud Control Policy of the Commonwealth.

From the original Unit's inception there was a heavy emphasis on fraud awareness and prevention training to ATSI staff, the Elected Arm, and grantee organisations. There was little actual criminal investigation. However, by the time I joined the then ICB in February of 2004 the emphasis had shifted disturbingly to criminal investigation with very little, if any, fraud awareness and prevention training. I found this shift in emphasis went against the advice and formal recommendations of the Royal Commission into Aboriginal Deaths in Custody. At 27.4.24-25 of Volume 4 it states:

It is quite unfair if funding agencies devise unnecessarily complicated accounting procedures which pay no regard either to the tremendous pressures under which Aboriginal organizations operate, nor to the limited experience and training which many Aboriginal people have in managing the affairs of such organizations. As the daily media reports demonstrate, it is not only within some Aboriginal organizations that inexperience and misjudgment can combine to produce unfortunate results.

There is, however, a need, widely recognized among Aboriginal people, to reduce or eliminate such incidents. Misjudgment is one thing but dishonesty is another. I believe that Aboriginal organizations would very willingly work with Councillors and Commissioners of ATSI to establish a system for streamlining accounting and management procedures which would ensure that the integrity of the organizations and their staff was not compromised.

These observations formed the basis for Recommendation 197 of the RCIADIC.

## **CASE STUDIES**

Indeed, many of the investigations I conducted whilst I was at the ICB ended with me writing them off as ‘no evidence of dishonesty’. One such report, which was typical of this situation I can submit to the Committee. The report details an investigation I carried out on the Aboriginal Corporation (this report also outlines the concept of ‘dishonesty’ and the problems encountered when applying it to an Aboriginal community). Briefly, the problem with this organization was that the corporate governance was so poor, it created an environment so dysfunctional that it allowed one misguided, yet dominate, individual to run the organization as his personal fiefdom, and, as a result, crippled the organisation and the community it was to serve. It is such organizations which are in desperate need for training and simplified procedures.

Whilst I was working at ICB, a large amount of the time and resources were spent investigating the activities of ATSIC Commissioner Ray Robinson and entities associated with him. As a former police prosecutor, I found the conduct of this investigation perplexing. Indeed, in my first week I was part of an operation to seize a quantity of documents from the offices of the Queensland South Representative Corporation of which Mr Robinson was the chair. Once these documents were returned to our office in Canberra, I was tasked with others to photocopy and number each document. I could not see the point of this exercise as it seemed we were on a ‘fishing expedition’, and that there was no forensic purpose to the investigation. A typical fraud investigation would be to look into a specific allegation and then work outwards from there. In this case, it seemed as if we were looking for the proverbial ‘needle in a haystack’, only we didn’t know what the needle looked like. Wading through endless receipts, cheque butts, bank statements, travel forms, requisition forms, and claimant forms it seemed that Recommendation 197 was a distant memory.

However, one important discovery did result from this endless photocopying and numbering. On Friday the 5 March I came across an unopened envelope in the pile I was copying. It was a brown manila envelope with a name on the front. I opened it and it

contained a \$50 note. I informed my immediate supervisor whom in turn informed our manager, Brian McMillan. Later that day, the supervisor I originally informed gave me a copy of an email by Brian McMillan addressed to one of the directors, Glenn Jones. My supervisor instructed me to undertake certain tasks in relation to the email. I can also submit the copy of this email to the Committee without any specific conclusions.

## **CONCLUSION**

My conclusion is drawn generally from my first submission and this additional submission. The answer to the plight of aborigines lies in first principles. In the light of the existing law in *R v Ballard* (the arguments which I outlined in my first submission and which I can now submit my original research paper to the Committee), and recommendation 197 of the RCIADIC, I believe the government has no business in prosecuting Aborigines for matters which arise between themselves. What they really need is help, but not in a paternal-colonial sense, but help in returning to them responsibility for their own affairs in matters in which they conduct solely between themselves. As Chief Justice Forbes enunciated in *R v Ballard*, ‘I know no principle of municipal or national law, which shall subject the inhabitants of a newly found country, to the operation of the laws of the finders, in matters of dispute, injury, or aggression between themselves.’ Therein lies the solution: self government. Not a centralized government, but many local ones that is culturally specific to each individual Aboriginal Community – exactly how it was 217 years ago.

I am aware that I am appearing before the Committee this Thursday. I can bring all of the documents I have referred to with me to the hearing. Please advise me if you wish me to bring in the documents earlier.

C. J. van der Weegen  
31 January 2005